

DÁIL ÉIREANN

AN COISTE UM CHUNTAIS PHOIBLÍ

COMMITTEE OF PUBLIC ACCOUNTS

Déardaoin, 6 Aibreán 2017

Thursday, 6 April 2017

The Committee met at 9 a.m.

MEMBERS PRESENT:

Deputy Peter Burke,	Deputy Alan Kelly,
Deputy Catherine Connolly,	Deputy Mary Lou McDonald,
Senator David Cullinane,	Deputy Catherine Murphy.
Deputy Alan Farrell,	

DEPUTY SEAN FLEMING IN THE CHAIR.

Business of Committee

Ms Colette Drinan (*Director of Audit, Office of the Comptroller and Auditor General*) called and examined.

Chairman: We are joined from the Office of the Comptroller and Auditor General by Ms Colette Drinan, director of audit, and Mr. Shane Carton, deputy director of audit. Apologies have been received from Deputies Aylward, Cassells and MacSharry.

Are the minutes of the meetings of 29 and 30 March 2017 agreed? Agreed. There is nothing specific arising out of the minutes that will not come up on our agenda so we will move on to correspondence received since our last meeting. There are a number of items before us.

Category A concerns correspondence for today's meeting, namely, items 385A, 386A, 387A, 399A, 402A and 403A. They are briefing documents and opening statements from Dublin Institute of Technology, NUI Galway and Waterford Institute of Technology in advance of today's meeting. We will note and publish them.

Category B concerns correspondence from Accounting Officers or Ministers, or both, and follow-ups to previous meetings. The first item comprises 355B(i) and (ii), which are correspondence dated 23 March 2017 held over from last week from Mr. Aidan O'Driscoll, Secretary General of the Department of Agriculture, Food and Marine. This is a follow-up to an appearance before the committee on 20 February and a subsequent request for information. It has already been noted and published. Having had a better chance to review it, do any members wish to discuss it? It concerns the European accounts. If members wish to raise anything in respect of the correspondence, they are free to do so at any subsequent meeting.

The next item is 356B, dated 23 March, held over from last week, from Mr. John McCarthy, Secretary General of the Department of Housing, Planning, Community and Local Government. We noted and published it last week. We just held over consideration of it because it is a substantial document. I propose to move on but if members wish to raise anything in respect of the correspondence, they can do so at a subsequent meeting.

Next are correspondence items 383 (i) to (iii), inclusive, received from the Higher Education Authority, attaching a copy of the Quigley report on the statutory inspection on the relationship between Waterford IT and campus companies and the report by the HEA on the implementation of the Quigley report recommendations by Waterford IT. We will note and publish the correspondence. It is relevant to today's meeting.

Items 391B(i) and (ii) comprise an e-mail from NAMA on 30 March attaching a letter from the chairman of NAMA referring to comments I made at last week's meeting on the committee's draft report on Project Eagle and information held by NAMA about the chairman. I think members saw the correspondence at our meeting last Thursday. We will note and publish the correspondence.

The next item is 407B, correspondence received on 5 April 2017 from Mr. Neil McDermott of the Higher Education Authority correcting a statement made by Dr. Graham Love, chief executive, at a meeting last week. For the record, the reference was to persons B and C. They had made a protected disclosure prior to their suspension from work and not the other way around, as had been stated. It is important people understand that because I took it as it was said on the day but the correction changes the background a little.

The next item is 409B, correspondence received on 6 April 2017 from the HSE as a follow-up to a request for further information regarding our meeting with the director general on 9 March. Did members have an opportunity to consider this? It is a letter regarding the freedom of information issue in respect of differences of approach in this matter and RTE and the information supplied to us. The director general also confirms the issue regarding the various staff numbers, H3, H7, H12, H4 and H6, as they relate to the Grace case. I have read the letter. The HSE splits hairs as to who raised a timetable and who suggested it. I propose we send all of this to the commission of investigation. The key issue of difference between the director general and the RTE correspondence we have received is that the HSE, when it responded to the freedom of information, FOI, request, mentioned the issue of a timetable. We then took the view that the HSE was suggesting a timetable to be covered by the FOI. The HSE states that while a timetable was mentioned, it did not suggest a specific timetable. We are splitting hairs inordinately. We cannot have a meeting discussing the difference between mentioning a timetable and suggesting a timeframe. I suggest we just send the correspondence on to the commission because we cannot achieve much more by calling the director general back before the committee. The differences are all there for the commission to see.

Deputy David Cullinane: It is a bit more than splitting hairs, to be fair, although I understand the point the Chairman makes about the FOI request. There are two elements to this. The FOI request is one but there are also the answers the director general gave on the issue as to whether some of those involved in the decision-making regarding the Grace case are still working in the public service. That was the question he was asked. Even in his correspondence to us he restates this and at length goes through the individuals' involvement with the HSE, as if that were the question asked. That was not the question asked. With respect to the Chairman, it took us a few hours to get some information from the director general when he appeared before the committee before. For the first time he did place on the record, because of questions from members of the committee, that a second person does in fact work for Tusla. If we did not have that hearing and if the director general had not come before us, the public would not be aware of that. We would still be none the wiser. The reason we asked him to appear before the committee in the first place was to correct the record of a previous hearing, and question marks remain as to evidence he presented to us at the last hearing. It strikes me overall - and I say this generously to the director general - that trying to get straight answers to straight questions from him is like trying to get blood from a stone. As we all said the last time he was here, given the gravity of the issues involved, that is unacceptable. We have therefore requested that he come before the Committee of Public Accounts again. We will obviously be guided by other members as to whether they feel that is appropriate. However, given that the issues are so serious and that all we are trying to do is correct the record of the Committee of Public Accounts and get straight answers to questions, that is the very least we deserve. We have a job to do. The Chairman said the last time that we will not be stonewalled by anyone and will not allow anyone to come before the committee, give inaccurate information and then walk away and that is it. We must put down a marker as a committee that such stonewalling is simply not acceptable.

Chairman: That is fine. I only referred specifically to the FOI aspect. The two conflicting points of view are very well stated. I do not know how much we will get beyond the publicly stated positions, but the points Deputy Cullinane makes about the staff and the staff numbers were the original points we invited the HSE in to discuss. The Deputy's point is well made in that regard.

Deputy Mary Lou McDonald: I concur with my colleague, Deputy Cullinane. We should have him back before the committee. This matter would be much simpler if people simply co-

operated with the committee, but there are a number of outstanding issues on which we need clarity from him. We need him to put those on the record. It should not be a long meeting if he comes before the committee in the right frame of mind. Specifically, I endorse the point Deputy Cullinane made about future hearings of the committee. People coming before us need to understand that if they mislead the committee, whether by accident or design, and if they are invited back to correct the record, they do not come in and for a second time sow confusion.

Deputy Catherine Connolly: I think Mr. O'Brien should be brought back. I see the Chairman's point that the correspondence should be sent to the commission. However, Mr. O'Brien should come back before this committee. His testimony was extracted like pulling teeth without anaesthetic. It was difficult. I particularly zoned in on the staff. It is now confirmed that two of the staff work with Tusla. That was dragged out. I also asked about public procurement. There was an issue about that and value for money.

Chairman: That is a separate item of correspondence.

Deputy Catherine Connolly: There was a third issue in regard to the report that was being carried out.

Chairman: That is the Deloitte report.

Deputy Catherine Connolly: I am not sure what it is called. He said it was due-----

Chairman: In a week or two.

Deputy Catherine Connolly: In a week or two, yes. Has it been published? We were to look at that issue in terms of the costs and whether the voluntary body was given sufficient funds. They are serious issues because when I asked if any money had been provided for Grace in view of the trauma she has suffered, I was told nothing had been given. In the middle of trying to extract information without anaesthetic, we might forget what we are about, which is that the head of the Health Service Executive should be absolutely upfront with the committee.

Chairman: There is a consensus that we should invite Mr. O'Brien back. I agree with Deputy McDonald that it would be helpful if we could close it off and be concise. I therefore ask all members to contact the secretary with a list of specific queries for Mr. O'Brien so that when he comes to the committee he will have the complete answers rather than members raising issues on the day and he having to come back again. It would be helpful for the efficient running of the committee. He is genuinely not available next week. We will ask the secretary to arrange a date as soon as practical. It will be as soon as possible after Easter. I ask members to submit their specific queries so he can be put on notice of precise issues. We will be conscious of the points that have been made today.

The next item is category C in regard to correspondence from private individuals and other correspondence. No. 373C is correspondence received on 24 March 2017 from an individual referring to inappropriate language used by Mr. Tony O'Brien, director general of the HSE, while he was at the committee. While the correspondent is sure Mr. O'Brien did not mean to cause offence with a particular term used, he or she makes the valid point that it should be brought to Mr. O'Brien's attention. I propose we forward a copy of the correspondence to Mr. O'Brien. There was a particular use of words by Mr. O'Brien that could have been interpreted in an uncomplimentary manner. It was perhaps not the most appropriate language to use in that case. It is a fair point that the correspondent makes and we will forward it to Mr. O'Brien. Is that agreed? Agreed

6 April 2017

No. 389C is correspondence dated 30 March 2017 from an individual following on from a letter from the committee in which we advised her of how her complaints against the HSE, the Garda and her previous employer could best be dealt with. While I believe we can only reiterate that she should use the structures of the State available to deal with individual cases, I note she also raises the issue of the pharmaceutical company Novartis which she raised with us in another item of correspondence. We have written to the Department on this issue and I propose we forward any reply we receive. Is it agreed that we write to the individual along these lines. Agreed

Nos. 390C and 392C are correspondence received on 30 March and 3 April from an individual referred to as Person A in regard to the University of Limerick meeting last week. She requests the opportunity to meet with the PAC to give her side of what happened. I also want to point out that there are three more items of correspondence from former employees of the University of Limerick. We dealt with three third level institutions last week and we will be dealing with three today. When we have the six done, we will review where we stand. A significant amount of correspondence has been received from former employees of the University of Limerick. We need to consider it all after today's meeting so we will hold this item over. We will note it and come back to it.

Nos. 397C and 404C are correspondence received on 4 April 2017 from individuals referred to as Person B and Person C in our meeting last week with University of Limerick. Similarly, we will note that correspondence, hold it over and come back to it.

No. 406C is correspondence received on 5 April 2017 from another individual and ex-employee of University of Limerick. We will note that correspondence, hold it over and come back to it when we are finished our hearing with the third level instructions.

No. 393C is correspondence received on 31 March from an individual in relation to the fair deal scheme and the person's experience of fitness programmes for elderly people. I propose that we write to the individual informing him that the adoption of such programmes is a policy matter and not within the remit of the committee. We are dealing with the fair deal scheme with the HSE. Nursing Homes Ireland has written to us separately. We will consider it as part of the total correspondence. It may not be within our remit but when we close off the issue of the nursing homes, we can dispose of it at that stage. There might be something in it that we can refer on to the Minister in the future.

Nos. 394C (i) and (ii) were received on 29 March 2017 from an individual alleging waste of taxpayers' funds in the Irish Prison Service. The person wishes to draw the committee's attention to the inadequacy of the internal audit unit to properly police and protect the rights of someone who raised concerns with the PAC. Is the correspondence noted? Noted. Should we ask for a response from the Prison Service on it? I have not yet had an opportunity to do so. The correspondent is asking us only to note it and to be aware of it, not to take specific action. We will note it.

No. 395C (i) to (xi) are a copy of correspondence sent to the Secretary General of the Department of Public Expenditure and Reform on 31 March. The correspondence refers to the waste of taxpayers' money and harassment of a family. Has it been sent to other Ministers? We will note it. We have not been asked to do anything specific. It is only a copy for our information.

No. 370C was held over from last week and No. 396C was received on 22 March 2017. It refers to fraud allegations in Teagasc in regard to the selection process for a post of responsibil-

ity in 2007. The clerk has reviewed correspondence with the previous committee going back to 2015 on this issue. A response was sought by the committee at the time from Teagasc in regard to the issues raised. Teagasc provided comprehensive background on the case, which had gone through an internal grievance procedure, been referred to a rights commissioner service and gone through a Labour Court hearing. The person's claims were not upheld in any of the three processes. A copy of the Teagasc response was sent to the individual by the committee on 26 January. I propose that we hold this over with a view to writing a detailed letter. We will be able to close off this matter but I have not yet had an opportunity to see the letter from the previous committee. I want to be consistent or at least aware of that. We will have that circulated. When we see how the former committee approached this matter, we will deal with it at that stage.

No. 398C is correspondence received on 3 April from an individual in relation to Waterford IT and campus companies such as FeedHenry. Can we note this for today's meeting? Noted.

The next item is reports, statements and accounts received. There are two items: first, the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development, and the European fisheries fund for Irish operations with a turnover of €1.6 billion for the end of 2015 as per the auditor's report; and, second, a file concerning the Foyle, Carlingford and Irish Lights Commission, and the Loughs Agency 2015 accounts clear audited opinion. We will note those items.

The next item is the work programme. It is on the screen in front of the members. Today, we will have Waterford Institute of Technology followed by the Dublin Institute of Technology. In session two, we will have the National University of Ireland, Galway. Next Thursday, we will have the Department of Education and Skills dealing with the special report on the cost of the child abuse inquiry and redress scheme. Caranua is also invited to that session. We will have to work out whether we take both together or deal with them separately, but that can be decided during the week. Many people who were affected by this issue have expressed an interest in being here or watching the proceedings. I will facilitate anybody who makes such a request.

On 4 May 2017, we will be dealing with Bord na gCon. On 11 May 2017, we will deal with the Department of Justice and Equality appropriation accounts for 2015. There is a specific chapter dealing with the procurement and management of contracts for direct provision. Some time around the date of the last meeting, we noted the report by An Garda Síochána into the Templemore issue. There is also the issue of the different slant to the Garda Commissioner's evidence before this committee a couple of years ago compared with her evidence at the Joint Committee on Justice and Equality last week. Would it be too much if we bring in the Department of Justice and Equality to deal with direct provision and the Garda Síochána all on the one day? What do people think?

Deputy Alan Kelly: I would make a request----

Chairman: There is a suggestion that on 15 June we bring in the Garda Síochána separately to deal with the Garda Síochána accounts and the Templemore issue.

Deputy Alan Kelly: I think that is too late. The issues in respect of the Garda are the top justice items here. We have got direct provision, which is very important as well, and we have also got the Garda issues.

Chairman: At the moment, we have scheduled the Department of Justice and Equality for

11 May, which is fairly soon after the Easter break. Is it feasible to deal with all those issues that week?

Deputy Mary Lou McDonald: We will not deal with them in one session.

Deputy Alan Kelly: We will not deal with direct provision, the appropriation accounts, Templemore and the Garda Commissioner's previous evidence in one go. If I may make a suggestion, there are three areas here, namely, the appropriation accounts; direct provision; and the Garda Commissioner's evidence and the Templemore issue, which could be put into the one sitting.

Chairman: And there is the Vote for the Garda Síochána.

Deputy Alan Kelly: The question is which areas are the most important. I believe that the Garda issue is the most important.

Chairman: I am told that on 18 May the Garda Síochána is not available.

Deputy Alan Kelly: Ask the Garda representatives if they are available for 11 May as we could then switch the Department of Justice and Equality to 18 May.

Deputy Catherine Connolly: Bord na gCon was put in the week before. Direct provision was down and Bord na gCon came afterwards. While I am not going to be unreasonable, direct provision is very important and Bord na gCon could, perhaps, be moved.

Deputy Alan Kelly: They have agreed to come in on that day, though.

Chairman: Unless they swap to 18 May and we have the Garda Commissioner in on 4 May.

Deputy Alan Kelly: Bord na gCon has been informed about that date.

Chairman: Yes, but we could ask if the board is agreeable to changing.

Deputy Alan Kelly: They will not be.

Chairman: I do not know. We will ask the people in the secretariat to use their good offices.

Deputy Alan Kelly: Bord na gCon will say "No".

Chairman: We have moved that a few times.

Deputy Mary Lou McDonald: I take Deputy Connolly's point about all of that. It is a matter of a week or two. While I am very anxious that we get to the direct provision piece, I am not going to die in the ditch for the sake of a week. This has been going on for so long. The main thing is that we do it justice and get to the bottom of it when we deal with it. There is a point of urgency, as Deputy Kelly has said, around the issues pertaining to An Garda Síochána. In terms of the public perception of our hearings, I think there would be an expectation that we get to those issues sooner rather than later.

Deputy Catherine Connolly: I have no difficulty with that. My difficulty is with Bord na gCon taking precedence. If we are seriously interested in urgency, let us be reasonable.

Deputy Mary Lou McDonald: Is that because of the situation in Harold's Cross? Is the urgency around the controversy about that matter?

Chairman: That is part of it.

Deputy Alan Kelly: If we wait until that date, if we push it out, I know what the response will be, given that Bord na gCon has been asked already and is preparing for that date. If the date is pushed down the line, the likelihood is that this industry will have collapsed by then.

Chairman: The what?

Deputy Alan Kelly: The industry will have collapsed. It is teetering on the brink already. We all know that.

Deputy Mary Lou McDonald: I am conscious of that. Maybe it explains why it is in there on that date.

Chairman: Let us try to tease this out.

Deputy Catherine Connolly: I will defer on the direct provision matter if it is such a profound situation that the industry will collapse.

Deputy Alan Kelly: I thank the Deputy.

Deputy Catherine Connolly: The Deputy is welcome.

Deputy Alan Kelly: Peace in our times.

Chairman: The proposal is to switch the Department of Justice and Equality to 18 May and have An Garda Síochána appear on 11 May instead. What are we dealing with in respect of An Garda Síochána?

Deputy Alan Kelly: We are dealing with Templemore and the Commissioner's previous statements here.

Chairman: In respect of resources.

Deputy Alan Kelly: To be fair, I think one topic will have to be dealt with before lunch and one after lunch because they are two big areas.

Chairman: So they would need to be available for two sessions. And there is the Garda Síochána Vote.

Deputy Catherine Murphy: Is it to deal with the report on the audit?

Chairman: The Garda training college in Templemore, yes.

Deputy Catherine Murphy: That is specifically what we are dealing with.

Chairman: When they are in, we will deal with the Vote for An Garda Síochána. It is a separate Vote. We will deal with the Vote, specifically the Templemore issue, and the issue of resources to which we referred at a previous meeting and which was referred to in a different manner at the justice committee meeting last week. They are the three points. We will see if that can happen. We do not know yet. We will try to do our best.

Then we are on to 25 May, which is the Department of Finance. The following week is the Revenue Commissioners. That appears to take us to 1 June. I am just remembering that when we discussed this issue last week, that is, the findings that were issued, we said we would write

to the Department of Justice and Equality, the Courts Service, which has collected the fines and will know what mechanism is in place to return the money, and An Garda Síochána. We will highlight that issue, whether we deal with it all on that day or have to come back on the second day. That is strictly a financial issue in respect of fines collected from the public that possibly should not have been. That issue was already flagged here at the last meeting. We will do our best to deal with all of those issues, whether it takes a second sitting or not. It probably will. Then, on 26 June, we have the Department of Public Expenditure and Reform.

That is where we are on the draft work programme to date. There being no other business, we will suspend for a few minutes to allow the witnesses to take their seats.

Sitting suspended at 9.37 a.m. and resumed at 9.40 a.m.

2015 Annual Report of the Comptroller and Auditor General and Appropriation Accounts

Waterford Institute of Technology: Financial Statements 2013-2014

Professor Willie Donnelly (President, Waterford Institute of Technology) *called and examined.*

Chairman: We are dealing again with the third level education sector. With regard to our examination of the financial statements in the education sector, over the past two weeks we have met with representatives of the Department of Education and Skills, the Higher Education Authority, University College Cork, Dundalk Institute of Technology and University of Limerick.

Today we will continue with three further sessions in which we will examine the financial statements for Waterford Institute of Technology and Dublin Institute of Technology, together with the Grangegorman Development Agency, and the National University of Ireland Galway. We will begin with Waterford Institute of Technology's 2013-14 financial statements. From Waterford Institute of Technology we are joined by Professor Willie Donnelly, President, Ms Elaine Sheridan, Vice President, Dr. Derek O'Byrne, Vice President and Ms Kathryn Kiely, Industry Services Manager. From the Department of Education and Skills we are joined by Mr. Christy Mannion and from the Higher Education Authority by Dr. Graham Love and Mr. Andrew Brownlee.

I remind members, witnesses and those in the public Gallery to turn off their mobile phones. I must repeat that it is not enough to put them in silent mode because e-mails coming in and out can disrupt the recording of these proceedings.

I wish to advise that by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to this committee. If they are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of that evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity either by name or in such a way as to make him, her or it identifiable. Members of the committee are

reminded of the provisions of Standing Order 186 to the effect that the committee shall 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 policies. Finally, members are reminded of the long-standing ruling of the Chair to the effect that they should not comment on, criticise or make charges against a person outside the House or an official by name or in such a way as to make him or her identifiable.

I would first like to call on Ms Drinan from the Office of the Comptroller and Auditor General to make a brief opening statement.

Ms Colette Drinan: The financial statements before the committee this morning relate to Waterford Institute of Technology's financial year ending 31 August 2014. The institute's consolidated income for the year amounted to over €99 million. As seen in the graphic in the submission, State grant funding of €28 million accounted for more than a quarter of that total. Tuition fee income of nearly €31 million included fees of €7.4 million paid by the State and student contribution income of over €15 million. In addition, research grant income of €19.5 million was recognised in the year.

Expenditure in the year was nearly €96 million. Of that, around 68% was accounted for by staff costs. A detailed analysis of expenditure is given in note 11 of the accounts.

While the consolidated accounts show an operating surplus of €3.7 million for the year, the audit certificate notes that the group had an accumulated deficit of over €15 million at 31 August 2014. The institute addresses the question of the group's financial position in note 24, and concludes that it remained appropriate at the date of signing to prepare the financial statements on a going concern basis.

In regard to the institute's financial position, the accumulated deficit prior to the consolidation of the subsidiaries was €3.3 million. After consolidation and taking into account the current year surplus, the deficit is now over €15 million at 31 August 2014, as outlined in note 19 to the financial statements.

The Comptroller and Auditor General issued a qualified audit opinion in respect of the financial statements, arising from the failure of the institute to include comparative information for the prior year in its consolidated income and expenditure account for 2013-14.

The institute's subsidiaries were incorporated into the financial statements for the first time in 2013-14. Note 19 explains that prior year comparatives were not available because the subsidiaries' financial statements for 2012-13 covered a 14-month period. The relevant accounting standard provides that, in such cases, amounts for the prior year should be adjusted, with the basis for adjustment disclosed. Accordingly, the audit concluded that it would have been appropriate for the institute to include adjusted comparable figures for 2012-13.

The governance code for institutes of technology provides that audit committees should submit an annual report on their activities to an institution's governing body. The audit certificate also draws attention to the fact that the audit committee in Waterford IT did not issue an annual report for 2013-14 to the governing body until June 2015.

The Comptroller and Auditor General's recent special report on financial reporting in the public sector identified Waterford IT as the only institute of technology that had not completed its financial reporting for 2013-14 by the end of 2015; that audit was subsequently certified in October 2016. In terms of the 2014-15 audit cycle, Waterford IT is now the only institute of

technology for which the audit has not been completed.

Chairman: I invite Professor Donnelly to make his opening remarks.

Deputy Catherine Connolly: I am sorry, Chairman, I came in without a copy of the opening statement. Could I have one?

Chairman: Is it the Comptroller and Auditor General's statement?

Deputy Catherine Connolly: No, I have that one. It is Professor Donnelly's opening statement.

Chairman: We will get one for the Deputy as soon as we can.

Professor Willie Donnelly: Chairman, for the record, Ms Kathryn Kiely has been replaced by Dr. Peter McLoughlin.

I welcome the opportunity to address the committee on behalf of the institute and to address matters relating to the institute's accounts. I wish to begin by setting my remarks in context.

The institute's current situation needs to be considered in the context, first of all, of demonstrable under-investment in the third level sector over a decade or more and, moreover, inequalities in the ways funding is distributed between institutes of technology, IoTs, and universities. Some aspects of that are outlined in our briefing document but in summary, between 2008 and 2015, State investment in the IoT sector in general dropped by 50% while student numbers increased by 30%.

As we saw in our briefing, our mission is to serve our students, the citizens and the communities of the south east and our social, industrial, cultural and commercial partners and stakeholders - regional, national and international. Since its foundation in 1970, the institute has responded proactively to the region's needs and with huge success, evolving from a provider of vocational training programmes to a research-led, internationally respected educational institution.

In the past ten years, the institute has successfully attracted over €135 million in competitively sourced research funding from various sources. We have been instrumental in attracting knowledge intensive industries to the south east region and Waterford Institute of Technology, WIT, has been vital to job creation and regional development. Since 2008, WIT has signed 34 licences and been involved in the spin-out of ten companies resulting in the creation of more than 600 high-impact jobs in Waterford. Enterprise Ireland, in a statement to the Committee of Public Accounts on 31 January 2013, stated: "Waterford is a shining example of how co-locating the incubation centre with the institute has led to the establishment of a software industry that probably should not have existed in Waterford."

The institute has played a pivotal role in the transformation of Waterford city as a leading high-impact digital and advanced manufacturing economy. A key example of this is FeedHenry, a spin-out of Waterford Institute of Technology, which created 50 jobs. It was recently acquired by Red Hat. Red Hat announced an investment of €12.7 million in a new project which will create an additional 60 jobs, going some way to addressing the unemployment deficit in the city. At the same time, the institute's record in promoting regional access and participation is also extremely strong. Approximately half of our undergraduate intake is from sources other than the leaving certificate student cohort. Over one third of our full-time learners come from target

socioeconomic groups, approximately 10% of our students are registered with our disability office and almost 3,400 students at the institute are currently receiving some form of grant.

WIT's current situation must be set in the context of these efforts to address regional need while at the same time bearing catastrophic funding cuts. The success we have had over many years in the research domain and in access give just two examples of the hard work of our management and staff in the interests of the region despite the restrictions imposed on the institute.

I turn now to addressing the items specifically referred to in the committee's correspondence. In respect of the institute's 2013-14 financial statements, the delay was, first, as a result of the institute complying with a request from the Comptroller and Auditor General to carry out a substantial policy change, which required a full review of research income and a change in the policy relating to the recognition of research overheads, a change that was requested across all third level institutions. Second, 2013-14 was the first year the institute was required to consolidate the financial activities of the subsidiary companies that were the subject of the Quigley report, issued in June 2013 by the Minister for Education and Skills.

For the year ending 2013-14 the institute's financial statements, before consolidation, record a surplus of €1.168 million compared to a deficit in the prior year of €306,000. General expenditure in the year increased by 0.9%, largely due to increases in utility costs. However, State recurrent grant fell by €2.78 million compared to the previous year, that is 9%. Some of this deficit was offset by an increase in student contribution and tuition fees particularly as non-EU fees increased by €1.55 million.

Also in that financial year, the subsidiary companies reported an annual financial profit of €1.096 million. However, the consolidation required the alignment of policies in relation to the treatment of assets, deferred capital grants and reserves, both recurrent and capital, and this necessitated a transfer of €26.936 million from revenue reserves to capital reserves, hence creating the deficit the committee has just heard about.

In the year prior to consolidation we moved the financial year end of the subsidiary companies to 31 August rather than 30 June in order to bring the financial year end in line with the institute's. A consequence of this approach is that comparative 12-month figures for the year ending 31 August 2013 were not available to include in the consolidated income and expenditure account.

The overall financial position of the institute remains difficult; funding levels have not yet been fully restored to the third level sector as highlighted by the financial review published by the Higher Education Authority, HEA, in October 2016. That report indicates that the future sustainability of the institute of technology, IoT, sector is under threat and that there is a "critical need for investment in order for the sector to survive and flourish". The WIT executive is focused on addressing matters associated with the financial situation that are within its control.

As reflected in the higher education sector systems performance 2014-2016, the institute places a high degree of emphasis on good practice, corporate governance and internal audit. The audit committee was reconstituted and greatly strengthened in December 2013, following the recommendations of the Quigley report; the detail is included in our briefing statement. It was an administrative error that the report mentioned in PAC's correspondence was not furnished to the governing body in the year ending 31 August 2013 within the acceptable time-frame. However, the records and minutes held in the institute confirm that the governing body was, and remains, fully apprised of the work of the audit committee.

Finally, with regard to the technological university process, WIT remains committed to the provision of enhanced educational opportunities and an enhanced innovation and development infrastructure for the south east. This is needed by the people of the south east and demanded by all our stakeholders. The technological universities legislation currently under consideration will enable the provision of that enhanced higher education infrastructure. In this context, we continue to engage with our colleagues in IT Carlow to explore the potential to create that new entity.

The institute made a successful application for funding, with our partner, IT Carlow, in support of the engagement process to the HEA and the agreed project plan for this will see the institute complete the commencement and activation phases of the process by the end of 2017. Currently a memorandum of understanding, MOU, between the organisations is being finalised. The organisations have identified members to participate on a joint steering committee to advance the process.

Chairman: I acknowledge Professor Donnelly's opening statement. I have to make an important statement before we commence our meeting.

The accounts the president presented here today cover the period 1 September 2013 to 31 August 2014. The institute has not completed the audit of the accounts for any period since then. For any organisation to come to the Committee of Public Accounts with accounts that are three years old is a disgrace. It is insulting to the committee and to the Irish taxpayer that an organisation as big as WIT should be putting our committee in a position of wasting its time discussing items that are three years old.

I also note the other colleges here before us today, the National University of Ireland Galway, NUIG, whose accounts also only cover the period 2013-2014. Its accounts are three years out of date and it expects us to spend our time discussing them. In respect of the Dublin Institute of Technology, DIT, the accounts before us today are for the same period, 2013-14. I am informed by the Comptroller and Auditor General's office that it has recently certified the accounts for 2015 but they have not yet been published.

If anybody came into the president's organisation applying for any position in WIT, and I would say the same for NUIG and DIT, with a curriculum vitae, CV, that was three years out of date they would not get an interview. These three third level institutions expect to take the time of the Committee on Public Accounts, the national Parliament discussing items that are three years out of date. There are very important issues we do need to discuss and this puts us in a dilemma.

I am also sending a signal to every other public body that ever comes in here with accounts out of date, they will get short shrift. I am also directing my comments to the HEA and the Department of Education and Skills who allow this position to continue. I find it unacceptable that the Department would roll out money, year in year out, for the Estimates in 2015, 2016 and 2017 without sight of up-to-date audited accounts from the witnesses' organisation. Due to the seriousness of this situation we are now suspending the meeting while the committee goes into private session to discuss whether it will proceed with today's events.

The meeting is now suspended. I ask witnesses to please leave the room and remain outside until the committee decides what to do next.

The committee went into private session at 9.58 a.m. and resumed in public session at 10.11

a.m.

Chairman: We will continue with our meeting to discuss the various third level institutions and colleges represented here. The plan is to discuss with Waterford Institute of Technology, Dublin Institute of Technology and the National University of Ireland Galway, issues concerning their financial statements. We note that none of the three organisations has completed audited accounts or published their accounts for any period since August 2014. The committee is gravely dissatisfied at being presented with information that is at least three years out of date. It reduces the impact of the effectiveness of the reporting structure of those organisations to this committee.

We have invited the Higher Education Authority and the Department of Education and Skills back first on this occasion so that the committee can discuss the whole question of their role in ensuring that this sector operates properly.

Last week, we heard from three other third level institutions. One of their accounts was for the same period, the year ended August 2014. The other two accounts were for 2015. This matter has exercised this committee and the Comptroller and Auditor General. The Comptroller and Auditor General recently published a report on the timeliness of publishing financial statements.

We will start by asking Ms Colette Drinan from the Comptroller and Auditor General's office to comment. Committee members will then have some questions to pose. We believe that it is fine looking at individual colleges, but the idea that year in and year out they can get funding without us seeing sight of the previous year's financial statement is not adequate from our point of view. It should not be adequate from the Department's viewpoint either. We will therefore be asking the representatives to take our views back for action to the Department as a result of this discussion. It is our intention to resume the meeting with Waterford Institute of Technology, Dublin Institute of Technology and the National University of Ireland Galway, once we have completed this session because of the serious issues we want to discuss. People will see the grave and unacceptable situation in which the committee is placed by being presented with accounts that are three years out of date. We will have to make the best of it today, however. I am saying to every Secretary General and every Accounting Officer that the committee will not again tolerate being presented with information which is three or four years out of date.

I call on Ms Drinan from the Comptroller and Auditor General's office to make her opening remarks.

Ms Colette Drinan: I thank the Chairman. As he has referenced, higher education bodies are highlighted in the Special Report on Financial Reporting in the Public Sector as a sector where a number of institutes or entities have delayed accounts. The office has increased the resources we have available for financial audit in this area. We have also engaged with the HEA sectorally to advise it of particularly difficult cases with a view to trying to bring the timeliness forward. We have succeeded to a certain extent. Obviously we are not where we want to be yet, but there has been some progress. We will be updating the position on financial reporting in the public sector for 2016 and it is an area on which we are focusing.

Chairman: I thank Ms Drinan. We will now have brief comments from members of the committee, starting with Deputy McDonald, who indicated first. There will then be questions to the HEA and the Department about the issues so that we can see where we stand.

Deputy Mary Lou McDonald: First, I wish to endorse the comments of the Cathaoirleach and those of the Office of the Comptroller and Auditor General on the issue of timeliness in financial reporting. It is entirely unacceptable that institutes of higher education, whoever they are, can float in here with archaic, out-of-date records. I want, therefore, an assurance from everybody concerned that they understand that is not on and has to stop. Whatever steps they have to take to straighten that out, whether it involves the Department, the HEA or elsewhere, it should be straightened out. It is not acceptable to the committee or taxpayers, who fund all of this, and they also fund the Department of Education and Skills and the HEA.

I am alarmed at what is unfolding in a piecemeal fashion in respect of this sector. It strikes me that in terms of governance and good practice the higher education sector is in a mess. Alongside this committee, the Department and the HEA are responsible for overseeing and insisting that this mess is straightened out. It strikes me that some of these institutes are personal fiefdoms. They seem to be run almost like the wild west and that is not good enough. I want to be helpful by making some requests and suggestions. First, in respect of the governance of these institutions I do not believe that we have had a comprehensive or fully frank account of what has happened or what has been revealed by whistleblowers in terms of how their disclosures have been processed and managed, or how those individuals have been treated.

I recall that, back in 2014, Mr. Ó Foghlú from the Department of Education and Skills, who, unfortunately, is not with us today, informed us that he had given an instruction that the whistleblower matters were to be resolved or sorted out with an eye to the new legislation. I do not believe that happened, however. It is as simple as that. I am not convinced and I need to be convinced that it happened. Therefore I would like to get a comprehensive written account from the Department and the HEA in respect of protected disclosures made in each of these institutions. The witnesses do not have to give us identities - that is not necessary - but I want a full account of how those matters were processed and how people were held to account at every level, up to and including the boards and paid executives of these institutions. I would like the Department and the HEA to furnish us with a full bird's eye view of exactly what happened without delay. We would then have to consider that information and see how we can move forward.

I am citing whistleblowers but I could also cite human resources departments and their processes, or many other facets. As our starting point, however, we should focus on the whistleblowers because let us remember that is the genesis of much of the information on malpractice that has been uncovered and which we now have.

My second point concerns the Office of the Comptroller and Auditor General. Deputy Connolly raised earlier the inability of the Comptroller and Auditor General to audit foundations. I share her concerns in that regard. I want to pinpoint a related but more specific issue, intellectual property, the commercialisation of intellectual property and the spin-off companies that arise from it. It is about the money that is generated by the commercialisation of intellectual property, what goes where and who gains from it. I am very concerned that the taxpayer, the Committee of Public Accounts and the witnesses do not have proper oversight of exactly what is happening in that dynamic across the higher education sector. I am absolutely determined to get to the bottom of it, that we get concrete assurances on governance arrangements and conflicts of interests. From the point of view of the taxpayer, we should get an absolute assurance that when as taxpayers we invest in learning and innovation, we are getting a return on it and are fostering an environment in which innovation is encouraged and prolonged. I am worried that this process is allowing opportunities for private gain by individuals or corporates and is

leaving the taxpayer behind.

I wish to put a proposition to the Comptroller and Auditor General that a special investigation be conducted into the commercialisation of intellectual property and that the protocols and processes be examined institute by institute.

All members know that this sector is absolutely essential for the growth and development of society for the benefit of our children and ourselves and for the knowledge economy. This is the pulse and is where it happens or not. I am concerned about the messing and the sloppiness. I think the Department of Education and Skills and the Higher Education Authority have been asleep at the wheel. I cannot arrive at any other conclusion when one sees the absolute mess that surrounds these institutes. I hope that from today, not just the individual colleges but the system will understand that this is not good enough. That needs to stop.

I am making two firm propositions to the HEA and the Department on whistleblowers and governance. I am requesting the Comptroller and Auditor General to get under the bonnet of the commercialisation of intellectual property and the very considerable resources and money that are generated through that.

Chairman: I will take a comment from Deputies Cullinane, Catherine Murphy and Connolly in that sequence.

Deputy David Cullinane: I concur with everything my colleague, Deputy McDonald, has said in the first instance and also the opening comments of the Chairman on the out-of-date and archaic accounts that were presented to us. This prevents the members of the Committee of Public Accounts from doing our job. Our job is to ensure that we do a look-back exercise over how taxpayers' money is spent. We need information from State bodies, institutes of technology and universities to allow us to do our job fairly. We always put questions without fear or favour. Our only role is to protect taxpayers and the interests of institutes, be they institutes of technology or universities.

Dr. Graham Love appeared before the committee a number of weeks ago. It was probably his first appearance before the Committee of Public Accounts and in his opening statement he stated the Higher Education Authority, HEA, had done a review of governance across different sectors. What strikes me, and Deputy McDonald referred to it, is that no review was conducted on intellectual property spin-outs. My understanding is that the spin-outs are in part the responsibility of an arm of Enterprise Ireland. I think that is completely unacceptable because Enterprise Ireland has a vested interest. In my view it must be anchored in the HEA and the Department of Education and Skills. There are question marks around who is minding the shop and who within institutes is protecting the interests of those institutes. It appears to me that the institutes are at arm's length from the Department and the HEA. The institutes are given far too much latitude and far too much independence. The relationship between the HEA and the Department of Education and Skills and the institutes is not what it should be in terms of governance and oversight. I agree with my colleague that it is not good enough for the members of this committee. The members of the Committee of Public Accounts do their best. We invite people to appear before the committee and put them through their paces, in that we ask them questions and listen to their responses and then that is the end of it. The following year we do the same and the same problems come up. That is not good enough. I agree with the comments made by Teachta McDonald that it is a bit like the wild west in terms of how some of this has been managed. This is not acceptable. I concur that the Office of the Comptroller and Auditor General, notwithstanding its heavy workload and resource issues, should do a special report

on the spin-outs from intellectual property. In my view this area is completely unregulated. It is absolutely light-touch regulation. We will see examples of this when one of the institutes comes before us. I concur with the recommendation that the Comptroller and Auditor General do a special report but also that both the HEA and the Department of Education and Skills furnish us with reports on governance and oversight on accounts, managing conflicts of interest and the whistleblowers issue that Deputy McDonald raised.

Chairman: We will ask for a response when the members have put their questions.

Deputy Catherine Murphy: I am absolutely surprised at the time we will have to expend on this sector. It is only a sample of the sector. That means that oversight on other sectors will be postponed or will be limited.

The Department of Education and Skills and the Higher Education Authority will have seen the audited accounts that have qualified certificates. In any organisation that would raise a red flag. In that context, the delay in providing up-to-date audited accounts is all the more alarming. What are the consequences and what controls are in place that will deal with that? What have the Department of Education and Skills and the HEA done to deal with the last set of qualified certificates? The Department and HEA should pay attention to the points that have been made about spin-offs.

Chairman: It has just occurred to me that the witnesses from Waterford Institute of Technology are standing in the hall and not hearing what has been said. I propose that they be invited to sit in the Visitors Gallery so that they will hear the contributions because they are not hearing anything. We will continue but we will ask the witnesses from Waterford to take seats in the Gallery so that they will be able to hear the proceedings. In due course, they will appear before us.

Deputy Catherine Murphy: What has happened as a consequence of the hearings is that people are coming forward with information that actually adds to our understanding. How that has not been understood in the areas that it should have been understood and acted on is extremely concerning. I concur with the point that this sector has a degree of freedom and autonomy that will potentially undermine its status and from the ultimate aim of being at the core of developing knowledge in our society and driving society and the economy. That raises a very serious red flag for the sector. Exactly what are the consequences for not providing the accounts on time and how do the Department and the HEA deal with an audit, which at best is a qualified audit?

Deputy Catherine Connolly: I reiterate all the comments on the delay in the annual accounts. I have no idea why accounts would be delayed. NUI Galway has distinguished itself by being one of two universities that is particularly late with its accounts. I would have thought the Department and the HEA would be straight on to it to ask what was going on.

I am reeling from all I have read on intellectual property rights in the past number of weeks. The witnesses can see all the paper we have. We are struggling. We are not accountants and we are struggling here looking at 3%, 5% and 8% of intellectual property rights being sold off to private companies. When I asked Dr. Love about that, he told me that Enterprise Ireland had a policy on it. Like my colleagues who are here today, it shocked me that Enterprise Ireland would set the policy for education. It truly shocked me. I am not sure what the HEA is doing. I do not wish to be personal but the HEA seems to be reacting rather than being proactive about intellectual property rights, which belong to the people.

What is happening to the whistleblowers is very unfair. We are talking about a small place. Whistleblowers are being identified here, albeit not by name. They are writing letters to members of this committee which are being referred onto the Chairman. We are now in a position where we are arguing about who said what, which is not our role. This is not a court of law but a place to bring accountability. Clearly, if whistleblowers are coming forward in such numbers, there is something seriously wrong with accountability. We then find ourselves acting as judge, which we do not want to be at all. Whistleblowers are asking to appear before this committee which is something we are going to have to consider.

Foundations are being set up and the universities seem to have washed their hands of them. The foundation accounts are not being consolidated. Clearly, the Comptroller and Auditor General has said that it is a matter of control and the universities do not have control. He is limited in that way. There is nothing wrong with the universities submitting the foundation accounts in an open and accountable manner to the Comptroller and Auditor General. NUI Galway, for example, only introduced a mechanism last year but is clapping itself on the back for setting up a formal procedure for processing payments. As someone with very varied experience, I am absolutely reeling.

I wish to turn to the professor from Waterford with regard to his opening statement, which captures it. We had the Quigley report and the comments from the HEA on that report dating back to 2013. I would have thought that the first sentence of his opening statement would have been that there were more than 40 recommendations and all of them have been implemented.

The issues of intellectual property rights and whistleblowers will have to be addressed. We are utterly dependent on whistleblowers with regard to every issue, which is extraordinary given that we have a third level oversight body.

Chairman: I will ask Dr. Love to comment first and then I will ask Mr. Mannion to give the Department's view on the issue of intellectual property rights. One of the issues to be considered is the fact that physical resources, equipment and staff costs are all paid for by the taxpayer in these institutions. However, when the taxpayer gets 1% of the spin-out company, we have no idea whether that even covers the costs incurred by the taxpayer. What accounting mechanisms are in place to keep track of the costs being incurred by the taxpayer in relation to this intellectual property, which is ultimately privatised, with the State getting only 1% or 2%? We need to have a system in place to track that.

Deputy David Cullinane: There is one point I would like to make before the witnesses respond and I am sure the same point will be made by them. Spin-outs and commercialising intellectual property are not bad things-----

Deputy Mary Lou McDonald: It is a good thing.

Deputy David Cullinane: We all support that and it creates jobs. We do not want to hear waffle about creating jobs and boosting areas.

Deputy Mary Lou McDonald: That is accepted.

Deputy David Cullinane: The issues here, which Dr. Love and Mr. Mannion must address, are accountability, transparency, protecting the institutes, good governance, good practice and the management of conflicts of interest. These are the issues at play here, not whether spin-outs or commercialisation of intellectual property is good or bad. It is accepted that it is good. I make that point in anticipation of what the witnesses will say.

Chairman: The committee has no negative view on that issue. I invite Dr. Love to comment. I am asking him to respond and to demonstrate that he has listened to what has been said. Indeed, the authority and the Department have a lot more listening to do and actions to take in the context of the funding and their hands-off approach.

Dr. Graham Love: I thank the Chairman. We accept the point about the paper that was requested by Deputy McDonald and will get to work on that straight away. I will comment on the issue of intellectual property without going into the policy issues. The policy in general is set by the Department of Jobs, Enterprise and Innovation, which partners the Department of Education and Skills and the HEA in the delivery of that within the system. I will not go into all the reasons for that. However, I want to provide assurance that there is a policy and protocol in place, as well as local policies in all the institutions, that is rigorous and which stands up to international standards. We accepted at last week's meeting of this committee, and will recommit to it today, the need to provide assurances that the policy is being implemented and checked on a periodic and acceptable basis. That is something the HEA will perform as part of a rolling review, a governance review. We said that last week and I want to commit to that again today. That will be done in partnership with Knowledge Transfer Ireland, KTI, the expert body. The HEA has governance and accountability relationships with the higher education system. As I said last week and repeat now, we are listening carefully on that front.

I would like to stress something which relates to a point made earlier about Enterprise Ireland and the role of the Department of Jobs, Enterprise and Innovation. The intention is that the benefits will accrue to Ireland. I think I picked up a concern that there might be a conflict of interest in that, in and of itself. The aim here is to create and retain jobs. I am not going into detail on that but I want to be really clear on that point. I am recommitting to what I said last week, namely, that we will be performing one of our rolling governance reviews on the topic of intellectual property policy implementation in the institutions. We accept the importance of that.

Chairman: What about the lateness of the accounts?

Dr. Graham Love: I will ask my colleague, Mr. Brownlee, to answer that.

Mr. Andrew Brownlee: I want to emphasise that the timeliness and governance issues are completely and utterly unacceptable to the HEA. We could not be clearer about that. There are issues around timeliness which the Comptroller and Auditor General acknowledged are particular to higher education accounts relating to recognition of research income, the dual audit requirement in universities, the recognition of particular assets and so forth. Those aside, however, there is no excuse for the fact this committee is looking at the 2013 and 2014 accounts in 2017. To some extent we are dealing with legacy issues. I understand from talking to the Comptroller and Auditor General that his office is satisfied with where the institutions are at in terms of their responsiveness to updating the accounts. I also want to stress that we have put in place a governance framework for higher education over the last two years which has involved a number of steps to provide further reassurance. It involves things like regular liaison and reporting with the Comptroller and Auditor General and an early warning system. We now have financial contracts in place with the higher education institutions that insist on those institutions having their draft accounts ready within six months of the year end. We have established rolling reviews to look at particular governance issues. The first one was on procurement because we recognise that procurement across the higher education sector is not good enough. We have revised our annual governance reporting templates to take account of all the issues around governance that are becoming apparent. We take it absolutely seriously. We have new report-

ing arrangements in place with the Department of Education and Skills around a risk register, financial accountability framework and a system performance framework. We take this issue very seriously and have been working on it. Undoubtedly there are legacy issues to deal with but we are completely committed to doing that.

Chairman: Finally, I ask Mr. Mannion to comment on behalf of the Department.

Mr. Christy Mannion: I can understand the frustration being expressed by members of the committee this morning. Indeed, we share some of that frustration. The Department has discussed the issues just outlined by Mr. Brownlee with the HEA with a view to bringing all the various governance pieces together into an accountability framework, a financial framework and an updating of the code of governance. We have been working on that to drive better accountability and better governance. When one takes out some of the issues and examines them in the manner in which this committee has done, it is quite disconcerting. We have been working with the people to whom committee members referred, namely, the whistleblowers. I have been meeting them individually, talking to them and trying to get to a situation where we can address their issues. We do not want them to be in limbo, looking in all directions in an effort to have their concerns addressed. As recently as two weeks ago I spent three hours with some of them. We are moving to address particular issues and have been discussing them with the University of Limerick and the HEA to try to find a mechanism to move forward. I accept the Chairman's frustration but from our perspective, we are dealing with these issues. As Mr. Brownlee said, some of these issues go back to 2013-2014. We have been working on it. Over the past year, there has been much more liaison and discussion with the Comptroller and Auditor General than before so the situation has improved greatly. There have been a number of meetings between the Comptroller and Auditor General and the Secretary General, the Comptroller and Auditor General and the HEA, the Comptroller and Auditor General, ourselves and the Department of Public Expenditure and Reform. We have been doing all this to address the issues that are there. These things are unacceptable and need to be addressed but I assure the committee we have been addressing them. We are working on them and we are trying to put better systems in place to ensure the committee is not in this position and will not be addressing these issues in the time to come.

Chairman: We will try to wrap up this section.

Deputy Mary Lou McDonald: I thank the witnesses for those responses. I would like an indication from Dr. Love of when the report I have requested on whistleblowers and governors will be available. I imagine the Department will have some role in this. I have reason to believe - I hope I am wrong - that we may have been misled by certain witnesses who appeared before this committee on behalf of different institutions.

Chairman: Is the Deputy talking about last week?

Deputy Mary Lou McDonald: No, I am not referring specifically to witnesses from University of Limerick who appeared before us last week. I have a concern we have not got the truth, the whole truth and nothing but the truth as regards disclosures and how they were managed. I want to make it clear that when we ask for a report, we do not want something that has to be revised and revisited; we want something comprehensive. To that end, to be helpful, it might be useful if we could submit ideas and specific things through the clerk so we are all on the same page and then we can send it on to the HEA. Is that reasonable and fair?

Dr. Graham Love: Yes.

Deputy Mary Lou McDonald: On the issue of intellectual property, I specifically ask that the Comptroller and Auditor General looks under the bonnet of the commercialisation of IP because the governance frameworks and protocols are essential. The witnesses have said they have them and I accept that but we have to check they are being implemented and adhered to. I want to know where the money went. I want to see it in euro and cents. I want to know how much was generated and how the taxpayer and various institutes benefitted or not. In addition to the governance piece that Dr. Love has referred to, we want to see the money trail. I would like the Comptroller and Auditor General to comment on that.

Chairman: We will put Mr. McCarthy on notice of that so he can respond at next week's meeting. The Committee of Public Accounts cannot direct the Comptroller and Auditor General to carry out a specific investigation but we can request it and we will want a response to that request next week. That was a quick comment by the Deputy in the meantime.

Ms Colette Drinan: That is what I was going to say. I will convey the committee's comments to the Comptroller and Auditor General. We identify potential topics we think are worth examining and one of those topics is the area of intellectual property and research. We have identified it. As Deputy Cullinane mentioned earlier, we have a very heavy work programme on the reporting side so we prioritise our work. In that context I will convey the comments of the committee to the Comptroller and Auditor General.

Chairman: He can talk to us next Thursday when he appears in person. At this stage, we have concluded this particular aspect so we will suspend for a moment while the witnesses from Waterford Institute of Technology take their seats. *Sitting suspended at 10.43 a.m. and resumed at 10.44 a.m.*

Chairman: Before I call Deputy Cullinane, who is the lead speaker this morning, I will say something to Professor Donnelly, as president of the institute, to which I am not looking for a response. The witness has heard everything that has been said. We are saying to Professor Donnelly that the financial accounts for the period 2014-2015 and the financial accounts for 2015-2016 up to the end of August 2016 are to be completed by 30 June 2017. We are giving a few months. It is not for discussion. They are to be completed. We want to hear from the Comptroller and Auditor General's office on 1 July that the accounts have been submitted to the Comptroller and Auditor General's office for audit by 1 July. Whatever Professor Donnelly has to do, as president of his organisation, this is to happen. I ask the Comptroller and Auditor General's office to give us an assurance at that stage that the accounts will be certified, audited and completed by the time we come back here in September. There is no discussion and no debate on that. There will serious consequence if that does not happen.

Deputy David Cullinane: I welcome the witnesses from an institute in my constituency, Waterford IT. I will start with a number of questions in respect of Professor Donnelly's involvement with the institute. When did Professor Donnelly first start to work for the institute?

Professor Willie Donnelly: 1998.

Deputy David Cullinane: What was Professor Donnelly's role when he first worked for the institute?

Professor Willie Donnelly: Lecturer.

Deputy David Cullinane: Professor Donnelly was then appointed to different positions. Will he talk me through his different appointments since lecturer?

Professor Willie Donnelly: The institute of technology did not ordinarily do research. When I came into-----

Deputy David Cullinane: All I am looking for is Professor Donnelly's titles and the years.

Professor Willie Donnelly: I led a research group.

Chairman: All the questions should be answered through the Chair not across the floor. Everything should be through the Chair.

Professor Willie Donnelly: I was an academic lecturer in 1998. I continued to be an academic lecturer until 2004. In 2004 I became the VP of research. However, in addition to my academic lecturing role, I established and was director and principal investigator of the TSSG and of a number of large-scale, national projects for the HEA and SFI.

Deputy David Cullinane: In 2004, Professor Donnelly became vice president or one of the vice presidents-----

Professor Willie Donnelly: The first vice president.

Deputy David Cullinane: -----with specific responsibility for research and innovation. Is that correct?

Professor Willie Donnelly: That is precisely it. In postgraduate studies.

Deputy David Cullinane: Professor Donnelly then went on to become president. When did he become president?

Professor Willie Donnelly: I was acting president since May 2015. I was reappointed in January of this year.

Deputy David Cullinane: As acting president, Professor Donnelly appeared before the Committee of Public Accounts on 10 December 2015, which I understand was the last time he was before the committee. Is that correct?

Professor Willie Donnelly: Precisely.

Deputy David Cullinane: The professor has been in correspondence with this committee because of answers to questions he gave when he was last here. Is that correct?

Professor Willie Donnelly: When I was here I was asked a question about FeedHenry. I was asked if I was a director of FeedHenry and I said "no" because that was my belief at the time. I subsequently discovered that I was a director for a period of time. I contacted the Deputy to ask for guidance on what to do and he said to send a letter to the Committee of Public Accounts and that it was a normal thing to do. I sent a letter and confirmed that I actually was for a period a director of FeedHenry.

Chairman: Will Professor Donnelly explain what FeedHenry is?

Professor Willie Donnelly: FeedHenry is a spin-out company that I established in Waterford Institute of Technology.

Chairman: For the uninitiated, what does Professor Donnelly mean by a spin-out company? Will he explain it to the non-members?

Professor Willie Donnelly: There are a number of definitions. A common definition of a spin-out company is a company that is created by members of the academic community that leverages IP from the institute, whether it is a university or institute of technology.

Deputy David Cullinane: I want pretty much “yes” or “no” answers to the following questions. I want to, in a fluent way, establish the facts. I assume that when questions are put, Professor Donnelly will answer them fairly and accurately and that this committee will get the full information. Will he confirm that will be the case?

Professor Willie Donnelly: There is no reason to assume it would be otherwise.

Deputy David Cullinane: Yes, but Professor Donnelly gave inaccurate information to the Committee of Public Accounts in the past.

Professor Willie Donnelly: I gave the answer I believed to be the correct answer.

Deputy David Cullinane: Was it accurate or inaccurate?

Professor Willie Donnelly: It was inaccurate. I did not intend to mislead anybody; I gave the answer I believed to be the right answer. The question was unexpected and out of context of the meeting.

Deputy David Cullinane: I will get to the context of the question in a few minutes because that is important for me too. Professor Donnelly and I are on friendly terms and we have had several meetings. He is well aware that I am very supportive of the institute’s work and of it becoming a university. I refer to a cold call I received from Professor Donnelly, which would not be unusual given, as I said, that we have met several times and have a cordial, friendly relationship. The call was in relation to Professor Donnelly’s previous appearance before the Committee of Public Accounts and a response he gave to a question he was asked, which was inaccurate, in respect of which he was seeking advice. The advice I gave was that he should write to the committee secretariat with a view to having the record of the proceedings corrected. Is that correct?

Professor Willie Donnelly: Yes, precisely.

Deputy David Cullinane: The question Professor Donnelly was asked was a very straightforward question, one I would assume would be easily answered. Professor Donnelly was asked if he was a director in a company called FeedHenry. What was his answer to that question?

Professor Willie Donnelly: I said I was never a director of that company.

Deputy David Cullinane: Professor Donnelly has been vice president of an institute for many years and he is currently president of Waterford institute. How did he not know that he was a director of a company? How could that have been something that he would not have known?

Professor Willie Donnelly: This was 2016. We are speaking now about 2010. I have a very active life. Sometimes it is said that people who are engaged in multi-tasking and work in a high-pressured environment only retain in their brain those things that are relevant to their position at the time.

Deputy David Cullinane: With respect, that is not an adequate answer. It is an appalling

answer. I was a director in a number of companies. If I was asked if I was a director of a company I would know the answer, as I would hope most people in this room would. Did Professor Donnelly have to attend any board meetings of FeedHenry as a director?

Professor Willie Donnelly: No.

Deputy David Cullinane: I would know if I was a director of a company. I will get to the context of the question now. Professor Donnelly was asked whether he was a director of a company that was eventually spun-out and sold for a significant amount of money. Is that correct?

Professor Willie Donnelly: Yes.

Deputy David Cullinane: On that occasion, Professor Donnelly was asked twice if he was a director of the company and on each occasion his response was “No”.

Professor Willie Donnelly: I only recall being asked the question once.

Deputy David Cullinane: Professor Donnelly was asked the question twice. He can check the record if he wishes.

Professor Willie Donnelly: I will.

Deputy David Cullinane: I have checked the record and I can tell Professor Donnelly that he was asked the question twice.

Professor Willie Donnelly: It was my understanding at that time that I was not a director such that if I had been asked the question 65 times my response would have been the same.

Deputy David Cullinane: I find that troubling. However, Professor Donnelly gave the answer he did. He then clarified for the committee in written correspondence that he was a director, in an attempt to clear up the record.

Professor Willie Donnelly: I did not attempt anything. I set the record straight.

Deputy David Cullinane: I am suggesting that Professor Donnelly attempted to set the record straight by saying that he was a director.

Chairman: Why is Deputy Cullinane saying Professor Donnelly “attempted to clear up the record?” He either did or did not do so.

Deputy David Cullinane: I am saying that because in correcting the record I believe it would have been also appropriate for him at that point to have declared that he was also a shareholder in the said company. He should have given the complete picture.

Professor Willie Donnelly: I said I was a founder of the company. It is common knowledge that if a person is a founder of a company, he or she is a shareholder.

Deputy David Cullinane: That may not be the case. In any event-----

Chairman: The Deputy has been given a response.

Deputy David Cullinane: In any event, Professor Donnelly did subsequently write to the committee and inform it that he was a shareholder.

Professor Willie Donnelly: I wrote to the committee indicating that I was a founder.

Deputy David Cullinane: In the letter that Professor Donnelly sent to the committee he acknowledged that he was a shareholder.

Professor Willie Donnelly: Yes. I clarified originally that I was a founder. To be honest, everybody knows that a founder of a company is a shareholder. It is common knowledge.

Deputy David Cullinane: Let us not assume that everybody knows anything. I ask Professor Donnelly to answer the questions put to him. In any event, he subsequently wrote to the committee again. The context here is important because FeedHenry was a spin-out company that was sold on for a significant amount of money. I have a number of questions for Professor Donnelly in relation to that but I would welcome if Professor Donnelly would first explain what FeedHenry was.

Professor Willie Donnelly: FeedHenry was a mobile services platform. The intellectual property of the company was developed by my own research group, the TSSG.

Chairman: What is TSSG?

Professor Willie Donnelly: It is the Telecommunications Software and Systems Group.

Chairman: Is that a company or part of the college?

Professor Willie Donnelly: It is a research group within Waterford Institute of Technology.

Chairman: It would be helpful if Professor Donnelly would spell out the full names of groups and so on rather than use acronyms.

Professor Willie Donnelly: Okay.

Deputy David Cullinane: When was FeedHenry established?

Professor Willie Donnelly: FeedHenry as a company was established in 2008.

Deputy David Cullinane: What was Professor Donnelly's role in the institute when FeedHenry was established?

Professor Willie Donnelly: I was the VP of research.

Deputy David Cullinane: Professor Donnelly was vice president of research and he set up this company?

Professor Willie Donnelly: Yes.

Deputy David Cullinane: Am I correct that Professor Donnelly was one of a number of people who set up this company?

Professor Willie Donnelly: Yes. FeedHenry was established as a private company. It later entered into negotiations with the institute. It was established as a private company in 2008.

Deputy David Cullinane: It was established as a private company and then it entered into a relationship with the institute in which Professor Donnelly was the vice president of research and innovation.

Professor Willie Donnelly: It opened negotiations with the institute to access IP that was generated by my research group, as is the norm.

Deputy David Cullinane: We will get to whether it is the norm in a few minutes. Who were the other people involving in setting up the company?

Professor Willie Donnelly: It is a private company. I can supply the committee with a list.

Chairman: In fairness, if the people involved are private individuals their names should not be mentioned.

Deputy David Cullinane: I do not believe it makes any difference; they were shareholders in a company. The information is on the CRO records.

Chairman: It is published information.

Deputy David Cullinane: Am I correct that one of those people is Mr. Barry Downes?

Professor Willie Donnelly: It is published information.

Deputy David Cullinane: Yes, and I am putting it on the record that one of those people is Mr. Barry Downes. I said earlier that Professor Donnelly should answer the questions put to him.

Professor Willie Donnelly: As the Deputy will appreciate, I cannot reference people who have not been invited to appear before this committee and who would not be aware of their names arising in this forum. With respect, I would appreciate it if that was understood.

Chairman: In fairness, Professor Donnelly should not identify by name people who are not here.

Deputy David Cullinane: I can. Some of these people worked for-----

Chairman: I am telling Professor Donnelly that he cannot do so.

Deputy David Cullinane: Some of these people worked for the institute and some of them had roles within the institute. My questions are perfectly reasonable. All I am looking for is information. We want and we need information. I am concerned that Professor Donnelly's response has been that he cannot answer this and that. For that reason, I propose to put a number of things on the record.

Professor Willie Donnelly: No, sorry-----

Deputy David Cullinane: Sorry, Professor Donnelly-----

Chairman: Allow Professor Donnelly to respond.

Professor Willie Donnelly: It is very important that members of this committee respect me as a citizen and that they respect that I have to operate within constraints as a citizen. I would like that to be noted. I am not trying to avoid questions. I will answer every question but there are certain things I am unable to do.

Deputy David Cullinane: I ask Professor Donnelly to allow me to put my questions and I remind him that he is the president of an institute and that is why he is here. He is here to answer questions as the president of an institute and as a former vice president of research and innovation in the institute. I may have to just put issues on the record without getting answers to questions. As I said, Mr. Barry Downes was one of the originators, in terms of a shareholder,

as was Mr. Micheál Foghlú. Once FeedHenry was established as a private company, what happened then?

Professor Willie Donnelly: It indicated to the institute that it would like to enter into discussions on licensing IP from the institute.

Deputy David Cullinane: To who in the institute was that indicated?

Professor Willie Donnelly: To the financial controller.

Deputy David Cullinane: Who was the financial controller at the time?

Professor Willie Donnelly: I am unable to say. The function of the person was financial controller.

Deputy David Cullinane: Why can Professor Donnelly not name the financial controller at the time? He worked for the institute. Am I correct that the financial controller at the time was Mr. Anthony McFeely? I cannot understand why we cannot name people who worked for an institute.

Professor Willie Donnelly: Mr. McFeely is a retired member of staff, who is not aware of this meeting. With all due respect, I find this quite difficult. I want to answer the questions but I am not in a position to name people. It is the function of the person concerned that is relevant. The financial controller engaged in negotiations. His name or his personality have nothing to do with it.

Deputy David Cullinane: That may be the case but at the same time if I was named as a Deputy for Waterford I would have no difficulty with that.

Professor Willie Donnelly: Deputy Cullinane is a public representative.

Deputy David Cullinane: Those people are paid from the public purse as well. All of that is a distraction. Did Professor Donnelly then enter into negotiations with the financial controller? What happened? Could Professor Donnelly talk me through the process?

Professor Willie Donnelly: What happens is one indicate one's interest to exploit IP. One enters into negotiations and the institute, according to its policy, will set certain conditions. Normally, as the committee has already heard, the ownership of IP is retained by the institute. The institute can agree to license IP to a company. If the company fails, the institute can recoup the IP. The institute continues to own the IP licence. Normally, there are certain conditions set to ensure the request is meaningful. What is important in terms of the first request, at least for our institute, is the requirement that one raises funding from the marketplace. The requirement on FeedHenry was to raise €500,000 in investment. Once that happens the IP is assigned to the company. The institute still retains the right to recoup the IP if the company fails. What happened was the person who entered into negotiation on behalf of FeedHenry agreed that there would be assignment of the IP to the company if it raised €500,000 and in return for that the institute would get a percentage.

Deputy David Cullinane: What was the percentage shareholding the institute got initially?

Professor Willie Donnelly: It originally got 12%, which was diluted on the-----

Deputy David Cullinane: Why 12%? Who made that decision?

Professor Willie Donnelly: It was done as part of the negotiation between the company and the financial controller. The conditions are clearly laid down in the IP policy that the institute seeks to receive 12% but it is a point of negotiation. It is a value judgment. One decides, taking all things into account, what is the best possibility of the institute getting a return on its investment. We have two objectives as an institute. The first one is the development of the institute and the second one is the economic development of our region. When one enters into negotiations one considers both of those. One could quite easily, for instance-----

Deputy David Cullinane: I understand all that. I am trying to understand two things, namely, when the negotiation was going on with WIT regarding its shareholding, who was negotiating on behalf of the company and who was negotiating on behalf of the institute?

Professor Willie Donnelly: The initial negotiations were opened by a person who was part of the institute, which is quite normal. It is a campus company. A campus company is one that is sponsored by employees.

Deputy Mary Lou McDonald: Will Professor Donnelly just answer the question?

Professor Willie Donnelly: I am answering it.

Deputy David Cullinane: Professor Donnelly is not.

Deputy Mary Lou McDonald: That is a distraction.

Professor Willie Donnelly: The full negotiations were conducted by a person who was not a member of the institute. He was never a staff member of the institute but he was the CEO of the company, FeedHenry.

Deputy David Cullinane: So the CEO of the company carried out the negotiations on behalf of the company and was it the financial controller who carried out the negotiations on behalf of the institute?

Professor Willie Donnelly: Yes, and he was supported by the technology transfer office.

Deputy David Cullinane: Was he also supported by the office of research and innovation?

Professor Willie Donnelly: He would probably have been supported by the external services manager.

Deputy David Cullinane: But was there a role for the head of the office of research and innovation?

Professor Willie Donnelly: There was a role for individuals in the office.

Deputy David Cullinane: Either there is or there is not. Is there a role for the office or the head of research and innovation?

Professor Willie Donnelly: The head of research and innovation had no role in the negotiations. In actual fact-----

Deputy David Cullinane: I am not asking that. I have to stop for a moment.

Chairman: Be specific.

Deputy David Cullinane: I am not asking about the head, I am asking about the office.

Did the office of research and innovation have oversight?

Professor Willie Donnelly: Yes, it had a role. The oversight was by the financial controller.

Deputy David Cullinane: At the time, who was the head of the office of the research and innovation?

Professor Willie Donnelly: I was.

Deputy David Cullinane: Professor Donnelly was also one of the shareholders.

Professor Willie Donnelly: Yes. That was declared in the first engagement with the institute. The institute knew who the shareholders were. We were attempting to create a campus company. The institute knew the majority of the shareholders were members of the institute. The funding originated from Enterprise Ireland, which had to sign off on the transfer, and it also knew who the sponsors were. It knew they were members of the institute. All of that information was openly declared to both Enterprise Ireland, which had funded the research, and to the institute which was negotiating with the company.

Deputy David Cullinane: We have that information. Those negotiations took place and the institute took up a 10% to 11% shareholding.

Professor Willie Donnelly: It was 12% originally and on the investment of €500,000 it was 10.6%.

Deputy David Cullinane: Then there was a number of rounds of dilution because a number of venture capitalists came on board. Is that correct?

Professor Willie Donnelly: The process of bringing software to the market requires the development of the market and development of the product, which requires investment. Investment was sought. The initial investment was €500,000 and at that stage the IP was assigned to the company, which was an independent private company. It sought then to get funding to allow for the development of the software. The company needed to employ people and to continue to develop the software and to develop markets.

Deputy David Cullinane: So the answer to my question is “Yes”, a number of venture capitalists came on board and that subsequently diluted the shareholding of the institute.

Professor Willie Donnelly: Some of them were not venture capitalists but they-----

Deputy David Cullinane: But they were investors.

Professor Willie Donnelly: Yes.

Deputy David Cullinane: Investors came on board and that diluted the institute’s shareholding. The company then was eventually sold. How much was it sold for?

Professor Willie Donnelly: The company was acquired by Red Hat for €63.9 million.

Deputy David Cullinane: How much of the €63.9 million went back to the institute for its shareholding?

Professor Willie Donnelly: The institute got €1.5 million for the IP it transferred.

Deputy David Cullinane: The sum of €1.5 million after all of the investment in terms of

researchers-----

Professor Willie Donnelly: I think Deputy Cullinane is jumping to an assumption. He is jumping to the assumption that Red Hat-----

Deputy David Cullinane: I am asking a question.

Professor Willie Donnelly: I want to answer because it is important for the public. Deputy Cullinane is jumping to the assumption that Red Hat paid €63.9 million for a piece of technology that was developed in WIT. If the Deputy looks at the accounts of the company, it will show that the auditors valued the IP that was transferred from WIT at €240,000. Why would a company pay €63.9 million for a piece of software that was worth €240,000? It did not, what it paid for was a product that was the leading product in the marketplace globally at the time it was acquired, which was developed through investment in FeedHenry. It also paid for a global customer base that was not there when the company was set up in the institute of technology. That investment was investment for a company that had the same name as the company that was started by ourselves but it was a completely different company.

Deputy David Cullinane: None of that is contested. My point is that the company was sold for almost €64 million and the institute got €1.5 million but the institute would have put in a lot of resources in terms of supporting the company, notwithstanding the fact that it was a private company. Professor Donnelly was also a shareholder so when the company was sold did he benefit financially?

Professor Willie Donnelly: Yes, I did.

Deputy David Cullinane: By how much?

Professor Willie Donnelly: Chairman, this is very important. All of the shareholders signed a confidentiality agreement with Red Hat for five years. Now I am in a difficult position. I am not trying to avoid answering. The information is in the public space but I cannot tell the committee how much any shareholder benefitted.

Chairman: In fairness, we are not here to discuss Professor Donnelly's own financial circumstances.

Deputy David Cullinane: I am not interested in Professor Donnelly's financial circumstances as an individual but I am interested in the head of research and innovation in an institute being a shareholder in a company in which the institute is also a shareholder. I will get the information in a moment as to who had ownership of policy. My understanding, based on the figures, is that Professor Donnelly benefitted to the tune of between €900,000 and €1 million. That is the calculation I would have made from the figures.

Professor Willie Donnelly: The Deputy has been disingenuous in a way. Not only was I vice president of research, I was also the leading academic researcher in the institute. I had developed a research group of 120 people. I have generated €80 million in investment through research for the region. If one takes that €80 million and the commonly held view that it generates 4.25 in an impact, one notes that is about €0.25 billion into the local economy. I set up a private company based on my own research that I carried out. If I, as a vice president of research, were asked by the Deputy whether I was taking advantage of my position, I would say to him – I can see the line he is taking – that if I, as a vice president of research, had gone into Mr. McLoughlin's group, PMBRC, took some of his intellectual property and commercialised

it, that would have been wrong. I commercialised my own intellectual property. The conflict of interest was recognised by the institute, which is the reason Tony McFeely was in the negotiation and the reason the people in the research office, including the external services officer and the tech transfer office, had no communication with me at any stage on that. I was the lead academic in the institute. According to the policy, I, as an academic, am entitled to commercialise my intellectual property.

Deputy David Cullinane: I am going to address some of those points because I want to concentrate on policy, which is very important. My point is that Professor Donnelly benefitted financially very significantly from the sale of the company. That is just a matter of record and he has given the reasons.

Professor Willie Donnelly: I would like to-----

Deputy David Cullinane: Could I just ask the witness to refrain from referring to me as disingenuous? I would say to the Chairman and witness that I have a job to do. My job is to make sure the interests of any institute are protected. I have a job of work to do to follow the money trail in terms of where there is a relationship between institutes of technology and private companies and where those institutes are shareholders. That is what I am doing here. If that leads us to a situation where some people are unhappy with the questions that are being put, that is fair enough. I have a responsibility to put the questions.

I want to get to policy because policy is important. Could I ask Professor Donnelly, through the Chairman, about the current intellectual property policy in Waterford Institute of Technology?

Professor Willie Donnelly: If the committee does not mind, I will ask Mr. Peter McLoughlin to answer that.

Deputy David Cullinane: I would prefer if Professor Donnelly answered it.

Professor Willie Donnelly: The institute has an intellectual property policy that recognises that the institute owns the policy.

Deputy David Cullinane: What was the commencement date of that policy?

Professor Willie Donnelly: It was 1 November 2016. There was a previous policy.

Deputy David Cullinane: Was the 2016 policy signed off on by the board?

Ms Elaine Sheridan: That is just a revision of it. It was updated. The original was dated 2010.

Professor Willie Donnelly: The original one-----

Deputy David Cullinane: I have both here. The first is Intellectual Property Policy, version No. 1, signed off by the governing body and also the office of the head of research and innovation. The commencement date is 23 February 2010. Does Professor Donnelly have a copy of that?

Professor Willie Donnelly: I do, indeed.

Deputy David Cullinane: He will see at the bottom of the front page that it refers to the policy owner. This line of questioning on the issue is important.

Professor Willie Donnelly: I have the most recent one. I do not have the 2010 document but I take whatever the Deputy says.

Deputy David Cullinane: The delegation should have it but I have it here anyway. The policy owner is the office of the head of research and innovation.

Professor Willie Donnelly: Correct.

Deputy David Cullinane: Correct. It goes on to talk about how conflicts of interest are managed and who does that. There was a commercialisation office. Is that not correct?

Professor Willie Donnelly: We never had a commercialisation office but it is the tech transfer office.

Deputy David Cullinane: Whether it was the tech transfer office or the commercialisation office, the policy states the commercialisation office reports to the head of research and innovation.

Professor Willie Donnelly: Precisely.

Deputy David Cullinane: Which was who?

Professor Willie Donnelly: Myself.

Deputy David Cullinane: And then there was a commercialisation committee. Is that correct?

Professor Willie Donnelly: Yes.

Deputy David Cullinane: Who sat on the commercialisation committee?

Professor Willie Donnelly: The commercialisation committee was chaired by the financial controller. There was a number of members. To save the Deputy time, I was a member of the committee.

Deputy David Cullinane: As head of research and innovation, the professor was a member of the commercialisation committee.

Professor Willie Donnelly: Yes

Deputy David Cullinane: The function of the commercialisation office, or the tech transfer office, and the commercialisation committee is to protect the institute, manage conflicts of interest and carry out the negotiations with companies in terms of spin-outs. Is that not correct?

Professor Willie Donnelly: The commercialisation committee signs off on agreed-----

Deputy David Cullinane: It does more than that. If the professor wants me to go through it all-----

Professor Willie Donnelly: No. It is fine.

Deputy David Cullinane: What I am putting to the professor is that it manages the interests of the institute and conflicts of interest. It delegates responsibility to people to negotiate on behalf of the institute. Is that correct?

Professor Willie Donnelly: Yes. The Deputy knows that it was established post-FeedHenry.

Deputy David Cullinane: There was a previous policy but FeedHenry was still in place when this-----

Professor Willie Donnelly: There was no previous policy.

Deputy David Cullinane: FeedHenry was still in place when this policy was-----

Professor Willie Donnelly: The FeedHenry negotiation was complete before the establishment of the commercialisation committee.

Deputy David Cullinane: Is Professor Donnelly a shareholder in any other company that is-----

Professor Willie Donnelly: Yes, I am a shareholder in a number of companies. I can name them for the Deputy if he wants.

Deputy David Cullinane: If he can, please.

Professor Willie Donnelly: I am currently a shareholder in fuseami and Zolk C.

Deputy David Cullinane: Is he a shareholder in Aceno mobile technologies?

Professor Willie Donnelly: Aceno Mobile was integrated into Zolk C.

Deputy David Cullinane: So there was a company called Aceno mobile technologies.

Professor Willie Donnelly: Absolutely. A very important company.

Deputy David Cullinane: Professor Donnelly was a shareholder in that company.

Professor Willie Donnelly: I was a founder and shareholder of it.

Deputy David Cullinane: When he founded it, what was his position in the institute?

Professor Willie Donnelly: When I founded that, I was an academic researcher.

Deputy David Cullinane: When he became a shareholder in the other companies, what was his position?

Professor Willie Donnelly: I was a vice president of research. Both shareholdings came from my own research.

Deputy David Cullinane: He was a vice president of research and was a shareholder in a number of other companies.

Professor Willie Donnelly: Deputy-----

Chairman: Through the Chair.

Professor Willie Donnelly: It is important to say that all academic researchers were entitled to exploit their intellectual property. In areas where there was a conflict of interest, as in this case, the institute had structures to manage it. The conflicts of interest were managed. I was not part of any negotiations between the institute and these companies.

Deputy David Cullinane: I put a number of questions, as the Chairman will know, to presidents of three institutes. When I put to them the idea of their head of research and innovation taking up shareholdings in spin-out companies or private companies co-located in their institutes, they expressed concern. Those were Professor Donnelley's peers.

Let me come to the issue of policy. I want to put a question because I am focusing on-----

Professor Willie Donnelly: I need to respond to that statement. I would express concern as well and that is why I said there has to be a conflict of interest policy. That is what it is there for. Ours are large, complex organisations. In all cases, there are conflicts of interest and we need to manage them. For instance, we have heads of research who are married to lecturers who report in to them. In the terms of appointments, there are conflicts of interest. One needs to manage them. One cannot say one cannot appoint someone as head of school because, at some stage in the near future, one may find that one's wife or husband is applying for a job and one is conflicted. One steps aside. In the case about which the Deputy is talking, where there were interests in respect of which I was involved in campus companies, as was my right legally, I stepped aside.

Deputy David Cullinane: I am interested in process. What I have established is that-----

Professor Willie Donnelly: But the Deputy would accept I had a legal right to be part of these companies.

Deputy David Cullinane: Yes.

Professor Willie Donnelly: Fine.

Deputy David Cullinane: What I have established is that the owner of the policy in place in 2010 was the office of the head of research and innovation.

Chairman: Why is the college not the owner? I do not understand.

Professor Willie Donnelly: The sponsor of the policy is the sponsor. The owner of all policies is the institute. The final owner of all policies is the governing body. The oversight for the governing body is the-----

Deputy David Cullinane: The owner of the policy, according to the institute's own policy, is the office of the head of research and innovation. The commercialisation office, the tech transfer office, at this point reported back to the head of research and innovation. The head of research and innovation sat on the commercialisation committee, which is important in terms of the policy-----

Professor Willie Donnelly: Which is all acceptable, totally acceptable.

Deputy David Cullinane: Exactly. A paragraph in the institute's policy states that members of the commercialisation committee who are or could reasonably be perceived to be in a conflict of interest situation with respect to any matter before the committee should excuse themselves from all involvement with the committee in such matters. It also states that any individual who is related to, reports to or is a business partner of someone who would be considered to have a conflict of interest with respect to a specific matter may themselves have a conflict of interest.

Professor Donnelly had a business relationship with two individuals I named earlier, one of whom is Barry Downes. Professor Donnelly was a shareholder in multiple companies with

this individual. This individual also has a shareholding in other companies that are co-located in the institute. How was Professor Donnelly effectively able to do his job as head of research and innovation on the one hand and as a member of the commercialisation committee given his involvement in multiple companies as a shareholder and also his business partners' shareholdings in multiple companies? Was there not a matrix of conflicts of interest that was almost impossible to manage?

Professor Willie Donnelly: It was managed.

Deputy David Cullinane: There is a difficulty there for me.

Professor Willie Donnelly: It was managed and it was managed highly effectively. Our policy has been reviewed on three occasions by international experts, who have consistently said the policies are the best practice internationally. We have managed conflict of interest. There is no single record that states WIT did not manage conflict of interest. In all cases we managed conflict of interest.

Of course, it is difficult, but if one has the right structures in place, if one is in a mature and open organisation, and if one is an organisation where people in that organisation are entitled and encouraged to ask questions and where people are entitled to have access to information, there is a very open environment. I will give an example. If one looks at FeedHenry, when the external services officer who reports to me felt conflicted, I was removed from the process so that she could do her job.

When the technology officer had a position that differed from me - I can give an example because I think it is important - as VP of research and also as the PI and the director of TSSG, I made a proposal for a particular type of consultancy that my research group should be involved in. This is recorded in the minutes of the commercialisation committee. I made it to commercialisation committee. The tech transfer officer disagreed with me; it is in the minutes. I absented myself from the meeting. I came back in. The commercialisation committee and the tech transfer officer told me that they were not agreeable to my proposal. The proposal was withdrawn.

Deputy David Cullinane: May I come back in and put the questions?

Chairman: Yes.

Deputy David Cullinane: I am saying this to you, a Chathaoirligh. The president has told us he was a shareholder in a number of companies - three companies or possibly four. These were spin-out companies or private companies co-located in the institute. Some, if not all, of these companies received various forms of grants from the State or the European Union. One of those companies was sold for very significant money and the president would have financially benefited from that. I am not alleging that was wrong; I am just saying, as a matter of fact, that is what happened.

He was also the policy owner. He was sitting on the commercialisation committee. The commercialisation committee always reported back to the president. The policy states that all conflicts of interest have to be declared; we can assume that they were.

Professor Willie Donnelly: I-----

Deputy David Cullinane: I am putting my questions and I am talking to the Cathaoirleach.

It is very specific; it also refers to people with whom one had a business relationship, business partners.

Professor Donnelly had shareholdings in multiple companies. Some of those people with whom he was in a shareholding also had shareholdings in other companies co-located in the institute. It would take me all day to list out all those companies. How is it possible for Professor Donnelly to sit on the commercialisation committee, to have the office reporting back to him, given what I suggest would have been a matrix of conflicts of interest?

I then received this document, the updated policy, which has a commencement date of November 2016. The policy owner is no longer the head of the office of research and innovation. It is actually the technology transfer office. When one goes to the technology transfer office, where in the past the commercialisation office reported back to the head of research and innovation, it now refers back to the industry services manager.

Professor Willie Donnelly: Can I answer the question?

Chairman: Just a moment.

Deputy David Cullinane: I will put a number of questions because I need to put these questions.

Chairman: After this we will move on.

Deputy David Cullinane: There are a number of questions. Why was that policy change made in the first instance? We were advised by the HEA and the Department that there is an internal review into all of this in Waterford. Why did it take 14 months for Professor Donnelly to correct the record of the Committee of Public Accounts about him being a director? Why is there now an internal review in Waterford IT? The person carrying out the internal review is the financial controller. The financial controller is a subordinate of the president. The financial controller sits on the commercialisation committee. In answer to a parliamentary question, I was informed that the president had to delegate responsibility regarding this internal review because of potential conflicts of interest, which also causes me concern because even as president there are conflicts of interest that now have to be managed. I am alarmed and concerned that people may be wearing multiple hats and are not in a position to do the job they are well paid to do.

I am really interested in this and the committee should also be interested in it. Why is there an internal review in Waterford now? What triggered that internal review? What brought it about? Why is it happening now? I say this to the representatives of the HEA and the Department. An internal review that is carried out by a subordinate of the president, carried out by somebody who is in the chain of command in terms of decision making - or at least the office was, although the person concerned may not have been - where that person would have sat and does sit on the commercialisation committee, is absolutely and completely unacceptable. We need an external review. It has to be external given the dynamics here. I am looking for a commitment from the HEA that we will get that here today because it is necessary.

I could say much more because I have been given a huge amount of information. I said at the start that I have a friendly relationship with Professor Donnelly. I have been given a lot of protected disclosures by people within the institute and I have no doubt we will come back to this issue. I have not even put any of the allegations that were made by people in those protected disclosures to Professor Donnelly. There are many of them and they are of concern to

me. I am not satisfied with the internal review.

Let me be clear on the questions I am putting. Why did it take 14 months for Professor Donnelly to correct the record of the Committee of Public Accounts? What was the trigger for this internal review? What brought it about? Who made the decision to carry out the internal review? How can an internal review take place which is actually being carried out by a subordinate of the president's and someone who sat on the commercialisation committee?

Chairman: We have got those questions. After that, we will move on to Deputy Connolly. Deputy Cullinane will be able to come back in.

Professor Willie Donnelly: First, just to correct the record, that is a draft policy. It has not been signed off.

Deputy David Cullinane: It has not been signed off?

Professor Willie Donnelly: It is a draft; it is an internal policy.

Deputy David Cullinane: Sorry, I have one final thing which is important. As Professor Donnelly is on the draft policy, did he contact the TUI in recent weeks and ask it to discuss that draft policy yesterday?

Professor Willie Donnelly: I did not personally, but it would be normal procedure to contact the TUI.

Deputy David Cullinane: Did Professor Donnelly's office do so?

Professor Willie Donnelly: No; it would have been the HR office.

Deputy David Cullinane: The HR office contacted the TUI and asked it to sign off on this policy on Wednesday.

Professor Willie Donnelly: No, absolutely not. I ask Mr. McLoughlin to answer that.

Mr. Peter McLoughlin: Typically, all policy documents have to be reviewed as a matter of courtesy with the unions. That is what would have-----

Professor Willie Donnelly: And ask them to sign off.

Deputy David Cullinane: It was sent to it for its consideration.

Professor Willie Donnelly: It is normal practice.

To get back to the questions-----

Chairman: I ask Professor Donnelly to answer and then we will move on to Deputy Connolly.

Professor Willie Donnelly: As I said previously, I had forgotten I was a director; that was genuine. What happened was that somebody told the chairman that I was a director. He came into my office and he asked me, "Were you a director?". I said, "Absolutely not."

Chairman: Who is the chairman?

Professor Willie Donnelly: The chairman of the governing body of Waterford Institute of

Technology. Somebody had informed him that I was a director at some time. He had asked me; I said, “Absolutely not”, the same response I gave here. When I went home, I thought I had better check it. I checked it and found I was a director for a period of time. I rang the chairman. The chairman then discussed it internally. Obviously, because I was hugely embarrassed by it and knew that members of the governing body were not members during that period, I asked that we would carry out an internal inquiry to provide information so that the governing body members would not feel there was anything untoward here. That was simply me forgetting something. I delegated the authority to the financial controller - normally this type of inquiry would be carried out by the president - to enable her to carry out the inquiry. The results of the inquiry were delivered to the governing body. The implication that, somehow or other, the financial controller was restricted because she reports to or is one of the executives of the institute is amazing. The institute has a culture of questioning each other and professionalism. The people who wrote that report did it in a very professional way. If they had come to a conclusion that was distasteful or somehow reflected on the president, they would have published it. That is the type of people they are. Due to the disquiet that is out there because of the line of questioning that is coming-----

Chairman: Fourteen months.

Professor Willie Donnelly: I answered a question here. I believe that was the right answer.

Deputy Mary Lou McDonald: I do not wish to disturb Professor Donnelly’s train of thought but, just so I have this straight, he is telling us now that not alone did he give misinformation to the committee, he also misled the board of governors.

Professor Willie Donnelly: No. The chairman asked. I gave the chairman the same answer as I gave here.

Deputy Mary Lou McDonald: The same incorrect answer.

Chairman: What was the timescale between the meeting of the Committee of Public Accounts and the chairman asking?

Professor Willie Donnelly: Fourteen months after the committee meeting, somebody contacted the chairman to say that they believed I was a director. The chairman had a meeting-----

Deputy Mary Lou McDonald: Who was that individual who contacted the chairman?

Professor Willie Donnelly: I have no idea.

Deputy Mary Lou McDonald: The chairman would know.

Professor Willie Donnelly: It was in confidence. As I believed I was not a director, I said “No”. When I checked the records, I found I was a director. I immediately informed the chairman. Due to the fact that I felt concerned about not remembering and because we had a new governing body, I felt it was important that the institute carried out a review of all of the procedures relating to FeedHenry to satisfy itself that there was nothing untoward there and to report to the governing body. I asked the financial controller to carry out that internal review. The report was compiled and delivered to the governing body. I will state categorically that I am absolutely confident that, within our culture, what the group that reviewed it put into that report are the correct activities that were carried out in respect of FeedHenry.

Chairman: When was that?

Professor Willie Donnelly: There were-----

Chairman: Subsequent to that, Professor Donnelly wrote to the committee to clarify matters.

Professor Willie Donnelly: No, that was before.

Chairman: Could Professor Donnelly give us the sequence?

Professor Willie Donnelly: The chairman of the governing body asked me. I said that I was not a director. On that evening, I had to check it because I was worried. I checked it and saw that I was a director. I rang the chairman of the governing body to say that I was very sorry and a bit distressed about it. I then contacted Deputy Cullinane to ask how to do it. I then asked the financial controller to carry out a complete review of everything around the negotiations relating to FeedHenry - such as the sale - in order to provide a report to the governing body so that it could satisfy itself that everything was carried out correctly by the institute.

Chairman: When did Professor Donnelly write to this committee to correct the record? Was it before, after or during-----

Professor Willie Donnelly: It was before the review.

Chairman: I am just trying to get the sequence. I want to move on to-----

Deputy David Cullinane: On a number of occasions, the president referenced a line of questioning. If he checks the transcripts of previous meetings, he will see that nobody in this committee is alleging wrongdoing but we do have concerns. I have concerns about process. It is reasonable for me to put questions relating to somebody who has an executive function - a management and oversight role - relating to research and development. This is somebody who is vice president and head of research and also involved in multiple companies that are co-located at the institute. The question of whether there are clear enough lines of demarcation relating to best practice is a perfectly legitimate question for this committee to put.

Professor Willie Donnelly: Reflecting on the concern that has been raised and the number of queries around this, I wrote to the HEA requesting it to identify an international expert who would carry out an independent review to validate the outcomes of the review by the institute.

Dr. Graham Love: I received a letter yesterday asking us to engage such a service - somebody with knowledge of intellectual property, how to manage conflicts of interest and commercialisation - to assess this report and validate its findings. We accept that and will do it.

Chairman: The appearance here today has achieved that much already. It sounds like that to me. Well done, Deputy Cullinane.

Deputy Catherine Connolly: I actually do not know where to go. Yesterday, the HEA received a report asking it to source an independent person to look at the results of the internal review in Waterford Institute of Technology. There was no contact prior to that and the HEA did not do anything about Waterford Institute of Technology prior to that.

Dr. Graham Love: The governing body approved the report day before so we did not have access to it. We received the letter yesterday.

Deputy Catherine Connolly: The governing body of Waterford-----

Dr. Graham Love: The governing body of Waterford Institute of Technology.

Deputy Catherine Connolly: It reviewed the internal report and gave it the thumbs up?

Dr. Graham Love: It signed off on the report.

Deputy Catherine Connolly: It accepted the report; it did not convey any concerns.

Dr. Graham Love: That is correct.

Deputy Catherine Connolly: Why is the HEA engaging an international expert to review it?

Dr. Graham Love: A letter from the president said that given the concerns that have been raised around it this matter, it would be appropriate in the context for the HEA to request the services of an international expert to review the report to assess its validity. My belief is that in the context of what is occurring, that is appropriate.

Deputy Catherine Connolly: Based on what Dr. Love has heard, is anything else appropriate in terms of the HEA?

Dr. Graham Love: I would like to come back partly about what I have heard here, but comment more in terms of systems because that is our main responsibility. I am concerned that there might be a perception on the part of some that there is something wrong with individual researchers benefiting. It is written into the national policy and international policies that researchers should be incentivised to gain from intellectual property they develop. The second thing I would like to say and, again, I stress that I am talking at the entire higher education system level, is that it is not unusual for the stake of an institution one of whose researchers develops intellectual property in which the institution takes a stake to be significantly diluted down during the process of maturing the product or service that is ultimately sold. I said this last week. I will give an international example to help the committee. University College London, UCL, a serious institution of high repute that is very good at research and spinning out and commercialising research, spun out a company called Biovex a number of years ago. This involved immunotherapies for cancer - initially melanoma. There were several rounds of investment. UCL initially had a 20% stake so it was even higher than some of the things we discussed here today but, again, this is not unusual. This stake got diluted through the various rounds of investment. Eventually, that company was bought by Amgen, an international biotechnology company, for €1 billion in 2014. I do not know UCL's actual percentage stake by that stage but it was 0.00 something. The institution and the researcher got thousands of dollars out of the figure of €1 billion. I am using this example to make the case that it is not unusual for that to happen. What is really important is that UCL's reputation as a place of great science and technology that attracts industries, capital and big companies looking to hire people was significantly enhanced. UCL uses it as a case study.

Deputy Catherine Connolly: I do not know. I have used a lot of case studies in my life but there seems to be a symbiotic relationship installed at both HEA level and at university level that industry and education are one and the same.

Dr. Graham Love: I would not accept that; I am sorry.

Deputy Catherine Connolly: That is okay, Dr. Love does not have to accept it. I am entitled to make the comment. He has made his comment and he has used the example of the

London school and he has used that as justification for what Professor Donnelly has said, which is that it there is nothing unusual about this and it is perfectly acceptable for a researcher to benefit and then for the company to take off, make a fortune, with fewer and fewer returns for the institution. Dr. Love should let me finish. This symbiotic relationship between industry and third level might be for another day. We have forgotten completely on what education is about.

Dr. Graham Love: We are relying on those companies to hire people and create employment. This is really critical, it is national research and development policy and if we fail to do that we will not be able to create proper employment for our people. I have to say this; it is critical. We have Intel employing 5,000 people in Leixlip. We are investing in nanotechnology.

Deputy Catherine Connolly: I see Professor Donnelly nodding. Professor Donnelly talked about a questioning environment. I have been through this a lot in my life, where every time we try to ask questions we are told we are against industry or against progress. I am not. I take exception to that and that type of innuendo. This is a third-level institution that is in trouble. It is a going concern. It received a qualified audit opinion. How many qualified audit opinions has the Comptroller and Auditor General issued? Is it unusual?

Ms Colette Drinan: It is fairly unusual. The Comptroller and Auditor General prepared a note for the committee on the financial statements that were noted at the meetings of the Committee of Public Accounts for the period from 21 January 2016 to 2 February 2017. During that time, just five sets of financial statements presented received a qualified audit opinion.

Chairman: Out of approximately 300.

Ms Colette Drinan: Out of 292.

Deputy Catherine Connolly: Out of 292. So Professor Donnelly and the Higher Education Authority will appreciate that being one of five out of 292 to receive a qualified audit is serious. At the same time, we have just heard evidence that Waterford Institute of Technology has got €1.5 million out of a €63.9 million sale and Professor Donnelly is nodding that this is perfectly acceptable. By way of further example, is the London School of Economics the example being chosen?

Dr. Graham Love: Yes, I want to make it clear that this is normal practice in the spin-out of companies. There will be a range of activity but that is why I use the University College London example. It would not be unusual. The real value to the institution is rarely in the financial return from a sale. The value lies in the employment of people locally, the reputation of the institution, the attraction of further enterprises to collaborating with that institution and the attraction of further academic staff and students who want to go there. Most presidents of the institutes will say that is the real value piece, as opposed to the direct financial return.

Deputy David Cullinane: I wish to make a point if Deputy Connolly will allow it. There is a bit of talking around the issue because with respect to Dr. Love, no one is disagreeing with the merits of commercialising intellectual property. Nobody is disagreeing with the fact that it creates jobs and we all need jobs. We had this conversation earlier. Dr. Love has spoken about what is usual and what is normal. I put it to Dr. Love, rather than anyone in WIT, I do not know of any other institute in the State in which the person who is the policy owner, the head of research and innovation and a vice president had a shareholding in multiple companies. I do not know of any institution in the State where the president of the institute is still a shareholder in companies co-located in the institute. When someone is head of research and

innovation, they hold a well-paid job and a demanding role. They should have to make a choice between the management, executive and oversight role and innovation. If they want to go into the innovation space, by all means they should go into the innovation space. While Dr. Love is talking about what is usual and unusual, it seems to me that it is unusual for a person who has a role in respect of governance, oversight and management of intellectual property also to be a shareholder.

Chairman: We have that point. I want to come back to Deputy Connolly.

Deputy David Cullinane: That point has been lost by the HEA

Chairman: That is not in dispute; it is the other issue. It is not the merits of commercialisation.

Deputy Catherine Connolly: I think bigger issues are being exposed here in terms of how universities are being used and our entitlement as people who give huge public funds to third-level institutions, albeit not enough, we would get money back for that.

Dr. Graham Love: Sorry, what is the question?

Deputy Catherine Connolly: It is a very simple question. Why is there not more return for the taxpayer?

Dr. Graham Love: We - the national system of research and development and higher education systems - are trying to grow a significantly increased return for the Irish system, including the taxpayer.

Deputy Catherine Connolly: How do we do that? Could Dr. Love tell me where the HEA has changed its policy?

Dr. Graham Love: Could I continue because this is important? What we are trying to do with the knowledge economy is to increase the amount of this kind of research, increase the use and development of those types of technologies to spin out, to be licensed and to be attractive to foreign direct investment companies to place their investments here to employ people. That is a major part of national research and development policy. In some cases there is direct financial return, more often it is as I mentioned.

Deputy Catherine Connolly: Can Dr. Love refer me to any report which has looked at this in terms of what the companies are getting, that is, more than €63 million, and what the colleges are getting?

Dr. Graham Love: On financial return specifically?

Deputy Catherine Connolly: Yes.

Dr. Graham Love: When IDA Ireland or Enterprise Ireland are out trying to generate jobs, they will have cost per job and will make particular investments on behalf of the state. This is very important. That is the return that we are seeking. It is the object of the IP policy of the country to return economic and societal benefit principally in the form of jobs.

Deputy Catherine Connolly: Does it not strike Dr. Love as ironic - the word is inappropriate - that here is a third-level institution in trouble with a note on whether it is a going concern but yet there are lots of companies making profits by using intellectual property and knowledge

that has been gained as a result of people being public servants in the third-level college? Does Dr. Love think that is a bit ironic? Does he not feel there is something to look at in this regard, in that the college is struggling for finance while all this money is there?

Dr. Graham Love: I would wait until we hear more about the report. I do not want to make an individual comment on that.

Deputy Catherine Connolly: I did not ask Dr. Love to make an individual comment; I deliberately stayed general. I referred to one example where one was sold for €63.9 million as a going concern where the institution was struggling. Does Dr. Love not see a particular difficulty there? There are huge possibilities to channel money back into third level from this rather than to companies.

Dr. Graham Love: The really important thing here is for colleges to generate the attractiveness to external investment that will bring in more and more investment from multinationals and from venture capitalists and others that will create the jobs. The association that Deputy Connolly refers to is unfortunate but I want to stress it is a core objective of the higher education system and research and development policy in this country, as it is in a lot of advanced countries, to drive this-----

Deputy Catherine Connolly: I am not asking that. I am sorry, but I am caught with questions and with time. I have already shared it with Deputy Cullinane. Can I ask Professor Donnelly how many students are in WIT?

Professor Willie Donnelly: How many students?

Deputy Catherine Connolly: Yes.

Dr. Derek O'Byrne: There are about 6,500 full-time and about 1,500 part-time students. There is a community of about 8,000 students.

Deputy Catherine Connolly: How many are non-EU students?

Dr. Derek O'Byrne: About 200.

Deputy Catherine Connolly: Approximately 200 out of 8,000. I think the WIT briefing document referred to 50% coming from non-leaving certificate avenues. Is that correct?

Dr. Derek O'Byrne: That is correct.

Deputy Catherine Connolly: Where does that 50% come from?

Dr. Derek O'Byrne: They come from a variety of areas. As we have strong links with further education, we have a strong pipeline of students coming from further education colleges throughout the south-east region and beyond. We have a number of links agreements signed with the further education sector at both education and training board and individual college levels. We also have a large number of mature students, who comprise approximately 18% of our intake.

Deputy Catherine Connolly: There is a figure of approximately 15% for mature students in the briefing document and 8% coming from further education programmes, which is 23%. From where does the other 27% come ?

Dr. Derek O'Byrne: The others would be people who are not quite mature.

Deputy Catherine Connolly: There are a lot of those around.

Dr. Derek O'Byrne: -----but there is also a large cohort of people of 21 or 22 years of age who may have left college and gone off to do a year of work and then come back. Many of those returning students are coming in also.

Deputy Catherine Connolly: There are 10% of students who are registered with the disability office. That seems to be a good percentage but how does that figure register or conform to the targets set by the Waterford Institute of Technology?

Dr. Derek O'Byrne: Yes, that is a very good national average in respect of what is happening around students with a disability. We are very much disability-friendly in the range and types-----

Deputy Catherine Connolly: What is the target?

Dr. Derek O'Byrne: We are meeting our targets with that 10%.

Deputy Catherine Connolly: Is that the target?

Dr. Derek O'Byrne: It is around 8%.

Deputy Catherine Connolly: I will now go back to the accounts that are in trouble and the delay in supplying reports. Is it right that the previous issues around the number of spin-off companies led to the Quigley report?

Professor Willie Donnelly: That was previous. They are not spin-off companies. The definition would be they were associated companies.

Deputy Catherine Connolly: Is it correct to say that there was a serious problem with those?

Professor Willie Donnelly: Yes.

Chairman: Will the witnesses explain what is meant by an associated company? Is it a percentage shareholding?

Ms Elaine Sheridan: They were companies that were operating within the institute but at arm's length from it. A number of staff members were seconded to run these companies, but they were not deemed to be subsidiaries of the companies at the time of the report of the Comptroller and Auditor General.

Deputy Catherine Connolly: We will move forward. I know the Chairman asked this but-----

Chairman: I was looking for clarification.

Deputy Catherine Connolly: The Higher Education Authority, in its wisdom, made comments around the 40 recommendations in its 2013 report, and four years later all the recommendations have not been implemented, although there has been progress, and three of four remain outstanding. It has taken another report to comment on the implementation. The HEA's comment, in the background, is that the Quigley report findings concluded that the relationship between WIT and its campus companies was unique to the sector and was not an appropriate one and that it had adverse effects on the governance of the institute and the management of its

financial affairs. The report called for greater transparency, accountability and so on and had 42 recommendations. Do the witness believe this to be an indictment of the Waterford Institute of Technology?

Professor Willie Donnelly: To be fair-----

Deputy Catherine Connolly: I try to be fair.

Professor Willie Donnelly: -----we appeared before the Committee of Public Accounts previously and we dealt with this issue in great detail at the time. I was the director and we were here to talk about this. We should not confuse this with the spin-out companies as it is a different thing. It is true that the institute-----

Deputy Catherine Connolly: I am not confusing anything.

Professor Willie Donnelly: I know, I am just saying-----

Deputy Catherine Connolly: No. I am bringing it up because we have the report and we have the HEA's comments from this year. I am not going back into the history. I am looking at January of this year and I am asking Professor Donnelly to acknowledge, first, that it was an indictment. Maybe that is too strong a word but it certainly was not good practice or good governance. WIT was forced into change because of the Quigley report. We also have the comments by the HEA, in its wisdom, which came out with another monetary report. Am I wrong?

Ms Elaine Sheridan: The institute welcomed the Quigley report and we co-operated with that. We undertook to implement the 42 recommendations within it. There was quite a lot of legal work included in that, which took some time. This included making the companies' legal structures such that they could be subsidiaries of the institute and then reducing that legal structure. At the same time we were in the process of negotiation with the Department of Education and Skills for funding to finish the Carriganore WIT arena, so quite a lot of things were included within the report. One of the recommendations of the report was that the Department and the HEA would monitor the progress of the institute in implementing the recommendations, which they did all along. We reported back in December 2015. The most recent report was the final report of the HEA in its review that we had substantially completed the body of work that was done.

Deputy Catherine Connolly: How many recommendations remain outstanding?

Ms Elaine Sheridan: There are about three remaining at the moment.

Deputy Catherine Connolly: Why?

Ms Elaine Sheridan: These are issues such as the finalising of service-level agreements between the institute and the subsidiaries as they are now. We have changed the way we operate with the subsidiaries. A new CEO was put in to the subsidiaries in March last year and they are undergoing new business plans, reviewing each and every operation. They have reduced the number of companies to two. Once that process is complete we will then negotiate service level agreements between the institute and the subsidiaries.

Deputy Catherine Connolly: The service-level agreement is a very basic document.

Ms Elaine Sheridan: It is very basic and the recommendations that are awaiting implementation are the lesser things. There were processes that needed to be done before we could get

to them.

Deputy Catherine Connolly: Okay. My last two questions are around what will happen with the deficit. What plans are in place? What is the deficit? Is it €15 million?

Professor Willie Donnelly: The consolidation created a number, much of which is to do with the different ways that one would have accounted for a private company and a public company. The deficit presents a serious challenge for Waterford Institute of Technology to address. We have the largest number of first years - about 2,000 each year - entering any institute of technology. We have 8,000 full-time students. Our cost base is far too high with some 82% to 85% of our cost base being for staff. This is a major challenge for the institute given the cuts that are there. We have implemented a business plan and we have worked closely with the HEA. If the business plan does not work then we must revisit our cost base. We will have to look at retraining and redeployment of those staff.

Deputy Catherine Connolly: I will finish up. My last question is on conflict of interest. The Quigley report from 2013 identified very serious issues that were not just financial problems, some of which I can pick at random. This might not be fair but tell me if I am being unfair. Financial reporting by WIT management to the governing body was inadequate. Two people were employed by a company, they were still being paid by Waterford Institute of Technology and the money was not recouped from the company. There is a whole list and this is why the report was, of its nature, such a big report.

Professor Willie Donnelly: Precisely-----

Deputy Catherine Connolly: It was not precisely. Professor Donnelly did not come in and say this was serious and that these were practices that should not have happened. I did not hear Professor Donnelly saying that. If somebody is employed by a company, paid by the Waterford Institute of Technology and the money not recouped, then this is serious.

Professor Willie Donnelly: I apologise to the Deputy for not saying it. We came in to the committee with a different set of queries. This is a briefing document to the Committee of Public Accounts on those companies and on the activities around that.

Chairman: When did the committee get that document?

Professor Willie Donnelly: On the 15 December 2015.

Chairman: Some of the Deputies were not members of the committee then.

Deputy Catherine Connolly: I have read the report. I am not going back for the sake of going back. This report and the recommendations around the problems with the companies has been given as a reason or an explanation to the Comptroller and Auditor General for the delay in accounts. That is the difficulty.

Professor Willie Donnelly: That is, however, a reasonable explanation. The Deputy has said that these were very serious issues. The task of integrating a set of private, commercial companies into a public space is a huge task, which we have addressed. The governing body of the Waterford Institute of Technology has put huge resources into addressing this. We embraced the recommendations and we worked towards them.

Deputy Catherine Connolly: The Waterford Institute of Technology was forced to. A report had to be done in order for the Waterford Institute of Technology to embrace it. In 2017

it is still being implemented. These companies-----

Professor Willie Donnelly: There are only three remaining.

Deputy Catherine Connolly: These companies should not have happened in that manner.

Professor Willie Donnelly: We all accept that. It has been accepted.

Deputy Catherine Connolly: Does Professor Donnelly believe that he has any conflict of interest in relation to his job?

Professor Willie Donnelly: In relation to these companies?

Deputy Catherine Connolly: No not these companies.

Professor Willie Donnelly: I will repeat what I said before. I declared the conflict of interest around the spin-out companies that I was associated with. It was managed.

Deputy Catherine Connolly: So Professor Donnelly has complied with all-----

Professor Willie Donnelly: I have complied with everything.

Deputy Catherine Connolly: I have asked this of every single-----

Professor Willie Donnelly: I appreciate that. If the Deputy does not mind, I would like to just-----

Deputy Catherine Connolly: Certainly.

Professor Willie Donnelly: I know Deputy Connolly has a deep interest, as do I, in taxpayer moneys and the impact of investing in these spin-outs. What is the impact on and return for the State? We have to look at the broader return. All of these are payments to the State. We have the €1.5 million. The other thing is that we have paid capital gains tax of €68 million. The company itself employs 63 people and will employ 120 people in an employment black spot. Those people pay tax to the State. Enterprise Ireland got a return on its investment. If we were to work out a return on investment taking in all of the ways in which the State receives return on investment from these companies, we would find that it is huge.

We need to be very careful because creating our own indigenous industries is crucial to the protection of this country. Yesterday, the President of the USA said that he is looking at multinational activity abroad and how to pull the multinationals back. The platform that Red Hat is using globally is called FeedHenry. The intellect which is building that platform is in Waterford. This protects Irish jobs from being moved back to the United States because they do not have real value. These jobs are creating real value and are creating income for the State in many different ways. The return on investment in this case, and in lots of others, is much greater than the investment put in by the State in the two research projects that generated the intellectual property, IP, that created the company.

Chairman: On that point, as Professor Donnelly has mentioned the return on investment, can he send us a report on the actual investment from which, he is saying, we got this return? That would include costs incurred by Waterford IT, such as staffing and facilities, which are borne by the taxpayer. Professor Donnelly mentioned earlier that there was investment from Enterprise Ireland and probably from European funds. We have got no concept, as we speak, of how much the taxpayer invested in the process. When we know what the taxpayer put in,

we can then begin to form an opinion of how well the taxpayer did. We have not completed the first step yet.

The fact that serious capital gains tax was paid proves to me that there was a substantial profit made by somebody. What we want is each step along the way. If Waterford IT started at a 12% shareholding, how many steps of dilution were there down to the small percentage and what external investment from the private sector resulted in each step of the reduction of the shareholding? Our guests must have that information somewhere. Is that feasible?

Professor Willie Donnelly: It is with the Companies Registration Office, CRO. We can provide on a basis of confidentiality because there are certain confidentialities there.

Chairman: Okay.

Deputy Catherine Connolly: I have a difficulty now. I was very patient and listened to the long answer from Professor Donnelly justifying the position and telling us that it created jobs. Now, when we ask for certain commercial-----

Chairman: When we ask how much did we invest-----

Professor Willie Donnelly: No, no, I am supplying it to the committee. All I am saying is, again, that we had this thing before. We can give the committee the printout from the CRO of who these shareholders are and the investments.

Chairman: The first part of my question related to the investment on the part of the taxpayer in respect of FeedHenry.

Professor Willie Donnelly: No problem. That is-----

Chairman: I refer to all the categories - Enterprise Ireland, the European taxpayer, etc. - in that regard. Only when we know that can we begin to talk about return on investment. We do not know the level of investment at present.

Professor Willie Donnelly: Sure.

Chairman: What Deputy Connolly is saying is that although Professor Donnelly was able to explain all the good bits, the moment we ask what the investment was, things become confidential.

Professor Willie Donnelly: No, no, sorry Chairman, I am saying that the information about when the company was spun out, the investment by venture capitalists etc., comes from the CRO. That is all.

Chairman: On day one, €500 million went in from the private sector and the private sector got 88% because Waterford IT got 12%. We want to match the investment on the part of the taxpayer over the period against the investment from the private sector and compare that to the dilution of the shareholding. Professor Donnelly gets where I am coming from.

Professor Willie Donnelly: I apologise, I was just trying to explain.

Chairman: It is black and white. Are we finished? Deputy Cullinane wants to come back for one last point.

Deputy David Cullinane: I do indeed.

Chairman: And then we have more people to talk to. As soon as you can, Deputy.

Deputy David Cullinane: I want to remind the committee that Professor Donnelly was a shareholder in a number of companies. I want to be clear about that for the record of the Committee of Public Accounts. One was Aceno Mobile Services, which then became ZolkC. Is that correct?

Professor Willie Donnelly: Yes.

Deputy David Cullinane: One is fuseami, in which the Professor Donnelly is still a shareholder. Is that correct?

Professor Willie Donnelly: Yes.

Deputy David Cullinane: One was FeedHenry, which was sold on. There would be individuals with whom Professor Donnelly was shareholder in FeedHenry, who are also shareholders in Aceno and other companies. Is that correct?

Professor Willie Donnelly: Yes.

Deputy David Cullinane: There would be a small number of the same individuals who had shareholdings in these companies. That is the point I am making. I am not alleging any wrongdoing. I am looking for factual information.

Professor Willie Donnelly: Yes, I understand. For the record, there are other companies in which, as a private citizen, I was a shareholder and which do not have IP by the institute. That is just in case the committee discovers another company in which I might have been a shareholder at some stage.

Deputy David Cullinane: In this instance, when the witness was vice-president of-----

Professor Willie Donnelly: There were three companies-----

Deputy David Cullinane: And there is a number in which you are still a shareholder.

Professor Willie Donnelly: Two.

Deputy David Cullinane: Professor Donnelly is now president of the institute but he is still a shareholder in two companies. Did he have to declare that interest when he applied for the job as president?

Professor Willie Donnelly: It would have, absolutely - I did not have to - but it would have been one of the things that is described, very detailedly, in my CV, my whole experience of spin-outs and start-ups would have been-----

Deputy David Cullinane: Professor Donnelly would have declared it.

Professor Willie Donnelly: One applies for a job, one gives a CV; that is where it goes and it would have been an important part of my CV.

Deputy David Cullinane: In terms of those companies, we have Aceno, ZolkC, fuseami and FeedHenry. Did any of those companies receive EU funding?

Professor Willie Donnelly: As private companies?

Deputy David Cullinane: As companies.

Professor Willie Donnelly: As private companies, they could have competed for funding from the EU.

Deputy David Cullinane: Did they receive any European funding?

Professor Willie Donnelly: They participated in competitive tenders for funding in the EU.

Deputy David Cullinane: Did Professor Donnelly have any role in that?

Professor Willie Donnelly: In the development clause? No.

Deputy David Cullinane: Would he ever have gone to Brussels to lobby for investment in any of the companies in which he was a shareholder?

Professor Willie Donnelly: No.

Deputy David Cullinane: Did any of these companies receive any grants from the State, from Enterprise Ireland or any State agency, or any research support?

Professor Willie Donnelly: Deputy, I have to be very careful here. I did not have an operational role in these companies. I am very conscious of not answering questions about private companies in which I was a shareholder without an operational function.

Deputy David Cullinane: With respect, these are companies in which the institute is a shareholder and which are co-located at the institute. I ask Professor Donnelly to answer the questions I am putting to him, regardless of his shareholding or-----

Professor Willie Donnelly: I am a shareholder.

Deputy David Cullinane: What I am saying is that these companies were co-located at the institute of which the witness is president. He is here as the Accounting Officer for the institute.

Professor Willie Donnelly: They are on the innovation campus with multiple other companies.

Deputy David Cullinane: Yes.

Professor Willie Donnelly: I am trying to be honest, Chairman. I was not involved in the operation of the companies. I am before the Committee of Public Accounts.

Chairman: What oversight has the institute?

Professor Willie Donnelly: They are not part of the institute. They are private companies.

Deputy David Cullinane: All I am trying to establish, Professor. Donnelly, is whether Aceno, ZolkC, fuseami or FeedHenry received European Union or Enterprise Ireland funding.

Professor Willie Donnelly: Yes.

Deputy David Cullinane: They did. They would have also received all sorts of support from the institute in terms of researchers, space, etc. They would receive a range of different supports from the institute, is that correct?

Professor Willie Donnelly: No. When the companies occupied space at the institute, they did so as private commercial companies. They paid for any space and services that were provided to them.

Deputy David Cullinane: I want to put a question to Dr. Love because this is important as well in terms of policy. Has Dr. Love read the 2010 policy of WIT?

Dr. Graham Love: Not recently. I have not been involved in that one recently.

Deputy David Cullinane: Dr. Love talked a great deal about what is usual or not. We had numerous discussions prior to Professor Donnelly coming in and I pointed out that I have no difficulty in researchers commercialising their intellectual property but I want to understand the process in respect of how conflict of interest is managed and whether it would even be allowed to emerge. That is guided by policy. The policy owner in the case of WIT is the office of head of research and innovation. Under the policy, there is what was termed “a commercialisation office”. It is the technical transfer office, accountable to the head of research and innovation. He or she sits on the commercialisation committee. Dr. Love will understand all that.

Dr. Graham Love: Okay.

Deputy David Cullinane: The policy then states: “Any individual who is related to, reports to, or is a business partner of someone who would be considered to have a conflict of interest may also have a conflict of interest”. If the head of research and innovation or the president or both have multiple shareholdings in companies that are co-located in the institute in which those people have a governance role and their business partners also have interests in several companies also co-located on the campus - one of whom was the chief executive officer of TSSG at one point and would have worn a different hat again in respect of the governance of TSSG - given what the policy says, there was a matrix of conflicts of interest. I am trying to figure out how someone would have been able to disentangle themselves from so many different companies in which he and his business partners would have had a relationship. Is it not reasonable to have an arm’s length relationship between people who have management and governance roles such as presidents, vice-presidents or heads of research in institutes and their business partners or shareholders in multiple companies? Does he not recognise the difficulty in that and the reasonableness of the question I have put?

My final question relates to the external review. Ms Sheridan carried out the internal review. Is it correct that she is a subordinate of Professor Donnelly’s?

Ms Elaine Sheridan: I reported.

Deputy David Cullinane: She also sat on the commercialisation committee.

Ms Elaine Sheridan: I am the chairperson.

Deputy David Cullinane: If difficulties were found, that would reflect on the commercialisation office and committee.

Ms Elaine Sheridan: Not at the time, just to be clear.

Deputy David Cullinane: An internal review, in the first instance, was never appropriate. What will an external reviewer examine?

Chairman: Dr. Love might want to come in now.

Dr. Graham Love: I will take the first question. Provided that the people involved can demonstrate that appropriate management procedures were in place to avoid or manage the conflicts of interest, that is warranted and correct. That is the practice all over the world and I have said that several times. The Deputy asked for my view on this. Provided that it can be demonstrated that policies are in place and that they were followed, including stepping out a decision, being at arm's length from particular decisions that relate to the particular commercial terms, etc., that is, indeed, acceptable because we want researchers and, indeed, people in senior positions in academic institutions to be engaged in this type of activity. If they were totally separate, it would not work properly.

Deputy David Cullinane: Could Dr. Love inform the committee of other instances in this State where heads of research are shareholders in companies?

Dr. Graham Love: I would prefer not to name names, etc-----

Chairman: Do not.

Dr. Graham Love: -----but to my knowledge - I am not an expert on this - there are, and there certainly are internationally as well.

Deputy David Cullinane: But I am concerned about this State.

Dr. Graham Love: I understand that.

Deputy David Cullinane: Dr. Love might furnish the committee with that information.

Dr. Graham Love: I can come back with more information on that but, as a point of principle, I believe this to be the case. What is critical is that there is a process in place that says, "Okay, you have an interest here. You are in a policy-governing type role. You need to step aside" and there is an appropriate other person or set of processes in place.

Deputy David Cullinane: But is the issue not that the person is a manager and has a role and is also the policy owner and sits on a committee that manages the policy?

Chairman: Dr. Love gets that.

Deputy David Cullinane: The second question relates to the external review. Will that just review whether the internal review was carried out appropriately or will it examine the wider issues and questions the committee has raised? How was the institute protected in respect of its shareholding? What investment did it make? What investment did the others make? There are many different companies in which one individual and his business partners had many different interests. Surely that would have to be looked at that in respect of whether it was possible to manage those conflicts of interest.

Chairman: Dr. Love has a letter from WIT. We are asking him to look at it but use his professional judgment to see whether he needs-----

Dr. Graham Love: My quick answer is we need a little time. We just got the letter yesterday but I take the point.

Chairman: Will Dr. Love come back to us?

Dr. Graham Love: Yes.

Chairman: We will conclude. Would Professor Donnelly like to make a final comment?

Professor Willie Donnelly: I would like to make an important final comment, which I will put in this context. I go back to what Enterprise Ireland said about creating an industry that should not have been in Waterford. I could have solved the problem with the conflict of interest and saved myself a journey up here because as the PI of one of the world leading telecommunications research groups, I created IP. I could have licensed the IP to FDIs, my financial partners, including Cisco, Intel, IBM. That IP would have gone out of the south east and it would not have created jobs in the region. I took a decision to focus on creating employment in the south east. Of course, that created conflict but the institute was mature enough, had these structures and was aware enough of those conflicts. What I am proud of today as the first vice-president of research in WIT and as its president is that at least 600 families are raising children and working in Waterford who ordinarily would not have been. They are contributing to the social and cultural life of Waterford. This is a blackspot. We take our responsibility as an institute seriously regarding the economic, social and cultural development of Waterford. I have no doubt and I am clear when I look in the mirror that Willie Donnelly did everything as he was supposed to do and my commitment was not for financial gain. It happened as a side effect and my commitment was to the social and economic development of a region that I care passionately for. I am a Kildare man; I am not even a south east man. I do not know anything about hurling.

Chairman: We will conclude. I thank the witnesses from WIT. We want the issues we raised about the financial accounts and the other issues addressed. It will put a serious strain on the organisation to bring up two years but it has to be done. If they could give the same commitment to the financial side of it as it has done to the other side of it, this has to be done. Would Ms Sheridan like to make a comment?

Ms Elaine Sheridan: Just to clarify on the accounts, the 2014-15 accounts have been audited by the Comptroller and Auditor General and are close to being cleared while the 2015-16 accounts are ready to be audited. The Chairman has set deadlines for us which we should be able to meet.

Chairman: Those are the end of June and the audit to be completed by September. I am putting pressure on both organisations by saying that.

Sitting suspended at 12.20 p.m. and resumed at 12.24 p.m.

Dublin Institute of Technology: Financial Statement 2013-2014

Grangegorman Development Agency: Financial Statement 2015

Professor Brian Norton (*President, Dublin Institute of Technology*) and **Mr. Ger Casey** (*Chief Executive, Grangegorman Development Agency*) called and examined.

Chairman: We are now back in public session. We will continue our discussion with Dublin Institute of Technology and the Grangegorman Development Agency. I apologise for the late start. An issue arose regarding the late submission of financial statements. This applied, to some extent, to the organisations before us. We want every organisation which appears before

the committee to have its accounts for 2016 completed and sent for audit by 30 June 2017. We ask the Office of the Comptroller and Auditor General to have the audit completed when meetings resume in September after the summer break.

The Grangegorman Development Agency was established in 2006 by the Government to redevelop the former St. Brendan's Hospital grounds in Dublin city centre. The agency aims to create a new city quarter around the Grangegorman site. The plan includes principally a new urban campus for Dublin Institute of Technology, DIT, as well as new health care facilities for the Health Service Executive, new arts, cultural, recreational and public spaces, a primary school, public library, children's play spaces and a complementary mixed use development.

We are joined, from the Dublin Institute of Technology, by Professor Brian Norton, president, Dr. Noel O'Connor, director of student development, and Mr. Denis Murphy, director of corporate services, and from the Grangegorman Development Agency, by Mr. Ger Casey, chief executive, Mr. Peter O'Sullivan, director of finance, Ms Nora Rahill, corporate affairs manager, and Ms Lori Keeve, communications. We are also joined, from the Department of Education and Skills, by Mr. Christy Mannion and from the Higher Education Authority, Dr. Graham Love and Mr. Andrew Brownlee.

I remind members, witnesses and those in the public gallery that all mobile telephones must be switched off.

I advise that by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses 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 are entitled thereafter only to a qualified privilege in respect of that 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 person, persons or entity either by name or in such a way as to make him, her or it identifiable.

I invite Ms Drinan from the Office of the Comptroller and Auditor General to make a brief opening statement.

Ms Colette Drinan: There are two sets of financial statements before the committee in this session. The first relates to Dublin Institute of Technology's financial year ending on 31 August 2014 and the second relates to the Grangegorman Development Agency for 2015. The accounts for Dublin Institute of Technology show an operating surplus of €4.1 million on normal operating activities for the 2013-14 financial year. After taking account of transactions relating to development of the site at Grangegorman, the net operating surplus for the year was just over €2 million. The institute's total income for the year amounted to nearly €168 million. As seen in the graphic, State grant funding, at nearly €73 million, represented the largest income source. Tuition fees of just over €59 million included €12.3 million in fees paid by the State and student contribution income of €29.5 million. The institute's operating expenditure for the year was nearly €164 million, with staff costs accounting for just over two thirds of that figure.

The Comptroller and Auditor General issued a clear audit opinion in respect of the institute's financial statements, but he drew attention to two issues in his audit report. Expenditure is deemed by the audit to be non-effective where full value has not been received for payments made. The institute has referred on page 5 of its financial statements to a prepayment of nearly €700,000 made in July 2014 to a provider of library services. The prepayment related to ser-

vices to be provided during 2015. However, the parent company of the service provider was declared bankrupt in September 2014. As a result, the institute did not receive any of the contracted services in return for the payment made and did not receive any reimbursement.

The audit certificate also draws attention to a disclosure in the institute's accounts regarding instances of non-compliance with public procurement requirements. The value of goods and services that were not subject to competitive tendering during the year was €5.1 million.

The Grangegorman Development Agency is a statutory agency which was established in 2006 to develop educational, health care and other facilities on the former St. Brendan's Hospital grounds in Grangegorman. The education facilities are funded by the Department of Education and Skills and Dublin Institute of Technology. The institute aims to transfer most of its activities to the Grangegorman campus by 2021. The healthcare facilities are funded by the Health Service Executive. As illustrated in the graphic contained in literature given to members, in 2016 the agency received total funding of €21.6 million. At the end of December 2015, the agency's financial statements record land and buildings of €116 million, of which €41 million is land transferred from the HSE. In regard to the buildings of €74 million, €54 million was funded by the Department of Education and Skills and €21 million was funded by the institute. The Comptroller and Auditor General issued a clear opinion in respect of the agency's 2015 financial statements.

Professor Brian Norton: I thank the committee for the invitation to attend today's session. I am accompanied by three colleagues - Mr. Denis Murphy, director of corporate services; Dr. Noel O'Connor, director of student development with internal responsibility for the DIT campus development; and Mr. Colm Whelan, head of finance. I would also like to acknowledge our colleagues from the Grangegorman Development Agency, Mr. Gerard Casey, chief executive, and Mr. Peter O'Sullivan, finance director.

DIT has provided technological education in Dublin since 1887, continually evolving to meet the educational needs of successive generations. Today, DIT is one of the largest higher education institutions in Ireland with over 20,000 students and 2,000 staff. Our role centres on learning, teaching, research, technology transfer, promoting innovation and engagement with industry partners, community partners, professional bodies, and Government agencies. Our activities address a range of ages and levels, from leading a training programme for the child care sector in inner city Dublin, continuing development of apprenticeship, undergraduate degree programmes, to PhD research. A distinctive aspect is the range of access pathways which enable and facilitate progress to the highest level of individual achievement. Approximately 5,000 students graduate each year from purpose-driven programmes that are practice-based and research-informed. They are our best ambassadors. Over 100,000 DIT graduates contribute to society and every sector of the economy, from those just entering their careers to those in leadership positions in Ireland and across the world.

Members of the committee will have received our submission on the DIT consolidated financial statements for the year ending 31 August 2014 which refers particularly to liquidation of a supplier of library services to DIT, procurement non-compliance, progress on a technological university for Dublin and the Grangegorman campus development. I confirm that we take our responsibilities in all financial matters very seriously. We continue to address procurement non-compliance as highlighted by the Comptroller and Auditor General. DIT has continued to balance its budget over what has been a challenging period and I commend my colleagues and our students whose significant co-operation has enabled us to achieve this. It is of particular regret that this was made more difficult when DIT incurred a major additional cost due to the

liquidation of a long-time supplier.

To deliver the best opportunities for our students, DIT is developing a new campus in Dublin's north inner city at Grangegorman and creating a technological university for Dublin with our partners in the institutes of technology in Blanchardstown and Tallaght. The Grangegorman campus will bring together all of DIT on one site from our six current locations and 30 individual buildings. Today, there are 1,200 students and 200 staff in Grangegorman. By September 2019, this number will increase to 10,000 students and 600 staff. The campus is also a major contributor to regeneration that will bring this quarter of the city in line with other parts of Dublin. The new technological university will have three physical campuses – at Grangegorman, Blanchardstown and Tallaght – underpinned by a digital campus that will provide our students with online learning resources. Building on our shared strengths, the new institution will have 28,000 students across our full range of disciplines.

These twin priorities, in line with Government decisions for higher education, are the focus for the DIT strategic plan to be delivered for our students and for the greater Dublin region. We acknowledge the support of the Department of Education and Skills, the Higher Education Authority and successive Governments which have worked with us. We have also had tremendous support from our industry and community partners and university partners in Ireland and abroad. Here in Dublin, the support of Dublin City Council and Dublin Chamber of Commerce has been invaluable. The challenging economic environment over recent years has impacted very significantly on higher education as a whole. However, my colleagues, our students, our graduates and our partners are ambitious for us to succeed in what we have set out to achieve and we hope to see significant progress in the coming months.

I thank the committee for the opportunity to make this opening statement and I hope we can answer all the questions satisfactorily.

Deputy Catherine Murphy: The witness is very welcome. I was going to say good morning but I think we have gone past that. I will try to keep my contribution short and I would appreciate succinct replies. The thing that stands out is the money that was spent on the library services and that DIT did not receive those services. Clearly, that money was not recouped. I note that those services had been contracted for the previous 15 years. What kind of controls were in place for a repeat contract such as that one? Would the controls be as robust as if a new service were being contracted?

Professor Brian Norton: The Deputy is correct that the supplier had been contracted for 15 years. They had been in existence since 1920. The procurement was national procurement undertaken by the education procurement service of the University of Limerick the year before. Financial bona fides were checked in that process. There were a number of checks but the company ceased trading. We now review all contracts. We have a very strict process for which I am personally responsible. We undertake all the evaluation of the financial background of all suppliers at an institutional level without relying on any external factors in order to hopefully avoid a repeat of this situation. However, it was an exceptional circumstance and a tragic one in terms of our resources.

Deputy Catherine Murphy: What efforts were made to recover the money?

Professor Brian Norton: More effort was made to effect data recovery. The company was in liquidation and its debts exceeded its assets so there was nothing to recover. As can be seen from our submission, this was quite significant. The University of Durham was owed well over

€1 million while the University of Colorado was owed €3 million. This was an international problem. This was a major international supplier to this sector. They had no assets to recover. We are in the normal process of seeking recovery but no one has yet received money back.

Deputy Catherine Murphy: Presumably, different services then had to be contracted to fulfil the needs of the institute. How much did those services cost?

Mr. Denis Murphy: €763,000 was paid to the alternative supplier for 2015, which is the year in question.

Deputy Catherine Murphy: In regard to this type of company or supplier, does much of the material supplied and made available by them come directly from universities themselves, such as researchers signing copyright agreements? Is that the type of service in issue?

Professor Brian Norton: It is access to library resources, both physical and online. It is publications which emerge from universities and research laboratories globally, both books and other media. The supplier aggregates from publishers. The theory is that the aggregation enables one to receive the best deal from a range of publishers. There are a number of ways of doing this. We now have another supplier of the same service. We are also in the final stages of joining the Irish research libraries consortium which achieves the same service. Essentially, it is seeking to deal with a very broad range of publishers. An aggregation supplier is there to achieve the best deal across a range of publishers.

Deputy Catherine Murphy: What was the reason for the delay in DIT joining the Irish research library initiative?

Professor Brian Norton: The Irish research library is an initiative of the HEA and SFI and as such is probably a matter for their budgets. The Deputy's question is not one I can answer.

Deputy Catherine Murphy: Would DIT joining not have enhanced its budget by virtue of the fact that-----

Professor Brian Norton: The Irish research library consortium was initially funded by the HEA and SFI and it is now, I think, funded by the HEA. It would have had a fixed budget. If DIT was involved there would need to be an allocation from somewhere to meet that cost.

Deputy Catherine Murphy: If DIT was paying towards another supplier, it would have made a contribution towards it. It would have been an asset to it. Am I reading that wrong?

Professor Brian Norton: That was not the model that prevailed. We are not party to the consortium but my understanding is that the institutes did not contribute to the Irish research library. Their contributions were paid for by the HEA and SFI. The participants in the Irish research library consortium did not pay a subscription for the service, rather it was a service provided to them. Continuing with the same model for those joining, additional resources would have had to be provided to that consortium. I should point out that we are not part of that consortium and so how it is organised is not something we would be familiar with.

Deputy Catherine Murphy: DIT will be a member going forward.

Professor Brian Norton: That is my understanding. We have received an assurance to that effect from the previous chief executive of the Higher Education Authority.

Deputy Catherine Murphy: I want to return to the point I was making in regard to knowl-

edge that is generated within universities. Obviously, to build up their curriculum vitae students will want to publish articles. Publication of articles is very often a requirement for employment. They will typically sign a copyright agreement and their materials will be generated through their activities in the universities and the public funding of universities but the universities will have only limited access to that material or may well have to pay for it. I have with me a copy of a copyright agreement, which provides that any losses, damage or expenses for legal or professional fees shall be the responsibility of the person who signs that agreement. It seems to me that is a fairly one-sided effort. Am I correct that the universities develop the knowledge and the students, and, perhaps, the universities themselves then have to pay to acquire that knowledge?

Professor Brian Norton: The Deputy's observation is correct but with one caveat. The information generated, for example, within DIT is available for fair use within DIT. The intellectual property, inventions or discoveries, etc. within an institution are available but access to research conducted and published in journals by other institutions would be subject to copyright agreements. In terms of copyright agreements, there are then agreements in terms of what constitutes fair use of copies etc. We pay to the agencies that supervise that area a fee to enable provision of copies free of charge. The model is right. The business of publishers is essentially to take in input provided by researchers. As the Deputy indicated researchers do need to place their work in the journals because there is no point doing research unless it is communicated. Publishers make their money by selling that research to other libraries. The material generated within an institution is still available within that institution but the Deputy is correct in terms of what she said regarding access to information elsewhere. That is a universal global issue. There are journals that provide various levels of free access, such as gold access, green access, etc. For example, DIT has an institutional repository such that fair use of all information that is produced in DIT would be freely available to colleagues and students.

Deputy Catherine Murphy: Is it the responsibility of the individual institutions to negotiate that?

Professor Brian Norton: To provide that themselves and to be engaged with journals that provide that service. That would be correct. We would support that, by the way.

Deputy Catherine Murphy: Am I correct that somebody writes an article with the support of the investment that is made in the universities, it is reviewed free of charge, the journal editor is then commissioned and it is selected free of charge and the people who get paid are the people who do the typesetting and the publishers and there is a payment in respect of the portal and then the access is sold?

Professor Brian Norton: There is more detail to it than that but essentially it is the business model that a publisher, which is normally the portal as well because most journals are accessed electronically, is paid for the access. Free access to journal material is driven by research funders. Increasingly, free access is provided either from the beginning in certain instances or after a period of time. The publisher's model is to make money by publishing.

Deputy Catherine Murphy: Returning to the point in regard to the €700,000, which is a huge amount of money, it is very difficult to see how any company engaged in that as a business model would go out of business given that very little of the cost of generating the material is borne out of their own resources. This service is in the main publicly funded.

Professor Brian Norton: There is a logic to the Deputy's argument although the structure

of the publishing business is complex. The people who are making the money are the publishers. The people who supply the service to higher education institutions aggregate and work as a middle man between the publishers and the institutions. As materials became more available online the margins for the publishers decreased and they gave less commission to the middle men. It was determined that there would be a national procurement or an aggregate supplier of journals to all institutions. We are encouraged to draw from a national procurement exercise. It is the intermediaries rather than the publishers who went broke. Like the Deputy, I find it difficult to understand why they went broke but they did and they had no assets to recover.

Deputy Catherine Murphy: What happened to the copyright of the material?

Professor Brian Norton: The copyright remained with the publisher. The business model is quite complex and I do not wish to go down that road.

Deputy Catherine Murphy: In regard to procurement, perhaps Professor Norton would explain what happened in regard to the €5 million spend in respect of which procurement standards were not complied with and what arrangements are being put in place to ensure compliance into the future?

Professor Brian Norton: There is a note at the end of the appendix to our submission which details particular incidents around training and accommodation for the Science Without Borders programme. We were particularly exposed in this regard in that other institutions had student accommodation into which they could place students but because DIT does not own any student accommodation we had to enter into arrangements at short notice, which was shorter notice than would be required by the appropriate procurement process. We did go to three tenders but there is a more elaborate process required. The appropriate tender process was not entered into.

I should also point out that we have had a major problem in regard to staffing in this area. We are located in the centre of Dublin and our procurement specialists have been recruited by the expansion of the Office of Government Procurement and so we have had a very high staff turnover. DIT and the other agencies are now fully staffed. In the year in question the amount in respect of non-compliance was €5.1 million. That was subsequently reduced to €3.4 million and €2.87 million. We have more work to do. It is still not good enough but we are moving in the right direction. We have looked at our process, route and branch, and applied appropriate staffing to the exercise.

Deputy Catherine Murphy: I will pick up on the point about the staff. According to the information before me, the average number of staff during the year is 1,741. What is the ratio in terms of part-time and full-time staff?

Professor Brian Norton: I will come back to the Deputy with that number.

Deputy Catherine Murphy: There is a great deal of precarious employment now at university level. Following the Cush report, universities had undertaken to ensure that following a duration of employment of two years, contracts would be provided. In the context of lecturing that is done by people who are part-time on the dole, this is a subsidy to the universities and it is not the way to proceed regarding the amount of research time that should be devoted to delivering lectures to students. Is DIT in compliance with the Cush report?

Mr. Denis Murphy: If I may give the Deputy a sense of our figures, each quarter we submit - as all institutes are required to do - staff statistics to the HEA. Across the institute, the figure we submitted for December 2016, which would have been the last quarter, was of the order of

1,780 full-time equivalents. That is not the exact figure but it is approximately 1,780, and the number of people that represents is just under 2,200. To answer the Deputy's question, there are 400 or 500 people who would not be full-time. They are converted into full-time equivalents to give us the figure of 1,780. That is the proportion in the context of our overall staffing.

Like all the institutes, we are working through the implementation of the Cush report. We are in constant discussion both with the Department and with the staff representatives on that. I suggest that we are relatively complete in terms of the implementation of the conversions that were agreed on converting part-time staff to more secure employment. There are some outliers that we are having discussions with but we are working through the stages. There are a number of stages to that process but we are working through them and working with our partners in doing so.

Deputy Catherine Murphy: We are limited on time as we ran over earlier so I will move on to the Grangegorman development. I have visited the campus a couple of times and what has happened to date is incredibly impressive. It is in a great location. The witnesses might update us on, for example, the budgetary controls that go along with a development of that size, the speed at which the development is progressing and how close they are to the targets in terms of having it fully operational. The buildings that will be sold will have increased in value. Has that had an impact in terms of the speed at which they might be able to deliver it?

Professor Brian Norton: The Deputy is correct to say that the property has been sold. Unfortunately, construction costs also increase so the effect in that regard is quite neutral.

In terms of overall financial controls - colleagues may want to go into the detail of this if the Deputy wishes them to do so - cost-benefit analyses, public sector benchmarks, etc., are used to ensure that, from a macroeconomic point of view, this is the project to be doing and at the level of cost control, we have groups within both the Grangegorman Development Agency, GDA, and DIT that monitor this intensely on a very frequent basis.

In terms of where we are, at this point we would have 1,200 students at Grangegorman and approximately 200 colleagues. This summer, the Luas will be coming through near our entrance - at Constitution Hill - and this will make the campus much more accessible. That is an important step forward in the overall planning. In September 2019, we hope to complete what are called the central and east quads, which will bring together in that area a range of activities currently in Kevin Street, Cathal Brugha Street and a number of other locations, some 10,000 students, all the accompanying colleagues, etc. As we speak, we are on track to achieve that. I do not know if colleagues want to add anything.

Dr. Noel O'Connor: This is a very important project for the city and obviously for DIT. It is something we have been working on for many years. There is very clear governance within DIT. There is a very clear approval process between DIT and the GDA. My colleagues in the GDA may wish to talk about that. They are very much compliant with the Department of Finance guidelines and there are very clear sign-off stages. There are very clear project teams and an escalation of approval processes right up through and including the governing body of DIT and the Department of Education and Skills.

Deputy Catherine Murphy: Does anything stand out that has not been met in terms of either budget or the milestones?

Dr. Noel O'Connor: Certainly to date, in a very challenging time, we have been able to

bring together a lot of resources, as much as we could possibly get, and deliver very good value for money. My colleagues in the GDA may wish to comment on that. I do not see anything, and I am dealing with it internally within DIT, that stands out in terms of the governance of the project and the sign-off and approvals that are required for the funding arrangements.

Deputy Catherine Murphy: On the public private partnerships, PPPs, I note that the obligation will be for DIT to cover the cost of maintenance. That strikes me as strange given that there is a payment to develop the buildings.

Professor Brian Norton: If I may correct that, with respect. The contract actually provides for the maintenance and that at the end of the PPP period, which is 25 years, the buildings will return in their original state. That is a particular feature. We have taken back to DIT responsibility for information and communications technology, ICT. That would be a risk if we left it to a PPP contractor because that area is so fast-moving and the requirements that will obtain in 20 years' time are totally unpredictable, as we said earlier. We have taken on the ICT risk because that makes the PPP more viable as a project but the maintenance, renewal and refurbishment of the buildings through their lifetime is part of the PPP contract.

Chairman: I want to call Deputy Kelly.

Deputy Catherine Murphy: I have a final question. The site was transferred from the HSE to the GDA. Did money change hands between the two in that regard?

Dr. Noel O'Connor: I would just say that it was between two Government Departments.

Deputy Catherine Murphy: Yes.

Dr. Noel O'Connor: I am not sure that money changed hands. Facilities were provided and, as was indicated, a huge amount has been achieved on campus both for the HSE and for DIT.

Professor Brian Norton: Can I make an important point of clarification? Our colleagues in GDA are responsible for developing the DIT campus but it is a unified campus and it also involves other facilities including a primary school, a Dublin city library, the new Phoenix Care Centre, which replaced the psychiatric facilities that were at St. Brendan's Hospital, a community care facility and a nurses facility, so there are still health facilities on the campus that meet the need that was provided previously. It is an important part of the project.

Deputy Catherine Murphy: It might be useful, when we are considering the issue of intellectual property, to also examine the position regarding copyright and how that works, because a significant issue arises in that regard.

Deputy Alan Kelly: The witnesses are very welcome. On the library issue, this was a collective arrangement with a number of other institutes of technology? Who was administering it? Was it University of Limerick?

Professor Brian Norton: The procurement process, yes. It was the education procurement service of the University of Limerick.

Deputy Alan Kelly: Had DIT used this supplier previously?

Professor Brian Norton: Yes, for 15 years.

Deputy Alan Kelly: Nothing was ever flagged before?

Professor Brian Norton: No.

Mr. Denis Murphy: I wish to clarify that the procurement process was managed by Education Procurement Services, EPS, which was based in UL. Once the supplier was selected through that process we then, as an institute, entered into a contract. It was a relatively standard contract. Once the process was completed, we were then the contracting authority with the supplier.

Deputy Alan Kelly: Obviously there were no issues with the financial soundness-----

Professor Brian Norton: No and indeed the company had passed the requirements for procurement several years before.

Deputy Alan Kelly: Yes, indeed. Was any attempt made to recoup some of the money?

Professor Brian Norton: Yes, all the normal methods were used but no-one-----

Deputy Alan Kelly: None of it materialised, is that correct?

Professor Brian Norton: None of it materialised to anybody.

Deputy Alan Kelly: What was DIT's loss in comparison with all of the other institutions that had a similar arrangement?

Professor Brian Norton: There is actually a full debtors list available which we can provide to the committee. Just to give a comparison-----

Deputy Alan Kelly: No, sorry, what I mean is the other institutes. How much did they lose? DIT lost €700,000. Presumably, if the other institutes entered into similar arrangements, then they would have lost, *pro rata*, similar amounts.

Mr. Denis Murphy: In Ireland, across the higher education sector the amounts varied from €500 up to €50,000.

Deputy Alan Kelly: Why was there such a variance?

Mr. Denis Murphy: First, it related to the size of the contract and the number of journals that-----

Deputy Alan Kelly: DIT's loss was one of the largest. Is that correct?

Mr. Denis Murphy: On this island-----

Deputy Alan Kelly: Was it the largest?

Professor Brian Norton: We represent 30% of the institute of technology sector-----

Deputy Alan Kelly: Was DIT's loss the largest?

Mr. Denis Murphy: Yes, ours was the largest in Ireland.

Deputy Alan Kelly: Whose was the second largest?

Mr. Denis Murphy: From memory, it was IT Carlow.

Deputy Alan Kelly: How much did it lose?

Mr. Denis Murphy: In or around €45,000. I am just going by the creditors list. We would have taken this information from the administrator's report.

Deputy Alan Kelly: Yes, I know, but DIT lost €700,000.

Professor Brian Norton: Yes.

Deputy Alan Kelly: That is some variance.

Professor Brian Norton: It is, yes. We-----

Deputy Alan Kelly: Was the percentage of journals that Carlow took from the company versus the percentage that DIT took reflected in the relative losses? I am trying to match up the amounts lost and the amount of journals that were used. Would they correlate?

Mr. Denis Murphy: One of the other issues that arises is the timing of the payment. We paid for the service in July 2014, while other institutes may have only part paid. The administrator was appointed in September. It was a UK company and was therefore under the UK insolvency legislation. Once the administrator was appointed in September, further payments would not have been made by higher education institutes. In some cases, they may not have paid all or any of the bill.

Deputy Alan Kelly: DIT paid upfront.

Professor Brian Norton: Yes.

Deputy Alan Kelly: Why?

Professor Brian Norton: It was a subscription that-----

Deputy Alan Kelly: Why did the others not pay upfront?

Professor Brian Norton: They did but their timing was closer to when the company became insolvent.

Deputy Alan Kelly: It was just an accident that DIT was the first and was the only one that had paid upfront. Is that right?

Professor Brian Norton: We have a much larger library service than others. We operate six libraries, while the other institutes would only operate one. There is quite an overlap in the level of journals that are supplied to meet student needs in different parts of the city. The exercise of producing the list of journals that goes to the supplier is done in the summer. Otherwise, we would need to employ more people to do it when the service is being provided in the autumn. It is a much larger task in the DIT. It is an activity that needs to be completed. We are also under clear instructions to make prompt payments. Indeed, we received a notice regarding same only yesterday. As we discussed earlier, the supplier then has to go to the publishers to secure the journals. If we leave it too late, the potential is that we would have a gap in service at the other end. Given our scale of operations, that would be more significant than for other suppliers.

Deputy Alan Kelly: We are on a clock in here.

Professor Brian Norton: My apologies.

Deputy Alan Kelly: DIT paid upfront. The institute made the decision to pay upfront. Mr. Colm Whelan would have made that decision, I presume.

Professor Brian Norton: Yes, the director of finance.

Deputy Alan Kelly: The others did not pay upfront.

Professor Brian Norton: Everyone paid their subscription upfront. The issue was the timing. Payment was made by every body upfront but the timing before the service was due was different across the institutes.

Deputy Alan Kelly: Did DIT receive the goods? It never received them, as far as I understand.

Professor Brian Norton: It is a subscription so the service is to provide access to the subscriptions. When this company went broke, there was no access to those subscriptions. The company was an intermediary.

Deputy Alan Kelly: What was the time difference between when DIT signed up and found out that the company was folding?

Mr. Denis Murphy: July was when we made the payment and the administrator was appointed in early October. I believe it was 8 or 9 October 2014.

Deputy Alan Kelly: That is three months and-----

Mr. Denis Murphy: Yes.

Deputy Alan Kelly: DIT received nothing.

Mr. Denis Murphy: The payment was for the year 2015. It was to put the journals and publications in place for the following year, which was the practice. While we are the largest institute in Ireland, there were a number of significant institutions in the UK who were also in a similar position. One UK institution lost €1.9 million, for example.

Deputy Alan Kelly: I know but for the tender in Ireland, DIT was the largest customer.

Mr. Denis Murphy: Yes.

Deputy Alan Kelly: What percentage of the pie did DIT represent?

Professor Brian Norton: We could find that out for the Deputy. I do not have that information here.

Deputy Alan Kelly: If we were to write to all of the other institutes of technology and ask them if they had paid upfront for their provision, the answer would be “Yes” on the basis of what Professor Norton is saying.

Professor Brian Norton: One has to pay a subscription before one receives the service.

Deputy Alan Kelly: It is not paid in instalments.

Professor Brian Norton: No.

Deputy Alan Kelly: It cannot be paid in instalments. Is that right? Was that not an option?

Professor Brian Norton: I do not believe so.

Mr. Denis Murphy: I would suspect that because of this incident, the practice has changed over the last number of years. Currently, we are paying for the subscription for 2017 in two parts. We paid half of it in February and are currently paying the other half. It is in process. The market has changed to get over this because-----

Deputy Alan Kelly: During and prior to 2014, DIT never paid for this or any similar service in instalments. Is that right?

Professor Brian Norton: I do not believe so, no.

Deputy Alan Kelly: I ask that the witnesses would come back to the committee on that question.

Mr. Denis Murphy: I have the history of the payments for the three previous years here and the timing would have been similar. At times there may have been a number of invoices but the principle of having the bulk of it paid by the end of the summer would have applied in each of the previous two or three years.

Deputy Alan Kelly: Mr. Murphy is certain that in relation to this and similar services, payment would have always been made in advance.

Mr. Denis Murphy: Yes, for this type of service but there is no other significant service-----

Deputy Alan Kelly: All of the other institutes would have done the same thing. Correct?

Mr. Denis Murphy: A number of other institutes would have; I cannot say all, but a number would.

Deputy Alan Kelly: Obviously this is something we will have to check but does Mr. Murphy believe that other institutes may not have been paying upfront?

Mr. Denis Murphy: They would have paid in 2014, up to the end of December 2014 for their 2015 subscriptions. If they had not paid by December 2014, they would not have had access to the journals and the materials-----

Deputy Alan Kelly: Just a minute ago Mr. Murphy said that a number of them did but that he was not sure about all of them. What did he mean by that?

Mr. Denis Murphy: I am just going by the list of creditors in the administrator's report. That report listed a number of Irish institutions but did not list others. I do not know, for those that are not on the list, whether it is because they had not paid or whether there is some other reason for them not being on it.

Professor Brian Norton: Perhaps they did not choose to avail of the national procurement service. That is a possibility. We do not know. We would not be privy to that information.

Deputy Alan Kelly: We can find out by asking others.

Does DIT have franchise agreements with other educational bodies with regard to the awarding of qualifications?

Professor Brian Norton: We do, yes.

Deputy Alan Kelly: Of course, and rightly so. It is an important area. I ask Professor Norton to list the organisations in question.

Professor Brian Norton: We have a relationship with the British and Irish Modern Music Institute, BIMM, which is a provider of a contemporary music programme. That is based here in Dublin. We also have a relationship with the Digital Skills Academy and Pulse College. That is all that we have here in Ireland. Internationally, we have arrangements in Egypt with Pharos University and with the Oman Tourism College. I am not sure that we have any other active arrangements at this point. They would be the most active arrangements as we speak.

Deputy Alan Kelly: Let us focus and pick one. Let us focus on the British and Irish Modern Music Institute. What is the nature of the arrangement?

Professor Brian Norton: BIMM provides a course in contemporary modern music. It leads to a DIT award.

Deputy Alan Kelly: Does DIT receive income for this?

Professor Brian Norton: Yes, we do. We can give the figures. It comes from the students. The programme is rather like the provision of HEA-funded places in the National College of Ireland, Griffith College Dublin or the Royal College of Surgeons in Ireland. It is a HEA-funded programme for contemporary modern music. The money comes by virtue of BIMM teaching students from the HEA-funded headcount. I am unsure whether we have the student figure or the income figure.

Mr. Denis Murphy: The income figure is approximately €2 million per annum.

Deputy Alan Kelly: What is the net income or loss based on this programme? Is it €2 million? Basically I am asking whether DIT makes money on this.

Professor Brian Norton: The simple answer to the question is “Yes”.

Deputy Alan Kelly: How much?

Mr. Denis Murphy: I cannot give the figure off the top of my head but there is a cost.

Deputy Alan Kelly: I am not going to hold the DIT representatives to it. They can provide it to us later on.

Mr. Denis Murphy: My apologies.

Deputy Alan Kelly: Anyway, it is a profit. Is that correct?

Professor Brian Norton: Yes.

Deputy Alan Kelly: Do the student numbers in BIMM count as DIT students for the purposes of the headcount?

Professor Brian Norton: Yes, because they are within the HEA envelope.

Deputy Alan Kelly: Does that mean DIT gets money from the HEA on the basis of the BIMM students being part of DIT?

Professor Brian Norton: Yes.

Deputy Alan Kelly: Am I reading this right? DIT gets taxpayers' money from the HEA. DIT hands some of it over to BIMM. Is that correct?

Professor Brian Norton: Yes.

Deputy Alan Kelly: Therefore, the taxpayer is subsidising payments to BIMM. Is that correct?

Professor Brian Norton: Yes, there is a provision-----

Deputy Alan Kelly: This is to benefit a private UK company. Is that correct? BIMM is a private UK company.

Professor Brian Norton: It is indeed a private UK company.

Deputy Alan Kelly: Is there not something alarmingly wrong with this?

Professor Brian Norton: The-----

Deputy Alan Kelly: The HEA, which is funded by taxpayers of Ireland, is paying out money to DIT to pay a private company in Britain for students in DIT who are part of the DIT headcount. Is this the only example of such an arrangement in DIT?

Professor Brian Norton: No, that is the context I want to give to the committee.

Chairman: There is a vótáil in the Dáil Chamber. Will we continue? It relates to a Private Members' motion taken on Tuesday night. We can carry on if people want.

Deputy Alan Kelly: That is fine.

Professor Brian Norton: Are you happy for me to answer, Chairman?

Chairman: Yes.

Professor Brian Norton: The HEA has sought to meet student demand in particular areas where the authority deemed there was not adequate resources within the sector. This applies especially in computing, for example, with the National College of Ireland and Griffith College Dublin and in medicine with the Royal College of Surgeons in Ireland. All of these are private providers meeting national need. It has been deemed that the best way of doing it is to have these providers. They receive money for delivering the programmes that are required. This is deemed to be a co-operative arrangement to do that.

If there was a policy change that deemed this arrangement not to be appropriate, then, obviously, we would work within it. It is a rather successful programme, by the way. The development of this proposal as a way of meeting the need was discussed fully in the HEA and the models were put in place accordingly. They apply in other areas in other institutions.

Deputy Alan Kelly: That does not make it right. I think this is something we are going to have to look at.

Chairman: Where did the student element go to? Who gets the student element?

Professor Brian Norton: There is a proportion that goes for delivering the programme.

Deputy Alan Kelly: How much is BIMM paid every year by DIT? This is cash in and cash

out. It is taxpayers' money.

Professor Brian Norton: Yes, indeed.

Deputy Alan Kelly: It goes to a private company in Britain.

Professor Brian Norton: Although it operates in Dublin as well.

Deputy Alan Kelly: I know that. How much is DIT paying BIMM every year? I trust the deputation has that figure at least.

Mr. Denis Murphy: There is a figure for last year of approximately €3 million.

Deputy Alan Kelly: That is the figure per year. Is that correct? The HEA is paying DIT to pay a private company €3 million per year. DIT numbers are increased because it does this. Is that correct?

Professor Brian Norton: We deliver this area of provision. The other choice would be to provide the facilities or develop the facilities at the expense of taxpayers within the State provision. It was decided that this was the best way of delivering it to meet the demand. It has been done in other areas.

Deputy Alan Kelly: Let us follow the money. How many students are involved?

Mr. Colm Whelan: There is a round number of 600 students.

Deputy Alan Kelly: The funding comes through from the HEA for this. The HEA then transfers the funding to DIT. Then, DIT keeps a slice of it. DIT is a net beneficiary and DIT numbers go up. Then, DIT also pays this company with an office in Dublin €3 million. Is that correct?

Professor Brian Norton: Yes.

Deputy Alan Kelly: That is bizarre. Can the DIT representatives list the other organisations with which it has similar arrangements?

Professor Brian Norton: It is the only organisation with which DIT deals where the numbers are within the HEA headcount. In all the other areas of provision we are accrediting programmes where the fee income received by the institution is directly meeting the cost.

Deputy Alan Kelly: This is incredible stuff. Let me repeat what I said. The HEA is paying DIT. What is the total amount that the HEA is paying DIT?

Dr. Graham Love: I am sorry. If the Deputy will give me a moment, I will check that.

Deputy Alan Kelly: That is no problem.

(Interruptions).

Dr. Noel O'Connor: I want to confirm that the 600 students in question are getting a validated programme of study. They are on a programme of study.

Deputy Alan Kelly: I have no issues in respect of that. I know of other ways in which this

is done, but I have never heard of it being done like this. The role of the Committee of Public Accounts is to account for taxpayers' money. Taxpayers' money is being paid by the HEA – we will get a figure. I want the specific figures in respect of this programme rather than the total amount. It may be lined out or perhaps it is not. If it is not, then we need to get it lined out in some way. If the deputation does not have the figure, then we will have to get it again. It is then transferred to DIT. DIT is making an attachment to this and putting it into the DIT budget. Then, DIT is paying a British private company €3 million in one year.

Dr. Noel O'Connor: Yes.

Deputy Alan Kelly: That is bizarre.

Professor Brian Norton: It is to deliver to 600 students a programme-----

Deputy Alan Kelly: It counts for the DIT headcount on top of that. It is the only instance of it in the institute. Is that correct?

Professor Brian Norton: This is the only instance we have, although the provision of a HEA headcount does happen in other institutions. It is not unique and it was chosen to be the best model to progress.

Dr. Noel O'Connor: I wish to confirm that there was a significant amount of dialogue entering into that arrangement. It was an area of activity where we had not been involved. There is obviously considerable demand for it. We are very much in the applied arts area within DIT. We are very much around performance. This particular company has a particular reputation in this particular area.

We went through a validation process and a quality assurance process with that company. Our colleagues in the college of arts and tourism worked closely to guarantee the quality of the provision. Certainly, it is a step forward because I am not aware that it is available elsewhere. Students would normally have to go abroad to pick up this type of education. It is now available in Dublin. Within DIT there are-----

Deputy Alan Kelly: I get the gist of it.

Dr. Graham Love: I am keen to clarify this. Deputy Kelly wants the figure that is specifically from the HEA for this music provision. Is that correct?

Deputy Alan Kelly: Yes.

Dr. Graham Love: I do not have that to hand. We will get it. I will certainly write it in afterwards. I may even get it in advance of that.

Deputy Alan Kelly: It is fair to say that if DIT is paying €3 million to this private company-----

Dr. Graham Love: I suspect it is a subset of that amount.

Deputy Alan Kelly: I want to find out how much DIT is putting into its own coffers in running the programme. The programme is run by BIMM and DIT is taking a slice off it for administration.

Professor Brian Norton: It goes toward the insurance, the accreditation, making the awards etc.

Deputy Alan Kelly: It would be very interesting, Dr. Love, to find out the funding percentage and then to break it down between BIMM and the Dublin Institute of Technology and what the money is used for. I accept what Dr. Noel O'Connor said but this is not normal. I would say the public is not privy to this and it needs to be looked into. In many ways it is creating a precedent. I ask the HEA whether we are doing this in a number of other locations and at what scale. Is the HEA in a position to provide the information or must it come back with it to the committee?

Dr. Graham Love: Certainly in some cases, I think it was referred to earlier in the provision of medical training and other vocational training, we would provide some funding to institutions.

Deputy Alan Kelly: I accept it will take time but will the HEA provide the Committee of Public Accounts with a breakdown of all examples of where this is happening and how much taxpayers' funding is going into it?

Dr. Graham Love: Yes Deputy, we will do that.

Deputy Alan Kelly: The Committee of Public Accounts would like that information and we would then have other questions. I have a concern about public knowledge, transparency and how BIMM works. Obviously the majority are not aware of this scheme and we need to ensure that the way the funding is being passed through the HEA to the relevant colleges for these courses is transparent and that it is obvious what it is being used for. Second, in the higher education field, we need to ensure that if expertise in these specialist fields is required, we are moving towards being able to do it ourselves. What is being done to ensure that happens? Frankly, we will have single points of failure all over the place regarding the requirements for such programmes which we obviously have if there are 600 students. We need to see if there is a plan or a strategy to gradually move towards that through the HEA. I would like to see an obvious sign of that graduating from the beginning of where these programmes are signed off.

I want to see every single programme across every single college and to see what the HEA and others have done to make sure this will change gradually and we will be moving to a point in each programme whereby we will no longer have to do this. Surely there has been massive progress in this regard, particularly for the programmes that started some years ago. I am sure this will become obvious when this documentation is sent to us. I am glad I raised this point.

The final issue in regard to general procurement is that the cost of €5.1 million at 11.4% is a very significant figure. It obviously cannot continue. Has an action plan been put in place to ensure the DIT will be in compliance again? I admire much of the work of the DIT and where it is going into the future, but one needs foresight in planning for some of the issues that arise. I presume that is part of the process in regard to the controls and changes that have been put in place.

Professor Brian Norton: Yes it is.

Deputy Alan Kelly: When the witnesses are back before the Committee of Public Accounts next year, will it be a different story?

Professor Brian Norton: We have made progress since that time. It started at €5.1 million and that figure has been reduced to €3.4 million and then to €2.87 million. We are moving in the right direction. We have put more resources in. There are technical issues. Things were procured, as members will see from the appendix, but the appropriate procurement for this was

not appropriate to the particular threshold. There are technical issues that we need to resolve. The Deputy is correct that it is not good enough and we are endeavouring to do the job properly.

Deputy Alan Kelly: Chairman, I would appreciate if I could have answers from the HEA on the macro issues that I have raised and the record will allow the witnesses to see the questions I asked. I would like the DIT to address the issue of BIMM and provide the answers within a week to the committee. I ask the clerk to the committee to come back to me with the answers.

Dr. Noel O'Connor: Chairman, may I briefly clarify one issue on that procurement? A substantial sum, just slightly under €1 million of that €5.1 million, related to the Science without Borders programme. That was a bilateral agreement between Ireland and Brazil. We bid as a country for scholarships in respect of that programme. DIT was very fortunate in that we obtained the largest number, approximately 250 students, but tied to that was the fact that we had to provide accommodation and English language tuition for those students. It was part of the package. At a very late stage in the year we found we had a large contingent of Brazilian students coming to DIT and we had to respond. In doing so we could not go to public tender in the normal way of public procurement but we sought expressions of interest from providers and covered ourselves for that year. In subsequent years we went through the process of public procurement.

Chairman: I call Dr. Love, to be followed by Deputy Connolly.

Dr. Graham Love: Let me reassure the Committee of Public Accounts that we will have the data quickly. We have a very clear and transparent funding model. We are falling slightly victim here. I apologise that we were not able to bring the figures to the committee quickly. I am just three weeks in the job but we will have it for the committee within the week.

Deputy Alan Kelly: That is fair enough.

Chairman: We appreciate that.

Deputy Catherine Connolly: I have a number of practical questions. However, I could not but comment that I am really impressed with the gender representation, as one would forget easily that 52% of the population are women. Is a lack of gender balance generally a problem in the university sector?

Professor Brian Norton: That is the case. We have more work to do. We have made progress but the fact is that on the senior leadership team of DIT for example, there is only one woman colleague. That needs to change.

Deputy Catherine Connolly: How many are in the senior leadership team?

Professor Brian Norton: There are 12 on the team. It is unacceptable that there is one woman but we have a structural problem in that unlike the universities where there is a rotation of posts and things will change rapidly, people are appointed to particular roles until their retirement. The rate at which one can change is limited in that regard. It is dependent on colleagues resigning or retiring and the ability to replace them. The rate at which we change that has inherent limitations. That is a subject of great regret.

We are beginning to see change coming through the organisation and that is encouraging but it is a fact that it is a challenge coming to senior level.

Deputy Catherine Connolly: The HEA has done a report that not just morally but on a business level it makes more sense-----

Professor Brian Norton: I agree.

Deputy Catherine Connolly: Professor Norton might agree, but the absence of gender representation is beyond endurance. If it makes sense on a moral level and more importantly for the leaders in industry on a business level, what plan has been put in place to address gender issues?

Professor Brian Norton: We have a range of policies, which range from the training necessary to control that-----

Deputy Catherine Connolly: What plan?

Professor Brian Norton: There is a whole element of training, particularly around unconscious bias, under-representation on interview panels and on what one places in advertisements, but as I have said the real practical barrier - and we can be as strong on that as we wish - is that because of the way we employ people and put them in permanent roles, the rate at which the vacancies happen is slower and perhaps we need to move to a different kind of model, where we rotate senior appointments. That is a discussion that needs to take place in a wider forum. That would increase the rate of change.

Deputy Catherine Connolly: I think there was a reference to the number of staff in the opening statement. There are 20,000 students and a staff of 2,200. There are 1,780 full-time equivalents and approximately 400 to 500 members of the staff are not full-time.

Dr. Noel O'Connor: Correct.

Deputy Catherine Connolly: What percentage of those are women?

Professor Brian Norton: We can supply the committee with-----

Deputy Catherine Connolly: I would like the figure now, please. Would I be fair in drawing the conclusion that it was predominantly female or would I be wrong?

Mr. Denis Murphy: Is the Deputy speaking about part-time staff or total staff numbers?

Deputy Catherine Connolly: I will revert to the total, but I am speaking about the part-time numbers now.

Mr. Denis Murphy: We can get the Deputy the figures. It would not be fair to say now, as many of the staff in that category are what we call HPALs, those being, hourly paid assistant lecturers. There is gender variance across the disciplines. In some disciplines, the bias is in favour of males. When I say "bias", I mean the balance. I am referring to engineering, for example. In other disciplines, the balance is female. We can confirm the figure, but the balance-----

Deputy Catherine Connolly: Mr. Murphy can imagine that this is important. I come from Galway.

Mr. Denis Murphy: Yes, and we have-----

Deputy Catherine Connolly: Its university has not distinguished itself in gender terms.

Mr. Denis Murphy: A gender schedule is to be returned as part of our returns each quarter to the HEA. We can submit our December schedule and our March schedule is being completed as we speak.

Deputy Catherine Connolly: The witnesses will revert with the breakdown.

Professor Brian Norton: Yes.

Mr. Denis Murphy: And specifically on the part-time and full-time numbers.

Deputy Catherine Connolly: Does Dublin Institute of Technology have a teacher assistant post?

Professor Brian Norton: No.

Deputy Catherine Connolly: Good. Does it employ lecturers who do not have a research brief?

Professor Brian Norton: No. We have a varying engagement with research among lecturing staff, but we have none whose contract excludes research.

Deputy Catherine Connolly: Of the total number of students, how many are from outside Ireland or non-EU countries?

Professor Brian Norton: Nearly 20%. The actual number is-----

Dr. Noel O'Connor: It is 20% overall.

Professor Brian Norton: Actually, no. Approximately 1,000 students are from non-EU countries and approximately 1,000 others are from within the EU but outside Ireland.

Dr. Noel O'Connor: Two thousand in total.

Professor Brian Norton: Non-Irish.

Deputy Catherine Connolly: So, 10% are non-EU students.

Dr. Noel O'Connor: Correct.

Deputy Catherine Connolly: Is that a source of income for the institute?

Dr. Noel O'Connor: Yes.

Deputy Catherine Connolly: How much is that income?

Dr. Noel O'Connor: It was circa €10 million last year.

Deputy Catherine Connolly: What is the student dropout rate?

Dr. Noel O'Connor: It matches the norms for the sector. It varies between levels. For example, levels 7 and 8-----

Professor Brian Norton: I can provide a precise number. At level 8, the progression rate in 2014-15 was 87%. At level 7-----

Deputy Catherine Connolly: A 13% dropout rate.

Professor Brian Norton: Yes. The progression rates at levels 6 and 7 were 76% and 79%, respectively.

Deputy Catherine Connolly: Is the dropout rate high or low relative to other colleges?

Professor Brian Norton: The level 8 rate is similar to others. Obviously, universities do not provide levels 6 and 7. There are variations across disciplines, but the numbers are broadly similar.

Deputy Catherine Connolly: Does DIT follow up on why that percentage-----

Professor Brian Norton: We have a retention office. We conduct exit interviews. We are a part of national student surveys. Great attention is given to this issue. The reasons are different course by course. Due to how the CAO system works, many students in level 6 or 7 programmes may have been unsuccessful in accessing level 8 programmes and have not prepared for the programmes as they would have done had those been the students' first choices. There are a range of issues in that regard.

We are a practice-oriented institution in the centre of Dublin. Some students who gain skills during the course of their programmes prefer to enter into employment instead of graduating because of the salary offerings. There are other reasons than negative ones for dropping out. Those students may rejoin us in subsequent years. This issue is more complex in some institutes than in others.

Deputy Catherine Connolly: Page 25 of the accounts refer to two subsidiary undertakings, including An Chéim Computer Services Limited, which is 100% owned by DIT. Are there others? This morning, we heard that WIT had a range of companies. Does DIT not have a range?

Professor Brian Norton: There are no others. An Chéim Computer Services Limited has been closed down and exists as a company called EduCampus Services Limited within the HEA. That company provided payroll and admin services to the institute of technology sector. The other company - Dublin Institute of Technology Intellectual Property Limited - has been closed or is in the course of being closing.

Deputy Catherine Connolly: I am sorry, but I did not hear that. There are two companies. An Chéim Computer Services Limited is going to be-----

Professor Brian Norton: It is now-----

Deputy Catherine Connolly: It is another company.

Professor Brian Norton: It exists as a company called EduCampus within the HEA's orbit under HEAnet. An Chéim and the second company have been wound up.

Deputy Catherine Connolly: Has the second become another company?

Professor Brian Norton: No.

Deputy Catherine Connolly: Is the purpose of the first company to license-----

Professor Brian Norton: It provides IT services to institutes of technology. The academic administration software, payroll software and so on that serve the whole sector were delivered by that company and are now delivered by EduCampus under the HEA. That it was under us was anomalous.

Deputy Catherine Connolly: It “was established to hold patents and to [license] them to the third parties”.

Professor Brian Norton: No. That was the other company.

Deputy Catherine Connolly: The one that has been wound up and is gone.

Dr. Noel O'Connor: An Chéim had four business applications - Agresso, Banner, Millennium and Core - that are well known to staff within the institutes of technology sector. They underpin all of the accounts information, student registrations, examination results, library services and human resources, and provide for approximately 100,000 students and 7,000 staff across the sector. An Chéim has ceased to trade and its activities have novated to a new company called EduCampus, a subsidiary of HEAnet.

Deputy Catherine Connolly: Is DIT showing that in these and future accounts?

Professor Brian Norton: Yes.

Deputy Catherine Connolly: Will DIT receive an income from it?

Dr. Noel O'Connor: No.

Deputy Catherine Connolly: Do its services break even?

Dr. Noel O'Connor: It is funded by the HEA for the sector. It was established through DIT to facilitate the sector. It was a convenience for the sector.

Professor Brian Norton: It is a shared service for the sector and is not a profit-making entity.

Deputy Catherine Connolly: The witnesses stated that there were no other companies.

Professor Brian Norton: None.

Deputy Catherine Connolly: Has any conflict of interest come to their attention that they or the HEA are addressing?

Professor Brian Norton: No.

Dr. Graham Love: I will follow up on the Deputy's gender question, although she indicated that she already knew the details. We conducted a review last year, chaired by Mrs. Máire Geoghegan-Quinn, on the gender position in our higher education institutes. It made 12 recommendations and has been published. We have an implementation plan for those. For example, agreed targets and indicators of success should be included in our compacts with each institution to try to push this matter onwards.

I will provide a clear example. The main research funding agencies in this country - Science Foundation Ireland, the Health Research Board and the Irish Research Council - have mandated that higher education institutions, particularly the universities, must have the Athena SWAN accreditation in order to be eligible for funding. That Athena SWAN award is like an ISO standard for an institution's gender policy.

Deputy Catherine Connolly: How many colleges have it?

Dr. Graham Love: The number recently reached six. It is a new-----

Deputy Catherine Connolly: It is not new. Athena SWAN has been there for quite some time.

Dr. Graham Love: It has been in the UK for quite some time, but we only introduced it-----

Deputy Catherine Connolly: It is in Ireland, too.

Dr. Graham Love: -----to Ireland roughly three years ago on a pilot basis. The institutions are really going for it and being encouraged to go for it. We are now linking access to-----

Deputy Catherine Connolly: Has Dr. Love read the comments about the Athena SWAN assessment of Galway?

Dr. Graham Love: I certainly heard of some of them before joining the HEA.

Deputy Catherine Connolly: It was a very recent assessment.

Dr. Graham Love: I understand, but I am even more recent to the role. I am trying to impress upon the committee that this is a national priority. We have an implementation plan and are tracking it.

Deputy Catherine Connolly: I thank Dr. Love.

Mr. Colm Whelan: On a point of clarification, Dublin Institute of Technology Intellectual Property Limited is in the process of being wound up. It is dormant.

Chairman: I thank Mr. Whelan. I will make one or two quick points. Does the library and journal facility still involve advance payments?

Mr. Denis Murphy: No, the payments we are making through the current supplier, which again came through the procurement, we are making in the first quarter of 2017 for 2017 services. We made a payment in February and we have one other payment going through. It is effectively split in two this year and the second half is going through currently. It was processed in the past two days.

Chairman: What is the annual figure?

Mr. Denis Murphy: Those two amounts come to at this stage approximately €662,000. There may be other small amounts but they are the two substantive amounts for the year. If there is a requirement for another journal-----

Chairman: Has anything been done about exposure risk?

Mr. Denis Murphy: Yes, we are doing two things, learning from the other unfortunate incident. First, we have done due diligence on the supplier we are dealing with and, second, we have assurance from them that they have paid the money to the publishers of the journals, as the president said earlier, in order that money is paid over to them. One of the problems in the previous incident was that the money had gone to the middlemen but that had not been paid over and, therefore, we had no right to the service because the money had not been paid.

Chairman: Is there insurance? Is it like the good old fashioned way that people ensure their debtors?

Mr. Denis Murphy: We have not. In the first year, there was an element of a bond. It is

something we are looking at. There is an issue around that type of insurance in that if there is a risk, one will not get it. If there is no risk with the company, one will probably get insurance at a rate. There is a call to be made on that.

Chairman: Professor Norton might not have been exact when he said that while it was paid upfront, he mentioned the prompt payments Act. Would the Act have applied to this UK company? Would there be an obligation under that legislation?

Professor Brian Norton: I was not specifically referring to that. I did not say the prompt payments Act. I said there is an onus on us in our system because of the requirement to make prompt payments. Our system encourages prompt payment and it does not make a distinction about where the payment needs to go.

Chairman: Professor Norton can understand that when we heard “prompt payments”, we thought it was a reference to the legislation.

Professor Brian Norton: It was not a reference to the Act. The fact that we have to comply with the Act means we have to make prompt payments anyway.

Chairman: The loss was incurred. Students and staff tell us that they have had to suffer the brunt of the cost savings that have had to be made. DIT cannot have lost €700,000 without a knock-on effect on the delivery of services for students and teaching staff. Can Professor Norton give us an indication of how DIT shared the pain of the loss or send us a detailed note? That is the big issue after the loss was incurred. I read the High Court documentation. Following the first meeting of this committee in July last year, we wrote to him about this because the institute’s annual accounts had just come in and we received a 100-page report from Professor Norton. We are familiar with that. The fallout from that is most worrying.

Professor Brian Norton: Let me first make one thing clear. We did not diminish our library service to students. That remained at the same level and has remained at that level since. The loss reduced our reserves in that year. It was, therefore, taken out of the reserves in that year-----

Chairman: The institute was able to carry it?

Professor Brian Norton: -----and we have sought over time, by deferring capital spend and not making senior appointments or duplicating senior appointments, to bring the reserves back up to that level. However, the reserves were there to “carry it”, if the Chairman wants to use that phrase. We have sought over time to replenish the reserves by delays in capital expenditure and duplicating certain roles for periods. That is essentially what we did.

Chairman: Will Professor Norton send us a note on that? His comments are general and a note would give us a better feel for what happened.

Professor Brian Norton: It was approximately half our reserves.

Chairman: The note should not exactly cover the €700,000 but it should give us a good estimate. Professor Norton will understand that we are being asked by staff and students about these issues and, therefore, we need a proper answer.

A newspaper article was published today in which a delay was mentioned regarding the Grangegorman site.

Mr. Ger Casey: Yes, that has to do with the delivery of the two PPP quads - the centre and

lease quad. A legal case was taken by the underbidder and that was won substantially by the State last September. That has resulted in a two-year delivery of those.

Chairman: How did that result in a two-year delay?

Mr. Ger Casey: It was the nature of the case.

Chairman: Mr. Casey said it was “substantially won by the State”.

Mr. Ger Casey: No, it was completely won.

Chairman: Is the original bidder, Eriugena, on site?

Mr. Ger Casey: No. The NDFA is the procuring authority in this particular instance and it is negotiating with Eriugena now to get the financial close, which we understand will be in the next few months, with a view to starting on site, hopefully, in or around that time and having the buildings ready for occupation in September 2019.

Chairman: Has this implications for other buildings that the college had planned to leave earlier? I acknowledge the Luas line, in which the State has invested, will also have an impact.

Mr. Ger Casey: It would have delayed that. One of the key issues is that to sell the buildings, they need to be vacated. We cannot sell them until we have financial close. That will fund other developments. Logistically, there is no point in building some of the other buildings for DIT until those quads are there. It has an impact on that.

Chairman: So the court challenge has delayed the entire process by two years.

Mr. Ger Casey: Only for some of the DIT stuff.

Chairman: Has the reduced workload impacted all the people who were planning to do something during that two-year period, given what the agency had planned did not happen?

Mr. Ger Casey: In terms of the agency?

Chairman: Yes.

Mr. Ger Casey: It has not, because the procurement of the PPPs is being undertaken by the NDFA. The agency takes the project from procurement through to construction. It would not have had a huge impact on our workload.

Chairman: The agency must have been gearing up for increased activity in 2016 and 2017, which had to be put on hold because of a two-year delay resulting from the court case. Has it impacted on the workload?

Mr. Ger Casey: Yes, the site is much quieter but, in terms of our workload, we have continued with all our other activities.

Chairman: Construction and financing costs may have changed during the two years and the agency might generate more income from the sales of the buildings it vacates. Has an assessment been conducted of the cost implications of the two-year delay?

Mr. Ger Casey: The PPP is commercially sensitive and is being dealt with by the NDFA. With regard to other buildings, construction inflation last year was 6.2% but the price of commercial property has increased as well. There has been a difference.

Chairman: Has the agency not done a financial exercise as a result of the delay?

Mr. Ger Casey: We have changed our figures and changed the scope of the buildings to address the changing needs. It is hard for me to give an exact figure in respect of the difference between two years ago and now.

Chairman: I will ask Mr. Casey to do an exercise on this for the agency, not for us. If a €150 million project is delayed by two years, there are financial implications. They might be positive. For example, the other buildings might generate more money in sales. I am surprised the agency has not assessed financially the possible-----

Mr. Ger Casey: It would be simple for us to give the Chairman that number.

Chairman: I do not need the number now. I need the agency to work it out. The officials know my question.

Dr. Noel O'Connor: We do. Mr. Casey has clearly indicated that there is a lot of commercial sensitivity around this and we are in the midst of a major procurement process. We are limited in what can be-----

Chairman: What process is ongoing?

Dr. Noel O'Connor: The PPP process is ongoing and it is being managed by the NDFA. Internally in DIT, there are detailed discussions with the GDA, the Department and, indeed, the HEA around the next stages of the development and the funding. We are participating fully in all those activities. I would beg the indulgence of the committee in allowing us the sensitivities around that.

Chairman: When is the contractor expected to be on site?

Mr. Ger Casey: At the moment I believe it will be the end of the summer.

Chairman: We could wait until October.

Professor Brian Norton: That would be perfect.

Chairman: I do not need it next week.

Dr. Noel O'Connor: That would be excellent.

Chairman: There was a major two-year delay and there are obviously financial implications. The Committee of Public Accounts wants to know that the organisations are on top of this matter.

Dr. Noel O'Connor: Yes.

Mr. Ger Casey: Yes.

Chairman: We want to ensure that we are on top of it.

Dr. Noel O'Connor: Perfect.

Mr. Ger Casey: We are happy to share.

Dr. Noel O'Connor: Very happy to share.

Chairman: I am not pressing for it. October is fine, or after the summer.

Dr. Noel O'Connor: Perfect.

Mr. Ger Casey: Yes.

Chairman: We have concluded our discussion here today. As all of the witnesses are men, I thank the gentlemen for their attendance. We will suspend until 2.30 p.m. when we will continue our examination of the financial statements of the National University of Ireland, Galway.

The witnesses withdrew.

Sitting suspended at 1.50 p.m. and resumed at 2.30 p.m.

National University of Ireland Galway: Financial Statement 2013-2014

Dr. James Browne (*President, National University of Ireland Galway*) called and examined.

Chairman: We will continue our discussion on issues relating to third-level education. In the sessions this morning, we met representatives from the Waterford Institute of Technology, Dublin Institute of Technology and the Grangegorman Development Agency to discuss their financial statements. In this session, we will deal with the financial statements of the National University of Ireland Galway. From there, we are joined by Dr. James Browne, president, Mr. Gearóid Ó Conluain, an runaí, Ms Mary Dooley, bursar, and Mr. Keith Warnock, capital projects adviser. From the Department of Education and Skills we are joined by Mr. Christy Mannion and from the Higher Education Authority by Dr. Graham Love, Mr. Damien Kilgannon and Ms Jennifer Gyga.

I remind members, witnesses and those in the Gallery to please turn off their mobile phones. I wish to advise that by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to this committee. If they are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of that evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity either by name or in such a way as to make him, her or it identifiable.

I will call first on Ms Drinan from the Office of the Comptroller and Auditor General to make a brief opening statement.

Ms Colette Drinan: The financial statements before the committee in this session relate to NUI Galway's financial year ending on 30 September 2014. In that year, the university recognised income totalling €269 million and realised an overall surplus of nearly €2.8 million. Academic fees, totalling over €101 million, represented the university's largest category of income – nearly €37 million of that figure was received directly from the HEA. As is evident from the graphic in the presentation on the screen, in addition, recurrent State grant funding totalled €46 million, and State funding for pensions amounting to €44 million was also recognised. Grants in support of the university's research activity totalled €53 million. The university's total ex-

penditure in 2013 to 14 was €266 million, with pay and pensions accounting for more than two thirds of that figure. A detailed analysis of the university's operating expenses, totalling nearly €70 million, is provided in note 7 of the accounts.

The Comptroller and Auditor General's audit opinion in respect of the financial statements was unqualified. However, a number of matters were raised in his audit report. These include a standard note for the university sector on the reasoning behind the recognition of a deferred pension funding asset and the committee will recall that the Comptroller and Auditor General outlined the background to that issue in his opening comments during the meeting with the HEA last week.

The university's statement of accounting policies notes that the results of Galway University Foundation Limited have not been consolidated with those of the university group, on the basis that the foundation is not controlled by the university. The foundation's main purpose is to engage in fund-raising activities for the purposes of the furtherance of education and research carried out by the university. The financial statements recognise an amount of €17.5 million due from the foundation to the university at 30 September 2014 in respect of capital projects that were completed in 2011. The audit report also draws attention to the fact that the foundation had net assets of nearly €58 million at the end June 2014, which indicates further substantial funding expected to become available to the university. The audit certificate also draws attention to instances of procurement non-compliance noted in the course of audit, with payments totalling just over €1 million made by the university to eight suppliers during 2013-14 in respect of goods and services that were not subject to competitive public procurement.

The recent special report on financial reporting in the public sector identified NUI Galway as one of two universities that had not completed their financial reporting for either 2012-13 or 2013-14 by the end of 2015. The audits for both of those years have since been certified - in April 2016 and November 2016, respectively. While some progress has been made in bringing the timeline forward on the 2014-15 audit for NUI Galway, it is the least advanced audit in the university sector for that period.

Chairman: I thank Ms Drinan and call on Dr. James Browne to make his opening statement.

Dr. James Browne: I should introduce my colleague, Mr. John Gill, who is joining us. I thank the committee for the opportunity to respond to the questions it raises. We are happy to do so. I have sent a document on behalf of the university which deals with most of the issues as comprehensively as we can.

Chairman: Someone's mobile phone is buzzing. It is not sufficient to switch telephones to silent mode because when e-mails are received it interferes with the recording system.

Dr. James Browne: Sorry.

Chairman: There is no problem. I ask the witnesses to sort it out.

Mr. Gearóid Ó Conluain: It is sensitive equipment.

Dr. James Browne: As I was going to say, we have sent in a comprehensive report on the issues that were raised by the committee and I hope it will meet its requirements. I will give a very short presentation initially and then we will take questions as they arise. I thank members for the opportunity to discuss the 2013-14 financial statements. I am here in my capacity as

president of the university and chief financial officer. My colleagues have been introduced so I will not introduce them again.

In general, I believe NUI Galway has made very significant progress in recent years. We have been enabled to become leaders and to welcome leaders in teaching and research from all over the world. NUI Galway has continued to rise in the world recognised rankings, QS and Times Higher Education and is now ranked in the top 2% of universities in the world. We are also recognised in the top 200 most international universities in the world. I believe that is a significant achievement in the last number of years of austerity in the country and the third level sector.

Our research is recognised internationally, with significant success in recent times, particularly in acquiring EU funding where we are national leaders in terms of our ability to attract funding from the European Union Horizon programme. We are committed to being a top-ranked and research-led university and our students and graduates want and deserve no less.

Like other Irish universities, NUI Galway has faced many challenges, with increased numbers of students, lower staff numbers, changes in funding models and overall reductions in support available to the university. On funding, the sector and NUI Galway welcome the recommendations of the Cassells group on higher education funding. Those recommendations are being considered by the Oireachtas Joint Committee on Education and Skills and we welcome that. We understand that there are challenges involved in implementing these recommendations. However, we are acutely aware that they now need to be addressed and we wish to impress on the committee the importance of addressing that issue in due course.

However, today's business, the financial accounts of 2013-14, is somewhat different and we are here to provide the committee with material to address concerns it has raised, specifically regarding three issues, namely, the relationship with Galway University Foundation, non-compliance with procurement and the delay in production of accounts. I will take members through each of these very briefly. The details are in the submission.

The mission of Galway University Foundation is to advance the strategic priorities and academic objectives of NUI Galway. Its primary function is to generate financial support for our programmes and activities and it plays a vital part in the university's development. The foundation does not receive funding from the university or the State for its fundraising activities. The expansion of our campus in recent years by 40% in terms of square meterage would not have been possible without the foundation's support. Let me be clear about that and acknowledge the tremendous support of private donors and of the foundation in helping the university to achieve its goals. It is important to note that all the projects in question, which cost €300 million, have been completed without any debt on the State or university. That is in great measure due to the support of the foundation, which is able to leverage public money with and through private money. The foundation is absolutely critical for the university and its future. My experience would suggest that that is the case.

Turning to procurement, the university's policy is very clear. We wish to encourage best practice, establish policy and procedures, provide training and advice, monitor compliance and co-ordinate procurement, both locally and in collaboration, where appropriate, with national partners. In recent years, the university has devolved procurement activities and established what we term decentralised centres of excellence in procurement in the university in major areas such as buildings and estates, information systems and also library services. This has been a significant success for the university. We welcomed the establishment of the Office

of Government Procurement and we certainly support its development. The transition to this centralised national approach has not been without challenges and we respect that. However, we acknowledge that significant progress has been made and we believe that the office is now working well with the university.

The third issue raised by the committee was the delay in the accounts. Let me explain very briefly. The university produces two formats of annual financial statements each year - the so-called HEA funding statements and GAAP format financial statements. Both are audited by KPMG. The GAAP accounts are audited by the Comptroller and Auditor General. The university adheres to long-established audit timelines. In September 2013, the university undertook a detailed review of the appropriateness of its accounting treatment due to a highly technical issue. This led to delays in the presentation of the financial statements to the university's governing authority. This had knock-on effects on the provision of subsequent financial statements. We can talk about the detail of that later on if members wish.

That is my opening statement. I thank the committee for the opportunity to address it. I and my colleagues are very happy to provide further clarification, if necessary.

Chairman: I thank Dr. Browne. Before I call Deputy Catherine Connolly, the witnesses from the National University of Ireland Galway are the third group of witnesses to appear before the committee. They were preceded by representatives from Waterford Institute of Technology and Dublin Institute of Technology. The witnesses may have heard me express great displeasure at being presented with accounts covering the period 2013-14. The committee takes the view that it is not acceptable for third level institutions to present accounts from such a long time ago. Members were almost of the opinion this morning that the committee was wasting its time discussing such old accounts. In any event, given the importance of the issues to be discussed, we proceeded with our deliberations.

As I indicated to the representatives of the other institutions, the committee is insisting that the financial accounts for the financial year ending in the summer of 2016 be completed by the end of June 2017 and be ready for audit on 1 July. We are also asking that the Office of the Comptroller and Auditor General have the accounts audited before the committee resumes its meetings in September 2017. We are asking third level institutions to have their accounts ready approximately 12 months after the end of the financial year, not within three, four or five months. It is outrageous that accounts from two or three years ago are being presented to the committee. We are not doing our duty in discussing issues dating back three or four years. We also want the Department and the Higher Education Authority to insist that financial statements are presented in the manner we have proposed. We do not understand how organisations can obtain funding in the annual Estimates process when they have not presented their accounts for the previous year or even two years. Dr. Browne gets my point.

Dr. James Browne: Absolutely.

Chairman: The institutions must provide whatever resources are necessary to achieve this. It is all well and good witnesses telling us how wonderful their institutions are doing but we do not have any information for the past three years. We can only believe what we see in audits.

Dr. James Browne: If I can make one brief response, I completely accept the Chairman's valid criticism. We and the Comptroller and Auditor General must work together to deliver on those issues. There are particular circumstances here which the committee may wish to go into. They do not excuse everything but they certainly offer some level of-----

Chairman: We understand that and we are making the point that the university has a few months to sort out the issue for the future.

Dr. James Browne: Point taken.

Deputy Catherine Connolly: Cuirim fáilte roimh na finnéithe arís. Tá beagáinín dul chun cinn déanta maidir le comhionannas inscne, buíochas le Dia. There is a little improvement in gender representation since this morning, which is to be welcomed. I welcome Dr. Browne and his colleagues. They will have noted the comment from the Office of the Comptroller and Auditor General that NUIG is bottom of the class, so to speak, in terms of its accounts and that has been accepted. Will Dr. Browne explain the reason for this?

Dr. James Browne: I might ask my colleague, Ms Mary Dooley, to explain why.

Ms Mary Dooley: We want to make it clear that, under the Universities Act 1997, we are required to produce our accounts for the previous year to the end of the previous September. So for the last 15 or 20 years, I have presented a set of accounts to the údarás in March of the following year, which is within six months. Not only are they the accounts that I would have produced-----

Chairman: For the midlanders who do not understand, what údarás is Ms Dooley talking about?

Ms Mary Dooley: We call our governing authority Údarás na hOllscoile. I produce a set of completed accounts for our governing authority by March of every year, within six months of the year end. It is important to note that this set of accounts is not just the one that I present but that the auditors appointed by the governing authority have audited and cleared those accounts before they are presented to the governing authority. We meet the six-month requirement for production of accounts.

As I acknowledge the Comptroller and Auditor General has said, and we are of the same view, the timing of clearing the audits and making them available to the Committee of Public Accounts and so on is unacceptable to the university and obviously unacceptable to this committee and to the Comptroller and Auditor General. I would like to put on record that the university regrets any actions on our part that may have contributed to those delays. One or two of the years, as has been said and is in the report, were quite delayed. As the president has said, we are committed to working with the Comptroller and Auditor General's office to bring that right back within the timelines that he has now laid down by order.

Deputy Catherine Connolly: Does Ms Dooley foresee any difficulties in complying in the future, from now on?

Ms Mary Dooley: I do not.

Deputy Catherine Connolly: Great. So we can rely on that and we will have no issue with time delay next year.

Ms Mary Dooley: I would just say that there are two bodies involved in the audit of any organisation. Those are the organisation and its staff, and also the auditor and staff of the auditing body. I refer the Deputy to the Comptroller and Auditor General's recently published report, which I thought was excellent, frank and honest, about the various challenges that all public bodies and public auditors encounter in getting certified sets of accounts to the Committee of

Public Accounts.

Deputy Catherine Connolly: After all of that, is Ms Dooley happy that there will be no delay when she is back before us this time next year?

Ms Mary Dooley: I am happy that the university and I will do everything in our power to respond to the Comptroller and Auditor General's needs.

Deputy Catherine Connolly: Non-compliance in procurement has been put in context and it seems small in the context of the overall spend. However, there are a number and it is quite a substantial sum. I understand that a committee has been put in place. Is that right?

Dr. James Browne: Maybe I should start-----

Deputy Catherine Connolly: Let me ask the question. Is there a committee in place to maximise compliance with procurement? Does that report back to a management team? If so, what report has been given to the management team and what is the rate of compliance?

Dr. James Browne: The simple answer is "Yes".

Deputy Catherine Connolly: Good. Yes to everything?

Dr. James Browne: Yes to everything.

Deputy Catherine Connolly: What is the rate of compliance?

Dr. James Browne: I do not have the figure in front of me but I would say that it is 95% or 96%. I need to explain something, if I may. In the university, we have hundreds of budget holders - up to 1,000 of them. Some of these budgets are very small and some are quite large. We have to try to ensure compliance right across those budget holders. Some are very small research accounts. Some are huge budgets associated with computer services, libraries or buildings. In the last few years, the university has tried to create centres of excellence in procurement. The major procurement organisations in the university - estates, information services and systems, ISS, and the library - have been trained to follow procurement practice. We have also talked to all the individual departments, schools at the university and academic units which are purchasing-----

Deputy Catherine Connolly: Can I just stop the president there? I understand that. I have read the briefing document. It is quite substantial and comprehensive. Following on from that, my question is on the compliance committee. Specifically, has the compliance committee reported to the management committee? If so, when and what was the result? I have read the document and all these measures-----

Dr. James Browne: Sure.

Deputy Catherine Connolly: -----have been put in as a result of the Comptroller and Auditor General's report highlighting the issues. I will not use my time for that. Tell me the compliance rate.

Dr. James Browne: I do not have figures to hand and nor does the university do a calculation every year on compliance for procurement.

Deputy Catherine Connolly: Why not?

Dr. James Browne: I tried to explain the reason earlier. If there are hundreds or maybe 1,000 budget holders, it is very difficult to assess every single procurement and make sure the rules were followed. We issue the guidelines, we follow them and our procurement office follows them in so far as it possibly can but it is very difficult to ensure that every single procurement is compliant. An individual academic might buy a piece of research equipment. It is difficult to be certain that he or she has followed the rules exactly. We have done all that we can with training and having people who understand it in the main organisations and to support people. It is very difficult to ensure absolute compliance. It is the reality of a decentralised, democratic, flat-structured organisation.

Deputy Catherine Connolly: I am not looking for absolute perfection. I am simply asking. Is there a committee to monitor compliance?

Dr. James Browne: The university management team.

Deputy Catherine Connolly: Good. Has that reported back? Is the management team monitoring compliance?

Dr. James Browne: The procurement office reports to the management team of the university and it keeps us informed of developments in procurement.

Deputy Catherine Connolly: When did it report as a result of these new proceedings?

Dr. James Browne: The procurement office reports regularly. I could not say exactly when it reports. I can find that out.

Deputy Catherine Connolly: Maybe Ms Dooley could say.

Ms Mary Dooley: The Deputy may be referring to the internal audit service we instituted some years ago. It specifically monitors compliance with procurement. That reports on an annual basis. I have forgotten the date on which it reports.

Deputy Catherine Connolly: So Ms Dooley will be able to come back and say that, either this year or last year, a report was given and the compliance rate is in that report.

Ms Mary Dooley: No, I am sorry. If I might just say, what the president has referred to is that we do significant levels of testing. That is the only way that we can judge compliance.

Deputy Catherine Connolly: Sampling.

Ms Mary Dooley: Sampling. So, for example, our internal audit service does a standard sampling. We have a special service provided to us that we have procured to do a special sampling on procurement. The Comptroller and Auditor General samples procurement. We have our own external auditors. The auditors to the governing authority sample procurement. We are audited by every research body in the country and internationally, and every individual research contract is audited when we send in a cost statement. All of those auditors look at procurement issues. I cannot say that we are 90% compliant or 99% compliant. We monitor breaches of compliance. The sampling looks for breaches of compliance and we address them when we see them.

Deputy Catherine Connolly: The university does not have other huge breaches. I will come back to Ms Drinan from the Office of the Comptroller and Auditor General and ask her to comment on what has been said. I am going to deal with the foundation and then I am going to

go back to staffing. On the foundation, the witnesses have clearly stated that they do not have control of it but the foundation has control of itself. The Comptroller and Auditor General has said that has been pointed out and so the accounts should not be consolidated. How long has the foundation been in existence?

Dr. James Browne: From memory, 15 or 16 years perhaps. Since 1999.

Deputy Catherine Connolly: Since 1999. Its purpose-----

Dr. James Browne: Its purposes-----

Deputy Catherine Connolly: -----is a mixture, is it not? Is it right to say that it is education, research and capital?

Dr. James Browne: It has charitable status. Its purpose is to raise money in support of the university.

Deputy Catherine Connolly: Is its primary purpose to raise money?

Dr. James Browne: In support of the university.

Deputy Catherine Connolly: It raises money in support of the university. What in particular in the university does it support?

Dr. James Browne: Up to now, I would say the majority of funds it has raised have been directed towards capital. The university had a major capital deficit. This was something that I was very conscious of when I became president of the university. We instituted a major programme of development. We have spent €300 million on that programme in the past ten years. The foundation sought and won significant funding to back that programme. It also supports other activity, but the great bulk of its work up to now-----

Deputy Catherine Connolly: How much?

Dr. James Browne: -----has been there. I should also, to be frank, say that is now changing, because the capital programme has been completed, in inverted commas. The orientation in the future is likely to be towards support of students and research.

Deputy Catherine Connolly: When it was set up, was it set up specifically for capital projects?

Dr. James Browne: It was set up in support of the university and its needs.

Deputy Catherine Connolly: So it could be interpreted according to the needs? Is that right?

Dr. James Browne: Absolutely, yes.

Deputy Catherine Connolly: On that foundation, how many members of the university are there?

Dr. James Browne: On the foundation board, there are two out of 12.

Deputy Catherine Connolly: Two out of 12. What is the gender breakdown of the two out of the 12?

Dr. James Browne: Right now, there are two males from the university on it. In the past, there would have been a female and a male.

Deputy Catherine Connolly: Two males at the moment out of 12.

Dr. James Browne: From the university, out of 12.

Deputy Catherine Connolly: What of the other ten then?

Dr. James Browne: I would have to think. From memory, there is a mix.

Ms Mary Dooley: Two max, I would say.

Dr. James Browne: There are more now. I would have to check that for the Deputy. If I had to guess, I would say four. I would have to check that because we have gone through some change recently.

Deputy Catherine Connolly: It is important so.

Dr. James Browne: I agree.

Deputy Catherine Connolly: Approximately four out of 12. It handles quite a substantial amount of money. What is the reserve that it holds now?

Dr. James Browne: I would have to check that again. It is a private organisation. My estimate is something of the order of €40 million. I have to be very careful of this because the word “reserve” suggests some level of discretion and that is not the case.

Deputy Catherine Connolly: Okay. I went to college. I am here to just ask questions and elicit information. I would think that college is an environment that should ask questions. I have a difficulty when I hear it is a private organisation. It is a charitable organisation.

Dr. James Browne: Correct.

Deputy Catherine Connolly: Okay. Therefore, I presume Dr. Browne has absolutely no difficulty in sharing maximum information about that.

Dr. James Browne: None at all.

Deputy Catherine Connolly: None, great.

Dr. James Browne: Just to be clear, the accounts of the foundation are publicly available.

Deputy Catherine Connolly: I have them in front of me. Has Dr. Browne any difficulty with the Comptroller and Auditor General looking at those every year?

Dr. James Browne: I understand the Comptroller and Auditor General has no authority to look at those.

Deputy Catherine Connolly: That is not my question. My question was has Dr. Browne any difficulty or would the foundation have? Dr. Browne is on it.

Dr. James Browne: Excuse me, I need to be careful. I am here as chief financial officer of the university.

Deputy Catherine Connolly: I will give Dr. Browne ample time. I do not wish to be unfair. I am asking two questions. Does Dr. Browne, as a member of the foundation and president of NUIG, have any problem with the Comptroller and Auditor General looking at the foundation accounts? My second question is, would the foundation have a problem?

Dr. James Browne: I cannot answer that question by saying, “yes” or “no”. It is not possible to do that. I need to explain what my response is. Can I do that?

Deputy Catherine Connolly: Absolutely.

Dr. James Browne: I need a few moments to do this. University foundations, in my view, need to be separate from the university and there is a very good reason for that. I am talking about my experience here. There is no law in this regard. The experience that I have had in the university in the past ten years or so - I have spent, I would say, 15 years on the foundation board - has been that donors like to deal with independent foundations. One may well ask the question, why is that the case? That is the case internationally and it is the case in this country. I can give the committee, and I am happy to talk to the Comptroller and Auditor General, examples of individual donors who have done that. In fact, on our reserves - that is the reason I mentioned that the reserves are not as big as they appear in the accounts - there is some money in that foundation which is for a third party, through a donor.

Deputy Catherine Connolly: What does that mean?

Dr. James Browne: Just what it says, a third party.

Deputy Catherine Connolly: Sorry, I do not understand what that means. What does Dr. Browne mean, “for a third party”?

Dr. James Browne: Maybe I should finish what I was saying and then I will come back to that. My point is that foundations need to be at arm’s length from the university in order to deal with donors and also, very importantly, to provide reassurance to donors that the purpose for which their donation is intended is being realised. The foundation acts effectively as a guardian of the donor’s funds. The donor gives funds to the foundation in anticipation of funding a certain project or certain activity. When the donor is satisfied that project is complete or that activity is under way, then the foundation, as guardian, releases those funds to the university. The university, of course, goes ahead with the project in the expectation of donor funds being released. That, to my mind, is best practice. That, in my experience, is best practice in foundations. That, to me, is why it is so important to separate the foundation from the university. I think that is the reality of what happens around the world where foundation and philanthropy is well developed. Philanthropy in Ireland is not well developed.

Deputy Catherine Connolly: I will interrupt the president there, if he does not mind, because I have a limited time to ask questions. I know the president’s opinion because he gave a briefing document. He reiterated it today. Now I am asking the president questions. That is all I am doing here, really. In his response, Dr. Browne states in his opinion it is important that it is independent.

Dr. James Browne: Correct.

Deputy Catherine Connolly: I am not asking for it not to be independent. I am trying to elicit information on the management of it, the interplay with the university and whether Dr. Browne would have any objection, first, as president, that the Comptroller and Auditor General

would look at the accounts and, separately, as a director of the foundation.

Dr. James Browne: The Deputy has asked a direct question and my answer is that I would. I believe the foundation needs to be independent. The foundation is audited and works through the Companies Registration Office. It works through the charities board. It works to the highest standards. Its accounts are transparent.

Deputy Catherine Connolly: What is the difficulty?

Dr. James Browne: My view, which the Deputy has asked for and which I will give her, is, and my experience suggests, that it is best to be independent.

Deputy Catherine Connolly: What would be negative about an office with the standard and calibre of the staff in the Comptroller and Auditor General's office doing that?

Dr. James Browne: There is nothing negative. The Comptroller and Auditor General does a fabulous job, a tremendously professional job. I have no issue with that at all.

Deputy Catherine Connolly: I am not commenting on the Comptroller and Auditor General. I am asking Dr. Browne what would be the downside for the foundation of its accounts being looked at by the Comptroller and Auditor General.

Dr. James Browne: I have tried to explain - I repeat again - my belief is the two need to be independent.

Deputy Catherine Connolly: Absolutely, I heard that. But what would be the difficulty? How would the independence of the foundation be damaged or affected?

Dr. James Browne: I believe it would be. I can only offer the Deputy my opinion.

Deputy Catherine Connolly: Could Dr. Browne give any reasons?

Dr. James Browne: I believe it would be affected. I believe that in the public scrutiny of that type of an organisation which is essentially a private organisation, the Comptroller and Auditor General has no role with regard to the accounts of the foundation.

Deputy Catherine Connolly: Would public scrutiny be a bad thing?

Dr. James Browne: The public scrutiny is achieved through the Charities Act and through the Companies Registration Office.

Deputy Catherine Connolly: In relation to the reserves, would Ms Dooley be up to date about what money is there in the foundation as we speak?

Ms Mary Dooley: The Deputy has them before her - the accounts of the foundation which I took from the Companies Registration Office. The accounts to June 2016 show reserves of €52 million.

Deputy Catherine Connolly: Some €52 million.

Dr. James Browne: Can I clarify that for the Deputy? Not all of that is due to the university. I am happy to discuss that with the Comptroller and Auditor General privately, if he so wishes. There is a third party involvement in that, which is completely above board and legitimate but which I would prefer not to discuss in public here.

Deputy Catherine Connolly: I have only a certain length of time and Dr. Browne can talk me down. I do not mind. I will not argue with Dr. Browne if he disagrees with me but this is an open and accountable process. I am asking questions. Dr. Browne can answer them. I have asked Ms Dooley and she has given me the figure. I missed it again. I am just tired.

Ms Mary Dooley: I am sorry. The figure, at June 2016, is €52 million. I might just add, in addition to what the president has said, that the foundation gives the university money after the university has incurred the expenditure. That is to protect the donors. That is the US model. The foundation was built on the US model and so on. The capital money coming over to the university included in that figure is significant.

Deputy Catherine Connolly: It goes after the project is completed.

Ms Mary Dooley: Yes.

Deputy Catherine Connolly: NUIG builds different projects-----

Ms Mary Dooley: Yes, I suppose.

Deputy Catherine Connolly: -----such as the engineering block and all of the other good blocks that have been build, and then it comes back.

Ms Mary Dooley: Absolutely.

Deputy Catherine Connolly: One of the university's briefing documents states 40% of that has come from the foundation.

Dr. James Browne: Of certain projects, yes.

Deputy Catherine Connolly: Two persons from the university, including Dr. Browne, who has very high status, sit on the foundation.

Dr. James Browne: Yes.

Deputy Catherine Connolly: Is there no conflict of interest at all? That is not subject to public scrutiny. Would it not be good that it would be looked at by the Comptroller and Auditor General? Does Dr. Browne report back to the university then? Is his allegiance to the foundation?

Dr. James Browne: I am a director of the foundation board and I am required, as a director, to act in the interests of the company.

Deputy Catherine Connolly: Absolutely, that is what I thought. We all, in different capacities, have sat on companies. One's allegiance is to the company. How does Dr. Browne marry that with his allegiance as president of NUIG?

Dr. James Browne: Because, frankly speaking, the company is only in existence to support the university. It is essential, in fact, that there be overlap in that sense because if the university is not able to communicate to the foundation board what its needs are, it is difficult to see how the foundation could help the university.

Deputy Catherine Connolly: Okay. In relation to the foundation, how many people are employed?

Dr. James Browne: I believe nine.

Deputy Catherine Connolly: Are they men or women?

Dr. James Browne: From memory, I think there are three men. I am just thinking off the top of my head. My belief is that there are three men and six women, but I may be wrong.

Deputy Catherine Connolly: Three men and six women.

Dr. James Browne: That is my belief. I do not have that information in my hand. It is my best estimate. I may be wrong.

Deputy Catherine Connolly: When did Dr. Browne last attend a meeting of the foundation?

Dr. James Browne: Its a foundation board. I attended about a month ago.

Deputy Catherine Connolly: What was the breakdown? Dr. Browne gave me the breakdown of that.

Dr. James Browne: The Deputy asked me about the staff.

Deputy Catherine Connolly: And these are the employees.

Dr. James Browne: I said there are nine employees.

Deputy Catherine Connolly: Do those nine employees work from the university?

Dr. James Browne: No. They are employed through the foundation. It is a separate organisation.

Deputy Catherine Connolly: Where do they work from?

Dr. James Browne: They work from a facility in the university.

Deputy Catherine Connolly: They work from the university.

Dr. James Browne: They work from a facility in the university.

Deputy Catherine Connolly: What does that mean?

Dr. James Browne: Just what it says. There is a building in the university which is considered to be the foundation building and they work in that. They are not university employees, if that is what the Deputy is getting at.

Deputy Catherine Connolly: I did not ask Dr. Browne that. I asked him did they work from the university, "yes" or "no".

Dr. James Browne: They work in a facility in the university, a separate facility in the university.

Deputy Catherine Connolly: Who owns that facility?

Dr. James Browne: The university does.

Deputy Catherine Connolly: So they work from the university?

Dr. James Browne: If the Deputy chooses to use those words, yes.

Deputy Catherine Connolly: Could the witness help me a little? Is my questioning over the top?

Chairman: It is not.

Deputy Catherine Connolly: Do they work for the university or not?

Dr. James Browne: They are in the grounds of the university.

Deputy Catherine Connolly: Do they pay rent to the university?

Dr. James Browne: They do not.

Deputy Catherine Connolly: Why not?

Dr. James Browne: Because it is in the university's interests to maximise the contribution they make to the university. If we impose costs on a foundation of that nature, that would come from the income of the foundation and therefore detract from the income of the university.

Deputy Catherine Connolly: Nine people work there. They work from the college. The foundation does not pay anything to the college. The university facilitates them in every way with issues such as back-up and administration-----

Dr. James Browne: No, we do not. It is an independent organisation. Payroll, accounts, HR and so on are done within the foundation.

Deputy Catherine Connolly: Have any of the nine employees also been employed by the university?

Dr. James Browne: No.

Deputy Catherine Connolly: Has any former vice president of the university come back to work? Are there any former university employees among that group of nine people employed by the foundation?

Dr. James Browne: I do not know off the top of my head. People have moved between the two but I do not know what the situation is at the moment.

Deputy Catherine Connolly: Could the witness clarify that? How do they move between the two? Do they resign?

Dr. James Browne: They may apply for a job.

Deputy Catherine Connolly: Do they have to resign from NUI Galway?

Dr. James Browne: Of course, yes. These questions are very detailed. Please excuse me if it is taking me a little bit of time to answer them. The foundation may advertise a post and a university employee may apply for it. In the same way, the university may advertise a post and a foundation employee may apply for it. He or she would get the job or not get the job in the normal way.

Deputy Catherine Connolly: What sum is outstanding from the foundation to the university for capital projects?

Dr. James Browne: In the past two years, the university has drawn down just under €20 million from the foundation. The university's major outstanding item is the research funding. The university has recently completed a batch of three buildings - a sciences building, the Har-diman library and a clinical translation research facility. My colleague, the adviser on capital projects, is working with the accounts office to go through the fine details of the costs of those buildings. When that is completed, we will draw a further €20 million approximately from the foundation.

Deputy Catherine Connolly: Is there €17.5 million still due from 2011?

Dr. James Browne: The practice of the university has changed in recent times.

Deputy Catherine Connolly: I asked Dr. Browne a question: is there €17.5 million due to the university from the foundation since 2011?

Dr. James Browne: No. If I might explain, in 2013 the university decided to recognise on its accounts charges for the foundation which had been recognised prior to that through an exchange of letters. Most of that money has now been drawn down.

Deputy David Cullinane: Could the witness repeat that?

Dr. James Browne: The university decided, in 2013, to recognise in its accounts funding due from the foundation. That has now been drawn down. Prior to that, we did not recognise the funding in the accounts.

Deputy Catherine Connolly: When was it drawn down?

Dr. James Browne: As I have said, in the past two years just over €20 million has been drawn down.

Deputy Catherine Connolly: So there is nothing outstanding from the foundation at the moment?

Dr. James Browne: There is money outstanding. We have not quite worked out the detail of how it will be paid or over what period. The Comptroller and Auditor General has advised us to put processes in place to ensure that the process for drawing down from the foundation is sound. In the past six months, the university has agreed a procedure with the foundation for drawing down funding.

Deputy Catherine Connolly: I note that.

Dr. James Browne: Any notion that the foundation is not funding the university in accordance with its aims is mistaken.

Deputy Catherine Connolly: I did not come here with an agenda.

Dr. James Browne: I appreciate that.

Deputy Catherine Connolly: I did not come here with any pre-conceived ideas. It is very difficult for me when that is being said or implied. I am simply asking questions. At the very least, the public deserves that. I am entitled to ask questions about a foundation which is responsible for between €57 million and €67 million, depending on which set of accounts one looks at. My life would be much easier if I did not ask questions. Would the witness accept that?

Dr. James Browne: Absolutely. I am sorry. I did not mean to imply otherwise.

Deputy Catherine Connolly: Let us go back to what has been put in place as a result of the Comptroller and Auditor General's comments. What has been put in place and why was it not in place before? There was a formal procedure put in place for the transfer of funds from the foundation.

Dr. James Browne: That is correct. I am happy to share that with the committee if-----

Deputy Catherine Connolly: Why did it take so long for that to be put in place? Why was it not done until the Comptroller and Auditor General made those comments?

Dr. James Browne: We had a procedure in place which was not formally documented. The Comptroller and Auditor General can speak for himself. However, my understanding is that he was concerned that there was not a formal, documented procedure. We have now documented the procedure. The Comptroller and Auditor General's advice was good advice and we have taken it.

Deputy Catherine Connolly: What are the current procedures for soliciting funds?

Dr. James Browne: For soliciting funds from donors?

Deputy Catherine Connolly: Yes.

Dr. James Browne: This will take a few moments to explain but I am happy to do it. The foundation talks to the university. I encourage my colleagues in the foundation, such as the chief executive officer, to speak directly to the deans of the colleges, the heads of the research units, the registrar's office and colleagues across the institution and get a sense of what the university needs. They must recognise that philanthropy is most successful when donors are offered opportunities to engage with the university in areas which are of interest to them personally and, very importantly, are at the margin of excellence. That process is constantly engaged in. The chief executive of the foundation gets a sense of what the university needs. A meeting with the management team is then organised by my office and we work through a set of projects which I and the accounting team believe are in the interests of the university. He then creates a basket of opportunities and solicits funds with his colleagues for those projects.

Deputy Catherine Connolly: A basket of opportunities.

Dr. James Browne: I missed the last comment. I am sorry.

Deputy Catherine Connolly: A basket of opportunities.

Dr. James Browne: A basket of projects. That is the language that we use. I am sorry if it is unusual. We identify a set of opportunities which we call a "basket". We then seek out potential donors to support those projects.

Deputy Catherine Connolly: What is the staffing level of the college?

Dr. James Browne: Of the university?

Deputy Catherine Connolly: I call it the college. The witness will be able to tell my age from that habit.

Dr. James Browne: There are approximately 3,000.

Deputy Catherine Connolly: There are 3,000 staff.

Dr. James Browne: Sorry, I will just speak here. There are approximately 1,700 full-time equivalent employees, FTEs. When I mentioned a figure of 3,000, I was including many part-time employees.

Deputy Catherine Connolly: There are 1,700 full-time employees?

Dr. James Browne: No, there are 1,700 full-time equivalent staff. Ms Dooley has the relevant data so perhaps she should answer the Deputy's question.

Ms Mary Dooley: In December 2008, there were a total of 2,100 staff at the university.

Deputy Catherine Connolly: That is for 2008. What about December 2016?

Ms Mary Dooley: We had 1,670 full-time core staff of the university in 2008. That dropped to 1,493 in September 2016. That was due to the employment control frameworks and so on.

Deputy Catherine Connolly: What number of staff were employed at the university in December 2016?

Ms Mary Dooley: A total of 2,116 staff are employed in the university.

Deputy Catherine Connolly: How many of those are part-time employees?

Dr. James Browne: We can supply that information to the Deputy.

Deputy Catherine Connolly: Do the witnesses not have it now?

Dr. James Browne: I do not have it in front of me. I appreciate that these are valid questions but I did not expect them to be asked.

Deputy Catherine Connolly: It is part of ensuring value for money which is the aim of the Committee of Public Accounts. How many staff are employed in part-time jobs through agencies, consultants or recruitment firms?

Dr. James Browne: There is a very small number of people employed through agencies. Speaking from memory, we use a single agency to provide short-term cover in the area of administration. I can supply the committee with further information by way of letter.

Deputy Catherine Connolly: There is just one agency used?

Dr. James Browne: I believe so but I would have to check. Perhaps my colleague, Mr. Gill, would know.

Mr. John Gill: We went through a procurement process and appointed an agency that provides us with part-time staff.

Deputy Catherine Connolly: Is there definitely only one agency?

Mr. John Gill: There is one agency which provides us with primary staff. There is another agency which we use in the event of the primary agency not being able to provide us with staff.

Deputy Catherine Connolly: So there is one primary agency and one default agency?

Mr. John Gill: Yes.

Deputy Catherine Connolly: How many staff are procured through the agency?

Mr. John Gill: The equivalent of approximately 50 full-time support staff.

Deputy Catherine Connolly: They are not actually full-time, though.

Mr. John Gill: No. If people are looking for backfill positions, they may take people on in part-time roles.

Deputy Catherine Connolly: What does “backfill” mean?

Mr. John Gill: If someone takes leave of absence for maternity or any other reason, they may be backfilled. The person who is on leave is replaced on a temporary basis until they return.

Deputy Catherine Connolly: Do I take it that the vast majority of staff in UCG are permanent and full-time?

Dr. James Browne: There are significant numbers of research staff and they are on contract.

Deputy Catherine Connolly: Are there assistant teacher jobs in the college?

Dr. James Browne: I do not recognise that title. There are certainly part-time staff on the academic side.

Deputy Catherine Connolly: Does the role of assistant lecturer exist?

Dr. James Browne: I do not believe we have an assistant grade. We have part-time assistants.

Deputy Catherine Connolly: What does that mean?

Dr. James Browne: Every academic unit has a part-time assistants budget.

Deputy Catherine Connolly: Is this for lecturing?

Dr. James Browne: It is in support of the academic mission. It could be lecturing, tutorials, running laboratories or anything associated with the academic programme.

Deputy Catherine Connolly: Does Dr. Browne have a breakdown of the gender balance of those jobs?

Dr. James Browne: I do not have it now but I can provide it.

Deputy Catherine Connolly: What is the situation as regards gender? Galway does not have a very good reputation in this area, to put it mildly. Does Dr. Browne agree with that?

Dr. James Browne: Like all third level institutions and society in general, the university has a challenge in that space.

Deputy Catherine Connolly: I do not accept that answer. I have looked at the HEA report and it is in the university’s interest to have gender equality.

Dr. James Browne: Absolutely.

Deputy Catherine Connolly: That has not been achieved in Galway.

Dr. James Browne: That is correct.

Deputy Catherine Connolly: There was one very public case and there are five pending cases.

Dr. James Browne: Does the Deputy want me to address that here?

Deputy Catherine Connolly: I am not mentioning anybody-----

Dr. James Browne: I will not do so, either.

Deputy Catherine Connolly: It is in the public domain, however, that there are five cases. At what stage is that issue?

Dr. James Browne: I will need a few minutes to explain. The university has a process for promotions to senior lecturer. On the fourth run of that system in 2008-09, the result was terrible, in that we promoted 16 people of which one was female. Prior to that, the results had been more balanced and there had not been a cause for great concern. When the result came out, the university was very concerned, as it should be, and it brought in experts to look at the promotion process, who revised it completely. The next scheme was not until 2013-14 as there had been a ban on promotions in universities brought about by the austerity measures. The processes in this round were very different. The same basic principles applied, such as academic peer reviews by colleagues and rankings on the basis of academic output, but there were a number of important differences arising from the advice of gender experts. One difference was a tremendous level of granularity in the assessment of candidates.

Deputy Catherine Connolly: Of what?

Dr. James Browne: Granularity. The process requires us to assess an academic on his or her teaching, research and contribution. We took each of the three areas on the advice of external experts and defined what we meant by research excellence across a set of measures. For example, we might look at the number of PhDs supervised, the income generated, where appropriate, or papers published, books published, citations generated and a whole series of metrics. We then did the same with teaching and contribution. Such granularity forces people to provide evidence for their decisions.

The second big change was, for the first time in this country, a gender quota, which we introduced in 2013-14. We insisted that the outcome would be that at least 30% of colleagues being promoted were female. Some six months after the process was completed, the Equality Tribunal made a judgment about an application by an individual who had been assessed and failed in the 2008-09 round. The tribunal required us to promote the individual who brought that case.

Deputy Catherine Connolly: That case predated all the changes the university brought in.

Dr. James Browne: The judgment postdated the changes. I think it was in November of that year.

Deputy Catherine Connolly: The action was taken before the changes.

Dr. James Browne: Correct. May I continue?

Deputy Catherine Connolly: I have given Dr. Browne five minutes already.

Dr. James Browne: I would be happy to give further information as required. If the Deputy wants to talk about it in private-----

Deputy Catherine Connolly: I wish to discuss things in public but I do not know how long the Chairman will give me.

Chairman: I will give the Deputy further latitude.

Dr. James Browne: One individual won her case and the university promoted her. At that point, five other individuals who had competed in the 2013-14 round made cases based on the 2008-09 round. They chose, as was their right, to take us to the High Court. I regret that and one of them has since withdrawn the case, meaning there are four female colleagues with cases in the High Court. I appreciate the tremendous stress they are under but I would have preferred it if they had taken us through our own procedures. They chose not to, and that is their right. It is difficult for the university but the university and I have no choice. When High Court proceedings are lodged, we must answer them. Neither I nor the university have the authority to promote anybody without due process.

Deputy Catherine Connolly: Is Dr. Browne happy with the culture of gender inequality that was pervasive at UCG?

Dr. James Browne: I am happy that the university is doing everything in its power to address what is a societal question.

Deputy Catherine Connolly: Was he happy with the pervasive nature of gender inequality in NUIG?

Dr. James Browne: I have one regret, which is that after the 2008-09 promotions round, I made a mistake in assuming that the issue was fundamentally about promotions, when the issue was much wider. I did not appreciate that then but I appreciate it now, as does the sector. We tried to fix the promotion system and I believe we did that in the 2013-14 round but we are now trying to fix the bigger issue. We brought in a task force and this made a set of recommendations which were absolutely in line with those of our colleagues in the HEA, who brought in a task force after our own. I am quite proud of that, and of the fact that the university has tackled the issue head-on. I believe we are going to solve it.

Deputy Catherine Connolly: Has Dr. Browne seen the report on the Athena SWAN culture survey? I do not believe NUIG has ever received the Athena SWAN award.

Dr. James Browne: We have not.

Deputy Catherine Connolly: Hopefully the university is working towards it and I know Dr. Love will come back shortly on that.

Dr. James Browne: We have an application going in at the end of April.

Deputy Catherine Connolly: The money is determined. Has Dr. Browne read the comments from the vast majority of people who were surveyed, some 1,000 people?

Dr. James Browne: I am not sure to what paper the Deputy is referring.

Deputy Catherine Connolly: I am referring to the report on the Athena SWAN culture survey carried out on Galway university.

Dr. James Browne: What is the date of the report?

Deputy Catherine Connolly: Funnily enough, there is no date on it. As part of the consultation process for an Athena SWAN university bronze award submission, the self-assessment team conducted a survey of 964 staff. Is Dr. Browne familiar with it?

Dr. James Browne: I am, but I have not read it in the past 12 months.

Deputy Catherine Connolly: Dr. Browne should read it.

Dr. James Browne: I read it when it appeared but I have not done so recently.

Deputy Catherine Connolly: I apologise. I thought he said he had not read it.

Dr. James Browne: I did not read it recently.

Deputy Catherine Connolly: Dr. Browne should re-read it because the majority of responses were critical of the workplace culture in the university.

Dr. James Browne: I agree.

Deputy Catherine Connolly: Dr. Browne agrees.

Dr. James Browne: Yes, I know that to be the case.

Deputy Catherine Connolly: When I started in college I was hugely proud of the university. In the past number of years, I have been totally embarrassed by it. I can pick any quote from the report. The vast majority of the 964 staff, which is almost 50% of the staff, were critical.

Dr. James Browne: Yes. The Deputy is referring to a report which was done about 15 months ago.

Deputy Catherine Connolly: There is no year on it.

Dr. James Browne: I will have to check.

Deputy Catherine Connolly: It has to be recent enough.

Dr. James Browne: It was done in advance of the submission to Athena SWAN last year which failed. It is about 15 months ago. I have no choice but to accept the evidence that is before my eyes. It is correct that the university has an issue with gender equality, as all universities have.

Deputy Catherine Connolly: I agree with Dr. Browne.

Dr. James Browne: I am quite happy to start off by trying to fix it on the basis of knowing where we stand.

Deputy Catherine Connolly: There is more gender representation at the table than there was this morning but I am afraid NUIG comes out at the bottom of the league on gender equality.

Dr. James Browne: It is correct. I am not proud of it.

Deputy Catherine Connolly: I thank the Chairman. He was very patient.

Chairman: I am happy to do that. Does Deputy Cullinane have any questions?

Deputy David Cullinane: I have questions on three themes. I am not sure what time I have. Do I have five minutes on each theme?

Chairman: Yes.

Deputy David Cullinane: The Chairman might give me a holler after five minutes. I welcome Dr. Browne and his team. NUI Galway is one of my favourite universities although I did not study there. Before I ask any questions, I will direct a comment at the Chairman. I do not say this so much in response to Dr. Browne's responses, although there has been an element of it. As members of the Committee of Public Accounts we need to be very clear with witnesses that we have a job of work to do. There is a tetchiness to some of the responses which I feel is unnecessary. We have genuine questions to ask. There has been some of that this morning and it was carried outside the committee room by a president of an institute. It is not appropriate. We have to do our job without fear or favour. We have questions to ask which we will put. I, for one, will not be put off by asking what I believe are appropriate questions. I sensed a bit of tetchiness although not as bad from-----

Dr. James Browne: I am sorry if I gave that impression.

Deputy David Cullinane: It may not have been-----

Dr. James Browne: I am a robust individual but I am happy to answer any questions the Deputy asks.

Deputy David Cullinane: My frustration was not with Dr. Browne at all.

Dr. James Browne: I am sorry.

Deputy David Cullinane: I just want to make that point.

Dr. James Browne: It is a fair point.

Deputy David Cullinane: We will certainly make it to others who come in as well.

My first theme and set of questions comes back to the foundation. It is perfectly reasonable to have different opinions. It is perfectly reasonable for somebody to say there should be a complete separation in terms of governance between a university and a foundation. It is also reasonable for someone to say it should be closer and to give reasons for it. What I have noticed over the course of the appearances of the institutes before the committee is the existence of a number of a different organisations or bodies that have a relationship with an institute. We have it in Waterford for example with Diverse Campus Services, although obviously it was different. It was not under the governance of the institute. We had a discussion on spin-out companies and we are being told they are private companies but they are co-located in institutes. Where an institute is a shareholder we have a responsibility to ask questions about it.

Dr. James Browne: Absolutely.

Deputy David Cullinane: Equally, there is a dynamic or synergy between a foundation and an institute. Dr. Browne said in response to one of the questions from Teachta Connolly, which is why I wrote it down, that the university recognised funding due to the foundation in its accounts.

Dr. James Browne: It was to the university from the foundation.

Deputy David Cullinane: Yes, exactly. There is a synergy there.

Dr. James Browne: Yes.

Deputy David Cullinane: Where there is a synergy, we should have an opportunity to be able to evaluate whether there are proper governance structures in place and so on. In response to questions from Teachta Connolly, Dr. Browne drew a distinction because he said it was a charity.

Dr. James Browne: It is a formal charity under the Charities Act.

Deputy David Cullinane: Dr. Browne then said he would not be entirely satisfied with public scrutiny - as in our role and that of the Comptroller and Auditor General - because it is a charity and there is already oversight of charities. Is that characterisation fair or unfair?

Dr. James Browne: It is neither fair nor unfair. It is slightly mistaken. My belief is-----

Deputy David Cullinane: Will Dr. Browne give me his view then?

Dr. James Browne: I will. My belief is it is essential that foundations are separate from universities, for reasons I have explained. My second point is that the charities commission oversees what the foundation does and does it very well. At the university, the foundation works completely in accordance with it. Charitable status is not easily acquired. It is a very onerous responsibility to register as a charity. The responsibilities are onerous and they are well maintained. My third point is that, as I understand it, the Comptroller and Auditor General is responsible for public money. There is no public money in the university foundation in Galway. Therefore, the Comptroller and Auditor General has no role in that regard.

Deputy David Cullinane: Dr. Browne has made that point and that is his view. I do not believe there is sufficient oversight of charities in this State. We have had a history of a large number of charities which have had to come before the Committee of Public Accounts. The HSE has had to come before the Committee of Public Accounts. There was an absolutely appalling lack of governance and controls. That is not to say it is rampant or evident in every charity but we should not suggest that because we have sufficient levels of oversight in the charity sector we should be satisfied. I am not satisfied. While there is no public funding, as Dr. Browne put it, because it is funding that comes from individuals, where there is a very close synergy and where money is transferred from a foundation to an institution, there is a need for a re-examination of the current structures. That is all I am saying. It is my view and Dr. Browne can hold an entirely different view.

Dr. James Browne: May I offer a comment? The Deputy is right about the past. There was not sufficient oversight but that has changed a lot in the past two years. Anybody who is involved with a charity knows that. There has been tremendous oversight in recent years. There has been tremendous change. In my view it is a welcome change. I am satisfied that if Galway foundation was to be looked at from that perspective it would come out very clean. There has been a big change in the past couple of years in that regard. The Deputy is certainly right about the past.

Deputy David Cullinane: If that is the case, I welcome it but unfortunately we have a lot of work on our desk which says something else. I appreciate it is a different sector and I appreciate

there are different types of charities and different levels of governance so I accept that. I do not believe Dr. Browne's responses are unreasonable. I understand his logic-----

Dr. James Browne: I appreciate that.

Deputy David Cullinane: -----but I have a different view. As much as possible where there are relationships between entities that have very close synergies with institutes of technology and universities, we need to look at the governance structures between them. We have already made a request to the Comptroller and Auditor General to look at some of that. I will come to a different issue later which will be my third topic but before I move off the foundation issue, I want to deal with the issue of casualisation of labour and some of the issues that were raised by Teachta Connolly. Dr. Browne understands the term, "casualisation".

Dr. James Browne: Yes.

Deputy David Cullinane: The question was answered earlier. There are just over 2,000 staff in the institute. Is that correct?

Dr. James Browne: In the university, I think the number is larger than that. The figure the Deputy quoted is 2,000. The number of whole-time equivalents is 2,000.

Deputy David Cullinane: That is the number of full-time equivalents. What is the average number of hours a week that staff work? If one divides the number of staff into the full-time equivalent positions based on whatever the average number of hours is for a normal worker, what is the average number of hours worked by staff at the university?

Dr. James Browne: I appreciate the question but I do not think the answer would help the Deputy even if I could give it because there is a range of staff in the university. There are support staff-----

Deputy David Cullinane: I will be the judge of whether it is helpful or not.

Dr. James Browne: Let me try to give the information.

Deputy David Cullinane: I am asking if Dr. Browne can give the average first and then we will explore-----

Dr. James Browne: I certainly cannot give the Deputy the average. Perhaps Mr. Gill might-----

Deputy David Cullinane: Dr. Browne could give me a rough estimation and furnish me with the exact figure later. Does he have a rough estimation?

Mr. John Gill: There are different categories. We have what we call support service staff who work a normal working day five days a week. Some of them work part time and some work full time. There are people who, for family reasons, prefer to work a part-time role and other people are happy to work full time. That is a range within what we call the support service staff. We then have academics on full-time contracts teaching and researching. Then we have people who have part-time teaching hours with us. Some of them come from industry to lecture on some of the courses. Some of them have part-time hours with us as part of their normal work.

Deputy David Cullinane: I understand the distinction between all of those different roles

but I would still like if Mr. Gill had even a rough estimation as to what the average hours for the total staff complement in the university would be.

Chairman: If it would help the Deputy I will answer that for him. If the university has 1,493 full-time equivalents, FTEs, we multiply that by 39 hours as the normal working week, and divide it by 2,116, which is the number on the payroll, and the answer is 27.5 hours per week.

Deputy David Cullinane: Would that be-----

Chairman: That is an average and it does not take account of everything.

Dr. James Browne: I am very impressed by the Chairman's facility with numbers, if he does not mind me saying so.

Chairman: It was a simple question and that is the simple answer. There is more behind it.

Dr. James Browne: It is an answer but I do not think the average means an awful lot. There is such a range of activity. That is what we are trying to say. I really am very impressed, though.

Chairman: You are at the Committee of Public Accounts.

Dr. James Browne: Go raibh maith agat.

Deputy David Cullinane: What is the cost of temporary administration staff at the university for 2015?

Mr. John Gill: I do not have an estimate with me, I am sorry. I will have to provide it later.

Deputy David Cullinane: According to these figures which were given to me, which the witnesses may confirm or not, the costs of temporary administration staff at the university have risen from €980,346 in 2013 to €2,166,697 in 2015. Based on my calculations - although I do not have the same calculator as the Chairman - that is a 220% increase in two years. Would that be accurate information?

Mr. John Gill: I do not have that detail.

Deputy David Cullinane: Could it be verified for us?

Mr. John Gill: We will verify it, yes.

Dr. James Browne: Just to say that this arises primarily from cover for people who opt to go part-time. That is where it arises from frequently.

Deputy David Cullinane: Would Dr. Browne agree that there has been a growth in casualisation in recent years in the university?

Dr. James Browne: It is not a question I can answer easily. Research contracts are defined as contracts. If the university gets a grant from Science Foundation Ireland for a post-doc for three years, that individual has a three-year contract. We have no choice but to give the individual a three year contract.

Deputy David Cullinane: Dr. Browne said earlier that he understands the term casualisation-----

Dr. James Browne: I do not agree that there has been a growth in casualisation. That is not casualisation, no - it is contract staff.

Deputy David Cullinane: Could Dr. Browne furnish the committee with a report on casualisation within the university from 2008 up to the present day?

Dr. James Browne: Absolutely.

Deputy David Cullinane: That would be helpful. When we have the figures, we can decide if there is an issue.

Chairman: Dr. Browne might explain precisely what he understands by casualisation when he is writing it.

Dr. James Browne: That might be useful. The committee might give us a heads-up on what it wants in detail.

Deputy David Cullinane: Certainly.

Chairman: The committee members will inform the clerk to confirm that.

Dr. James Browne: That is no problem. There is no policy in the university of trying to casualise labour, let us be clear about that. In a university environment, staff are the critical resource. There is no policy to casualise anybody.

Deputy David Cullinane: We will wait until we get the accurate figures in that report and we will see then. I want to move on to research and intellectual property, IP, commercialisation. The witnesses may not be aware that I have raised this with several presidents-----

Dr. James Browne: I heard this, yes.

Deputy David Cullinane: -----who have been in from other institutions. Can Dr. Browne first explain to me how NUI Galway commercialises its IP?

Dr. James Browne: The university has a long history in this space. We were the first university in the country to have incubator units, going back to 1973. With the support of what was then the Institute for Industrial Research and Standards, IIRS, the university then created an incubator unit on the campus. We are very proud of that.

The university has significant research activity, funded primarily by third parties, including State third parties. That activity creates intellectual property. The university has policies with regard to the exploitation of that intellectual property. It has policies with regard to conflict of interests and all or any conflicts arising from intellectual property.

In terms of the exploitation of IP, the university incurs the cost of patenting intellectual property with the support of Enterprise Ireland. Exploitation can arise in a number of ways. One way is where a company, an external organisation, decides it wishes to purchase IP from the university. If that happens, the proceeds are shared within the university. We have a table which shows the precise break-out of those shares, which I can pass to the Deputy if he is interested. The money is shared between the university centrally, the school to which the individual belongs, and the individual who acquired the IP. That is all set out in our procedures. That is one way of exploiting it.

A second possibility is that an individual in the university who has created intellectual prop-

erty which has been patented may wish to exploit it through a start-up company. The university supports that, with the support of Enterprise Ireland generally or with the support of other similar organisations, and the university takes a share in the company. The individual will also have a share in the company, which then proceeds to do its business. The reality is that, over time, the university's share is diluted as further investments go in. If and when the enterprise is successful, if it is sold, the university then acquires the value of its shares.

Deputy David Cullinane: I understand that from all of the other presidents who were in.

Dr. James Browne: Just to be clear, the last point is that in some instances, an individual who has created intellectual property may not wish to be involved in the start-up company himself or herself. In that case, a start-up company may exist in which the university has a share, while the individual will not have a share by his or her own choice but will take some royalty from the licence that the company will buy from the university for the technology. Those are the three examples.

Deputy David Cullinane: Who in the institution would protect the interests of the institution?

Dr. James Browne: We have a technology transfer office, which conforms to the national guidelines in this regard. There are national norms and expectations.

Deputy David Cullinane: Where does the technology transfer office report back to?

Dr. James Browne: It reports to the vice-president of research, who reports to me.

Deputy David Cullinane: Would there be a commercialisation committee in place in the university?

Dr. James Browne: There is a committee within the technology transfer office, which looks at the possibility of commercialisation.

Deputy David Cullinane: Does the head of research sit on that committee?

Dr. James Browne: Possibly he does, I cannot tell the Deputy off the top of my head.

Deputy David Cullinane: And the financial controller? Is it the same across----

Dr. James Browne: He does not sit on the committee but there would be access to financial acumen there.

Deputy David Cullinane: So again, here is a different arrangement in place. It is different from some of the other institutions. There are variances in how the interests of the institutions are protected. There are different processes in place, as I see it. That is not to say there is anything wrong.

How many spin-outs would there have been in NUI Galway since Dr. Browne was president?

Dr. James Browne: I have that data somewhere here I think, if the members would give me a moment to find it.

Deputy David Cullinane: While Dr. Browne is searching, would it be fair to say that the institution would take something of a risk, or rather that it would invest in many spin-out com-

panies?

Dr. James Browne: No, by and large we do not invest.

Deputy David Cullinane: The university takes a shareholding.

Dr. James Browne: We take a shareholding, yes.

Deputy David Cullinane: What I mean is that these companies would avail of the resources of the institution.

Dr. James Browne: If they do, they pay for them.

Deputy David Cullinane: Okay. My point is that some of them would be successful and some would not. That is the nature of it.

Dr. James Browne: Absolutely. The majority will be unsuccessful, frankly. Let us be honest. That is normal.

Deputy David Cullinane: It is reasonable, then, to expect that the institutions would have the strongest shareholding possible, so that there is a return to the institution from those companies which are successful. Would that be fair?

Dr. James Browne: The university seeks an appropriate investment ----- sorry, an appropriate shareholding. We do not make an investment. We seek an appropriate shareholding in the context of the fact that the university sponsored the research that gave rise to the intellectual property.

Deputy David Cullinane: Does Dr. Browne personally hold a shareholding in any spin-out company?

Dr. James Browne: No, I do not.

Deputy David Cullinane: Has he ever held a shareholding?

Dr. James Browne: Years ago I did, yes, if the Deputy is asking me directly.

Deputy David Cullinane: But he does not-----

Dr. James Browne: I do not have anything. If the Deputy is asking me a direct question I will give him a direct answer. Yes, I was involved in a spin-out from my research 15 years ago. It was sold and I acquired a small amount of money for it.

Deputy David Cullinane: What was your position in the university at that time?

Dr. James Browne: I was a professor of engineering.

Deputy David Cullinane: I do not need to know the name, but is the person who holds the office of head of research and innovation in the institution also a vice president?

Dr. James Browne: The person who leads research is the vice president, yes.

Deputy David Cullinane: Does that person have a shareholding in any spin-out companies?

Dr. James Browne: The honest answer is that I do not know but I can find out for the Deputy.

Deputy David Cullinane: Dr. Browne does not know.

Dr. James Browne: No, I do not know.

Deputy David Cullinane: If the vice president had a shareholding in multiple companies, would that surprise Dr. Browne?

Dr. James Browne: It certainly would, yes.

Deputy David Cullinane: Why would that surprise him?

Dr. James Browne: It would be very difficult to have a shareholding in multiple companies. As it happens, our vice president is a bio-scientist-----

Deputy David Cullinane: Why would it be very difficult?

Dr. James Browne: The only reason one would have a shareholding in such a company is because one is bringing something scientific to it and it is very difficult-----

Deputy David Cullinane: If the institution's head of research was a shareholder in four spin-out companies, would that be of concern?

Dr. James Browne: It would be a concern if I did not know it, if he had not gone through the appropriate-----

Deputy David Cullinane: If Dr. Browne did know?

Dr. James Browne: If he did not go through the appropriate procedures, it would be of concern to me.

Deputy David Cullinane: The commercialisation and technology transfer policy of one institute refers to a commercialisation committee. The commercialisation committee members include the head of research and innovation, the financial controller and a third person. The policy holds that members of the commercialisation committee who are or who could reasonably be perceived to be in a conflict of interest situation with respect to any matter before the committee should excuse themselves from all involvement with the committee on such matters.

Dr. James Browne: Absolutely.

Deputy David Cullinane: It goes on to say that any individual who is related to, reports to or is a business partner of someone who would be considered to have a conflict of interest would also have a conflict of interest. Let us say we have a situation - we do not know if it is the case in Dr. Browne's institution - where the head of research was a shareholder in three or four spin-out companies. Further, the people with whom he has a shareholding, namely, his business partners also have shareholdings in different companies. There are possibly up to a dozen companies involved in total. Does Dr. Browne think it would be possible for that person to sit on the commercialisation committee and to have the commercialisation office or the technology transfer office report back to him?

Dr. James Browne: I can only comment in a general sense. I cannot comment on what other institutions do but I can tell the Deputy that I would consider it to be fundamentally-----

Deputy David Cullinane: I am asking about the process, not any individual-----

Dr. James Browne: Any individual who is involved in a spin-out or a start-up company would have to make that known to any part of the organisation which makes decisions on it. He or she would have to declare a conflict of interest and that is what would happen. That is what would be expected.

Deputy David Cullinane: Dr. Browne would understand-----

Dr. James Browne: He or she should not be involved in the process.

Deputy David Cullinane: I am not suggesting but Dr. Browne is being evasive. He is answering the questions very fairly, with respect. I am trying to be fair to the individuals involved. I want to make sure that in every single higher education institution in this State we have robust systems in place to protect that institution.

Dr. James Browne: I respect that.

Deputy David Cullinane: I also want to make sure that, as far as possible, we have an arm's-length separation between people who have executive, governance and management roles and people who are in the innovation space, in terms of spin-outs and commercialising them for personal gain and for the gain of others. Such activity creates jobs and so on but if there is personal gain involved, there is an obvious conflict.

Dr. James Browne: Absolutely.

Deputy David Cullinane: It may involve multiple companies and the shareholders in those companies, that is, business partners, may have shareholdings in other companies. If the person involved is the owner of policy and sits on a commercialisation committee-----

Dr. James Browne: That is unacceptable.

Deputy David Cullinane: Unacceptable. Dr. Browne would say that is unacceptable-----

Dr. James Browne: I have to say, frankly speaking, the principles the Deputy enunciates are clear to me and are practised in NUI Galway. I can think of examples, as we speak, of situations where individuals have been involved in businesses-----

Deputy David Cullinane: It would be unacceptable, in Dr. Browne's view-----

Dr. James Browne: -----and they have declared a conflict of interest and have absented themselves completely from all discussions. That is what I would expect.

Deputy David Cullinane: Can Dr. Browne understand my concern if what I described was actually the case? What I have described would be a matrix of conflicts of interest. It would almost be impossible to disentangle oneself from up to a dozen companies in which one or one's business partners had a share holding. How could one effectively do one's job in the first instance? Would the job of head of research and vice president be well paid?

Dr. James Browne: Yes. It would command a professorial salary.

Deputy David Cullinane: It is a very well paid job. It would also be a very demanding job.

Dr. James Browne: I agree.

Deputy David Cullinane: One's attention should be 100% on the job for which one is getting paid.

Dr. James Browne: Absolutely, yes.

Deputy David Cullinane: Before we move off this issue, I wish to put something to Dr. Love. We had a discussion earlier about an independent or external examination or review of one institute. We have just heard from another higher education president who has given his view on the matter. He used the word "unacceptable". I have been raising very similar concerns and I need to know before I leave here today that the concerns I have raised, which are genuine, reasonable and are in the best interests of all institutions, will be addressed.

If nothing else comes of this, we must at least tighten up on the relationship between people in management and governance roles and spin-out companies. However, we cannot just examine whether there was compliance with rules within an institute. There must also be a thorough examination of the differences and variations between the institutes. We must examine whether it is appropriate for heads of research and presidents of institutes to have shareholdings in companies in which they have an obvious role and where everyone accepts there is a conflict and whether it is possible to manage those conflicts. In that context, I have concerns.

Dr. Love has expressed his view but it does not tally with my world view. I want be sure that the external review will have very strong terms of reference and will examine all of these issues. The review cannot just focus on whether a policy was adhered to but also on whether the policy itself is appropriate. It must assess whether there is sufficient arm's-length separation between people who hold very senior posts in educational institutions and people who have a connection with spin-out companies. That is very important but I am not sure, from what I have heard this morning, that the external review is the best possible way to do that. I fear that it could be a desktop examination of somebody else's work, which is not appropriate.

Dr. Graham Love: We only got the request for an external review yesterday so we have not had a chance to define the terms of reference yet. However, we would be very happy to share the terms of reference with the committee before we even kick off the review. That review is for one specific institute. The broader review that we are thinking of conducting and which we flagged last week would look across several institutes to see if there is variation in practice, as suggested by the Deputy, if practice is in accordance with the principles of the intellectual property protocol and if policy is being implemented in accordance with those principles. We have already said that we will deliver on that.

Deputy David Cullinane: I have made the Chairman aware of comments - which I will not make public, to be fair to the person involved - that were made to me by an individual or a witness who gave evidence here this morning. We need to be able to do our job without fear or favour. We do so diligently, fairly and without prejudice at all times and we need to be able to do that job. Sometimes it can be very difficult when one is asking questions about an institution in one's own area but that is our job and function. I would hope that the Chairman will give protection to members of this committee to allow us to do that job.

Chairman: I have two quick questions for Dr. Browne. In his opening statement, he said something that is news to me. He said that the university produces two formats of annual financial statements each year, the HEA funding statements which are audited by KPMG, and the general accepted accounting principles, GAAP, statements, which are audited by KPMG and the Comptroller and Auditor General. Why are there two audits?

Ms Mary Dooley: I can answer that. There are two sets of accounts that are talked of here, not so much-----

Chairman: Financial statements.

Ms Mary Dooley: Yes, there are two sets of financial statements. The first is the traditional financial statement that has been around for 20 or 30 years. That talks purely to the core activities of the university itself, namely, its teaching and research mission. The GAAP accounts, as the Chairman knows, are consolidated accounts. Things like student residences and other commercial and subsidiary companies are incorporated into the GAAP accounts. The GAAP accounts are presented in line with GAAP accounting standards whereas the HEA-----

Chairman: The generally accepted accounting standards. I still do not understand, and Ms Dooley will have to explain, why KPMG is auditing the same set of accounts as the Comptroller and Auditor General. I do not get it.

Ms Mary Dooley: The governing authority, under its remit, is responsible for all of the activities of the university and the governing authority, I understand, in its own right, wishes to be advised by auditors that everything that is going on - financially, on campus and so on - is independently tested and that it gets a report. The role of the auditor is to report to the governing authority that everything is in order, that the accounts give a true and fair view.

Chairman: I understand that. Why is the Comptroller and Auditor General's account not adequate for that purpose?

Ms Mary Dooley: As I understand it, the Comptroller and Auditor General's role is to report to this committee or to the Oireachtas and that he is focused on everything that the Oireachtas or PAC believes in terms of regulation.

Chairman: I might ask the witness to come back to us. I do not think we have encountered this before. It has not emerged before that there are two sets of audited accounts. We will move on. I see on page 20, note 7 refers to external auditors €106,000 and internal audit €104,000. Is the internal audit function provided by KPMG?

Dr. James Browne: Is the Chairman reading the 2013-2014 accounts?

Chairman: Yes. Does that external audit cover both the Comptroller and Auditor General and KPMG? I am sorry I have never heard of these two sets of auditors before.

Dr. James Browne: Did the Chairman say page 20?

Chairman: Yes, the €106,000. What is the internal audit function? Is that sub-contracted?

Ms Mary Dooley: The internal audit function includes two staff members and a separate firm, not KPMG, another firm that comes in to do-----

Chairman: Does that external audit fee cover both KPMG and the Comptroller and Auditor General?

Ms Mary Dooley: Yes. I am not 100% sure but I would think that it does.

Chairman: Is it just historical that the university wants its own private sector audit?

Ms Mary Dooley: I think there is a real governance need for the governing authority to

receive an independent report in relation to-----

Chairman: In the note immediately below that, the majority of the university's activities are not liable for corporation tax. The corporation taxation charge in the period in respect of the trading activities administered through subsidiary companies amounted to €59,000. The university paid a corporation tax of €59,000 on income from subsidiaries. I would not expect the witnesses to have the list there but can they supply the list of the subsidiaries from which it received the income?

Ms Mary Dooley: It is in the set of accounts that was on the screen a few moments ago, the list of subsidiaries.

Chairman: Which of them generated the surplus?

Ms Mary Dooley: The student residences and conferencing activity. Tionól Teo. is the conferencing activity and Atalia the student residences. To my knowledge they are the only two-----

Chairman: That make a surplus-----

Ms Mary Dooley: -----that are taxed.

Dr. James Browne: They are subject to corporation tax.

Chairman: I am concerned when the university refers to the HEA funded statements and the other accounts for the Comptroller and Auditor General as if there are two sets of accounts. I have to draw the witnesses' attention to page 34. I have never seen this before. These are the university's accounts, not my accounts, I stress. It is on page 34 under the heading reconciliation of the deficit surplus between the two different sets of accounts.

Dr. James Browne: Yes.

Chairman: That is what it states in simple English. One set of accounts goes to the HEA showing a loss of €1.742 million. At the bottom of the page the accounts that the Comptroller and Auditor General gets show a surplus of €2.843 million. I am utterly at a loss. I see the figures explaining the movement of €3 million or €4 million but I get concerned when I hear of one set of accounts going to the HEA showing losses of €1.7 million and the accounts that come to us are a different set showing a surplus of €2.843 million. I am absolutely bamboozled.

Ms Mary Dooley: I might just attempt to answer very quickly. The accounting rules under which what we call the HEA format of accounts is drawn up are different to the GAAP accounting rules. The main difference is, and the Chairman can see it there in three of the major figures, the first two are capital grant amortisation and reversal of capital project funding. We are taking €20 million-----

Chairman: Ms Dooley need not go through the differences.

Ms Mary Dooley: It is about the treatment of capital expenditure.

Chairman: The last time we met an organisation with two sets of accounts, one going to one State body and a second going to another, was Console. It went bust. I am not comparing but when an organisation comes in here saying it has two sets of accounts for the same financial year, it sends all sorts of weird messages. Do the witnesses not see that page? Is the HEA

aware that the sets of accounts it gets apparently are not the sets the Comptroller and Auditor General gets?

Dr. Graham Love: I want to be very clear on this - that is why I asked to come in earlier. Going back to the earlier point, which relates to this one, we have recommended that the single set of Comptroller and Auditor General accounts is the set of accounts used by the university. It also relates to the timeliness issue that was discussed earlier today and last week with the Comptroller and Auditor General to save time and progress that.

Chairman: Does every third level institution have a set of accounts for the HEA and a different set for the-----

Dr. Graham Love: We certainly want the set of accounts to explain the Exchequer funding is there and we track that according to the HEA demands that are consistent with the Comptroller and Auditor General.

Chairman: I am going to ask for the help of the Comptroller and Auditor General's office here. Are we now finding that every third level institution we have been dealing with - this has not been clear to the PAC for years - has two sets of accounts, one going to the HEA and a different set going to the Comptroller and Auditor General? Is the Comptroller and Auditor General happy working on one set at university level while we are looking at a different set here? The difference between them is a deficit in the accounts going to the HEA of €1.7 million and the accounts coming to the Comptroller and Auditor General showing a surplus of €2.843 million. That is a difference of €4.5 million between the two sets of accounts. I know the university is saying it is treated as capital expenditure but the witnesses must appreciate from the public point of view that it is utterly confusing. We have to get to the bottom of this and I will be asking for a comment on where we take it from there.

Ms Colette Drinan: Under the Universities Act 1997, the Comptroller and Auditor General is appointed the auditor of the universities and those audits are GAAP accounts. We audit a GAAP account.

Chairman: Will Miss Drinan spell out that word? I understand it.

Ms Colette Drinan: It is generally accepted accounting principles, GAAP. The HEA separately requires universities, and this impacts only on universities now, to submit a funding statement. We have never audited that. We do not look at it. The HEA required it to be audited so the practice was for the universities to have commercial auditors to carry out that audit. The practice also, as mentioned by the bursar, was for the governing bodies to have commercial auditors to audit GAAP accounts for the governing bodies. That continues in all universities bar one where we carry out that role. I believe the HEA has recently changed the requirement for the funding statement to be audited.

Chairman: The witnesses need to help us out here. We are now, at whatever time it is on a Thursday evening after 4 p.m., stumbling on the fact that all these august bodies have two separate sets of accounts showing fundamentally different bottom lines, a difference of €4 million between the two sets. We will want a report. I will ask the HEA or the Department of Education and Skills to produce this report with the Comptroller and Auditor General. We want to see the list of universities, the surplus in the accounts produced by the Comptroller and Auditor General, and the surplus or deficit produced. How many universities are affected by this?

Dr. James Browne: Seven.

Chairman: We want a report on what is happening because we do not get it.

Ms Colette Drinan: I know in the committee's work programme it will examine the special report on financial reporting in the public sector. There is a section in that report which details the position with regard to universities and the situation with commercial auditors. That is down for examination by the committee.

Chairman: Is the information I just asked for specifically in the report?

Ms Colette Drinan: No. The report deals with-----

Chairman: Who can produce that?

Dr. Graham Love: We will follow up in respect of that. Mr. Andrew Brownlee - who was here - is our head of system funding but as we had an international panel in, I had to let him go. The committee is benefitting from my three-week start and ignorance, for which I apologise.

Chairman: No, do not apologise.

Dr. Graham Love: We will get it to the committee immediately.

Chairman: Dr. Love can understand that we could have been concluding a report talking about one set of accounts and the accounts used by the HEA for funding purposes could differ by millions. Dr. Love gets my point. I am surprised by what has happened. I am not saying any of them are wrong but different financial assumptions are being used in the different sets of accounts.

Dr. Graham Love: I do not believe they are wrong but we will ferret out the explanation and furnish it with haste.

Chairman: Did anyone else indicate?

Deputy Mary Lou McDonald: I apologise for not being here for the opening statements. I was detained at something else. My question concerns intellectual property and commercialisation. I am not directing my question at Dr. Browne personally but he is an experienced person and I want him to help me understand the sequence of events. In circumstances where an academic like Dr. Browne leads research and arrives at an innovation or something of novelty with value that is subsequently commercialised and results in a spin-out, I understand how the academic institution acquires a stake in that company. That is entirely logical. What I want to understand is how the individual researcher or academic acquires a stake in that entity.

Dr. James Browne: Deputy McDonald is talking specifically about spin-offs?

Deputy Mary Lou McDonald: Dr. Browne needs to talk as though he is talking to a novice because I want this for the purposes of the committee record. Could Dr. Browne walk us through how that happens?

Dr. James Browne: We are talking specifically about a start-up company?

Deputy Mary Lou McDonald: Yes.

Dr. James Browne: An individual academic is leading a research project or part of a research project, intellectual property is created and if the university believes the intellectual property is worth patenting, which is always a question, it then patents it. It incurs expenses

in doing so. The university now has patented intellectual property that is effectively owned by the university and the individual who created it. If the individual wishes to create a start-up on the basis of that, in general - it depends on the circumstances because money is required for a start-up - the university allows the individual to do that, subject to all disclosures in terms of any conflicts of interest he or she may have with the institution. The university looks for a portion of that enterprise to protect its interests in the intellectual property. The enterprise is then set up. In general, that proportion might be of the order of 10% to 20%.

Deputy Mary Lou McDonald: For the institution?

Dr. James Browne: For the institution. Very rarely does an individual do this on their own. An individual may have external support to often bring money to the table. I am talking about an example of how these might work. The university takes a share, the individual takes a share and, in general, a number of other individuals who are generally outside the institution - people who have, frankly, deep pockets-----

Deputy Mary Lou McDonald: -----will bring money to the table.

Dr. James Browne: Correct. A company is established and the company is then partly owned by the university.

Deputy Mary Lou McDonald: Again, I am not questioning anyone's research expertise. There is no doubt that research leaders bring something specific and special to the table so I am not trying to cast doubt in that regard. That said, research is carried out by teams and it would be very unusual for some Einstein brainiac to hit on something on their own.

Dr. James Browne: I completely agree.

Deputy Mary Lou McDonald: I am sure it has happened but it is unusual.

Dr. James Browne: It is, I agree.

Deputy Mary Lou McDonald: What I am trying to figure out is the methodology or framework relating to an individual who is paid, tenured, financed, supported and facilitated by taxpayers' and public moneys, although not exclusively so.

Dr. James Browne: In general, the individual would have won a research grant from a third party. Sometimes he or she might have led on his or her own but generally would have been part of a team. The intellectual property would be created by the individuals, all of whom would share in that by agreement and the university would recognise either the individual or the team that created it. It would be for the individual or the team to come forward to the university and seek protection for a defined piece of intellectual property.

Deputy Mary Lou McDonald: I understand that. When somebody innovates, there is no issue around a person rightfully staking a claim to what comes from that. I am trying to understand if there is a set formula or protocol. How does one disentangle that and figure out who gets what?

Dr. James Browne: The individuals determine that themselves. If it is a team effort, its members determine who contributed what to the intellectual property, so they know themselves and tell the university that a piece of intellectual property is owned by, for the sake of argument, three colleagues, one of whom owns 50% while the other two own 20% and 30%, respectively. The team comes to the university with that statement. We do not make a judgment there. The

university then decides whether the intellectual property is worth patenting. It then incurs the cost of patenting it if it thinks it is worth it. The patent is then available for exploitation.

Deputy Mary Lou McDonald: Forgive me if Dr. Browne referred to this earlier but we heard about a procedure around intellectual property and its commercialisation relating to a different institution. I assume that the National University of Ireland, Galway, NUIG, has written protocols.

Dr. James Browne: Absolutely.

Deputy Mary Lou McDonald: How does NUIG record on a case-by-case basis how those proportions are figured out as regards who gets what and who has what stake? All of that is-----

Dr. James Browne: All of that is recorded.

Deputy Mary Lou McDonald: The intellectual property is created, those involved stake their claim and new money is put on the table because investors will become involved so that has an implication for the university's stake and, presumably, for the individuals

Dr. James Browne: Absolutely. There are often multiple rounds of new money. Over time, the company grows and the university's stake gets smaller.

Deputy Mary Lou McDonald: In circumstances where the spin-off is sold off and disposed of and where cash comes upfront, that is really where who gets what and what stake somebody has really come into focus.

Dr. James Browne: I have examples where it has happened. The company has been created by an individual or individuals, has been through a round of funding, the individuals' share and the university's share have been diluted, the company is then sold, revenue is realised from that and the university gets its portion consistent with its share.

Deputy Mary Lou McDonald: Is Dr. Browne satisfied that NUIG has received its fair share?

Dr. James Browne: NUI Galway has received its fair share. I am satisfied we have procedures in place. There is a complication here. Let us be frank and honest about it. Intellectual property is created in a situation where the individual who creates it is almost certainly essential to its exploitation. In a university, it would be lovely if we could say to somebody "you bought that IP, you now leave the stage" and the intellectual property can be transferred across the room to somebody else. That cannot happen because, by and large, the individual who created the intellectual property is almost always essential to its exploitation - not always but almost always. That does create an issue for the institution.

Deputy Mary Lou McDonald: Of course, it does.

Dr. James Browne: I believe that given the state of the economy in this country, particularly in the west of Ireland, we have a responsibility as an institution. We have shown that we have delivered on this. We have managed that conflict and tension well where we have created enterprises that have created jobs for the west of Ireland and we have done it in a very transparent and open way. I am perfectly satisfied that we do that well.

Deputy Mary Lou McDonald: I wish to reassure Dr. Browne that the reason I am pursuing this line of questioning on this topic is because I share that view.

Dr. James Browne: I appreciate that.

Deputy Mary Lou McDonald: It is why I am anxious that we get a look under the bonnet. Dr. Browne has given me his position on this for which I thank him. Is he equally satisfied that NUIG has avoided a scenario where these spin-offs have become a cash cow or a big personal opportunity for the individual, as opposed to being an opportunity for the institution? Let me paint the picture. This is a laywoman's view. I understand that the researcher has a research grant but they are also surrounded by others who assist them, not least postgraduate students-----

Dr. James Browne: And administration and everything, yes.

Deputy Mary Lou McDonald: All of that is paid for and the taxpayer has skin in the game.

Dr. James Browne: That skin in the game is captured through the university share in the company.

Deputy Mary Lou McDonald: I would be very troubled if it was to become apparent that on the balance of things, all of that resulted in a big opportunity for an individual, whose contribution I am not questioning, as opposed to a payback for the institution.

Dr. James Browne: I can only speak from my own experience. I can tell the committee that, from my experience, I am personally satisfied with what is happening in Galway in that regard.

Deputy Mary Lou McDonald: It is robust. Is that right?

Dr. James Browne: Absolutely, I have no doubt about it. I would be perfectly happy to share any information with the Comptroller and Auditor General about those matters on a private basis, because it is private information.

Deputy Mary Lou McDonald: We have made a request of the Comptroller and Auditor General to carry out an investigation in this area.

Dr. James Browne: I am happy to do that.

Deputy Mary Lou McDonald: My final point is on whistleblowers. In May 2014, Seán Ó Foghlú told us that he had told the colleges to sort out whistleblowing matters prior to July 2014. We passed the protected disclosures legislation, which was rather novel. I want Dr. Browne to briefly outline his experience of protected disclosures and how they have been managed. Did Dr. Browne sort out any whistleblower or protected disclosure issues, as instructed by Mr. Ó Foghlú in May 2014?

Dr. James Browne: I gather Deputy McDonald is referring to a particular example. My colleague will be able to deal with that.

Mr. Gearóid Ó Conluain: Yes, back in October 2012 what we believe to have been an anonymous e-mail was sent to a number of individuals, including members of this august body. It was signed by a person. We believe the signature to be a pseudonym or *nom de plume*. It was sent to the HEA and other agencies as well. It got quite a spread of communication. Subsequently, the HEA made contact with us. Obviously, it rang alarm bells. The HEA asked us to report to the authority on the matter. Deputy McDonald is probably aware of the assertions made in that protected disclosure. I can refer to them briefly.

Deputy Mary Lou McDonald: Please do.

Mr. Gearóid Ó Conluain: They include: the use of an incorrect procurement model to obtain the best value for money; the duplication of effort in administration across the university; failure to streamline processes to acquire maximum efficiency with the resources available; and, generally, a lack of effort in obtaining value for money on behalf of hard-pressed taxpayers. These were quite general and not specific.

It was also the case that this person or persons referred to a procurement report that was in gestation at the time. An early first draft of it had been made by a company that we had procured to look at our systems from the point of view of efficiency and to see whether, from a systems point of view, they could be made more straightforward in such a way as to lead to efficiencies, including value for money. I will not name the company but it is in the documentation before the committee. We are unsure how it happened but it seems clear from the correspondence from the whistleblower that the whistleblower obtained that early draft. The early draft contained a number of inaccuracies, subsequently shown to be and proven to be inaccuracies. Obviously, that formed part of the report the university made to the HEA. The report was also shared with the Department of Education and Skills. Further information was sought from the Department after October 2012. I understand that the Secretary General discussed the issue before the Committee of Public Accounts at one stage.

The upshot of the consideration of the university report by the HEA and the Department was that they were satisfied there was nothing of substantive concern at issue.

Deputy Mary Lou McDonald: Can the HEA and the Department confirm that is the case?

Mr. Gearóid Ó Conluain: Yes, they did.

Deputy Mary Lou McDonald: I am asking them to do so.

Dr. Graham Love: That is correct.

Deputy Mary Lou McDonald: What protocols or procedures does the college have for whistleblowers or protected disclosures? Is there a confidential recipient?

Mr. Gearóid Ó Conluain: We have a comprehensive policy. We titled it: A Whistleblowing Policy. I would be glad to make it available to the committee. It is comprehensive. It sets out-----

Deputy Mary Lou McDonald: When did that come into effect?

Mr. Gearóid Ó Conluain: It came into effect around the time that this process started, because we took the view that it was needed.

Deputy Mary Lou McDonald: That means it was in 2014. Is that correct?

Mr. Gearóid Ó Conluain: That is correct. Before that-----

Dr. James Browne: I can assure Deputy McDonald that I have to hand the document entitled Whistleblowing dated 31 October 2014 and approved by the university management team.

Deputy Mary Lou McDonald: Have any protected disclosures been made since that was instituted?

Dr. James Browne: Yes.

Deputy Mary Lou McDonald: How many?

Dr. James Browne: One.

Deputy Mary Lou McDonald: How has that been dealt with?

Dr. James Browne: It was dealt with completely through the HEA.

Deputy Mary Lou McDonald: Did it relate to anything that we should be made aware of? Was there any impropriety?

Mr. Gearóid Ó Conluain: There were a number of allegations in respect of procurement. The disclosure raised an issue about procurement. The whistleblower was correct in terms of a minor break in our procurement rules. The university accepted this, the HEA accepted it and so did the whistleblower. That is my understanding. Perhaps the HEA representatives will need to confirm that.

Deputy Mary Lou McDonald: I will ask the HEA to comment. Was it an employee of the university?

Mr. Gearóid Ó Conluain: Yes.

Deputy Mary Lou McDonald: Is the person still an employee of the university?

Mr. Gearóid Ó Conluain: Yes.

Dr. Graham Love: I wish to follow through on that. I have consulted my notes. I believe it was forwarded to NUI Galway for response. This followed a review of the university's response and a meeting between my predecessor and the discloser. The HEA responded to all parties in May 2016. The HEA noted that a satisfactory review of the allegations had been conducted by NUI Galway. Subject to some points of clarification, the authority considered the issue to be dealt with and considered the matters to be primarily the concern of the university and its governance structures.

Deputy Catherine Connolly: The NUI Galway Vision 2020 document states that the university has invested €400 million in new buildings since 2006. However, in the NUI Galway statement today, the figure is €300 million.

Dr. James Browne: That is for the past ten years. A number of projects were not completed. I can remember one in particular because it is so personal to me. At one stage, we had a plan for a president's residence. That was never followed through. Other projects cost less than anticipated. Some have not been completed.

Deputy Catherine Connolly: I know. This is my question. In the Vision 2020 document, the university suggests that it has invested €400 million since 2006. In the opening statement today, however, the figure used was €300 million. Did I miss a year or something?

Dr. James Browne: I would have to check the details but I know how much we have actually spent in the past ten years because I have the figure in front of me. A vision would set out a strategy to expect to spend so much.

Deputy Catherine Connolly: NUI Galway has been investing €400 million in new build-

ings, laboratories and so on.

Ms Mary Dooley: I might be able to answer that. We might be looking at two different sets of figures. They may relate to two different sets of timelines. I know that from the mid 1990s up to 2015-----

Deputy Catherine Connolly: The document I have before me specifically refers to 2006. The opening statement from the deputation refers to the past ten years, which brings us back to 2007. Therefore, between 2006 and 2007 there is a difference of €100 million. Is that correct?

Dr. James Browne: The strategic plan sets out a vision.

Deputy Catherine Connolly: I know that. I have only a few minutes. Can the deputation explain the difference? One document states that, since 2006, the university has been investing €400 million in new buildings. However, the opening statement indicates that in the past ten years it has invested €300 million.

Mr. Keith Warnock: I can come in on that. The statement says that in the nine years to 30 September 2016, spending was approximately €300 million. Deputy Connolly is quite right. Earlier versions might have said €400 million. They are both round numbers. We are not in the business of specifying to the euro how much was spent.

Deputy Catherine Connolly: There is €100 million in the difference.

Mr. Keith Warnock: Obviously, it depends on the exact starting point. In any event, significant investment was going on from 2005, 2006, 2007 and so on.

Deputy Catherine Connolly: I want to come back to the issue of part-time employment. I know the deputation will come back to us on this point. The cost of agency staff has risen. Is that correct? The figure was over €2 million and an increase of up to €2 million has been mentioned. Is that correct?

Mr. Keith Warnock: Yes.

Deputy Catherine Connolly: It would be concerning if the university was using agency staff to that level. Moreover, the university has the default agency that it must come back to. Again, the deputation said that this was to fill in when someone is out. Will the deputation clarify all of that when it comes back to us?

Mr. John Gill: Absolutely, we will clarify all those questions.

Deputy Catherine Connolly: That is lovely. Will the deputation clarify the percentage of women who are taking up these temporary, part-time and replacement jobs, particularly in light of the problem and in the context of UCG's issue with gender inequality? We are being told about precarious employment. I am merely putting this forward. It is the same down here; we are being swamped with information from people who know far more about this than we do. We can see that gender inequality is still a major issue and that precarious employment, part-time work, etc., predominantly relate to females. It is late. I am putting that to the representatives of NUIG. That is what we are being told. They can say "Yes" or "No" to me, or they can say, "We don't know and we will come back".

Dr. James Browne: We will provide the information to the committee.

Deputy Catherine Connolly: Do the witnesses know at this stage?

Mr. John Gill: When we look at some of the temporary contracts, for example, we have made some changes in our internal procedures. For example, historically maternity leave was covered at 0.5 and if one took maternity leave, one was covered on a part-time basis. We have changed that so that one is covered on a full-time basis. Rather than covering it at 0.5, it is covered at 1.0.

Deputy Catherine Connolly: I appreciate that.

Mr. John Gill: That puts up the cost. That is one of the things that contributes to the cost, but we will certainly break down the numbers. We will provide the committee with the numbers and we will break it down.

Deputy Catherine Connolly: Given the history around gender equality, I would expect NUIG to put all these jobs in context to see if it is making progress in having fewer women in precarious employment and better gender balance. I would expect the witnesses to know that because it has had report after report. As it is attempting to get the Athena SWAN recognition, it is very important that we would have that information so that the public and the people working in NUIG can make up their minds.

I seek clarification on the foundation. On the NUIG annual report and consolidated financial statement, the Comptroller and Auditor General pointed out that the foundation had accumulated reserves of €57.6 million, which will ultimately be passed on to the university. At 30 September 2014, the university's financial statement recognised €17.5 million as being due from the foundation from 2011. I asked about that already and Dr. Browne said that €17.5 has since been paid.

Dr. James Browne: I said to the Deputy that the foundation has paid over to the institution €20 million in the past two years. I would have to look at what payment was made against each precise element in that. I am not saying exactly to match the figures, but I am saying that the university has received €20 million or so in the past two years and will be in the process of receiving the remainder in the next two or three years.

Deputy Catherine Connolly: This is a very specific point. In 2014, some €17.5 million was outstanding at that stage from 2011. Has that €17.5 million been paid?

Dr. James Browne: I will have to check the exact figures line by line. That refers to a group of projects that were complete at that point. I can absolutely assure the Deputy that every penny the foundation earns for the university will be paid over to it, but I will check that for her.

Deputy Catherine Connolly: Assurances are one thing; the Comptroller and Auditor General showing us that money is outstanding from 2011 is another thing. I do not want assurance. I want to be told if it has been paid over. When was that specific €17.5 million paid over? Has the €67.5 million from the 2014 accounts also come to the university or is the Comptroller and Auditor General-----

Dr. James Browne: First, two figures are overlapping. Second, as I said to the Deputy, in the past two years, of the order of €20 million has been paid over. We have now put in place a process and we are working with the foundation to agree-----

Deputy Catherine Connolly: I understand that, but the money is owed. I know it is a char-

ity but it is coming from the foundation for projects. This was 2014, which is three years later. How does NUIG manage without money? It does projects and then the money comes, and it does not take the money that is due.

Ms Mary Dooley: I am not sure where the Deputy is referring to regarding those numbers.

Deputy Catherine Connolly: I can state precisely.

Chairman: It is on page 9 of the report of the Comptroller and Auditor General, that €17.5 million which NUIG has taken in as due from the foundation at the year-end was made up of specific projects and specific figures. The witnesses have the list. I ask them to give us a report on what made up that figure, how much was received, the date it was received and if any of it is still outstanding. That is it. I know that is very basic.

Deputy Catherine Connolly: Actually the Comptroller and Auditor General said it had been outstanding for three years at that point.

Ms Mary Dooley: Could I just make a point? The €67 million, if it is the same €67 million-----

Deputy Catherine Connolly: It is €57.6 million.

Ms Mary Dooley: Sorry €57 million. The foundation has committed €67 million in capital money to the university. Some 50% of that money has already been paid to the university, received by the university, banked and so on. We referred before to the fact that the foundation will only pay us - that is its rule or policy - once projects have been completed and we have expended the money. As the president has said, a major project has come to completion in the past year or two. The retention moneys and so on and the final balancing of the contract with the contractor has not been done.

Deputy Catherine Connolly: I did not ask about-----

Ms Mary Dooley: So it is coming.

Deputy Catherine Connolly: I did not ask about anything recent. I asked about what is here in this paragraph. In 2014, it had been due since 2011.

I mentioned agency staff. There is a belief on the ground that consultants are being used to an excessive degree in NUIG. Private consultants are being brought in for different things, including the law faculty. I have gleaned this from the local newspaper. The witnesses should tell me if I am wrong. The university has confirmed that the school of law has spent almost €180,000 on one consultancy firm for 22 months work. It is all set out in the local newspaper. Is that unusual? What was that for?

Dr. James Browne: It was unusual. Let me just think for a moment; I do not have these things off the top of my head. The school of law was in the process of acquiring a senior administrator following the retirement of a prior holder of that post. As I understand it, the school of law hired an individual to take on a role and that individual's contract was extended. I am talking from memory here so I need to be very careful. Maybe I should not do this, but let me have a go at it in the interest of helping out the Deputy. My belief is that the contract was extended. It was payment to an individual for work service she provided to the school of law over a two-year period.

Deputy Catherine Connolly: I am reading from a paper.

Dr. James Browne: I think I know what the Deputy is talking about.

Deputy Catherine Connolly: I hope Dr. Browne does. Some €180,000 for 22 months' work was paid to a private company, Results Through People Limited, for professional services.

Dr. James Browne: It was an individual who took on a role for a 22-month period.

Deputy Catherine Connolly: For €143,000.

Dr. James Browne: I would have to check the figures, but if that is what the Deputy is saying, I am not contradicting her.

Deputy Catherine Connolly: That is another thing to check.

I will finish up on the gender issue. Does NUIG have part-time teaching assistant posts?

Dr. James Browne: There are people who work as part-time teachers, yes.

Deputy Catherine Connolly: That is okay because I asked another institute and it did not have any. NUIG has a part-time teaching assistant. Is that what it is called?

Dr. James Browne: I am sorry. I am not trying to be difficult here, but we do not advertise a job as a part-time teaching assistant. We occasionally have need for part-time people to support our programmes. Those people are sometimes post-doctoral students or sometimes retired employees of companies. They come in and do something for us. We pay them as part-time assistants.

Deputy Catherine Connolly: It is simply "Yes" or "No". As I have said already, we have been inundated with discontent regarding the gender issue. Is there a role or a position called a "part-time teaching assistant"?

Dr. James Browne: I do not believe so.

Deputy Catherine Connolly: That is fine.

Dr. James Browne: That is not to say there are not people who take on part-time assistant roles. There is a difference. I am at a loss to explain this.

Chairman: There are teaching roles, but some of them work part-time.

Dr. James Browne: Correct. That is basically it. I guess that is the way to put it.

Deputy Catherine Connolly: I am not sure what the frustration is about.

Dr. James Browne: If there is a suggestion - maybe I am being presumptuous here - that somehow we are trying to substitute full-time with part-time teachers, that is not the case.

Deputy Catherine Connolly: I have no suggestion.

Dr. James Browne: I appreciate that.

Deputy Catherine Connolly: I would be reassured if Dr. Browne was not so jumpy about it and told us. He should have figures here given the scandal that existed with gender inequal-

ity. I did not want to use that word but what has gone on in NUIG with gender inequality is an absolute scandal. That is my opinion.

Dr. James Browne: The Deputy is entitled to it.

Deputy Catherine Connolly: I resisted saying it. I would have preferred if Dr. Browne had said, “Yes, we accept that. We put our hands up. There has been a case. There are five other cases. I do not know how many. We’re learning from that. This is what we’ve done.” I do not know what NUIG is paying agency staff. I do not know how many part-time positions there are and I do not know how many women are in those part-time positions. I am simply asking questions.

Dr. James Browne: Sure.

Deputy Catherine Connolly: Are there lecturer positions that do not include research? Are lecturers employed strictly as lecturers who do not carry out research?

Dr. James Browne: The university has a policy of research-led teaching. We absolutely try to ensure that every member of staff, who is a lecturer or professor, is involved in teaching. Yes, absolutely, we try to ensure that.

Deputy Catherine Connolly: Are the positions research focused and every lecturer has a responsibility in terms of research?

Dr. James Browne: Sorry, no.

Deputy Catherine Connolly: No.

Dr. James Browne: That is not correct.

Deputy Catherine Connolly: Yes.

Dr. James Browne: We have two types of lecturers-----

Deputy Catherine Connolly: Yes.

Dr. James Browne: -----just to be frank about it.

Deputy Catherine Connolly: That is what I asked Dr. Browne.

Dr. James Browne: I am sorry. I did not understand the question then and I am sorry.

Deputy Catherine Connolly: It was simple.

Dr. James Browne: We have two types of lecturers. We have lecturers who have the normal academic contract-----

Deputy Catherine Connolly: Yes.

Dr. James Browne: -----the same as every other university and have an expectation in terms of teaching, research and contribution.

Deputy Catherine Connolly: Yes.

Dr. James Browne: We have also, in Galway, created a post. It used to be called a univer-

sity teacher.

Deputy Catherine Connolly: Yes.

Dr. James Browne: It is now called lecturer contract A. That contract A is primarily a teaching contract, not exclusively a teaching contract. Yes.

Deputy Catherine Connolly: Thank you. Is there no research involved? Is it primarily teaching?

Dr. James Browne: If I can explain?

Deputy Catherine Connolly: Yes.

Dr. James Browne: I realise it is a subtle point but it is an important one. The individual who is a lecturer on contract A has a high teaching load, is required to be up to date with his or her discipline in terms of research but is not required to actively contribute to the research literature.

Deputy Catherine Connolly: Yes, not actively required. I thank Dr. Browne.

Dr. James Browne: No, that is not absolutely right. He or she may do research but is not required to.

Deputy Catherine Connolly: I thank Dr. Browne.

Dr. James Browne: Yes.

Deputy Catherine Connolly: How many women are in those positions?

Dr. James Browne: I do not have the figures in front of me. Maybe Mr. Gill knows. There are, I think, 60 people who are contract A, from memory.

Deputy Catherine Connolly: Sixty.

Dr. James Browne: To begin, the history of it is interesting. They emerged originally from language assistants in the arts college.

Deputy Catherine Connolly: Yes.

Dr. James Browne: I could not tell the Deputy the breakdown.

Deputy Catherine Connolly: The breakdown is important.

Dr. James Browne: I do not have it in front of me here but I am happy to provide it.

Deputy Catherine Connolly: That is okay and I thank Dr. Browne. Research comes with a premium, does it not? That is what the university is all about - research. Then there is a group who are not really doing research, which happens to be dominated by females.

Dr. James Browne: That is an unfair presentation of the facts.

Deputy Catherine Connolly: Listen, Dr. Browne. I have been more than fair and simply asked a question. I prefaced my final comment by saying that if the majority of those posts are held by women then they obviously would be at a disadvantage if the university puts a heavy

emphasis on research.

Dr. James Browne: I believe that is mistaken and if I am given the chance I shall explain why. Yes, it is true that there are two types of lecturer on what we call contract A and contract B.

Deputy Catherine Connolly: Yes.

Dr. James Browne: Yes, it is true that a minority of staff are contract A.

Deputy Catherine Connolly: Yes.

Dr. James Browne: It is true that they are primarily teaching posts.

Deputy Catherine Connolly: Yes.

Dr. James Browne: There is a requirement for them to be research-up to date rather than research-active. It is also true that they are paid on the same scale as, from want of a better word, contract B - the normal. They have the same opportunity for promotion using different criteria.

Deputy Catherine Connolly: Yes.

Dr. James Browne: We have done that. We have a senior lecturer scheme out of which an individual, who is a lecturer on contract A, can apply. He or she will be treated to a different set of criteria because the contract against which that person is being assessed is primarily a teaching contract.

Our expectation is, and let me be clear about this, the university has committed to creating professorial positions for people in that grade. We have an absolute parallel. We have the same salary scales, parallel promotion opportunities to senior lecturer level and criteria which are appropriate to the post.

Deputy Catherine Connolly: Will Dr. Browne forward the figure to me?

Dr. James Browne: I will of course, yes.

Deputy Catherine Connolly: Dr. Browne attended a committee here in a different capacity. My query relates to page 42 of the university's vision for 2020. At the Irish committee Dr. Browne said that a bilingual campus was simply an aspiration. Again, there are money implications for that. As he will know, Gaillimh le Gaeilge has published a very good document on the value of the Irish language in Galway to the economy. I am bad on figures but I am sure Dr. Browne can tell me the correct figure. I think the Irish language is worth over €100 million. Last Tuesday, and it is fair that I say so and I have not misquoted him, Dr. Browne said bilingualism is simply an aspiration.

Dr. James Browne: No, I am sorry. The Deputy is not quite correct in what she has said. Let me, please, explain.

Deputy Catherine Connolly: Yes.

Dr. James Browne: I believe the discussion was as Gaeilge.

Deputy Catherine Connolly: Yes.

Dr. James Browne: It was also quite late in the evening.

Deputy Catherine Connolly: Yes.

Dr. James Browne: Let us be clear. It was after two and a half hours of, frankly, a very challenging session on this topic. What I said, and I am happy to repeat it in the sense that I believe it to be the case-----

Deputy Catherine Connolly: Yes.

Dr. James Browne: We were described as an exemplary bilingual campus. Let me be quite clear that I do not believe that either Galway city or the university is an exemplary bilingual environment. Let me please explain.

Deputy Catherine Connolly: Yes.

Dr. James Browne: Exemplary to me suggests that we have reached the highest standards - that we are an exemplar. I believe we are aspiring to be, and I am completely and personally committed to that aspiration. We have a sprioc, mar a deirtear as Gaeilge. We have a vision to be an exemplary bilingual campus. We are working towards it but I believe it would be a mistake, if I may say so-----

Deputy Catherine Connolly: Dr. Browne.

Dr. James Browne: May I finish, please? I believe it would be a mistake if I say so to pretend that right now Galway city is bilingual-----

Deputy Catherine Connolly: I just quoted what Dr. Browne said.

Dr. James Browne: -----or the university is an exemplar campus. It certainly aspires to be and nobody is more supportive of that than I am. Go raibh míle maith agat.

Deputy Catherine Connolly: Dr. Browne, sorry.

Dr. James Browne: Yes.

Deputy Catherine Connolly: I asked Dr. Browne a question on Tuesday and I am asking him again.

Dr. James Browne: Yes.

Deputy Catherine Connolly: I understood that Galway university was a bilingual campus and Dr. Browne clearly replied that no, that was an aspiration.

Dr. James Browne: I am sorry. I said it was not an exemplary bilingual campus.

Deputy Catherine Connolly: Yes.

Dr. James Browne: And that I believe to be the case.

Deputy Catherine Connolly: Listen.

Dr. James Browne: “Exemplary” to me suggests an exemplar, i.e. top. We have a long way to go to that.

Deputy Catherine Connolly: I shall ask my last question through the Chair. I do not have the word for exemplary in Irish.

Dr. James Browne: It is eiseamláireach.

Deputy Catherine Connolly: I know what eiseamláireach is. Go raibh míle maith agaibh. I did not use it. I did not have it in that context. Chuir mé ceist an raibh an ollscoil mar champas dhátheangach. Tháinig an finné isteach agus dúirt sé níl agus gur aspiration é.

Dr. James Browne: Dúirt mé go raibh mé cinnte go mba ceart go mbeadh an ollscoil dátheangach.

Deputy Catherine Connolly: Yes.

Dr. James Browne: Tá mé i ndáiríre faoin sprioc sin, ach is sprioc é.

Deputy Catherine Connolly: That was not my question. Dr. Browne said it was an aspiration.

Dr. James Browne: I said an exemplary bilingual campus was aspirational. There is quite a difference.

Deputy Catherine Connolly: I shall finish by quoting from the university's 2020 vision and language document. It reads: "We are committed through our Scéim Teanga to the development of an exemplary bilingual campus".

Dr. James Browne: Absolutely.

Deputy Catherine Connolly: The document continues "and to making an active offer of service through Irish". This is the second scéim teanga. Am I right to say that the document refers to the second scéim teanga?

Mr. Gearóid Ó Conluain: Yes.

Dr. James Browne: I believe the Deputy is right, yes. Note the notion that we are committed to "the development of".

Deputy Catherine Connolly: Dr. Browne, honestly. I shall ask my questions through the Chair. I referred to the second scéim teanga by the university. In the first scéim teanga the university committed to a bilingual campus. Does the Chairman think he can find out how much progress was made between that language scheme to this one that is now in place? Clearly, it is not an aspiration but an objective-----

Dr. James Browne: I wonder, Chair-----

Deputy Catherine Connolly: Under statute the university is obliged to bring in a language scheme. It is obliged to comply with the statute under the Official Languages Act. The policy document states that the university will have a bilingual campus.

Dr. James Browne: Maybe my colleague might answer.

Mr. Gearóid Ó Conluain: Chair, if I might just make a comment and, hopefully, it might add some light.

Deputy Catherine Connolly: Just answer, please. It would be helpful.

Mr. Gearóid Ó Conluain: We could get very fanciful in our semantics here.

Deputy Catherine Connolly: No.

Mr. Gearóid Ó Conluain: The reality is-----

Deputy Catherine Connolly: I asked a specific question. It is an objective in the language Act.

Mr. Gearóid Ó Conluain: Yes.

Deputy Catherine Connolly: The university has included the objective in its scheme.

Mr. Gearóid Ó Conluain: Yes.

Deputy Catherine Connolly: How much of the objective has been achieved? When will the university achieve the rest of it?

Mr. Gearóid Ó Conluain: Yes. I am seven years as chairman in Galway. I come from the north east in terms of past employments. I can assure the committee, by any objective standard, that NUI Galway does have a bilingual campus at the moment. In my opinion, it is exemplary.

Deputy Catherine Connolly: Has Mr. Ó Conluain said it does?

Mr. Gearóid Ó Conluain: Excuse me. Can I just finish, please?

Deputy Catherine Connolly: Did Mr. Ó Conluain say it does?

Mr. Gearóid Ó Conluain: Yes.

Deputy Catherine Connolly: I will allow Mr. Ó Conluain to finish. Did Mr. Ó Conluain say the university has a bilingual campus?

Mr. Gearóid Ó Conluain: The aim of the university to have a bilingual campus, which is creditable and which is exemplary, is both a current reality and a continuing aspiration. The two can survive in the same context.

Deputy Catherine Connolly: We are on the top of a pin. Go raibh míle maith agaibh.

Chairman: I call Deputy McDonald, finally.

Deputy Mary Lou McDonald: Sprioc eile atá i gceist agamsa. The language thing is very important for children who are educated through Irish.

Dr. James Browne: Absolutely, yes.

Deputy Mary Lou McDonald: I want to ask without reopening the whole gender issue. Can the delegation map out its staff, academic and otherwise, at all levels? Can we have the figures of where mná na hÉireann feature in sprioc na hOllscoile at the moment?

Dr. James Browne: Absolutely, yes.

Chairman: Please bear with me for 20 seconds. On behalf of the Committee of Public Accounts I thank all of our witnesses from NUIG, the HEA, the Department of Education and Skills and the Office of the Comptroller and Auditor General.

Before we go I want the assistance of Members for a moment because I want to clarify a

piece of committee business. Members are all familiar with the situation where our parliamentary assistants or secretarial assistants can have access to documents on our behalf. I have put in a request for a researcher. As he is technically a researcher upstairs I am told I have to get approval from the committee to allow him to get the documents. Is that agreed? Agreed.

The witnesses withdrew.

The committee adjourned at 4.50 p.m. until 9 a.m. on Thursday, 13 April 2017.