

DÁIL ÉIREANN

AN COISTE UM CHUNTAIS PHOIBLÍ

COMMITTEE OF PUBLIC ACCOUNTS

Déardaoin, 22 Meitheamh 2017

Thursday, 22 June 2017

The Committee met at 9 a.m.

MEMBERS PRESENT:

Deputy Bobby Aylward,	Deputy Alan Kelly,
Deputy Peter Burke,	Deputy Marc MacSharry,
Deputy Catherine Connolly,	Deputy Mary Lou McDonald,
Deputy David Cullinane,	Deputy Catherine Murphy,
Deputy Alan Farrell,	Deputy Noel Rock.

DEPUTY SEAN FLEMING IN THE CHAIR.

BUSINESS OF COMMITTEE

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

Business of Committee

Chairman: We are joined today by the Comptroller and Auditor General, Mr. Seamus McCarthy, as a permanent witness to the committee. He is joined by the deputy director of audit, Mr. Shane Carton. The minutes of the meetings of 14 June and 15 June 2017 have been circulated. Are they agreed? Agreed.

With regard to matters arising, we will come to everything relevant in the course of the meeting today. We will move straight on to No. 3, which is correspondence received. There are three categories of correspondence. Some will relate to the meeting we had with the Garda Commissioner on Tuesday because they have not been noted. They arrived since our last public meeting but we did not note correspondence.

The first item is the opening statement from Ms Nóirín O'Sullivan for the meeting on 19 June. We note that because that meeting was held on Tuesday. The next item is opening statement for today's meeting from Professor Brian Norton. We note that. The next item is the opening statement for today's meeting from Professor Desmond Fitzgerald, president of University of Limerick. We note that and it will be published with the other opening statement. There is an opening statement for today's meeting from Dr. Brendan J. Murphy, president of Cork Institute of Technology. We note and will publish that.

Next is category B correspondence from Accounting Officers and Ministers and follow-up to previous meetings. Correspondence dated 14 June from Cork Institute of Technology is as follows: a briefing document as presented to the Committee of Public Accounts on 10 December 2015 which outlines the background and details of the KPMG report. We can raise that with its representatives when they are here shortly. There are also relevant extracts from Committee of Public Accounts opening statements by the Comptroller and Auditor General, Department of Education and Skills and Higher Education Authority. We also attach the full copy of the transcript of the Committee of Public Accounts hearing on Cork Institute of Technology, which was held on 10 Dec 2015. Members have it by way of background information. We note all that.

No. 603B is correspondence from the chairman of the Office of Public Works regarding a 2013 request to provide office accommodation for Caranua with instructions from the Department that Caranua would meet the appropriate rental costs. Do we have that letter on screen? Does anyone want to comment on it? It is No. 603B. What is the conclusion of that letter, towards the end of it? Do members want time to consider it? We will come back to it next week. We will hold it over until next week.

No. 607B is correspondence from the Comptroller and Auditor General dated 19 June.

Deputy Catherine Connolly: On the previous letter about the rent, at all stages this committee asked for no rent to be paid. I reiterate that publicly. We are putting it on hold to look at it next week.

Chairman: Absolutely. We will come back to it next week. We have done No. 603B regarding Caranua.

No. 607B, (i) to (iv), is correspondence from the Comptroller and Auditor General on the

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Committee's examination of the Garda Síochána Templemore issue, including a briefing note on the accounting officer's obligations, which is dated 7 July 2015, from Michael Culhane. It has been referred to and discussed. We note and will publish it.

No. 608B is email correspondence from Cyril Dunne, former chief administrative officer, An Garda Síochána, with details of the membership of the two steering committees. It has been circulated and discussed publicly. We note it. We are really just catching up on correspondence we did not note publicly at the meeting on Tuesday.

No. 609B is correspondence from Niall Kelly, head of internal audit, An Garda Síochána, regarding the EU-funded programmes. It was discussed. We note and publish it.

No. 611B is correspondence dated 19 June 2017 from An Garda Síochána with details of compliance to Standards in Public Office, SIPO, declarations. We note and publish that. It has already been discussed.

No. 612B is correspondence dated 19 June 2017 from the Commissioner of An Garda Síochána on the draft audit report on EU-funded programmes. It was discussed on Tuesday and we note and publish the document. We are only doing it as a formality at this stage.

No. 613B is correspondence dated 19 June 2017 from the Deputy Commissioner of An Garda Síochána clarifying the advice referred to at the meeting on 14 June 2017 was advice received from the then chief administrative officer, Mr. Cyril Dunne, and not Mr. Ken Ruane, the head of legal affairs. Also included are communications from the head of legal affairs with the Department of Justice and Equality. That was discussed and we note and publish it.

Item No. 615B is a copy of correspondence dated 12 June 2017 from the executive director, human resources and people development, An Garda Síochána to the Commissioner of An Garda Síochána. We noted and discussed it before and we will publish it now.

Deputy David Cullinane: Who is that from?

Chairman: It is a copy of correspondence dated 12 June 2017 from the executive director, human resources and people development, Mr. John Barrett.

Deputy David Cullinane: May I make one comment on that?

Chairman: Yes.

Deputy David Cullinane: We only received this letter on the day of the hearing. It was a very important letter and we probably did not get enough chance to properly go through it with the Commissioner because we only got it. I note that for the Cathaoirleach. We have completed our work in terms of our hearings and we will move to a report. This was Mr. Barrett, who is head of human resources, asking the Commissioner to correct the record of the Committee of Public Accounts. When the questions were put, she said there was no need to correct the record of the Committee of Public Accounts. It shows the clear contradiction between his understanding of what happened in meetings and her understanding of what happened at the meeting. It is quite serious for the head of human resources to be alerting this committee to information he says the Commissioner had in respect of previous briefings she was given before she said she was briefed but also the nature of the meeting that he was present at. He is writing to her and giving us a letter to say in his view she should correct the record. She disputes that. I think we should note that she disputed the content of the letter.

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Chairman: We will call it up. We will write to the Commissioner for a response specifically to that letter.

Deputy David Cullinane: We should get a formal response from her.

Chairman: We will ask for that for next Wednesday.

Deputy Catherine Connolly: I took note of the letter when it was too late, in the confusion.

Chairman: I will make one remark about the letter.

Deputy David Cullinane: I know it is only his view and people are entitled to different views.

Chairman: It is not just his view. We will just go down through it. I want to draw attention to the second paragraph, in fairness to Mr. Barrett. I am reading the paragraph that starts, "In the course of the meeting I referred extensively". The last sentence is, "On 30th June, 2015 and again in early July I had been advised that Mr. Cyril Dunne had brought these matters of critical concern, which I had been raising, to your personal attention". He is saying he was advised. He does not say who advised him. I read it carefully. That letter is an element of hearsay. He is saying he was advised by somebody. He does not tell us who advised him and that something was brought to somebody else's attention. It is not a statement of fact but we will ask for a written response.

Deputy David Cullinane: We also need clarity because probably more important is the last line. This is the meeting where there was a dispute as to how long the meeting went on. It says, "In addition, time was spent discussing Mr. Ruane's suggestion that all key external stakeholders (the Minister for Justice and Equality, the Comptroller and Auditor General, the Secretary General of the Department of Justice and Equality) should immediately be notified before advancing the work of the steering committee further". We need to hear from Mr. Ruane, if we can write to him. Is it his understanding? Did he state at that meeting that all of those stakeholders should be immediately notified? We know that did not happen. It goes to the heart of the matter. The head of legal made clear in his view who should and should not be notified and when. The word "immediately" is clear.

Chairman: We will write to both and ask for a written reply by next Wednesday. It should be a straightforward point.

Deputy Catherine Connolly: I do not wish to add to the burden, but if he is saying that he understood, he should be asked to clarify.

Chairman: He has to tell us-----

Deputy Catherine Connolly: We need to write to Mr. Barrett and ask him to clarify.

Deputy David Cullinane: Yes.

Chairman: We need to write back to him.

Deputy Catherine Connolly: There are a number of letters now.

Chairman: To clarify, we are asking Mr. Barrett-----

Deputy Catherine Connolly: Whether he understands that-----

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Chairman: He writes-----

Deputy Catherine Connolly: “I have been advised that”.

Chairman: We want him to tell us who advised him specifically.

Deputy Catherine Connolly: He says that he had been advised that critical matters had been brought to the Commissioner’s attention. He needs to clarify who advised him.

Chairman: We need to know that because we do not know about whom he is writing.

Deputy David Cullinane: The Commissioner acknowledged that she had a conversation with Mr. Dunne, but only a general conversation with Mr. Barrett.

Chairman: We will let the Commissioner, Mr. Ruane and Mr. Barrett respond to the points that the committee is making.

Now that we are in public session, it is probably useful to clarify for viewers. Our proposal is that, next Thursday, the committee will meet in private session to discuss a preliminary draft of our report on the progress to date on the Templemore issue. We will finalise it in due course. At 11 a.m. next Tuesday, we will have a meeting in private session to commence our work on the draft report on third level institutions. There will be no public meeting next week, only two private ones to discuss draft reports.

Next is No. 589C, correspondence from the Waterford Intellectual Disability Association. It refers to the HSE’s attendance at the meeting of 15 June and provides an update regarding the Deloitte review of the cost of care for Grace. I propose that we note this correspondence and forward it to the commission of investigation. Is that agreed? Agreed.

Next is-----

Deputy Catherine Murphy: Regarding the Deloitte report, could we keep a firm eye on getting that by the end of this month?

Chairman: We will note that and then forward it.

Deputy Catherine Connolly: It was confirmed to the committee that it would be available by the end of the month.

Chairman: We have been hearing that for a while.

Next is No. 590C, email correspondence dated 15 June from an individual regarding inquiries made with the Department of Education and Skills about the employment status of teachers. I propose that we write to the Department to copy us on the response being prepared for the individual. Is that agreed? Agreed.

Next is No. 591C, correspondence dated 15 June from an individual bringing members’ attention to issues with insurance claims and compensation. We have not been asked to do anything specifically, but we must note it in detail.

Next is No. 592C, correspondence dated 15 June from Deputy Murphy suggesting topics for the meeting with the Dublin Institute of Technology, including the outsourcing and funding of courses and the digital library. Does the Deputy wish to comment or will we deal with it during the course of today’s meeting?

Deputy Catherine Murphy: I will deal with it later.

Chairman: We will note and publish that correspondence.

Next are Nos. 593C(i) and (ii), correspondence dated 15 June from NAMA enclosing its response to a request from the committee to address queries raised by Deputy Wallace regarding the sale of Project Shift to Cerberus. According to the correspondence, NAMA expects the proposed commission of investigation to consider that Project Shift falls within its terms of reference and, on that basis, NAMA is of the opinion that it would be prudent not to comment further on these matters. The correspondence states that NAMA will co-operate fully with the work of the commission and, in the course of that work, expects to provide the commission with materials relating to Project Shift and to address fully any question the commission may have about the project.

For the benefit of viewers, Project Shift was originally a part of the Northern Ireland Project Eagle loan portfolio, but it was sold off separately during the course of the transaction, also to Cerberus. We will send this correspondence-----

Deputy Catherine Connolly: “Project Shift” might be an appropriate title for the whole project of NAMA.

Chairman: That is a good name. Is the Deputy saying “Shifty”?

Deputy Catherine Connolly: No, I did not say “Shifty”. “Project Shift” for the whole lot. Shifting stuff.

Chairman: NAMA has been shifting it well. Nearly all of it has been shifted.

Deputy Catherine Murphy: Is that definitely included as part of the inquiry?

Chairman: It was categorically a part of the Northern Ireland loan portfolio. As a matter of courtesy, we will forward all of this correspondence to the commission. We will send to it anything that we receive about matters under its remit because we do not want to hold anything back that it might consider relevant down the road. We will also forward a copy of this to Deputy Wallace.

Next are Nos. 594C(i) and (ii), correspondence dated 13 June from the HSE regarding the National Ambulance Service and procurement processes in the north Leinster area. This correspondence relates to a protected disclosure to the HSE made on 11 May 2017 that detailed concerns regarding the purchase of ambulance fleet cars in Leinster. The matter is being investigated, so I propose that we request the HSE to update the committee when its investigation is completed. We will put down a marker to ensure that the matter reverts to us at that stage.

Next is No. 595C, email correspondence from an individual requesting the committee to check the accounts of the National Roads Authority, NRA, and the moneys for tolls being collected by it. In August 2015, the NRA and the Railway Procurement Agency were merged to become Transport Infrastructure Ireland, TII, which is responsible for monitoring and managing existing toll arrangements. I propose that we write to TII and request it to provide a response to the matters referred to in the correspondence. Is that agreed? Agreed.

Next are Nos. 596C(i) and (ii), correspondence dated 13 June from the chairman of the OPW regarding Cork city’s lower Lee flood relief scheme. This information was requested by the committee following an inquiry from an individual about flooding in Cork city. I propose

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that we write to the individual who raised the matter and enclose the OPW's response. Is that agreed? Agreed.

Next is No. 597C, a copy of the letter to the new artistic director of the Abbey Theatre dated 10 June from an individual alleging that the Abbey Theatre censored a play about corruption. We have only received a cc copy, as the letter was not directed to us. We have nothing to do on this matter, only to note the correspondence.

Deputy Catherine Murphy: May I revert to the correspondence on the flooding in Cork?

Chairman: Yes.

Deputy Catherine Murphy: A large scheme has been proposed by the OPW, but a serious campaign by a range of civil society groups that disagree with it is also under way. Is the OPW's response likely to address the issue?

Chairman: We can hold the correspondence for next week's meeting.

Deputy Catherine Murphy: If the Chairman would, please.

Chairman: We will hold it over so that members can have an opportunity to consider it in advance of the next meeting. We will not conclude the matter.

Next is No. 598C, correspondence dated 15 June from an individual regarding the Cavan and Monaghan Education and Training Board. There is insufficient detail in the correspondence for the committee to take any action. All we can do is note it. Is that agreed? Agreed.

Next is No. 599C, correspondence dated 9 June from the Department of Finance attaching a copy of the 2016 annual report and financial statements of the Strategic Banking Corporation of Ireland. We note that.

Next is 600C, correspondence dated 24 May from an individual regarding the transfer of salary arrangements from the Department of Social Protection to PeoplePoint, that is, the HR shared services centre for the Civil Service. This is a policy matter not within the remit of the committee, so I propose that we refer it to the Department of Public Expenditure and Reform for a response. When we get a response, we will consider the matter further.

Next is No. 601C, correspondence dated 9 June 2017 from an individual regarding the excavation of drains in Galway and making certain allegations against named persons. I propose that we write to the individual about directing any correspondence to the Local Government Audit Service, as the matter is outside the remit of this committee. Is that agreed? Agreed. It is a local authority issue.

Next are Nos. 602C(i) and (ii), correspondence dated 28 May enclosing communication with An Garda Síochána. The note is on members' screens. All that we are being asked to do is note the correspondence. Is that agreed? Agreed.

Next are Nos. 605C (i) and (ii), correspondence dated 16 June from the chairman of the Ireland East hospital group regarding receipt of protected disclosures in respect of to St. Vincent's University Hospital. The matter has been referred to the HSE internal audit division. I propose that we write to the HSE to be kept informed of the outcome of that. Members will see the acknowledgement on their screens. Is that agreed? Agreed.

BUSINESS OF COMMITTEE

Next is No. 606C, correspondence from Deputy Murphy dated 19 June regarding a contract for water cleaning chemicals due to be signed on 23 June by Irish Water.

Deputy Catherine Murphy: I received a complaint that there was no competition to find a supplier. I replied that it amounted to a monopoly in the provision of one particular product. Is that appropriate for us or is there another relevant body? I do not suppose the Comptroller and Auditor General audits the-----

Mr. Seamus McCarthy: It is not within my remit.

Deputy Catherine Murphy: Under whose remit does it fall?

Chairman: I will outline what we are going to do. We are going to write to Irish Water directly because, even though it is ostensibly a commercial semi-State organisation, it is substantially funded by the taxpayer through the Vote of the relevant Department and through motor taxation receipts. Since it is substantially publicly funded, we have an interest in it. Therefore, we will write directly to Irish Water.

Deputy Catherine Murphy: Is there an anomaly regarding Irish Water? It was originally set up to be a utility.

Chairman: It would be responsible to the line committee in the Oireachtas rather than this committee. Irish Water and the regulator are answerable to the Oireachtas line committee, as opposed to us directly. Considering the Deputy's letter and the fact that Irish Water is publicly funded, we will write to it. We could refer the matter to the other committee but, because it is publicly funded, we could write to it directly, even though it does not-----

Deputy Marc MacSharry: Is the line Department not the Department with responsibility for the environment and local government?

Mr. Seamus McCarthy: It is the Department of Housing, Planning and Local Government.

Chairman: No. The communications regulator is over Irish Water. His role covers Irish Water and energy. It comes under energy.

Deputy Marc MacSharry: What Department does the money come from?

Chairman: It was the Department of Housing, Planning and Local Government.

Deputy Marc MacSharry: The audit committee that was established and that can examine local authorities-----

Chairman: This is not about local authorities.

Deputy Marc MacSharry: I know that.

Mr. Seamus McCarthy: It does not have a remit for Irish Water.

Deputy Marc MacSharry: There is an amendment to a Bill that should be considered.

Chairman: There are several amendments to that Bill. Will we agree to write directly to Irish Water and ask it for a note on its procurement process?

Deputy Catherine Murphy: We could also write to establish what Department funds Irish Water.

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Chairman: That is very simple. We just do not know the answer off the top of our heads. It can be established very quickly. I will send a note to members tomorrow on which Department is the line Department. I am a little confused because the regulator over Irish Water is under one Department but the funding comes from the other Department. Two Departments actually have responsibility. There is also the motor taxation revenue aspect.

Deputy Catherine Murphy: Irish Water is different from all the other public bodies this committee could consider.

Deputy Mary Lou McDonald: Very different.

Deputy Catherine Murphy: It is very different.

Chairman: It is a bit like CIE. It gets a public subvention. It receives funds from a line Department and the Vote of that Department comes under our remit. As with CIE, Irish Water gets a subvention from-----

Deputy Catherine Connolly: Has the Comptroller and Auditor General no wisdom for us?

Mr. Seamus McCarthy: The Chairman is right that a substantial part of the funding for Irish Water comes from the local government fund. That is within the committee's remit.

Chairman: It is reportable to the line committee but, because of the public funding aspect, I believe we have a direct line there as well. The motor tax receipts go through the local government fund.

Mr. Seamus McCarthy: Yes.

Chairman: And the Comptroller and Auditor General audits those.

Mr. Seamus McCarthy: Yes.

Chairman: Our committee considers that funding. That aspect of its funding comes under the remit of the Committee of Public Accounts. That is why we can write to Irish Water directly. We will confirm which Department covers the communications regulator. It would be useful for us to have a briefing note. Somebody in the Oireachtas might get it out to us.

The next item is 610C, correspondence dated 19 June 2017 from the secretary to the Houses of the Oireachtas Commission regarding an increase in staff resources to support the Committee of Public Accounts. The clerk has been in touch with the Office of the Ceann Comhairle and a meeting with the Ceann Comhairle is still an option. There is a note on additional staff. We are being informed as to what is being done. The offer of a meeting was not stated specifically in the letter but it is available. We will have that meeting as soon as is practicable.

Deputy Catherine Connolly: I would like to say on the public record that this is very important. The staff issue concerning this committee is very important. We said it in private and it is important to say it in public. Tremendous work is being done. There is a huge burden not only on us, as members, but also, and more importantly, on the staff. "Overwhelmed" is the wrong word because I believe the staff are coping, but it is a case of David and Goliath in terms of how we face institution after institution. We need the likes of "Prime Time" to help us. What was exposed on "Prime Time" indicates the difficulties we are experiencing in this committee. They are difficulties for us to work through but we need sufficient staff.

BUSINESS OF COMMITTEE

Chairman: I reiterate Deputy Connolly's point. The Committee of Public Accounts meets for a minimum of almost a full day every week. Some committees meet weekly and some meet once a fortnight. Since last summer, we have been meeting practically twice a week. Therefore, the workload of the Committee of Public Accounts is extraordinarily extensive. The staff allocated to us are stretched beyond all reasonable limits and we do need the additional support because of the workload. Since we are diligent in doing our work, we believe we need to have these extra meetings. It puts strain on us as members but it puts a double strain on the staff trying to support us. We do need the resources. It is for one reason only; it is in the interest of the public who elect us to ensure we do our job as members of the committee. That is the only reason we are here.

Deputy Mary Lou McDonald: I agree with Deputy Connolly. It is important that it be said on the public record that we are under-resourced as we speak. Not only do we have a very busy schedule, we also have a very diverse brief, unlike other committees, perhaps. Everybody is before us, which causes a challenge for us, as members, but also for the staff because we are covering virtually the entire gamut of public bodies, officials and so on. We need the meeting and we need to agree a day and a time for it. We just need additional resources. It is doing a huge disservice to the public to under-resource any committee, this one in particular.

Deputy Catherine Murphy: This committee is different from others in that it is constitutionally provided for. It has got to be viewed as different from that point of view.

Deputy Marc MacSharry: I wish to put my view on the public record. We did speak about this matter in private, as other Deputies have said. It is only this morning that I discovered the limited number of staff available to the secretariat by comparison with the number that were available to the banking inquiry. The amount of work they do on our behalf is phenomenal. As Deputy Connolly said, they are coping. There is the equivalent of a mini-banking inquiry going on here every week, if not from month to month. When one considers the various reports we are producing at the moment, one recalls that the banking inquiry had an entire floor in Agriculture House. It had 20 or 30 people at its disposal. In fact, there was an additional member of staff for each of the members of the banking inquiry. It is not that I am looking for that – I am not – but I am appalled, quite frankly, that the secretariat of the Committee of Public Accounts, the only constitutional committee of the State, is limited to six or seven staff. I was genuinely of the view, given the quality of the work coming our way and the research, that there was a team of 20 people behind the scenes. The clerk, the members of the secretariat themselves and the Chairman should put a plan together and ascertain our optimal number of staff in terms of research, secretarial and administrative functions. They should go to the Ceann Comhairle and Oireachtas Commission and make the case for them. The importance of the work is such that it demands that.

Chairman: That is agreed. We will try to have the meeting next Wednesday, possibly.

The next item of correspondence is from Deputy MacSharry asking whether we can request any and all communications between the Department of Justice and Equality and the director of finance and-----

Deputy Marc MacSharry: PricewaterhouseCoopers.

Chairman: -----PricewaterhouseCoopers, PwC, in respect of any attempt to secure charitable status for the Garda College. Does the Deputy want to comment?

Deputy Marc MacSharry: I do.

Chairman: Could the Deputy explain the role of PwC?

Deputy Marc MacSharry: The letter was provided to us at the meeting the other day. I knew there had been suggestions, somewhere in evidence, that the Garda College may have been seeking charitable status but I did not realise the magnitude of what this could mean. I asked whether there was any correspondence. There was not. During a break, the secretariat approached the CAO, who provided the correspondence, within which there was an email that mentioned this troubling muddying-the-waters commentary. Included in what was provided was a thread of email correspondence from PwC advising Mr. Culhane, and correspondence to Eugene Banks, who was in the Garda division of the Department of Justice and Equality. The Department was able to clarify the other day that he is still in the Department but in a different role. If we are finished in terms of having witnesses in for public hearings, I would like to have Mr. Banks in to put some questions to him. It would be reasonable for us to contact Mr. Banks to see what he might like to tell us or share with us in regard to this matter. In any event, we should look for the entire email thread the correspondence relates to, because there seems to be only one or two but they suggest many more. We should also look for any other correspondence that may exist between the director of finance and the Garda and Mr. Banks with regard to issues on taxation on the charitable status of Templemore, and any other correspondence with PwC on the same matter. That would be very useful for us so we can make a fair analysis of this issue before we write our report.

Chairman: To help us, what is the reference to PricewaterhouseCoopers?

Deputy Marc MacSharry: In the two or three pages given to us the other day there was an email thread which involved letters between Mr. Culhane, the finance director of the Garda and someone whom I assume to be a partner or senior person at PwC advising on various options that might be available. The PwC view was there was situation in the UK where there may be grounds for seeking charitable status. I imagine there would be much more to that particular correspondence that might put a more complete picture on it.

Chairman: We will write to both sides, namely, the Department of Justice and Equality directly and An Garda Síochána.

Deputy Marc MacSharry: That is my suggestion.

Chairman: And the request is the information is to be here by next Wednesday.

Deputy Marc MacSharry: Please.

Chairman: That is the request to An Garda Síochána. We need to communicate that we want all the information on everything requested during and arising from the four public meetings to date back here by next Wednesday. We will be discussing our draft report on Thursday and we want to have the full complement of documentation. We may have further points of clarification at that stage, but we want everything we have asked to be back by next Wednesday.

Deputy Catherine Connolly: I seek clarification, and perhaps the Comptroller and Auditor General can tell us. With regard to the Office of Public Works renting out buildings, has there been a change of policy or something we have missed with regard to a direction from the Government or any Government on the office of Public Works getting market rent for its premises? With regard to the buildings identified following the 2009 Ryan report, in 2002 cash and

property was to be handed over. The Comptroller and Auditor General has followed up on this. Deputy Cassells and I have raised concerns about buildings that were on the list but have not been handed over. I will take the specific example, to make it easy, of Lenaboy Castle, Taylor's Hill, Galway, which has not been handed up. Where can we follow up on this? This is 2017. It is down on the list that it was handed over in 2009. I have chosen one example in which I have a particular interest. In fairness to Deputy Cassells, he has raised the issue also. Where can I follow up? Who is following up on this?

Mr. Seamus McCarthy: The organisation to follow up with on the receipt of the property and accounting for the transfer of the property is the Department of Education and Skills. Properties are being handed over to a range of bodies, but it is the Department that should be co-ordinating it and who should be accounting for it.

With regard to the rent, my reading of the letter from the chairman of the OPW is there has been no change of policy. My understanding of what he has said is Caranua was accommodated for a period in accommodation that was assigned to the Department of Education and Skills, and because it was a Department the OPW was effectively paying the rent, and there is a rent payable for the property, but it was not passing on the charge to the Department of Education and Skills. It had a provision of funding for this, and when the lease came to an end the funding had run out and, therefore, it asked Caranua to pay the rent to it, which it had paid on to the landlord.

Deputy Catherine Connolly: A private landlord?

Mr. Seamus McCarthy: Yes. It was leased property.

Deputy Catherine Connolly: So where the Department of Education and Skills is, and where Caranua is still, is owned privately by a landlord-----

Mr. Seamus McCarthy: It is owned privately.

Deputy Catherine Connolly: -----and the Office of Public Works is the administrator.

Mr. Seamus McCarthy: Yes, effectively it does the negotiation with the landlord. It sources the accommodation. It is the lead tenant or principal tenant.

Deputy Catherine Connolly: It is acting like an auctioneer.

Mr. Seamus McCarthy: It is subletting.

Deputy Catherine Connolly: Okay. This has also happened with regard to Foras na Gaeilge and it has to move. My question is more general. The Office of Public Works owns buildings.

Mr. Seamus McCarthy: It owns some buildings and it leases a considerable number of buildings also.

Deputy Catherine Connolly: There has been no change in its policy regarding the buildings it owns that it must rent them at market rent.

Mr. Seamus McCarthy: There have been changes in the arrangements on whether charges are passed on. There have been some changes in this area-----

Deputy Catherine Connolly: And where-----

Mr. Seamus McCarthy: -----but I would need to check that and come back to the Deputy

Deputy Catherine Connolly: That is fine.

Chairman: We will come back to that correspondence.

Deputy Catherine Murphy: How the OPW's portfolio is managed is something that at some point we need to look at. I have experience with a piece of land that went into the OPW because the builder went bankrupt. I understand it is through the Minister for Finance that those types of land holdings or buildings end up in the OPW. Given the crash and all the rest of it there must be an increase in the number of buildings or amount of lands that the OPW acquired, and it would be quite important to look at it at some point.

Mr. Seamus McCarthy: There have been significant changes, such as leases that ran out and were not renewed and new properties taken on. It is something I am looking at and may produce a report on it. There has been turnover of the portfolio, particularly if there were break clauses in leases. If the OPW had been locked into an upward only rent review it might take the opportunity to avail of a break clause to end it, but obviously it needs to go into the market and acquire other property to accommodate Departments.

Chairman: Definitely after the summer recess we can put the OPW on our work programme for an early visit because there are very extensive issues that would be of interest to the committee under our remit. We will note it for early in the work programme for the next season, if we are all still here.

Next on the agenda are statements of accounts received since the previous meeting and the list is coming up on screen.

Mr. Seamus McCarthy: There is just one.

Chairman: It is the residential redress special account. Moneys from the special account are used to pay awards made by the residential institutional redress board and associated legal and application costs. For the year ended 2015 the account had a throughput of €10 million and there is a clear audit opinion. We note it. If any member wants to follow up on the account directly he or she is free to do so.

Mr. Seamus McCarthy: This is the 2015 account. That quantity of funding was comprehended in what I reported on previously.

Chairman: Very good. There being no business other than our public session, we will suspend for a moment while the witnesses take their seats.

Sitting suspended at 10.20 a.m. and resumed at 10.25 a.m.

University College Cork and University of Limerick: Financial Statements

Professor Patrick O'Shea (President, University College Cork) and **Professor Desmond Fitzgerald** (President, University of Limerick) *called and examined.*

Chairman: We are now back in public session. In the context of our examination of financial statements in the education sector, this meeting is a follow-up meeting relating to certain

matters. The meeting will be divided into two sessions. Session A will deal with matters relating to the University of Limerick, UL, and University College Cork, UCC. Session B will deal with matters relating to the Dublin Institute of Technology, DIT, and the financial statement of Cork Institute of Technology, CIT and certain matters relating to its 2014 and subsequent accounts. Representatives of the Higher Education Authority, HEA, and the Department of Education and Skills will be with us for both sessions. We are joined by Dr. Graham Love and Mr. Andrew Brownlee from the HEA and by Dr. Tony Gaynor and Ms Deirdre McDonald, principal officers, from the Department. The main witness for this session from UL is the president, Professor Desmond Fitzgerald. We are also joined by Dr. Richard Thorn who has been appointed to conduct an independent review of certain matters at the university. In fairness to Dr. Thorn, we do not want to cut across his independent work or in any way influence it. He is here as a courtesy to this committee and we thank him for being present. The committee will be making some remarks for Dr. Thorn to take on board but he is not answerable to the committee in respect of the work he is about to carry out in the time ahead. We are also joined by Professor Patrick O'Shea, president of UCC, Mr. Diarmuid Collins, bursar and chief financial officer, Mr. Cormac McSweeney, finance officer and Mr. Michael Farrell, corporate secretary.

I remind members, witnesses and those in the Visitors Gallery that all mobile phones must be switched off. It is not enough to switch them to airplane mode because they still interfere with the communications and recording system. 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 the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to so do, they are entitled thereafter only to qualified privilege in respect of their evidence. The witnesses are directed that only evidence connected with the subject matter of these proceedings is to be given and are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person or an entity 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 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 or objectives of such policies. They are also 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 Houses or an official, either by name or in such a way as to make him or her identifiable.

We will begin with a brief opening statement from Professor O'Shea of UCC.

Professor Patrick O'Shea: Tá an-áthas orm bheith ar ais arís anseo chun leanúint ar aghaidh leis an bplé a thosnaigh muid cúpla seachtain nó cúpla mí ó shin. Ar dtús, le cead, ba mhaith liom ráiteas a dhéanamh faoin gcomhpháirtíocht idir an ollscoil i gCorcaigh agus Foras Bainistíochta na hÉireann.

The Irish Management Institute, IMI, is Ireland's only executive education provider to be globally ranked by the *Financial Times* for customised executive education. It is ranked in 54th position globally, 25th in Europe and 9th in the whole of the UK and Ireland. The shared ambition of UCC and the IMI is to advance education by raising the standard of management in Ireland and by enabling organisations and individuals to fulfil their potential through world-class executive education. Partnering with UCC, the institute's future growth will be supported by research-led insight and expertise from within the university as well as the IMI's corporate membership community which together will continue to serve as the bedrock that connects the

IMI to the needs of Irish organisations.

Our joint ambition stretches beyond Ireland's shores. The IMI and the Cork University Business School will forge significant international alliances and relationships with global reach. This combined with the institute's global ranking offers a unique value proposition that can consistently deliver distinctive world-class executive education to Irish and international students. The acquisition of the IMI by UCC is a great investment for the university, the institute, our students and the people of Ireland. The relationship has evolved over eight years and in the period 2011 to 2016, it took the form of an alliance which was launched by the then Taoiseach, Deputy Enda Kenny, in 2011. During that period, the governing body of the university considered the possibility of a formal acquisition of the institute on several occasions. However, the body decided not to proceed until it was satisfied that the conditions deemed necessary for long-term success were fulfilled. In January 2015, the governing body, based on extensive information and due diligence, approved the acquisition of IMI, subject to a set of conditions to be met in advance of the completion of the transaction. These conditions related to the absence of pension liabilities, the general financial position of the institute, settlement of any outstanding cases and approval by the Competition Authority of the transaction. The acquisition was completed in November 2016 and is a complex and detailed arrangement which took several years to negotiate. Both organisations persisted over those years because they fully believed in the benefits for UCC, the IMI itself and for Ireland. We have outlined these benefits and other aspects in the papers that have been provided to the committee.

The value of the Irish Management Institute nationally and its significance to the business community has been recognised by the Government. At the launch of the alliance in 2011, the Taoiseach noted that the development was significant and welcome for its potential to greatly improve the capacity of Ireland's companies to compete internationally. Similarly, the Tánaiste, at the launch of the merger in January, emphasised the need for Ireland to have the capacity to develop the requisite calibre of business leaders to guarantee long-term economic success. The university shares these views and believes that this acquisition will be of real benefit to University College Cork, the Irish Management Institute and the State as a whole.

In summary, I would like to put the following on the record. No taxpayer or Exchequer funds of any kind were used by the university to acquire the Irish Management Institute. The acquisition is totally aligned with the university's strategic objectives and national priorities for lifelong learning. In my own career I have been associated with many universities, including the University of California, Duke University and the University of Maryland. All are institutions that operate to the highest standards of governance. In my short time at University College Cork, I can assure the committee that UCC also operates to those very high standards of governance and accountability and that this acquisition was fully compliant with those standards and with the Government's framework within which the university operates, and specifically with the powers of the university under the Universities Act 1997 and the powers vested in the governing body under that Act. The acquisition by University College Cork was fully disclosed to the Higher Education Authority in advance of the transaction close. The Higher Education Authority fully supported the transaction and recognised the benefits it would bring for students and business education in Ireland.

I wish to assure the members that University College Cork has not misled the committee with regard to the acquisition. Additional information was sought by the committee following our previous appearance in March. This was provided on 13 April and 9 May. We have also provided the committee today with supporting appendices and schedules. These will provide

additional reassurance on the transaction.

I am accompanied today by the bursar and chief financial officer, Mr. Diarmuid Collins, the corporate secretary, Mr. Michael Farrell, and the finance officer, Mr. Cormac McSweeney. My colleagues and I are happy to address any questions that the committee may have on the IMI transaction.

Chairman: We are also joined by Dr. Des Fitzgerald, the new President of the University of Limerick. He is especially welcome here today at his first appearance at the Committee of Public Accounts in his new role in the University of Limerick. He is attending on his own here today and we appreciate his attendance. I invite him to make a brief opening statement.

Professor Desmond Fitzgerald: I thank the Chairman. I will not read out the document I sent in but I will briefly say that I am here today to acknowledge that we have a responsibility as a public body to ensure that we spend money properly and transparently. I acknowledge that I now take responsibility for many of the issues that arose within the university before I took up the post. I will now outline some of the things we have done to address some of these issues.

Before I start I would just like to say that the University of Limerick is an outstanding institution with great staff and students. One of my keen objectives as we go through this process is to make sure that the reputation and credibility of the institution is preserved. Since taking office I have taken a number of measures to address some of the issues. Among the things that I am very keen to ensure we do properly is our duty of care to those staff members who have been caught up in the issues in question, particularly the whistleblowers who have currently either been put on paid leave or have left the institution.

The other thing I am keen to address is the issue of severance payments, particularly with regard to the information that has been given to this committee, to the Comptroller and Auditor General and to the Department of Education and Skills. I have to say at this early point that we are continuing to collect and analyse the information. I would say, however, that I think the severance agreements made were unacceptably high.

I will outline some of the things we have been doing since I took up office. As the committee is aware, one measure was to initially call for an independent review of the University of Limerick. Richard Thorn has been appointed to that role and we have given him every assistance that we can. Within the institution we have appointed Professor Mary O'Sullivan to provide direct liaison with Dr. Thorn. We have also been undergoing a review of the structure of the senior management team and there is currently an ongoing restructuring of that team, looking carefully at the finance department and at human resources in particular. The audit and risk committee also initiated an internal review of some of the matters raised both by RTE and by the PAC, particularly looking at conflicts of interest, the issue of people going out of the university to take degrees elsewhere, and the matter of the severance payments.

To conclude, I want to be clear that I am determined to take whatever action necessary once the review has been completed. I believe that this is on course for the end of September. As I mentioned earlier, I am particularly concerned with protecting the reputation of the institution. It has terrific support from its staff and students and from the community. They have worked hard in the past to ensure the establishment of a university for Limerick and for the mid-west region. It is very important for all of us that at the end of this process the university is put on a firm footing to further develop its academic programmes to provide education, training and research in the region.

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Chairman: I thank the witness. The first speaker indicated is Deputy Cullinane, who has 20 minutes. We are then into ten minute slots for the remaining speakers because we have two sessions to cover today. Some of the questions may be addressed to individual witnesses, some may be to all of the witnesses together. We just have to see how the session goes. Different members will have different priorities.

Deputy David Cullinane: Could the Chairman inform me when I am halfway through my allocated time? I want to split it equally between both institutions if I can. I would first like to ask Professors O'Shea and Fitzgerald if they saw the "RTE Investigates" programme that was aired after the last PAC hearing at which Professor O'Shea was present. Have they seen the programme or are they aware of its contents?

Professor Patrick O'Shea: I am aware of the contents but I have not seen it. I was at another event that evening.

Professor Desmond Fitzgerald: I saw the programme.

Deputy David Cullinane: Did Mr. Collins see the programme?

Mr. Diarmuid Collins: I did.

Deputy David Cullinane: In their view, were Mr. Collins and Professor O'Shea truthful in the answers that they gave at their last appearance before the Committee of Public Accounts? Does Professor O'Shea believe he was truthful?

Professor Patrick O'Shea: I believe I was.

Deputy David Cullinane: Does Mr. Collins believe he was truthful and factual in the information he gave?

Mr. Diarmuid Collins: Yes.

Deputy David Cullinane: Does Professor Fitzgerald believe the representatives of his organisation who were here were truthful?

Professor Desmond Fitzgerald: I think they were incomplete in the answers that they gave, particularly in reference to the severance agreements.

Deputy David Cullinane: Who specifically gave incomplete information when he or she was a witness before this committee?

Professor Desmond Fitzgerald: Our finance director.

Deputy David Cullinane: The finance director.

Professor Desmond Fitzgerald: But I understand that the record was corrected afterwards.

Deputy David Cullinane: Notwithstanding the record being corrected, Professor Fitzgerald is now the Accounting Officer, so if his finance director came before the Committee of Public Accounts and gave incomplete information what sanction was in place? What has Professor Fitzgerald done since then? What contact has he had with that individual?

Professor Desmond Fitzgerald: I met with the individual the following day and initiated an internal audit with the audit committee. I will not rush to judgment on what has happened

because given that there is concern about the information that has been provided to public bodies and given that we need to have complete clarity on what has been said and done within the institution I am determined to get the information - to get it independently - to review the information and then to take whatever appropriate steps are required.

Deputy David Cullinane: I thank Professor Fitzgerald. Could I just note as well, a Chathairíocht, that it was you who said, on the same programme that there was a severe lack of corporate governance shown by these governing bodies of these organisations and when they did come before us - which was a number of institutes – they did not tell the full truth. They were your words, Chairman. A number of allegations have been made by the programme as well that we did not get full information. That is what we need to examine here today with Professor O’Shea, Mr. Collins and Professor Fitzgerald. Professor Fitzgerald has at least acknowledged that incomplete information was given by representatives of his organisation and I thank him for that.

I will start with Professor O’Shea. In his opening statement he said no taxpayer or Exchequer funds of any kind were used by the university to acquire the IMI. Was any taxpayer money used or any funds from his organisation used to pay for or discharge borrowings, working capital or liabilities?

Professor Patrick O’Shea: I will let my colleague answer that.

Deputy David Cullinane: I ask Professor O’Shea to answer it first.

Professor Patrick O’Shea: My understanding is “No”. My colleague can give the Deputy details on that.

Mr. Diarmuid Collins: We supplied some supporting schedules and I hope they are available to the committee. Schedule 3, which is a transaction overview, sets out the transaction itself. It is included in the papers. It addresses in particular the points that the programme made and the points that we made at the last session here on 30 March. We purchased the IMI Sandyford campus, just over 13 acres. That was based on a professional valuation. The sum of €20 million was used. We advised the committee at the last meeting and subsequently in writing to follow up that it was funded via borrowings so again there was no public moneys involved. No Exchequer moneys were provided to UCC for us to acquire that asset.

The third bullet point is consistent with what we said previously, and there is supporting documentation in our papers under Schedule A confirming that. IMI, with that €20 million discharged two charges that were on that campus. The charges in effect were mortgages. The IMI had developed a residential aspect to its offering that had been supported and financed by AIB, so with an element of our €20 million proceeds with which we bought the campus the mortgage was released, discharged and paid back.

In 2012 – this is a key point – because when we looked to acquire the IMI previously the existence back then of a pension liability prevented us going ahead. We did not want to take on a pension liability of a private entity and we paused at that time. We continued with the alliance and revisited it when that was resolved. It was resolved in 2012. That is confirmed in the documentation attached in the accounts in the report we got from Mercer’s pension expertise and in our due diligence with PwC. That charge was also paid with the €20 million from UCC.

Deputy David Cullinane: In terms of the €20 million that was funded via borrowings, who borrowed the €20 million?

Mr. Diarmuid Collins: UCC borrowed €20 million.

Deputy David Cullinane: UCC is a taxpayer-funded organisation.

Mr. Diarmuid Collins: Over the years our funding sources have diversified. At this stage the majority of our income comes from non-Exchequer sources.

Deputy David Cullinane: I am not asking that. I will put this to Professor O'Shea as he is the Accounting Officer in his organisation. Is he telling me that his organisation borrowed €20 million to purchase the 13 acres?

Professor Patrick O'Shea: That is correct.

Deputy David Cullinane: Who then would underwrite those borrowings?

Mr. Diarmuid Collins: In terms of the borrowing framework – the model of borrowing that we work with in the borrowing framework model allows the university to borrow for organisations or entities that are themselves self-sustaining.

Deputy David Cullinane: With respect, I understand that. We have very limited time. My question is when an institute which is funded by the taxpayer borrows €20 million, who underwrites the borrowing?

Mr. Diarmuid Collins: The university.

Deputy David Cullinane: If there was a difficulty in repaying that it would be taxpayers who would have to fund it? Is that not correct?

Mr. Diarmuid Collins: Yes. We have acquired an asset.

Deputy David Cullinane: The taxpayer then underwrote borrowings for the purchase of IMI.

Mr. Diarmuid Collins: No, it was the university itself.

Deputy David Cullinane: The university is funded by taxpayers.

Mr. Diarmuid Collins: It is part funded by taxpayers at this stage. The bulk of our money-----

Deputy David Cullinane: In the main it is funded by taxpayers.

Mr. Diarmuid Collins: No, not in the main. In the main it is funded by non-taxpayers at this stage. That is the reality of the level of funding support we receive from the State today. It has dropped since 2008 to 2009 from approximately 70% to below 50% currently.

Deputy David Cullinane: Does the rest of money come from student contributions and so on?

Mr. Diarmuid Collins: The rest comes from students themselves, the research industry, international students, commercial income and so forth. The university underpins the borrowings. We leased the campus back. The asset was leased back to IMI, so now we in UCC have the asset and it is leased back to IMI. The lease payment, the income we get in UCC then goes to pay the borrowing that we have back to Ulster Bank. We bought the campus and leased it back and the lease payment from IMI into UCC, which is new income that we have never got

before, goes to service those borrowings.

For us, if we compare where we are now and where we were pre the acquisition, the university has an asset that is appreciating - 13 acres at a cost of €20 million. That is the reality. Other recent sales of assets adjacent to Sandyford show it is worth arguably more than that. So we have an asset that is appreciating. We have a business that provides executive communication that we did not have before, and we have a better ability to deliver on lifelong learning, which was one of the key objectives set out for the university in the Universities Act. Our ability to do that now, in particular in the business space, is far better enhanced.

Deputy David Cullinane: With respect to Mr. Collins, I do not think we need that level of information. I have enough on the matter at this point.

I will move on to questions to Dr. Love. Is it the case that the HEA instructed UCC to postpone the IMI takeover at some point?

Dr. Graham Love: There was, yes.

Deputy David Cullinane: Could Dr. Love explain why that instruction was given?

Dr. Graham Love: If I could summarise it very quickly, I will explain that in fact we had done the due diligence on this deal and approved it. If I could hold our hands up and say, we had not processed the paperwork sufficiently on time that weekend that was covered in the RTE documentary to effectively hand over and approve it. Our interim chief executive, Anne Looney, did so over the weekend with the then president of UCC, such that the paperwork was completed early that Monday morning. We were in a position to say the deal was good. We had not concluded the paperwork and we put our hands up on that front, but in fact we were satisfied the deal was okay.

Deputy David Cullinane: Was it just an administrative issue that arose rather than the actual liabilities?

Dr. Graham Love: That is correct.

Chairman: The ten minutes are up.

Deputy David Cullinane: I have one final question for Mr. Collins on the pension liabilities. Did he say UCC did not have any pension liabilities it would have to pay in respect of the IMI?

Mr. Diarmuid Collins: That is correct. Pension liabilities with the IMI were resolved in 2012 when the IMI entered into an arrangement with its pension trustees in 2012. The trustees took on future ongoing pension liabilities and in return the IMI gave them a charge.

Deputy David Cullinane: Are there any future pension liabilities for which UCC will incur a cost?

Mr. Diarmuid Collins: No. Future pension liabilities are now the responsibility of the IMI pension trustees.

Deputy David Cullinane: What about the €1.4 million pension for the former CEO, Barry Kenny? Who is liable for that? This was a brand new agreement which was built into the UCC deal as part of a High Court settlement. Is that correct?

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Mr. Michael Farrell: It was a settlement between the individual concerned and the IMI.

Deputy David Cullinane: Was it a brand new agreement?

Mr. Michael Farrell: It is a brand new agreement in the sense that it was a High Court settlement in 2016 but it is a continuation of an agreement put in place in 2004.

Deputy David Cullinane: Who is liable for that?

Mr. Michael Farrell: The IMI.

Deputy David Cullinane: UCC is not liable.

Mr. Michael Farrell: UCC is not liable.

Deputy David Cullinane: A UCC statement, possibly issued by Mr. O'Shea, in response to the "RTE Investigates" programme said that the PAC did not request any advance briefing on IMI and that, furthermore, it was impossible in the course of the ten minutes allocated to give full detail of a complex transaction. Who wrote that?

Professor Patrick O'Shea: That was written by us.

Deputy David Cullinane: Saying it was difficult to give full detail suggests that full detail was not given.

Mr. Michael Farrell: There was pressure to finalise the process on the weekend mentioned by the CEO of the HEA. A total of 40 documents were concluded on the Monday morning of 21 November when this was completed. That is the complexity to which we were referring and there was no advance notice. The control of the company was signed over from the members of the IMI to UCC, there was an asset purchase and a lot of legal documentation was negotiated over a two-year period. It was difficult to get across the complexity of that in the space of ten minutes. It does not mean anything inaccurate was said.

Mr. Cormac McSweeney: We are focusing on the 2013-14 accounts but my transaction only concluded in 2016. We did not anticipate it coming up on the day.

Deputy David Cullinane: Did the Comptroller and Auditor General see the "RTE Investigates" programme?

Mr. Seamus McCarthy: I did.

Deputy David Cullinane: Was he concerned about severance payments? They would have been disclosed to his office in the past but those of people being rehired to do consultancy work would not necessarily be disclosed. Was he aware of that?

Mr. Seamus McCarthy: No, I was not aware of that.

Deputy David Cullinane: What did the organisation make him aware of?

Mr. Seamus McCarthy: We produced a special report on severance payments, which was completed in December 2015 and was examined by the committee last year. One of the chapters deals with discretionary severance payments and we referred to two which subsequently came into the public domain, namely, the University of Limerick severance cases. We represented our understanding gained from the university on the nature of the severance payments.

We understood the information we had was complete.

Deputy David Cullinane: Was it complete?

Mr. Seamus McCarthy: We are pursuing further inquiries with the University of Limerick and I do not want to prejudge.

Deputy David Cullinane: Mr. McCarthy was certainly not given information-----

Mr. Seamus McCarthy: I certainly have concerns that it may not have been complete.

Deputy David Cullinane: Can Professor Fitzgerald respond to that?

Professor Desmond Fitzgerald: I am in the same position, in that I am collecting the information through the internal audit which is being performed by Deloitte. They are an external firm but our internal auditors. I am unhappy with the scale of the severances and, in particular, the fact that the consultancy arrangements were part of them.

Deputy David Cullinane: Given the responses of Mr. McCarthy and Professor Fitzgerald, we will have to come back to the issue. I accept that examinations are being carried out in the institute and in the Office of the Comptroller and Auditor General but these issues were raised and we wanted to deal with them today. If we are not in a position to do so, we will have to come back to them.

Mr. Fitzgerald will understand that there is a Government pay policy, codes of conduct and procurement rules which organisations have to live up to. Is he satisfied that those arrangements were followed by his organisation?

Professor Desmond Fitzgerald: I am not, but I am not in a position just yet to go into any detail on that. We are still collecting the information, both through the internal auditor and the external review. I do not want to rush to judgment but I would like to have the information so that I can decide on what happened and base any answer on that.

Deputy David Cullinane: My final question relates to the management of conflicts of interest, one of the issues we have raised generically for all the institutes. A number of examples have been brought to our attention, one of which relates to Mr. John Field. Who is Mr. John Field?

Professor Desmond Fitzgerald: He is the head of finance.

Deputy David Cullinane: This is the same individual with whom Professor Fitzgerald has to have a conversation after the "RTE Investigates" programme. Is he one of the people who would have signed off on a statement of compliance for procurement and other functions on behalf of the governing authority?

Professor Desmond Fitzgerald: He set up the procurement process in the institution and my understanding is that these procurements would not have come to the attention of the governing authority.

Deputy David Cullinane: Is Professor Fitzgerald aware of a company called Maverick Communications International Ltd?

Professor Desmond Fitzgerald: I am.

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Deputy David Cullinane: Is he aware that Mr. Field was a shareholder?

Professor Desmond Fitzgerald: I am aware of that.

Deputy David Cullinane: Is he aware that he failed to disclose that?

Professor Desmond Fitzgerald: I am aware of that.

Deputy David Cullinane: In light of that, and the fact that the company competed for tenders and sold more than €200,000 of business to the University of Limerick, what action has Professor Fitzgerald taken?

Professor Desmond Fitzgerald: I am looking at the issue of conflict of interest through the internal auditor.

Deputy David Cullinane: Is this also part of an examination?

Professor Desmond Fitzgerald: It is.

Deputy David Cullinane: Who is Mr. Tommy Foy?

Professor Desmond Fitzgerald: He is head of human resources.

Deputy David Cullinane: He is also a director.

Professor Desmond Fitzgerald: He is a director.

Deputy David Cullinane: He contacted a number of shops to get quotes for engraved Cross pens and watches for people who retired, at a cost of €69,800. Is that correct?

Professor Desmond Fitzgerald: Yes.

Deputy David Cullinane: There were a further €42,000 of customised silver medallions for retirees.

Professor Desmond Fitzgerald: That is correct.

Deputy David Cullinane: There was €110,000 worth of business to one shop. Is that correct?

Professor Desmond Fitzgerald: My understanding from the auditors is that it was €91,000.

Deputy David Cullinane: Who owns the shop in question?

Professor Desmond Fitzgerald: It is owned by one of the members of the governing authority, Mr. Tadhg Kearney.

Deputy David Cullinane: What is his role?

Professor Desmond Fitzgerald: He is a member of the governing authority.

Deputy David Cullinane: Did he declare any conflict of interest?

Professor Desmond Fitzgerald: He did not.

Deputy David Cullinane: Would you expect him to do so?

Professor Desmond Fitzgerald: I have looked at the policy relating to conflicts of interest in the governing authority and the approach has been that it is up to the individual to declare conflicts of interest. In my mind we need to have a good look at governance within the institution, such as the area of conflicts of interest. It is not about whether an individual thinks there is a conflict of interest but what a third party would think was one.

Deputy David Cullinane: This is a problem we will have to come back to. If Accounting Officers come in here and say it is up to the individuals involved, that does not cut it.

Professor Desmond Fitzgerald: That is not what I said. I said there is a review of governance, which has been initiated by the governing authority. This is one of the issues we will look at very carefully.

Deputy David Cullinane: I am asking Professor Fitzgerald now because he was aware of it. He is before the Committee of Public Accounts and is an Accounting Officer. Whatever his view, or that of the individual concerned, I believe there was a conflict of interest that should have been declared. Now that he has been made aware of it, what course of action has Professor Fitzgerald taken and what action will he take to examine whether conflicts of interest were properly dealt with in this instance?

Professor Desmond Fitzgerald: The governing authority has initiated a review of governance in the institution and that will include conflicts of interest.

Deputy David Cullinane: That is generic. I am talking specifically-----

Professor Desmond Fitzgerald: That would include a conflict of interest.

Deputy David Cullinane: -----in relation to this potential breach of conflict of interest, if there was a breach. What is the witness specifically going to do about that issue? I am not asking about a generic review of conflicts of interest. We are aware now of a specific issue.

Professor Desmond Fitzgerald: I am sorry. I thought I had answered the question earlier on-----

Deputy David Cullinane: The witness might answer it again for me.

Professor Desmond Fitzgerald: As part of the internal audit going on at the moment, there are three elements to it. As I mentioned earlier on, one of them is conflict of interest, particularly incidences that came up in the RTE programme.

Deputy David Cullinane: Would this be one of them?

Professor Desmond Fitzgerald: This is one of them.

Deputy David Cullinane: It is one of them. Okay. I thank the witness.

Chairman: The next speaker is Deputy Bobby Aylward.

Deputy Bobby Aylward: I welcome the witnesses back for the second time. The RTE programme has put a different light on the evidence that was given the last time when the questions were asked.

I am going to start with UCC. I will ask some of the questions that Deputy Cullinane asked already, but I have them made out in order so I am not going to change them. I am going to stick

to them. The PAC was told that the IMI was not in deficit. The financial statement for the IMI the year ending 31 December 2015 stated it was in a deficit to the tune of more than €900,000. Was UCC aware of the deadline and what way did this influence the sale price?

Mr. Diarmuid Collins: When we are assessing an acquisition, we are really looking at the balance sheet position, which is a position that the IMI has incurred since inception in 1953. At that stage, we assess how the balance impacts UCC and the future beyond that. In the 2015 accounts, the IMI had a deficit. In 2014, there was a surplus. In 2013, there was a surplus. Accounts for 2016 are not completed yet. The key point is that the price we paid for the campus asset, which is 13 acres of an asset, was based on our independent valuation that was prepared for us by Lisney. It valued the campus-----

Deputy Bobby Aylward: Is this charge to the campus now going forward?

Mr. Diarmuid Collins: We bought the campus. UCC bought the 13 acres. That cost €20 million. The price we paid was linked to the value of the campus at that point in time. In assets, the buildings were valued and we paid €20 million for those.

Deputy Bobby Aylward: How was this deal advantageous to UCC? I should have asked the two questions together. How was it advantageous in terms of property value in circumstances in which it was contractually obliged to use the full value of the campus plus the additional costs to release the charges in favour of the bank and the pension trustees? Those two questions should have been asked together in the beginning.

Mr. Diarmuid Collins: In appendix 1 of our document, we have set out a range of benefits for the transaction as we would see it for Ireland and for UCC. The key benefits for us in UCC are that we are developing and investing in a business school. UCC has not had an arm of executive education to date. It will have after the acquisition of IMI. We will now have an element of our offering that is executive. We will have undergraduate, postgraduate and executive education. That was a gap in our offering in business education. It allows us to meet one of the objectives of the Universities Act. It positions us better to take in international students. The Minister launched a document back at the beginning of the year targeting an increase of 25% in international students over the next three years. Having the IMI helps us better meet those targets. As I said, it will give us the offering of executive education. One of the key things for us is that the IMI, with its membership organisation, the level of members, council members-----

Deputy Bobby Aylward: I cannot let the witness go on too long. I have a lot of questions to ask. Long-winded answers-----

Mr. Diarmuid Collins: It is important. It allows us-----

Deputy Bobby Aylward: I have only ten minutes. I will be-----

Mr. Diarmuid Collins: Yes. Apologies. I have just one final point on that. It allows us to get insights into better and more curricula so that our students are better equipped in the future to meet the global needs going forward.

Deputy Bobby Aylward: The PAC was told the last day that UCC paid exactly €20 million for the IMI. The IMI needed €21.8 million. Therefore, there was a difference of €1.8 million. I have a breakdown here. There is €8.1 million to AIB, €13.3 million to set its contractual commitment to defined benefit of pensions, and €400,000 to pay the pension trustees. What specific campus upgrading works required €1.8 million in order to begin with work in autumn 2016?

Has work started, been tendered or agreed? If so, when did this happen? I will ask the three questions again. How was the €1.8 million figure for the campus upgrade arrived at and when was it agreed? How did the IMI have access to €1.8 million when UCC repeatedly told the PAC that it required money for working capital?

Mr. Diarmuid Collins: In the papers we have given the committee, there are appendices that set out the transaction pension issues and so forth. There are also some supporting documents. Included in those is document A5, which is a schedule of the planned capital investment refurbishment programme in the IMI. The €1.8 million will be spent on exterior works on the car park, lighting, access - I am not going to go through all of it - classroom upgrades, interior upgrades, WiFi upgrades that are needed, online learning platforms, ceiling tiles, bathrooms and roofing. The IMI has a planned programme of investment by which to spend that post-acquisition.

To go back to the point of how the IMI settled and discharged the two charges over the campus, as the Deputy mentioned, UCC paid €20 million. Therefore, the IMI had that €20 million. If we look at the IMI's 2015 accounts, the IMI itself had its own cash. As an entity, by the time the transaction was completed, the IMI had about €1.7 million to €1.8 million of its own cash itself. Between the IMI's own cash resources and the €20 million it got from UCC, it was able to discharge the two liabilities or charges - the AIB one the Deputy mentioned and the charge that was given to the pension trustees, as well as the €400,000 that was for professional fees. That did include an element of contingency and not all of it was needed in the end. The money we gave and the IMI's own cash resources were able to pay those monies. The investment is set out in document A5. It was also the intention and view of UCC, once we required the asset - remember that it is our asset as we bought it and are leasing it back - that it was probably a bit tired and needed investment. The IMI would not have had the resources to invest in it over the years. It was always our intention to refresh that asset. The planned investment is €2.5 million over two years, €1.8 million in year one-----

Deputy Bobby Aylward: I am coming to this question now.

Mr. Diarmuid Collins: Okay. Then the balance would be in year two-----

Mr. Cormac McSweeney: The IMI is now part of UCC so public procurement rules apply as well. We are just starting that process in terms of engagement.

Deputy Bobby Aylward: Will there be a cost to the taxpayer? Like the witness said, the money was borrowed to pay off the debt. UCC told the HEA that it was self-financing. This meant that it did not have to go through the approval process set out in the borrowing framework. How much of these lease payments will the IMI pay to UCC each year? On what basis were these lease payments calculated? Are they on commercial terms? How will the IMI afford lease payments of at least €1.7 million a year, and up to €2.7 million depending on the allowances they are egging on for, given that its largest ever operating profit was less than €1 million? It had a combined operating loss over the last decade of €10 million. That is interesting. It would not service its existing loan or pay its settlements to the pension fund. What contingency has UCC in place to repay the loan if the IMI is not able to generate the consistent profit necessary? Has the UCC agreed to subsidise or pay the IMI for any services or contribution towards this cost as part of its ongoing activities? They are important questions. I ask that they be answered.

Mr. Diarmuid Collins: Okay. I will try to address those now. As part of our assessment

of the IMI, we would have undertaken a full due diligence assessment of that. We looked at the IMI and lifted the bonnet on its performance, as such. I am not saying that those issues did not concern us, but we were addressing them to ensure they would not come back to bite us post-acquisition. So our-----

Deputy Bobby Aylward: What guarantee does UCC have of that?

Mr. Diarmuid Collins: We have an independent assessment looking at the IMI. At this stage, one of the key risk mitigation aspects of a governing board decision was to acquire the asset of IMI. I am not saying that we were taking a punt. We totally believe in the IMI and that it will be a success. It is on an upward trend. When it resolved its pension liability back in 2012, for the IMI, that was really the path to sustainability. It no longer had that liability on its balance sheet. It was on an upward trajectory since then, back growing revenues and back in profits. The market for executive education is predicted to grow by €20 million to €25 million and the IMI has the greatest market share. The key assurance-----

Deputy Bobby Aylward: For the last ten years, the figures did not lie. The figures are there for the last ten years for the IMI. There was the €10 million. Those figures do not lie.

Mr. Diarmuid Collins: It was for the governing body. Our assessment was to assure the governing body and UCC that the investment would pay off and, were it not to pay off, that we have some fallback. With the purchase of the 13 acre campus, UCC now owns an asset that is appreciating. We know from further down the road that sites such as one in Donnybrook recently sold for some €107 million for an asset half the size. Our site was €20 million and is an asset that is appreciating. Were there to be some hiccup along the road in the future a part sale of a piece of that campus could be sold or further leased on to recover any investment or downside that we could make. This asset gives us, in our view, a real mitigation of any risk going forward.

Deputy Bobby Aylward: Could I ask how there is no risk for the taxpayer in general when we are looking at a pension debt of €21.8 million, plus transfers, from the balance sheet of a private limited company to the balance sheet of a university?

Mr Diarmuid Collins: The loan to AIB was paid off. IMI's loan is gone from its balance sheet. The loan or charge of the pensions' trustees was also paid off. When we consolidate IMI, it is now debt-free. It does not have a loan. It has its operating position without a loan. Instead, UCC has borrowings. We borrowed to buy that campus.

Deputy Bobby Aylward: Has UCC taken over that debt?

Mr. Diarmuid Collins: We have our own loan but it is serviced. The repayment we must make on that loan is serviced by income we get from IMI into us. This is new income from leasing the campus back to it. We have a payment going out to the bank that we make, but in turn we get income from IMI to make that payment via the lease.

Deputy Bobby Aylward: Does it cover all costs?

Mr. Diarmuid Collins: It covers the lease and accreditation charges. We accredit IMI's programmes and we charge them for that. It covers the lease payment back to the bank. This is on commercial terms.

Chairman: Time please Deputy, we agreed to ten-minute slots.

Deputy Bobby Aylward: Can I ask the representatives from the Higher Education Authority, HEA, if they are happy with this arrangement?

Dr. Graham Love: Yes.

Deputy Bobby Aylward: Is the HEA happy that everything is above board?

Dr. Graham Love: We did due diligence of it and approved it with regard to section 8 of the Universities Act etc. that weekend in November.

Deputy Bobby Aylward: Will the Chairman let me know how much time I have left?

Chairman: One minute.

Deputy Bobby Aylward: I want to ask a question of the representatives from University of Limerick. At our last committee meeting I asked a question and I was not satisfied with the answer I got. Two professors were sent on a sabbatical - I think it was to Australia, I do not have the details in front of me - and it cost a lot of money. I asked a question about this. I was told that they went to do a degree course or something. It was extravagant money. Two people were released from their jobs in the university and sent to Australia, which was paid for by the University of Limerick. I thought this was the strangest arrangement I ever saw and with the costs involved, I thought it was jobs for the boys or money for the boys. Is it a normal arrangement in universities to send off two people, to pay for their costs, to cover all the costs and give them funding to get further education, in Australia of all places? There was not much further one could have sent them. Is that normal practice and is this still ongoing practice at the University of Limerick? Incidentally, the RTE programme did not take that too lightly when they showed that.

Professor Desmond Fitzgerald: There two different issues there. The first issue is that on RTE they spoke about two people who were sent on externally delivered, continuing education programmes.

Deputy Bobby Aylward: Nice words.

Professor Desmond Fitzgerald: The second issue, which was brought up by the Deputy at the meeting, was on academic staff who take sabbaticals. This is quite common in the system throughout the world, not just within Ireland. People periodically go on sabbatical. It means they leave their posts to go and work in another institution or research in education. It would be expected that they would bring back new skills to their universities.

Deputy Bobby Aylward: I have no problem with the sabbatical. I am talking about the payment to send the two people abroad. I am sorry that I do not have the figures. I had them in front of me at the last meeting but not today. I was more than surprised when I saw the costs of this. Would it be normal practice and would it be good governance by the university to send people abroad in this way? Experience and further education would be gained and they would bring it back but is this normal practice? Should those people not go on their own if they want to further their education? Should they not go under their own power and not have the university and the taxpayers of the State subsidising it? I find it strange.

Chairman: Time please Deputy.

Professor Desmond Fitzgerald: Normally, the cost would be defrayed by the university through one mechanism or another.

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Deputy Bobby Aylward: Is the provision available to every professor and teacher in the university to take a sabbatical and that the university will cover their costs for 12 months, for whatever course they want to go on and their costs be covered by the university? Is it open to everyone in the university?

Professor Desmond Fitzgerald: It is open to all academic staff and it is normal practice, not just in the University of Limerick, and not just in Ireland but throughout the world.

Deputy Bobby Aylward: Does Professor Fitzgerald believe this to be good governance?

Professor Desmond Fitzgerald: I think it is important that the academic staff would renew their expertise from time to time. The reason the sabbatical system is in place is to make sure they do re-skill from time to time.

Deputy Bobby Aylward: Does the university have to get personnel in to replace these people while they are gone?

Professor Desmond Fitzgerald: I am sorry?

Deputy Bobby Aylward: Does the university have to get personnel in to replace these people while they are gone on the 12-month sabbatical?

Professor Desmond Fitzgerald: No. Normally it is organised within the department between the other staff. In some cases some staff will be brought in to cover the sabbatical. I do not have the details of the dates that the Deputy-----

Deputy Bobby Aylward: At more cost to the university?

Professor Desmond Fitzgerald: It is a cost to the university but it is of value to the university to have people going on sabbatical and bringing back their skills. I would defend that as a really important aspect of educational institutes.

Deputy Bobby Aylward: Is the HEA happy that this is good practice?

Chairman: The witness will please address the questioner through the Chairman.

Dr. Graham Love: Yes. It is international practice. In order for universities to keep their staff skills upgraded, this practice of sabbaticals is used often and we support it.

Deputy Bobby Aylward: The full cost?

Dr. Graham Love: As the president has said, in some cases the costs are shared among existing staff and sometimes additional staff are brought in to backfill the positions. For students to get the best teaching and the best research it is essential that the staff would take sabbaticals and, for example, when they go to Australia they would perhaps acquire a new technique in a given scientific discipline, form new networks or learn new-----

Deputy Bobby Aylward: I am not questioning that, I am querying the payment for it and the costs associated with it.

Chairman: There is a cost, but there is a value as well.

Deputy Mary Lou McDonald: Go raibh maith agat. Cuirim fáilte roimh na finnétithe uilig. At the outset I believe the use of sabbaticals is essential. I thought I would say the good stuff

before I get stuck in to the more difficult pieces.

I want to talk with Professor Fitzgerald and Dr. Thorn. I thank them for their attendance and I also welcome Professor O'Shea and the other representatives. I am not going to get through everything in ten minutes so I am assuming I will have an opportunity to come in again.

I congratulate Professor Fitzgerald and wish him luck in his role. I wish him well. I want to clear up one issue on Mr. Tadhg Kearney. He has a jeweller's shop in Limerick city, which is fairly well known. Is Mr. Kearney still on the governing authority?

Professor Desmond Fitzgerald: He is.

Deputy Mary Lou McDonald: Mr. Tommy Foy organised the purchase of Cross pens, Bulova watches - I presume they are fancy watches, I have no idea but it sounds impressive - and medallions. Not meat, rather commemorative medallions. There has been a debate here around conflicts of interest, the stating of conflicts of interests and the policy thereon. Is Professor Fitzgerald asking the committee to believe that Tommy Foy and others on the governing authority did not know that Mr. Kearney operated a jeweller's shop in the middle of Limerick city?

Professor Desmond Fitzgerald: No, they did know he had a jeweller's in Limerick city.

Deputy Mary Lou McDonald: They did not know?

Professor Desmond Fitzgerald: They did know but it is my understanding that the members of the governing authority were not involved in the decision.

Deputy Mary Lou McDonald: Okay. I want to make this point, if I might be so bold; the university has taken a battering-----

Professor Desmond Fitzgerald: It has.

Deputy Mary Lou McDonald: -----and its reputation is critically compromised. The institute stands accused of bullying, of marginalisation, of victimisation, of malpractice and of misleading this committee. Professor Fitzgerald stated that his colleague, Mr. Field, gave incomplete evidence. That is not what he did. Mr. Field deliberately misled the committee. I am in a position to say this because, as it happens, I was the person who put the question in respect of severance to him. I do not feel that he was incomplete in the response he gave to me. I believe that he misled me and, more importantly, misled the committee.

Not alone that, we also know that Mr. Foy, to whom I have already referred, misled the Department. We know, courtesy of RTE Investigates, that HR director Tommy Foy, in respect of excessive severance payments, spoke of two individuals who I have no option but to name. They have been named publicly - Mr. Fox and Mr. Coughlan. He spun a yarn to the Department saying that these additional moneys were good value, based on legal advice and to avoid a potential dismissal. He told them a story about conflicts and relationships breaking down, which both of these individuals categorically refute. It is pretty serious, is it not?

Professor Desmond Fitzgerald: Should I answer at this point?

Deputy Mary Lou McDonald: Please do.

Professor Desmond Fitzgerald: I am not minimising all the things that have happened and the seriousness of it. As I said earlier, the Deputy is correct. I am very concerned about the

damage it is doing to the reputation of the institution.

I am determined to get all of the information. I am not rushing to judgment at present. I did say that the information that has been provided was, “at best”, is what I said, incomplete. I am particularly concerned about what information was given to the HSE, the Comptroller and Auditor General and the Committee of Public Accounts. I certainly would not-----

Deputy Mary Lou McDonald: Okay. I appreciate all of that concern but time is limited.

Professor Desmond Fitzgerald: I would not endorse that these organisations would be misled.

Deputy Mary Lou McDonald: Has Mr. Foy been disciplined for any of these matters?

Professor Desmond Fitzgerald: No one has been disciplined. As I said, what we are doing at the moment-----

Deputy Mary Lou McDonald: Why not?

Professor Desmond Fitzgerald: Because we are collecting the information through the internal audit and the external review. I can say, right now, I will have no hesitation in taking action once we have had a proper analysis of the information and once I have had the opportunity to make a judgment as to what actually happened.

Deputy Mary Lou McDonald: “University of Limerick whistleblowers reach two years under suspension”, is the headline of an article dated 12 June 2017, written by Ms Anne Sheridan and appearing in the *Limerick Leader*. Just to let the Chairman know, he is quoted in this matter. It strikes me that there is a world of a difference in the experience of the two whistleblowers, the two women who came forward and whose evidence is actually very upsetting. It was seen on RTE. I am sure Professor Fitzgerald saw it. I have no reason to believe that he was anything but moved by what they had to say. They are suspended. Their lives have been turned topsy-turvy, their reputations traduced, their health impinged upon, because of this experience, for coming forward in good faith, and yet the HR director, Tommy Foy, who misled the Department, is still *in situ*.

Professor Desmond Fitzgerald: Should I respond? I do not endorse what happened to the two individuals and I would certainly not have treated them or any other member of staff in that way.

Deputy Mary Lou McDonald: Okay, we will take that as read. What about Mr. Foy?

Professor Desmond Fitzgerald: The same applies to Mr. Foy. Due process will be followed. The information will be collected.

Deputy Mary Lou McDonald: Has the fact that he misled the Department been put to Mr. Foy? Is there an official procedure under way? This, obviously, is a disciplinary matter, is it not?

Professor Desmond Fitzgerald: Depending on what information we collect through the internal audit, then at that point the issue will be addressed with Mr. Foy.

Deputy Mary Lou McDonald: The RTE programme was aired. This and other matters have been aired in the public domain. Professor Fitzgerald is in charge. He has a duty of

care for the staff, the students and the reputation and standing of the institutions. Is Professor Fitzgerald seriously telling me that Mr. Foy toddled into work the following day or the following week and nobody pulled him and asked, “Tommy, what is going on?”

Professor Desmond Fitzgerald: I have sat down-----

Deputy Mary Lou McDonald: Is Professor Fitzgerald trying to tell me that it has taken this length of time to find the paperwork concerned with this specific incident of where the Department was misled?

Professor Desmond Fitzgerald: I have talked to Mr. Foy. He feels that he has not done anything wrong and so what I am doing at the moment is collecting the information. It is an extensive history. It is going back some years. As I have said earlier, I have just started in the institution. My goal at the moment is to collect the information and make sure that we have-----

Deputy Mary Lou McDonald: Maybe the Department of Education and Skills can help Professor Fitzgerald. Can the Department briefly confirm the report that was carried on RTE that the Department was misled in respect of these individuals?

Mr. Tony Gaynor: We have communicated with UL on three occasions since the Committee of Public Accounts meeting of 30 March because the information that emerged at that meeting was at variance with information that had been supplied to the Department by UL.

Chairman: Would Mr. Gaynor say that slowly so that everybody picks it up?

Mr. Tony Gaynor: The Department contacted UL after the Committee of Public Accounts meeting on 30 March because information that was supplied at that meeting by UL conflicted with information that was previously supplied to the Department.

Chairman: By UL?

Mr. Tony Gaynor: Yes.

Deputy Mary Lou McDonald: Can we have copies of that correspondence?

Mr. Tony Gaynor: I am sure we can make that available.

Deputy Mary Lou McDonald: That would be helpful. I do not know whether it is possible to do it in the course of this morning.

I have made the point. I am most unhappy with that. It is not that I want Mr. Foy’s rights to be trampled upon. I accept he is as entitled to due process as anybody else but I am shocked, and the contrast could not be more stark. These women are two years into their suspension.

Chairman: Time.

Deputy Mary Lou McDonald: The other matter of-----

Professor Desmond Fitzgerald: What has happened to the two is terrible. They did not receive a duty of care. I would not use that as a way of-----

Deputy Mary Lou McDonald: Can I, just for the record, make it clear that I am not proposing that we use the treatment of those whistleblowers as any kind of benchmark to be visited on anyone else? That is entirely not my point. Professor Fitzgerald knows the point I

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am making. When staff, particularly in very senior positions, are found - it is not a question of a mistake or messing up - to have deliberately misled anybody, but particularly a Department, I would have thought there are consequences for them, that there are procedures to deal with that and one is not left weeks or months on an audit where it gets consumed into some kind of paper trail. I have made that point.

Not alone that, the Comptroller and Auditor General was misled, or is that too strong a word, Mr. McCarthy?

Mr. Seamus McCarthy: We did not have complete information. I do not want to arrive at any conclusion before I complete a process.

Deputy Mary Lou McDonald: Okay. I understand, in Mr. McCarthy's position, it would be so. For the Comptroller and Auditor General to state that the office did not have complete information is, in and of itself, a very significant statement. Is Mr. McCarthy in a position to tell us who, either by name or position, left him with the incomplete information?

Mr. Seamus McCarthy: I would prefer not to say at the moment. There were a number of communications. I want to check all of it and I do not want to particularise one individual.

Deputy Mary Lou McDonald: Fair enough. Let me make this point. Suffice to say the Comptroller and Auditor General was not communicating with somebody who had just come in on a lowly lecturing teaching post.

Mr. Seamus McCarthy: No, no. Absolutely not. This was at a senior level.

Deputy Mary Lou McDonald: The Comptroller and Auditor General is in communication with the trusted senior levels of management in the college-----

Mr. Seamus McCarthy: The senior level, absolutely.

Deputy Mary Lou McDonald: -----who left him with incomplete information.

Mr. Seamus McCarthy: That is correct.

Chairman: We have to move on. We are on time.

Deputy Mary Lou McDonald: How this is all shaping up is that the committee was misled, deceived or whatever, as was the Department. The Comptroller and Auditor General was left with incomplete information. That is quite something. That is truly something. I will come back in later. I have more questions for Professor Fitzgerald.

Chairman: I will call Deputy Connolly. I am sure Dr. Thorn is taking full note of what is being said here. He will look at the transcript. As Chairman of the committee, it is an extraordinarily disturbing situation, which the Committee of Public Account will have to deal with it in its own way, that information provided by a third level institution, the University of Limerick, is contradicted by information the same institution provided to the Department of Education and Skills. The Comptroller and Auditor General has also stated that he has not received complete information on these issues either. It is a wholly unsatisfactory response from the University of Limerick. Professor Fitzgerald is inheriting quite a situation. We hope to assist him in any way we can in our strong recommendations when we come to publish our report in the coming weeks.

Deputy Catherine Connolly: I thank the Chairman. He might tell me when I have five minutes left. I am indicating that I would like to come back in. I have a number of questions, so I would like to put my name down to return to the discussion. First, cuirim céad míle fáilte roimh na finnéithe go léir. Deirim i gcónaí gur iontach an áis a bheith anseo agus ceisteanna a chur. Tá díomá orm maidir leis na freagraí, go háirithe maidir leis an chruinniú deireanach. I welcome all the witnesses. I will not waste any more time on niceties, but I will certainly be polite. I welcome Professor Fitzgerald and his detailed statement. It is the first time we have had someone before the committee who has given a detailed statement of what he or she has found and what he or she is going to do. Perhaps it is because he is new. If he does what he has said, it will perhaps be a turning point for the third level institutions. I will wait and see, but I certainly welcome the seven pages and what he has identified. With regard to the University of Limerick, UL, although feelings do not really have a place at this committee, on a human level, what was Professor Fitzgerald's feeling when he watched the RTE programme?

Professor Desmond Fitzgerald: What was my reaction to it?

Deputy Catherine Connolly: Yes.

Professor Desmond Fitzgerald: As I have said before-----

Deputy Catherine Connolly: Was he appalled?

Professor Desmond Fitzgerald: The accusations and allegations were appalling. Yes.

Deputy Catherine Connolly: Was he shocked?

Professor Desmond Fitzgerald: I was shocked and surprised.

Deputy Catherine Connolly: Did he have any idea that it was so bad before he took up his position?

Professor Desmond Fitzgerald: No, I did not. I should say that even though all this has come out since I took up the offer, I have great enthusiasm for the institution. That has not diminished at all.

Deputy Catherine Connolly: I understand that. Professor Fitzgerald has spoken about preserving reputation. I believe that reputation is earned, just like respect is earned. I welcome without hesitation what Professor Fitzgerald has said, but preserving the reputation of the university is immaterial to me at the moment given what has been highlighted. I have had the privilege of going to university. I regard it as a privilege. It is very important for Limerick and the area, but reputation is earned and it is earned by a university that is open and accountable with money which primarily comes from the taxpayer. I see Professor O'Shea nodding. I am worried and very concerned about the general comment that this is not public money. We have been through this with An Garda Síochána. The universities get substantial public moneys. They are co-mingled with other moneys which, it seems, are separate from the student foundations and trusts, which are not open and accountable. We will be coming back to trusts and foundations that are not consolidated with accounts. Generally speaking, the presidents, who all happen to be male, feel that these should not be subjected to public scrutiny at this committee and that the charities are the appropriate thing. I will come back to that. What strikes me, and it has already been said by one or two of my colleagues, is the matter of whistleblowers, what they have gone through and what has been said about them. One of them, who featured on the television programme, said that she just cried and cried, knowing it was a whitewash.

The contrast is stark, is it not?

Professor Desmond Fitzgerald: As I said, I do not think the way they have been treated and left on suspension for the past few years is acceptable.

Deputy Catherine Connolly: We are left struggling to ask questions. The wonderful, and I say this publicly, Comptroller and Auditor General and all his staff are also struggling. RTE is also trying to help uncover these matters. Would Professor Fitzgerald agree this should not have to happen and that we would not need this tortuous process and “RTE Investigates” to highlight problems if an institution were functioning properly?

Professor Desmond Fitzgerald: I do not think that is the way things should be dealt with.

Deputy Catherine Connolly: What is the governing body and the governing authority of UL doing?

Professor Desmond Fitzgerald: The governing authority was unaware of much of this, which raises a question of its own. It has been quite shocked by what it has heard. It has instigated a number of actions, such as the internal review of the institution. It has also had the internal auditors look at some of the specific issues which have been raised. I do not believe for a moment that the governing authority is, as it were, sitting on its hands about this. It is being very proactive in trying to understand what happened. We are very early in the review process. One of the things we are looking at, and at which I know Dr. Thorn is looking, is what the governing authority knew and what decisions it made, dating back to 2006.

Deputy Catherine Connolly: That was what I was going to come back to in this regard. I certainly would not agree that the governing authority is not sitting on its hands. Two of the members identified in the programme are on the governing body. Is that not correct? Two members, Mr. Kearney and Mr. Foy, are on it.

Professor Desmond Fitzgerald: Three people were identified in the programme. Mr. Foy and Mr. Rockett have stepped aside from the governing authority while this process is ongoing.

Deputy Catherine Connolly: I am glad to hear they have stepped aside, but my question was whether they are on the governing body, or were until they stepped aside. Was it two or three of them?

Professor Desmond Fitzgerald: They are on the governing authority, that is correct.

Deputy Catherine Connolly: It was just two.

Professor Desmond Fitzgerald: It was those two. Mr. Kearney was also mentioned in the RTE programme and he is on the governing authority.

Deputy Catherine Connolly: How many people who are on the governing authority were mentioned in the programme?

Professor Desmond Fitzgerald: In the larger programme and other things that have arisen, there were four people mentioned who are on the governing authority.

Deputy Catherine Connolly: Four people on the authority were mentioned in the programme.

Professor Desmond Fitzgerald: That is correct.

Deputy Catherine Connolly: Their names were mentioned publicly.

Professor Desmond Fitzgerald: They were mentioned publicly.

Deputy Catherine Connolly: Will Professor Fitzgerald mention them please? I do not normally mention names but I want to get my head around this. In any event, the names are in the public domain because they have been mentioned on RTE.

Professor Desmond Fitzgerald: I hope I get these correct: Mr. Bobby O'Connor, Mr. John Field, Mr. Tadhg Kearney and Dr. Pat Rockett.

Deputy Catherine Connolly: Mr. Field is on the governing body as well, is he?

Dr. Richard Thorn: Mr. Field is on the governing authority, yes.

Deputy Catherine Connolly: What is the overall complement of the governing body?

Professor Desmond Fitzgerald: It comprises 32 people.

Deputy Catherine Connolly: Of those 32 people, four were mentioned on the programme and Professor Fitzgerald is saying the governing body was not aware of any of this.

Professor Desmond Fitzgerald: I was saying that in respect of the formal minutes at which I have looked. Decisions on procurement and employment issues would have been made outside of the governing authority. The authority was aware of the case of persons B and C, because that matter was brought to it by the president from time to time throughout the year, until the time the previous president left.

Deputy Catherine Connolly: I will leave that matter and come to Dr. Thorn and Mr. Love. Is Dr. Thorn happy with the terms of reference? I know they have been given to him. Is that not correct? His report is to be completed by September, is it not?

Dr. Richard Thorn: I am happy with the terms of reference. They give me the latitude to investigate the things I believe to be important and see what patterns there are. The report is due at the end of September, yes.

Deputy Catherine Connolly: Will Dr. Thorn be covering the governing body in that report?

Dr. Richard Thorn: Yes.

Deputy Catherine Connolly: In respect of-----

Chairman: Seven of the Deputy's minutes have passed.

Deputy Catherine Connolly: The Chairman was to tell me when five were gone.

Chairman: I know.

Deputy Catherine Connolly: I will have to come back to Mr. Love. I am going over to the University College Cork. Cuirim fáilte rompu. Is iontach an Ghaeilge a chloisteáil. To return to the Irish Management Institute, IMI, I believe Mr. Collins spoke about the seven minute limit on radio or television. We do not restrict witnesses to seven minutes; we are restricted to seven minutes. That is the first thing. There is a little imbalance here, and it is against members of the committee. The time available to members to ask questions is restricted, whereas witnesses'

time is not restricted, subject to the Chair's ruling.

Let me get my head around this. The Irish Management Institute was in trouble for a long time and could not meet its debts for a number of reasons. I could say bad management was the reason but we will leave that for the moment. Is it correct that the IMI overextended itself in residential property?

Mr. Diarmuid Collins: I will take the Deputy through it.

Deputy Catherine Connolly: No, I do not want Mr. Collins to take me through it. I have two minutes and I want answers.

Mr. Diarmuid Collins: The IMI had pressures during the recession.

Deputy Catherine Connolly: Did it overextend itself in residential property?

Mr. Diarmuid Collins: No.

Deputy Catherine Connolly: Did it get involved in the residential sector?

Mr. Diarmuid Collins: It did develop a 55-bed residential arm to its campus. That was an arm for it to sell overnight programmes or programmes beyond one day. It has that facility there. However, that would not have been a key factor in the pressures it might have been under back during the-----

Deputy Catherine Connolly: It did not overextend itself on residential property outside of that.

Mr. Diarmuid Collins: No.

Deputy Catherine Connolly: The IMI was in financial trouble and the bank was about to foreclose on it. Is that not correct?

Mr. Diarmuid Collins: No, that is not correct.

Deputy Catherine Connolly: It was said on the previous occasion that the IMI was in trouble with a loan and had a time limit.

Mr. Diarmuid Collins: No, it had----

Deputy Catherine Connolly: I will leave that question for a moment. Mr. Collins answered "No" and I will come back to that answer.

The IMI was in trouble in any event and we also have University College Cork. Let me get this clear because I looked over Deputy Cullinane's very careful questioning. The entity known as the Irish Management Institute had nothing to do with University College Cork except that it had been working in collaboration with UCC over the years providing joint courses and accreditation. UCC made a decision to acquire or take over the IMI and did so at no cost. Is that correct?

Mr. Diarmuid Collins: The IMI company cost nothing.

Deputy Catherine Connolly: I asked a very clear question. Is it correct that UCC took over the IMI at no cost?

Mr. Diarmuid Collins: Yes.

Deputy Catherine Connolly: Did all of the board members of the IMI retire, resign or move aside?

Mr. Michael Farrell: The majority of them did.

Deputy Catherine Connolly: Who remained on the board?

Mr. Diarmuid Collins: I will have a look.

Deputy Catherine Connolly: The witness can revert to me on that when I contribute for a second time. When UCC took over the IMI at no cost, it took over everything. Is that right?

Mr. Diarmuid Collins: That is correct.

Deputy Catherine Connolly: UCC also took over the IMI's liabilities at that point.

Mr. Diarmuid Collins: Yes, one takes the company assets and liabilities.

Deputy Catherine Connolly: UCC took over the IMI as it stood, as a company.

Mr. Diarmuid Collins: As a company.

Deputy Catherine Connolly: For nothing.

Mr. Diarmuid Collins: Yes.

Deputy Catherine Connolly: University College Cork now owns the IMI, which is a subsidiary of UCC. The witness will come back to me with information on what directors remained on the IMI board. UCC then purchased 13 acres of land from its own subsidiary-----

Mr. Diarmuid Collins: Correct.

Deputy Catherine Connolly: -----and paid its own subsidiary €20 million. Is that right?

Mr. Diarmuid Collins: That is correct.

Deputy Catherine Connolly: The subsidiary is in a position to deal with the legacy pension, although different terminology is used. The liability that arose as a result of doing away with the pension legacy became a charge on the land. It is now clear that UCC took over the IMI at no cost and then paid the IMI, its own company, €20 million for 13 acres of land. The company, which is owned by UCC, could then pay off the loan or charge, which is clearly to do with the pension liability. Is that right?

Mr. Diarmuid Collins: There were two-----

Deputy Catherine Connolly: No, please, I heard it all and my question is whether one charge was to do with the pension liability.

Mr. Diarmuid Collins: It was a mortgage. It had to pay it back.

Deputy Catherine Connolly: It was to do with the pension liability.

Mr. Diarmuid Collins: If one were to strip it all back, as the Deputy is doing, the pension trustees owned an element of the campus so we bought the campus and they got paid as a result

of that.

Deputy Catherine Connolly: No, the IMI did a deal with the trustees back in 2012 and as a result of doing that deal, there was a charge on the property. That charge arose directly from the pension liability.

Mr. Diarmuid Collins: That is correct.

Deputy Catherine Connolly: Therefore, UCC took on a company that it says had no pension liability when it actually did have a pension liability. Mr. Collins just used different language for this. It was a charge in relation to having no future liability on it. There is no problem if Mr. Collins disagrees with me. That is that issue. A separate loan was also discharged.

Mr. Diarmuid Collins: There are two loans.

Deputy Catherine Connolly: Both were discharged from the €20 million. Is that right?

Mr. Diarmuid Collins: Yes. To explain quickly - I will not delay the Deputy - Appendix 4 in the documents sets it out. If the Deputy goes to schedule B, which is the important schedule, she will see B.2, the Mercer assessment.

Deputy Catherine Connolly: Yes, I have read all that.

Mr. Diarmuid Collins: The Deputy can see B.2.

Deputy Catherine Connolly: I have read it all.

Mr. Diarmuid Collins: The point is that this is Mercer expert pension advisers confirming to UCC the defined benefit obligation has been removed so there is no longer an FRS 17 pension liability.

Deputy Catherine Connolly: That is on the basis of a charge on the property.

Mr. Diarmuid Collins: Yes, but the liability was €43 million. That is removed and there is a charge in place on the property.

Deputy Catherine Connolly: What was the charge for?

Mr. Diarmuid Collins: The charge was linked to the valuation of the property, less debt. In the end, the charge - given the amount we paid - was €13 million.

Deputy Catherine Connolly: A sum of €13 million was paid over for that charge.

Mr. Diarmuid Collins: It was paid over for the release of that charge. So, €43 million of a pension liability was removed and in turn the charge was settled in 2013.

Deputy Catherine Connolly: We will come back to the witness. He might note the imbalance of power so that when he goes away and says he is under pressure for time, he certainly is not. Members are happy to stay here all day to allow the witnesses to give proper answers. It is we who are restricted.

Chairman: I call Deputy Alan Kelly.

Deputy Alan Kelly: If Deputy Connolly wants to tease out that issue, she can have a minute of my time.

Deputy Catherine Connolly: No, I will comply with the rules in order that we all know where we stand.

Chairman: We are now in ten-minute slots and there will be second slots, if required.

Deputy Alan Kelly: I will restrict my questions to UCC and I would appreciate if the president would answer them. If he needs to confer with any of his colleagues, he should please do so. I forgot my UCC pen today but I will probably get another one.

Deputy Mary Lou McDonald: Deputy Kelly cannot accept a gift from a witness. He would have to declare it to SIPO.

Deputy Alan Kelly: Where did the governing body of UCC meet last week?

Mr. Michael Farrell: In the IMI conference centre.

Deputy Alan Kelly: How many people were at the meeting?

Mr. Michael Farrell: I do not remember off the top of my head. My colleague, the secretary-----

Deputy Alan Kelly: How much did it cost?

Mr. Michael Farrell: I do not have an exact figure yet.

Deputy Alan Kelly: I presume the majority of the members had to travel from Cork.

Mr. Michael Farrell: A fair majority of them did, yes.

Deputy Alan Kelly: Why was a board meeting held in Dublin?

Mr. Michael Farrell: We were requested by the governing body to organise the meeting in the IMI because it has been dealing with the transaction over the last number of years and at no stage had its members visited the campus or seen the facilities.

Deputy Alan Kelly: Mr. Farrell might come back to us on the breakdown of the costs. While I respect the fact that the President of UCC, Professor O'Shea, is not long in the door, unfortunately the buck stops with him.

Professor Patrick O'Shea: I understand.

Deputy Alan Kelly: What was the motivation behind spending such a large amount on the IMI? I listened to the earlier questioning and I will try not to overlap with it. Everyone knew the IMI was a basket case in the sense that it was in serious trouble financially. What competition did UCC have in buying the IMI? If it was such a good acquisition, who else was UCC competing with to buy it?

Professor Patrick O'Shea: As has been said earlier, the IMI encountered some difficulties during the downturn but had returned to profitability. In addition, prior to the acquisition it had made extensive efforts to reduce its cost basis, the cost of doing-----

Deputy Alan Kelly: I am not being rude but as Deputy Connolly stated, we are caught for time. I ask Professor O'Shea to answer the question, please.

Professor Patrick O'Shea: My colleagues can give the Deputy details.

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Deputy Alan Kelly: I want Professor O'Shea to give me the details.

Professor Patrick O'Shea: On the transaction?

Deputy Alan Kelly: No, I asked a specific question and I ask Professor O'Shea to answer it, please.

Professor Patrick O'Shea: Could the Deputy repeat the question?

Deputy Alan Kelly: If it saves time, the witnesses should take notes when I ask questions as I do not have time to repeat myself. I asked who UCC was in competition with to buy the IMI? Was it in competition with anyone?

Professor Patrick O'Shea: My understanding is there were other institutions interested but that is not information that I am-----

Deputy Alan Kelly: There were other institutions. What types of institutions? Were any of the Dublin universities trying to buy the IMI? That is what I am trying to find out given that the IMI is on their doorstep.

Professor Patrick O'Shea: We do not know specifically and I would not like to mislead.

Deputy Alan Kelly: I am just asking a general question. Were third level institutions in Dublin trying to buy the IMI given that it is on their doorstep?

Professor Patrick O'Shea: It is quite possible, yes, that other institutions were in discussions.

Deputy Alan Kelly: I am not asking Professor O'Shea to name them but surely he would know if UCC was in competition with institutions in Dublin. It is a "Yes" or "No" answer. It is not a big deal but I would like to know the answer.

Mr. Michael Farrell: It is a private company. If it was not forwarding or supplying the information to us, then how would we know?

Deputy Alan Kelly: I understand. The knowledge that there are multiple bidders on a house will have an impact on the amount one is willing to pay. If nobody else was bidding on the IMI, surely that would have impacted on the bid of €21 million put forward?

Mr. Michael Farrell: If there were multiple bidders on a house, how would one know who the other bidders were?

Deputy Alan Kelly: I did not ask that. I do not know if there is a failure on my side or on Mr. Farrell's but I did not ask him to name anyone. I asked him to verify if he thought there were other third level institutions in the Dublin area bidding against his organisation for the IMI? It is a "Yes" or "No" answer. If it is "No", fine. Just tell us one way or the other.

Mr. Michael Farrell: We understood there were but if we have no idea who they were.

Deputy Alan Kelly: I did not ask Mr. Farrell who they were but he understood there were other bidders. I asked him a very simple question so there is no point in one casting one's eyes to heaven. The alternative would have been to invest €21 million in the business school in Cork. I take an interest in UCC because I am a double graduate from there, I met my wife there and I made lots of friends there.

Deputy Catherine Connolly: God help them.

Deputy Alan Kelly: Thanks.

Deputy Catherine Connolly: I am joking.

Deputy Alan Kelly: I got it. I was alarmed when the Forfás report some years ago claimed that the business school in UCC was the worst in the country, effectively, and that is why I am breaking it down. In terms of putting €21 million into the IMI, which is a basket case, or spending the money on building up the business school in Cork, why was the decision made not to put it into Cork?

Mr. Diarmuid Collins: I might comment on that.

Deputy Alan Kelly: I specifically ask the president of UCC to answer my question.

Professor Patrick O'Shea: For UCC, the acquisition of the IMI will serve as a catalyst to develop its new business school. The IMI offers programmes that are not currently offered in UCC's portfolio. I mean, we are happy to-----

Deputy Alan Kelly: Why did UCC not build up the business school in Cork?

Professor Patrick O'Shea: Because we wanted to have national reach, not just simply Cork. We wanted to be able to bring Cork education to Dublin and Dublin education to Cork.

Deputy Alan Kelly: Addressing and building up the business school is the right thing to do.

Professor Patrick O'Shea: Right.

Deputy Alan Kelly: I, as somebody who takes a keen interest in UCC, said so on the previous occasion on which the witnesses were here. I want to know, for the people of Cork, the people of the area, the people involved in the college and the staff - many of whom are brilliant individuals - why did UCC not decide to build up the school in Cork?

Professor Patrick O'Shea: Because there was already a fully-functioning highly-ranked institution in Dublin. As I said in my opening statement, the IMI is Ireland's only ranked institution in terms of customised executive education. It is ranked No. 9 in the UK so it is a unique national asset that really-----

Deputy Alan Kelly: Can Professor O'Shea see how strange this looks to the people who work in UCC? Can he see how embarrassing the situation is for them? Can he see how they were underwhelmed, to say the least, at the decision not to invest the funding in the business school in Cork.

Professor Patrick O'Shea: I do not believe that the people at UCC were underwhelmed. We have also invested in Cork. We will bring IMI programmes down to Cork as well.

Deputy Alan Kelly: I know but there is a concern there. To me, it is incredible how much money has been spent on the premises at Lapp's Quay. I would not say that property management is UCC's strongest suit, to be honest. I have witnessed the evolution of UCC and I admire some of the stuff that has happened in respect of the campus. The latter is now very concise, to be fair, and it is unique in that. However, some of the property transactions that have taken place over the years were questionable. I hate to think that UCC is in any way into property speculation. Can I have an absolute assurance that not a single square metre of the property that

was owned by the IMI will be sold off in the future?

Professor Patrick O'Shea: We have no plans to sell any property associated with the IMI.

Deputy Alan Kelly: Absolutely none?

Professor Patrick O'Shea: We have no plans.

Deputy Alan Kelly: That is good to hear. Again, how much was paid by UCC to the IMI for the property?

Professor Patrick O'Shea: It was €20 million.

Deputy Alan Kelly: Is it €21 million or €20 million?

Professor Patrick O'Shea: Twenty.

Deputy Alan Kelly: How much was paid to individual shareholders of the IMI by UCC?

Professor Patrick O'Shea: Colleagues? Nothing.

Deputy Alan Kelly: I am just clearing this up.

Professor Patrick O'Shea: Yes.

Deputy Alan Kelly: How much of the €20 million was used to repay the original loan from AIB to the IMI?

Mr. Diarmuid Collins: Of the €20 million, €8.1 million went to pay the loan from AIB.

Deputy Alan Kelly: How much surplus was generated by the IMI because UCC purchased the property?

Mr. Diarmuid Collins: Sorry, I missed that.

Deputy Alan Kelly: I ask that the president answer the following question. How much surplus was generated by the IMI on foot of UCC purchasing the property?

Professor Patrick O'Shea: The €20 million was not sufficient for the IMI to completely discharge its debts.

Deputy Alan Kelly: How much is left?

Professor Patrick O'Shea: My colleagues, again, can give the Deputy the precise figure.

Mr. Diarmuid Collins: Yes. There was €1.4 million left to go after the €20 million. The IMI used its own cash resources, along with the €20 million, to discharge the two charges on its campus - one for AIB and one, as we spoke earlier-----

Deputy Alan Kelly: How much were those two charges?

Mr. Diarmuid Collins: It was €8.1 million and €13.2 million was the charge from the pension-----

Deputy Alan Kelly: How did the IMI discharge the rest of it?

Mr. Diarmuid Collins: It used its own cash as well. It had its own cash resources along with the €20 million.

Deputy Alan Kelly: How much was in the cash resources when UCC bought the IMI?

Mr. Diarmuid Collins: The cash, around September - it closed in November - it was approximately €1.7 million at the time.

Deputy Alan Kelly: What rent is being paid by the IMI to UCC or is rent being paid?

Mr. Diarmuid Collins: Yes. The lease income will be just, I think, is between €600,000 and €700,000 per annum. In addition, the IMI will provide UCC with accreditation income and we also get a share of joint programme income. So, where we have-----

Deputy Alan Kelly: How much?

Mr. Diarmuid Collins: It is close to €1 million all in.

Deputy Alan Kelly: Through the Chair, will Mr. Collins do us a favour and send us in a spreadsheet outlining all of that?

Mr. Diarmuid Collins: Yes, those three. Yes, I will.

Deputy Alan Kelly: I shall ask my last couple of questions.

Chairman: Ten minutes have elapsed.

Deputy Alan Kelly: What is the term of the loan from the new bank and will Mr. Collins identify that bank?

Mr. Diarmuid Collins: Ulster Bank and 20 years.

Deputy Alan Kelly: Ulster Bank.

Mr. Diarmuid Collins: Twenty years.

Deputy Alan Kelly: To facilitate the purchase of the IMI property, what is the term of the loan?

Mr. Diarmuid Collins: Twenty years.

Professor Patrick O'Shea: It is 20 years.

Deputy Alan Kelly: What is the repayment amount?

Mr. Diarmuid Collins: Does the Deputy mean the interest rate?

Deputy Alan Kelly: Yes.

Mr. Diarmuid Collins: The interest rate is just over or about 1.55%.

Deputy Alan Kelly: Do the witnesses think they negotiated that deal well?

Mr. Diarmuid Collins: We did, yes.

Professor Patrick O'Shea: We went to the market.

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Mr. Diarmuid Collins: We went to the market.

Professor Patrick O'Shea: We went to the market and got three quotes.

Deputy Alan Kelly: Earlier, the president of UCC said that no public funds were used in the acquisition of the IMI but, effectively, it is financed. There is a debt as a result that now must be paid over 20 years at this interest rate.

Mr. Diarmuid Collins: Yes.

Deputy Alan Kelly: If no public funds were used, then who will pay back the debt?

Mr. Diarmuid Collins: UCC. That borrowings - the €20 million from Ulster Bank----

Deputy Alan Kelly: Who funds UCC?

Mr. Diarmuid Collins: Yes, it is on UCC's balance sheet.

Deputy Alan Kelly: Who funds UCC?

Mr. Diarmuid Collins: We have multiple funding sources.

Deputy Alan Kelly: Who is UCC's main funding source?

Mr. Diarmuid Collins: The main source? We have the taxpayer. We accept that.

Deputy Alan Kelly: Yes.

Mr. Diarmuid Collins: We have the taxpayer, I said.

Deputy Alan Kelly: Who is going to pay back the loan?

Mr. Diarmuid Collins: It is UCC's obligation to-----

Deputy Alan Kelly: Who is going to pay back the loan? UCC is going to pay it back.

Mr. Diarmuid Collins: UCC.

Deputy Alan Kelly: Can the president of UCC tell me who will pay back the loan?

Professor Patrick O'Shea: UCC will pay back the loan based on-----

Deputy Alan Kelly: What percentage of UCC's funding is provided by the taxpayer?

Professor Patrick O'Shea: Approximately 47%.

Mr. Diarmuid Collins: Yes, 47%.

Deputy Alan Kelly: My questions are for the president of UCC. Is it 47%?

Professor Patrick O'Shea: It is 47%.

Deputy Alan Kelly: Approximately half of the university's funding is from the taxpayer. The loan will be paid back by UCC so the taxpayer will have to fund 47% -let us say 50% -of that.

Mr. Diarmuid Collins: No.

Professor Patrick O'Shea: No.

Deputy Alan Kelly: Why?

Professor Patrick O'Shea: This is funded by the revenue generated by the IMI.

Deputy Alan Kelly: Ultimately, this all goes into the pot. Let us look at a pie chart on how the college is funded. The witnesses have said that 47% of it is funded by the taxpayer. Is that right? The totality of the college.

Professor Patrick O'Shea: Right.

Deputy Alan Kelly: Let us not split hairs and get down to Bauhaus basic financial management. UCC will pay back a loan over 20 years for this and 47% of the funding that goes into UCC comes from the taxpayer. Proportionality shows that 47% of this loan will be paid by the taxpayer.

Mr. Diarmuid Collins: No.

Professor Patrick O'Shea: No, that is not correct.

Mr. Cormac McSweeney: The construct of the arrangement is that the new income from the IMI is paying back the mortgage that UCC has taken out.

Deputy Alan Kelly: But it all goes into the one pot. Can the witnesses not follow what I have said?

Mr. Cormac McSweeney: But it is new income-----

Professor Patrick O'Shea: That is correct.

Mr. Cormac McSweeney: -----that we never had before, that is funding it.

Deputy Alan Kelly: Fine. Ultimately, what I am driving at here is the statement made by the president of UCC at the beginning that no public funds were used in this matter. Let us consider the pot of money that this college has with 47%, including IMI as part of the family. Ultimately, the taxpayer will end up funding 47% of the loan.

Professor Patrick O'Shea: That is not correct. As I said, the funds come from IMI.

Deputy Alan Kelly: Ultimately, the taxpayer is going to end up funding 47% of the loan.

Professor Patrick O'Shea: That is not correct. The funds come from IMI.

Deputy Alan Kelly: I might ask questions to the HEA. Why is the HEA board left without so many board members over the last six months? It is absolutely incredible. How can the audit committee of the board operate when there are so few members? Was the HEA not concerned, and did it not challenge the Minister as regards this?

Dr. Graham Love: We were short by six members.

Deputy Alan Kelly: Why were those positions not filled?

Dr. Graham Love: There was a delay in filling some of them, but - and I will ask my colleagues from the Department to support me on this - the Minister was looking at reappointing

some, not all, of the members. Two have been recommended to Government for reappointment and two have just been through the Public Appointments Service for recruitment. In the interim we have had 12 members, so we have had a fully functioning board, to reassure the committee.

Deputy Alan Kelly: Can the witness's colleague answer the question?

Mr. Tony Gaynor: My understanding is that the HEA board has been operating very effectively.

Deputy Alan Kelly: That is not my understanding.

Mr. Tony Gaynor: That is our understanding. The Minister has reappointed two members of the board in addition to-----

Deputy Alan Kelly: Why was there such a gap in filling these positions? Why did it take so long, and how can the Committee of Public Accounts have confidence that a board that does not have its full membership and to which the Minister has not bothered to make appointments to is doing its job properly, given the fact that universities and third level institutions are demanding more taxpayers' money despite all the revelations of recent times? The Minister could not be bothered to appoint people to fill the board and to have the specialist in the audit committee, among other vacancies.

Mr. Tony Gaynor: We have not had an indication that the absence of members on the board has impacted on overall governance performance.

Deputy Alan Kelly: I have asked the question-----

Chairman: The point is well made.

Deputy Catherine Murphy: I would like to start with the University of Limerick and wish Professor Fitzgerald well. He has only recently taken up the position. I will try to avoid going over ground that other people have covered.

Mr. Tadhg Kearney was on the governing body. The witness has told us that the purchases were not considered by the governing body, but that the governing body was looking at the finances and that the purchases would have formed part of the finances. At what point would Mr. Kearney have had to declare a conflict of interest?

Professor Desmond Fitzgerald: At the moment the mechanism for declaration is that if someone in the institution, including in the governing authority, feels they have a conflict of interest they need to declare it. Not declaring a conflict of interest indicates that there is no conflict.

Deputy Catherine Murphy: I presume the university has a risk register. Are conflicts of interest included on that?

Professor Desmond Fitzgerald: I cannot answer that at the moment.

Deputy Catherine Murphy: I concur with what was said in the witness's opening statement that there has been a very good indicator of where the university is going and what the problems are. The witness talks about university governance and that an audit of institutional governance is going to be carried out. Will culture be included in that, as well as checks and balances?

Professor Desmond Fitzgerald: The terms of reference are very broad. I cannot immediately say that culture is a part of that. We did get external advice from someone who is an expert in this in order to be able to provide the range of things that will be addressed by the review. The review will be conducted outside the university. It is a good point and is something that I can bring back to the review.

Deputy Catherine Murphy: It is not a box ticking exercise when it comes to ethics.

Professor Desmond Fitzgerald: Ethics will be a key issue within the review.

Deputy Catherine Murphy: That is part of what I mean by culture.

Chairman: Mr. Love has indicated that he wants to come in.

Dr. Graham Love: Culture is part of the terms of reference for Dr. Thornton.

Deputy Catherine Murphy: On the “Prime Time” programme the universities were shown to have been very precious. Perhaps that is not quite the word, but they really want to maintain their independence. On some level I can understand that, but it does not mean that they are above scrutiny. One of the things that jumped out to me on the “Prime Time” report which I had been aware of to some extent was the degree to which the University of Limerick almost went to war with the *Limerick Leader*. The Committee of Public Accounts has a role in oversight, but so do the media. Does the witness know how much money was spent on that, and what led to the decision to do that instead of addressing the issues? Shooting the messengers appears to have been the tactic.

Professor Desmond Fitzgerald: It was the wrong decision and I would not have done that. I do not have the exact figure but I can provide it. It is around €60,000. I am not sure what led to that decision. The decision was wrong. I believe that the institution felt under pressure. It took some time to convince the institution that it should withdraw the suit, and at that stage they realised that it was a bad decision.

Deputy Catherine Murphy: It is a David versus Goliath affair, when we consider that the *Limerick Leader* is a relatively small title and compare the resources available to UL. I am glad to hear the witness say that he would not have taken that approach, and that is certainly something that should be reviewed or included in the future. The issues should be dealt with rather than the messenger.

On the last occasion that the witness was before the committee we spoke about the IMI. The Committee of Public Accounts sits in public and what is said here is on the record. Language is very important. The impression was given that, “we took something over at no cost”. It is really important when witnesses come in here that that kind of thing is qualified upfront and that the members do not have to piece it together later. It gives the impression that something is being handed over for nothing, when in fact there was a very significant liability here in terms of pension costs. That undermines the credibility of what is said here, and we have to go back subsequently and piece things together. Would the witness accept that he should have approached this matter differently on the last occasion?

Professor Patrick O’Shea: It is important for us to develop trust, and that is based on accountability and accomplishment. We agree with that. We made no attempt to mislead the committee, and we have responded to the committee fully, both in writing and here, to fully explain and elaborate on the statements that were made at the last meeting. I agree that it is

always helpful to provide as much information as possible, but when one is speaking extemporaneously it is difficult. I do not think that anything untrue was said, but we have elaborated and given more information as requested. We have been open and honest and there was no attempt to mislead the committee.

Deputy Catherine Murphy: When we have to extract information it feels as if we are not being given the picture and that we have to paint the picture ourselves from the details that we extract. The approach was bad. People are losing faith in institutions, whether it is the Garda Síochána, religious organisations or the likes of the banks, and the universities sector has certainly played a role in undermining public trust. One of the things all of these have in common is that they were previously regarded as institutions which could have been trusted. Rebuilding that trust will be important for all of the witnesses who come before us. They should be very cognisant of that when they come before us in future. I will leave it at that.

Chairman: All the members have indicated for the first round. We will be coming back to second speakers. Before we move on to that, I want to take up the issue of the cost. I have difficulty with what I am hearing and I want to tease it out. Instead of looking at it from the bottom up, we will start from the top. Are the liabilities of UCC on the State's balance sheet?

Professor Patrick O'Shea: The accounts of IMI will be-----

Chairman: No, UCC.

Mr. Diarmuid Collins: According to my understanding of the way the universities sector is funded, which the HEA might confirm, borrowings are excluded and are off the State balance sheet.

Mr. Andrew Brownlee: I understand that the liabilities of universities are off the State balance sheet. I think it is under review by EUROSTAT who kind of make the-----

Chairman: Could Mr. Brownlee just say that about EUROSTAT again?

Mr. Andrew Brownlee: It is under review by EUROSTAT. EUROSTAT is the European body which decides what can be on or off the State's balance sheet. I understand the accounts of universities are currently off balance sheet.

Chairman: In Ireland.

Mr. Andrew Brownlee: Yes.

Chairman: Is the Department of that view also? That is the current understanding of the situation. That is important. Had they been on the State's balance sheet, it would have changed it.

Deputy Bobby Aylward: Do we know the borrowings of every university? Is that public knowledge?

Chairman: It is. Their consolidated accounts have been presented to us. A few phrases have been used in the course of this morning's meeting in particular. IMI is a 100%-owned subsidiary of UCC. It is part of the college. While it has a separate legal identity, it is part of UCC. If anything goes wrong there, is it ultimately UCC's problem because it is 100% the parent company. Is that agreed? Yes, we are agreed on that. In effect, it is part of the UCC consolidated group. The phrase "new income" was used several times this morning in relation

to the income from IMI. The income is from the university to the university, however, and I have difficulty. In the consolidated accounts, it is not as if IMI has one set of income and UCC has another. In the consolidated accounts, is that money flowing from one part of the group to the other part deconstructed or taken out? Can the Comptroller and Auditor General say?

Mr. Seamus McCarthy: Certainly, inter-company transfers would be netted.

Chairman: They would be netted off.

Mr. Seamus McCarthy: Yes.

Chairman: When it comes to UCC's consolidated accounts, this movement of funds from the subsidiary in one part of the group to another is netted out of the accounts because it is internal within the group to start with. UCC says it has a new source of income, but it is moving from one part of the group to the other. The extra money is generated by the activities of IMI.

Mr. Cormac McSweeney: Before we acquired it, we never had it, so it is new in that regard.

Mr. Diarmuid Collins: We are only getting that income post-acquisition. We have never had it. We have new income post-acquisition in the group.

Chairman: In the group, based on-----

Mr. Diarmuid Collins: In the group. We have new borrowings.

Chairman: -----its continuous-----

Mr. Diarmuid Collins: Yes.

Chairman: I want to tease this out so that we are clear when we come to our report. What caused confusion the last day was that when Deputy Cullinane and I both asked what it cost, Mr. Collins used the word "nothing".

Mr. Diarmuid Collins: Because-----

Chairman: That throws the public. I want to tease that out. UCC seems to have distinguished here today between the assets, as in the 13 acres for which the money was paid, and the IMI as a company, which cost the university nothing.

Mr. Diarmuid Collins: That is correct. The IMI is a company-----

Chairman: There was splitting of hairs, to use that phrase. When people talked about the IMI, the public's understanding was technically the company and the campus. However, Mr. Collins is saying the company cost nothing but the campus cost €20 million. What was in the company if there was none of these assets?

Mr. Diarmuid Collins: It has the brand, reputation, intellectual property and market share.

Chairman: In other words, the university is telling us that IMI has done a Clerys job. It has taken all the assets out of the company and left the name. That is actually what the witnesses are telling me. The Irish Management Institute has done what I would call "a Clerys job" here. The wealth and assets of the organisation were taken to one side and the company was just a name. It is just like Clerys. Do the witnesses get the point I am making? I do not want them to comment on Clerys. We are making a comment. It seems to be that sort of issue of taking

the assets out of the company and just leaving the company. Hence, Mr. Collins can say UCC bought the company for nothing because there was nothing to buy there besides the name. That was disconcerting to everybody watching. They could not rationalise what was being said because UCC knew the hairs it was splitting and did not make that clear. We have a better understanding of this idea that UCC says the IMI cost the taxpayer nothing. Of course the company cost nothing because there was nothing there. However, somebody had to raise a loan.

I come back then to the situation of the public funding. We are told UCC is down to 47% of income coming from public sources. Is that according to the most recent figures? It is generally in that bracket. The last figures available, which I have just seen on the website as the meeting was progressing, are from the 2014 accounts. I just Googled it and I did not see the 2015 accounts. It is just for example because the witnesses came in to discuss the 2014 accounts.

Mr. Cormac McSweeney: That is correct but the 2015 accounts are also up.

Chairman: The accounts state that the State grant from the Department was €47 million and that €43 million of academic fees came through the HEA's student fee provision. Research was a significant source of income but State and semi-State companies provided €55 million of that. The EU provided €13 million of that. I am going from the university's accounts here. That is €158 million, or in the region of 50% of UCC's income. As such, it is substantially funded directly by the State. The witnesses are saying it might now be 40%. Ultimately, what troubles us a little - and we are trying to get to the bottom of the actual cost - relates to page 19 of the document presented here, in Appendix 9, namely the last paragraph, which is boxed. We will get it on the screen there now. We are back to this issue of saying no Exchequer moneys were used in the acquisition. We accept that. It was bank money that was used to acquire it. If something goes wrong, however, it could ultimately fall back to the college to pay for it. On day 1, the bank paid for it, but if things do not work out, it could fall back to UCC. I am just looking.

I will read to the witnesses the last paragraph in their own note that they provided to us. It is not on screen. It states:

The university has acquired an appreciating asset. Were UCC to consider at some stage in future recovering its investment, recent land sales adjacent to IMI would suggest that any future sale of the campus would yield a return to UCC in excess of the amount paid.

We now hear the university justifying the price it paid on the basis that: "Sure, we are going to have a property boom. Values are going to go up." That is UCC's Appendix 9 to us today. When Deputy Alan Kelly asked, UCC said it had no intention, but it in its documentary evidence, it is a consideration because it has highlighted in a big, black box what would happen at some stage in the future if UCC were to consider it. As such, it is a possibility.

They have somewhat hedged this €20 million cost against the fact that the properties will rise in value anyway. Do the witnesses not see how we find that a little disconcerting for a third level college? It has taken over the Irish Management Institute with the underlying assumption that if things go wrong there will be something of a property boom and it can dispose of the assets if necessary. Do they not see how that appears?

Mr. Diarmuid Collins: Our intention is that the IMI will be a success. All the indicators we have - our market assessment, its market share and its upturn in performance - show it is not a basket case. It is improving revenue and bottom line profit. As part of the governing body

decision to invest in the IMI, acquire the campus and invest €20 million, it wanted to have, as part of a risk assessment and risk mitigation, some comfort that were it to go wrong, we would have an option to recover that investment. That is one of the reasons UCC bought the campus. It now has the asset; the IMI does not. It is the UCC's governing body's future call and decision either to invest in that asset again or divest from it were the IMI in UCC not to be a success. As part of the formal consideration of the impact of an acquisition in our accounts, we have to get a fair value assessment of the asset post-acquisition and we know from that market value assessment that the value today is greater than what we paid.

Chairman: Why then did the college just not buy the company title of IMI in its own right and leave whoever owned the 13 acres to take the risk on the market value of that property to clear the other debts? Given that one was separated why did it need to get into the property hedging business, as I would call it? Why did it not just leave the property? It did not need it. It could have acquired the name and the brand.

Mr. Diarmuid Collins: We could have.

Chairman: Talk us through why it decided to get into the property side of it.

Mr. Diarmuid Collins: We could have got the company. It would still be zero-----

Chairman: For nothing.

Mr. Diarmuid Collins: -----because the assets and liabilities would still be matching up. It still had the campus. It would still have had those borrowings to discharge. Those borrowings had to be discharged one way or the other. It had to pay back AIB and the pension trustee charge ultimately had to be paid. It was much cheaper for UCC to borrow that money. We can get long-term finance compared to what a private company can get and we can get it at a cheaper rate to buy that campus and discharge those borrowings.

Deputy David Cullinane: The witness is telling us that the reason UCC bought it was to allow IMI to discharge that liability.

Mr. Diarmuid Collins: No.

Deputy David Cullinane: The witness just said that.

Mr. Diarmuid Collins: It was part of the risk mitigation for us. We bought the campus.

Deputy David Cullinane: The witness was asked what the rationale was for UCC buying the property. The witness said that the IMI had to discharge liabilities. One way of discharging its liabilities was to sell the asset. UCC then helped the organisation discharge its liability by purchasing the site, which was what the witness was asked when he was last before the committee. I asked him again today. He said that no money from UCC was spent to discharge liabilities. To me, that does not chime with what he has just said.

Mr. Diarmuid Collins: On the last day we were asked specifically if there were pension liabilities discharged. There were none.

Deputy David Cullinane: It was not pension liabilities but all liabilities.

Mr. Diarmuid Collins: No.

Deputy David Cullinane: With respect, this morning I put specific questions to the witness

and he was again clear that there were no IMI liabilities.

Chairman: You interpreted it as pensions only, but the question was not about that.

Deputy David Cullinane: I am talking about this morning. The witness was very clear that there were no pension liabilities. I asked if there were capital liabilities and the witness said there were none.

Mr. Diarmuid Collins: It is clear in our documentation and even in the letter we sent to the committee on 13 April after our session. It is repeated again in Appendix 3. It is clear that we paid the €20 million to buy the campus. The IMI in turn used that to discharge the borrowings it had with AIB and with the pension trustees.

Deputy David Cullinane: With respect, that is not clear from what the witness said this morning and it is not clear from what he said on the last occasion.

Deputy Catherine Connolly: Will Mr. Collins talk us through the purchase of the company for nothing and the timespan? The company was acquired for nothing. UCC acquired the company with all its liabilities.

Chairman: It acquired the assets separately.

Deputy Catherine Connolly: Is it correct that UCC acquired the company with all its liabilities? I will intervene again later but perhaps, Chairman, you could talk Mr. Collins through it so we can get a time line.

Chairman: I presume, Mr. Collins, you considered the option of buying the company and the brand and then leasing the premises for the purposes of your courses without taking on the capital commitment. Explain it for Deputy Connolly.

Mr. Diarmuid Collins: Yes, I will explain. It is important. The governing body wanted the risk mitigation assessed, so that if we were spending €20 million we would want the asset in return.

Chairman: Why did UCC want to spend €20 million when it could have got the brand for nothing and lease the premises?

Mr. Diarmuid Collins: Even if that was the case post-acquisition, those liabilities in IMI would have to be paid back in time.

Deputy David Cullinane: That is their problem.

Mr. Diarmuid Collins: The IMI's charge to the pension trustee would also have to be paid in time.

Chairman: UCC effectively came in as a banking intermediary for the property debt and pension debt. It is all hinging on the value of assets and property. It was possible for it to get IMI as a company and a brand and even continue to use the premises on a lease basis without this €20 million relating to the property. However, because it had liabilities, UCC came in as a financier to clear its debts. UCC also got the assets. Then it hedged it all whereby if something goes wrong, there would be something of a property boom to cover UCC.

Deputy Catherine Murphy: Did the IMI dictate the terms?

Mr. Diarmuid Collins: No. We would have got a market valuation of what the campus was worth and that was the price we paid for the campus.

Deputy Catherine Murphy: UCC did not have to do this.

Deputy Bobby Aylward: It sounds more like an amalgamation than a takeover and that UCC's name is being used because IMI was not viable by itself. It had debts and a bad history over ten years. Then UCC came in and it appears that UCC's name is being used to get better deals with banks and to run IMI separately. IMI is now a subsidiary of UCC.

Chairman: One hundred percent.

Deputy Bobby Aylward: Is it self-sufficient now?

Chairman: Yes.

Deputy Bobby Aylward: Does it have its own board and management?

Mr. Diarmuid Collins: Yes.

Deputy Bobby Aylward: Does UCC have control over it?

Chairman: How many UCC people are on the board of this subsidiary?

Mr. Michael Farrell: There are 11 members of the board. It is in Appendix 10. The president of UCC appoints six of the 11 members.

Chairman: It has majority control.

Deputy David Cullinane: May I ask another question for the purpose of clarity?

Chairman: I suggest that we finish this session at voting time in the House. We have to deal with two other institutions.

Deputy David Cullinane: It is an important point.

Deputy Mary Lou McDonald: I am anxious to get back in.

Chairman: Can we do five minute slots?

Deputy Mary Lou McDonald: I need more than five minutes.

Chairman: If you do, we will see how we are on the time.

Deputy David Cullinane: I wish to deal with one quick point to bookend this conversation.

Chairman: I will call Deputy McDonald next.

Deputy David Cullinane: It is a quick question for Mr. Collins. Was it a condition of purchasing the brand name that UCC would purchase the property? When UCC purchased the brand name was that conditional on UCC purchasing the site?

Mr. Michael Farrell: We did not purchase the brand name. We got control of the company for-----

Deputy David Cullinane: Mr. Farrell understands what I am saying. I am putting the ques-

tion to Mr. Collins because we were told that the site was separate. Mr. Collins said that UCC bought the company for nothing and then he said that it paid €20 million to buy the property which was used to offset the liability. Was that a condition of buying the company?

Mr. Diarmuid Collins: It was all part of the one overall transaction.

Deputy David Cullinane: It was a condition.

Mr. Diarmuid Collins: I would not say it was a condition. It was part of the one transaction.

Deputy David Cullinane: It either was or was not a condition. If UCC did not buy the asset, would IMI have allowed UCC to buy the company?

Mr. Diarmuid Collins: It might have.

Deputy David Cullinane: However, the witness does not know that.

Chairman: I will call Deputy McDonald. After that, I will call Deputies Connolly, Aylward and Catherine Murphy. I ask them to be quick.

Deputy Mary Lou McDonald: We will be quick, but questions need to be asked.

Chairman: Yes, and if we do not get to finish, we do not get to finish.

Deputy Mary Lou McDonald: Yes, and I am not sure that I will be able to do this in ten minutes, but I will do my best. I have looked at Professor Fitzgerald's CV. How does he describe himself? Is he a scientist?

Professor Desmond Fitzgerald: I trained as a cardiologist.

Deputy Mary Lou McDonald: Is Dr. Love a scientist as well?

Dr. Graham Love: Yes.

Deputy Mary Lou McDonald: I am surrounded by the scientific community. It is Dr. Thorn and Professor Fitzgerald? I apologise for getting the title wrong. I am pleased that the witnesses are here because it is important that as a committee and as a sector that we begin to look forward rather than going over the entrails of the past. As the witnesses will be aware, this is round three for the University of Limerick regarding very serious allegations brought forward by whistleblowers, with perhaps the most serious allegation being that there was a whitewash. That is the essence of what the whistleblowers assert. As we now know, they have been suspended for two years. I want to talk to Dr. Thorn about his role and so on. Our time is limited so I am sure he will assist and we will try to be brief in our interactions.

Could Dr. Thorn tell me who approached him and appointed him to take on this review?

Dr. Richard Thorn: I was requested by the Department of Education and Skills to consider being involved in this piece of work, presumably based on my institutional experience.

Deputy Mary Lou McDonald: We will come to that in a moment. I have scanned Professor Thorn's CV, which is impressive.

Dr. Richard Thorn: The HEA is the commissioning authority.

Deputy Mary Lou McDonald: The HEA is the commissioning authority. How did this happen? Did Dr. Love approach Dr. Thorn directly, personally?

Dr. Richard Thorn: The Department approached me to see if I was available.

Deputy Mary Lou McDonald: Who in the Department?

Dr. Richard Thorn: The deputy secretary general, Ms Mary Doyle, approached me to see if I was available. I said yes in principle, subject to terms of reference and so on. Those were agreed with the Higher Education Authority on 23 May.

Deputy Mary Lou McDonald: Talk me after what happened next.

Dr. Richard Thorn: On 23 May we agreed a process and a timeline.

Deputy Mary Lou McDonald: Who is “we”?

Dr. Richard Thorn: In conjunction with the Higher Education Authority.

Deputy Mary Lou McDonald: And with Dr. Love?

Dr. Richard Thorn: Yes, and Mr. Brownlee.

Deputy Mary Lou McDonald: Is Mr. Brownlee a also a scientist?

Mr. Andrew Brownlee: No.

Dr. Richard Thorn: I should also say I hold a Masters degree in management, as well.

Deputy Mary Lou McDonald: I saw that. And Dr. Thorn is a Trinity graduate.

Dr. Richard Thorn: And IPA.

Deputy Mary Lou McDonald: No, I have read it all. Let me cut to the chase. First, I want to know if Dr. Thorn and Dr. Love know each other very well? Have you had numerous professional dealings? Are the two on boards together?

Dr. Graham Love: To assuage any concerns, I have not been a practicing scientist for 20 years.

Deputy Mary Lou McDonald: It does not matter, once a scientist, always a scientist. What, if any, is Dr. Thorn’s previous relationship with the University of Limerick?

Dr. Richard Thorn: During the early part of this decade, I did some research work with a small research team from the University of Limerick. We set up some software systems to deal with lifelong learning. I have no professional involvement other than that. For about a year during the late noughties, I was on the board of a college which I think has become part of UL, St. Patrick’s College Maynooth. I left that when I was doing some work with the HEA and there was a potential conflict of interest. Other than that I know a number of people, and that is about it.

Deputy Mary Lou McDonald: Professor Fitzgerald’s predecessor, Professor Don Barry was a mathematician. I do not know why I am putting that on the record.

Dr. Richard Thorn: I am a geologist, for what it is worth.

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Deputy Mary Lou McDonald: What I want to know is how well would Dr. Thorn have known Professor Barry.

Dr. Richard Thorn: I would not have known him at all. I might have been in his company on one or two occasions at HEA meetings.

Deputy Mary Lou McDonald: So Dr. Thorn had no personal or professional relationship with him.

Dr. Richard Thorn: No.

Deputy Mary Lou McDonald: Dr. Thorn might wonder why I am pursuing this line of questioning. I will state it very directly. If there is anything in Dr. Thorn's professional dealings that compromises his willingness or ability to look at all these matters dispassionately and thoroughly, then we have a problem. It would be a problem in any scenario but it is a much bigger problem because the nub of the accusation against the university and its processes is one of whitewash, but Dr. Thorn has told me that is not the case and I take him at his word in that. I ask because the questions had to be asked rather than to cast an aspersion on his character. I want Dr. Thorn to understand that.

If Dr. Thorn recalls, I quoted from an article in the *Limerick Leader* earlier regarding the whistleblowers and the length of their suspension. The Chairman is quoted in it and so too is Dr. Thorn, where he says that he will not be seeking to speak to Professor Don Barry, the previous president of the University of Limerick.

Dr. Richard Thorn: I do not think that I said that. I said I had not made up my mind.

Deputy Mary Lou McDonald: Okay. I need to talk to Dr. Thorn and he needs to talk to us about that. Why would there be any question mark over whether or not to speak to the previous president?

Dr. Richard Thorn: There is not a question mark. To date, we have been gathering substantial amounts of information. That information has been analysed. We are in the process this week, in fact tomorrow, of determining who we want to speak with. We have already offered invitations to around 25 people who have made submissions and on the basis of our work tomorrow I will make a determination about who else I want to speak with. It is quite probable and possible that I will want to speak with Professor Barry.

Deputy Mary Lou McDonald: Would it not be absolutely necessary for Dr. Thorn to speak to him? He is examining things such as governance, culture, the turn of events, HR processes. It is a fairly extensive piece of work that is being carried out so how on earth could there have been a question in Dr. Thorn's mind over whether or not he would speak to Professor Barry?

Dr. Richard Thorn: For the simple reason that I want to examine all the documentation and make my decision on the basis of that.

Deputy Mary Lou McDonald: I will be direct with Dr. Thorn. When I read that, it really troubled me that Dr. Thorn was wondering if he would or would not speak to Professor Barry. The article in question is much more definitive. It says that he would not be looking to speak to him. When I went and had a look at Dr. Thorn's profile and saw that he had had an involvement with a college associated with the university, that troubled me even more. I cannot speak on their behalf, but if I was one of the whistleblowers who had been through the experience that

they have been through, I would want to know who Dr. Thorn is and would want to be satisfied about his bona fides and his objectivity and absolute impartiality. I would be concerned on that score. I want to give Dr. Thorn the opportunity to place on record his absolute impartiality, objectivity and the fact that there are no conflicts of interest in carrying out his task, for the whistleblowers in particular but also for the staff and students of Limerick and the greater region. I would be obliged if he would do that.

Dr. Richard Thorn: I can confirm that I have no conflict of interest that would in any way prejudge or influence my impartiality.

Chairman: The Deputy has two minutes left.

Deputy Mary Lou McDonald: Does Dr. Thorn propose to speak to the whistleblowers?

Dr. Richard Thorn: Absolutely. We have had about 25 submissions including many people who have made disclosures and some who have not made disclosures but have come forward. Invitations have been extended to all of those and to individuals within UL who have been named. Meetings have been set up for the middle three weeks in July.

Deputy Mary Lou McDonald: Will this process act as a break in any other processes such as the kind of issues I raised with Professor Fitzgerald earlier, where there might be a disciplinary matter that needs to be attended to?

Dr. Richard Thorn: Professor Fitzgerald and I have already discussed this and I have indicated clearly to him that if there are breaches of the UL internal code of discipline and so on, that I will not stop him or suggest that they be halted while the review is ongoing.

Deputy Mary Lou McDonald: Will Dr. Thorn be reporting to Dr. Love?

Dr. Graham Love: Yes, he will report to us on 30 September.

Deputy Mary Lou McDonald: It is important that we have an understanding as to what happens to that report then. Typically, this committee ends up dealing retrospectively with a mess and this is one hell of a mess in Limerick. It is important that Dr. Thorn is present and that we can get ahead of this issue. In addition to the Department and HEA, I would like Dr. Thorn to report back here also. Is that possible? Is Dr. Thorn amenable to that?

Dr. Graham Love: I believe they would be, yes.

Deputy Mary Lou McDonald: Is that acceptable from the Department's point of view because we will have to see what it comes up with?

Mr. Tony Gaynor: Yes.

Deputy Mary Lou McDonald: Professor Fitzgerald is a fresh pair legs for this task. The objective is to definitively deal with everything from start to finish, including the fact that two employees are currently on extended suspensions.

Professor Desmond Fitzgerald: That is correct.

Deputy Mary Lou McDonald: Has Professor Fitzgerald met the whistleblowers?

Professor Desmond Fitzgerald: I have not. What I asked for was an independent review and, in the process, the opportunity for the whistleblowers to speak to the review team, particu-

larly to Dr. Thorn, was made available to them. That was done through the HEA. All I have done so far is that when people have contacted me, I have indicated that they should contact Dr. Thorn. We have waived any confidentiality or any possibility that the university would penalise anybody on foot of that. We are trying to make it as open and independent as possible and give them every opportunity to speak freely to the review team.

Chairman: I have to move on. The Deputy's time is up.

Deputy Mary Lou McDonald: Professor Fitzgerald will appreciate there is a huge reluctance among people within the university to come forward.

Professor Desmond Fitzgerald: Yes, and that is why, when I spoke to Dr. Thorn, I made sure that we would waive all confidentiality conditions and not penalise anybody for coming forward. The reason for calling for the independent review is that I was concerned that the institution could not do it on its own.

Deputy Catherine Connolly: It was stated earlier that the Department was misled on the severance packages.

Mr. Tony Gaynor: I did not say "misled"; I said there were conflicts in some of the correspondence.

Deputy Catherine Connolly: I will change that. It appears the Department was misled. Officials were told the packages were extremely beneficial because of potential legal and employment issues and because there were performance issues. They were told they were good deals on legal advice.

Mr. Tony Gaynor: That is correct.

Deputy Catherine Connolly: Who told the Department that?

Mr. Tony Gaynor: I do not have the correspondence to hand but I understand we are getting that now.

Deputy Catherine Connolly: Is that what the officials were told?

Mr. Tony Gaynor: Yes.

Deputy Catherine Connolly: I refer to the television programme in which Mr. Field said it was good practice. Is it correct that he is on the board of governors?

Mr. Tony Gaynor: Yes.

Deputy Catherine Connolly: He said the only thing that was wrong was they did not have prior approval from the Department. It is pretty serious not to secure prior approval. In addition to providing information that would appear to be misleading, the amounts were way in excess of the limits that had been set.

Mr. Tony Gaynor: We had concerns over the validity on which the settlements were calculated and also in respect of the re-engagement of certain individuals.

Deputy Catherine Connolly: That is fine.

I would like to move to on Mr. Collins and Professor O'Shea. I would like to ask questions

later about the Irish Marine and Energy Research Cluster and guidelines for employment for staff.

UCC acquired the IMI for nothing. In reply to Deputy Cullinane at the previous meeting, it was stated that all the directors left and UCC became the sole owner.

Mr. Michael Farrell: We said that some of the directors who were there previously remained because some of the directors are nominated by the council of the IMI.

Deputy Catherine Connolly: That was not said. The following was stated, “We did not buy the company, rather we bought the asset”. This is true but UCC acquired the company. We were not told that the college acquired the company and became the sole member and owner. Did the directors of the company stay on?

Mr. Michael Farrell: Of the new board, five of them were on the board previously and one of the previous directors was appointed chairman by the president of the university.

Deputy Catherine Connolly: That is 11. Which five were on the board previously? I refer to page 20

Mr. Michael Farrell: It is six if the chairman is included. John Campion, Pat McGrath, Michael McNicholas, John Murphy, Terence O’Rourke and Fiona Tierney.

Deputy Catherine Connolly: Is Ger O’Mahoney, managing director of PwC ,gone off it?

Mr. Michael Farrell: No, he is new. Everybody else is new.

Deputy Catherine Connolly: UCC acquired the company and everything attaching to it, including liabilities.

Mr. Michael Farrell: Could I just respond to that?

Deputy Catherine Connolly: Mr. Farrell can do so in the Chairman’s time shortly. If he does not agree with my question, he can say that. Is it correct that UCC acquired the company, including all its assets and liabilities?

Mr. Diarmuid Collins: That is correct. We acquired the company.

Deputy Catherine Connolly: At what point did UCC acquire the company?

Mr. Diarmuid Collins: This is guided by all the due diligence we got from mergers and acquisitions. The whole acquisition took place almost simultaneously.

Deputy Catherine Connolly: On what date?

Mr. Diarmuid Collins: 21 November.

Deputy Catherine Connolly: On 21 November, UCC took over IMI with its debts.

Mr. Diarmuid Collins: With its assets and liabilities. The company has both an asset and liabilities.

Deputy Catherine Connolly: On the same day, the company UCC has just taken over, and which Mr. Collins referred to as part of the family, purchased IMI for €20 million

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Mr. Diarmuid Collins: No, the company owned a number of assets. One of the assets was the Sandyford campus. UCC bought the campus from IMI and leased it back to the company.

Deputy Catherine Connolly: Are the other assets still there?

Mr. Diarmuid Collins: Other assets would be their debtors, cash. All the other assets remain.

Deputy Catherine Connolly: This all happened on the same day. UCC, using its own fully held subsidiary company, purchased the 13 acres and leased it back.

Mr. Diarmuid Collins: That is correct.

Deputy Catherine Connolly: That was funded by an Ulster Bank loan.

Mr. Diarmuid Collins: Correct. They, in turn, pay us income to pay back-----

Deputy Catherine Connolly: I got all that. Mr. Collins has outlined that. Was a business case presented for this?

Mr. Diarmuid Collins: Yes, there was a full assessment-----

Deputy Catherine Connolly: Can that be furnished to the committee?

Mr. Diarmuid Collins: Yes.

Deputy Catherine Connolly: UCC got a loan and Mr. Collins said no taxpayer's money was used. It is disingenuous to say that. I will take back the word "disingenuous" because that is upsetting Mr. Collins. I will stick to the facts. The university got a loan from Ulster Bank but it got that on the basis that it is a public body. It is a recognised university that is 50% funded by the taxpayer. In the past, the taxpayer provided even more funding. On the basis of its record and on the basis of public money, the university is able to secure loans. Is that correct?

Mr. Diarmuid Collins: That is one basis but a bank giving a loan for this would have to ensure that the repayment facility is there, one way or the other, to repay that loan.

Deputy Catherine Connolly: Mr. Collins will give us that in the business case

Mr. Diarmuid Collins: We will give the committee that.

Deputy Catherine Connolly: At the previous hearing, the figure of €20 million was mentioned. The additional amount in excess of €1 million for furnishing was never mentioned. It did not surface anywhere.

Mr. Diarmuid Collins: It needs to be remembered that when we spoke on 30 March and followed up in the letter in April, the €20 million was the price paid for the asset. It is in the documentation as part of the conveyancing-----

Deputy Catherine Connolly: Mr. Collins did not mention the €1 million-odd. I want to know-----

Mr. Diarmuid Collins: It was not part of the acquisition price.

Deputy Catherine Connolly: When did UCC hand over that money? I understand this is in the IMI accounts.

Mr. Diarmuid Collins: Yes.

Deputy Catherine Connolly: When was it handed over?

Mr. Diarmuid Collins: At the same time.

Deputy Catherine Connolly: Conveniently, what the IMI owes is roughly the €20 million plus the €1 million-odd that UCC has lodged to that account. Am I wrong again? God, I am not doing well here, am I?

Mr. Cormac McSweeney: The extra €1.3 million was funded out of the IMI's own cash reserves, which existed before we ever transferred the €1.8 million.

Deputy Catherine Connolly: I hear Mr. McSweeney telling me that, but conveniently, is that not the amount of money for the refurbishment sitting in that account as well?

Mr. Cormac McSweeney: We are committing €2.5 million towards the refurbishment; it is just that €1.8 million has been transferred so far.

Deputy Catherine Connolly: What has been given so far?

Mr. Cormac McSweeney: €1.8 million.

Deputy Catherine Connolly: However, no work has been done, and that €1.8 million has been-----

Mr. Cormac McSweeney: We only took over the business in November, as we have alluded to in the appendices. We have a set plan of works that has only just been established for our director of estates. That is now obliged to go through public procurement to initiate some of that work. There has been a lag, but the anticipation is that the works will start very soon.

Deputy Catherine Connolly: Why did UCC not hold onto that money until the works were ready to be carried out and the tendering process completed? Why did UCC transfer that money into the IMI account?

Mr. Michael Farrell: It did so because these are small works. They would be in a position to undertake immediately-----

Deputy Catherine Connolly: Then UCC should have just given the money for the small works. Why did it give hundreds of thousands of euro upfront?

Mr. Diarmuid Collins: We have to remember that since acquisition, it is now UCC's asset. We are now investing in UCC's asset.

Deputy Catherine Connolly: Honestly-----

Mr. Diarmuid Collins: We bought the asset.

Deputy Catherine Connolly: This hand buys, this hand gives. There are transfers back and forth. Honestly, why would UCC give €1 million-odd except for the fact that UCC and IMI are one and the same?

Mr. Michael Farrell: We own the property and agreed to invest-----

Deputy Catherine Connolly: Why was the money not left sitting in the UCC account? No

work has been done except minor works. Why was it necessary to put the money into the IMI?

Mr. Diarmuid Collins: It was part of a commitment given that UCC would refurbish and enhance the campus.

Deputy Catherine Connolly: I have no problem with the commitment; I am asking why UCC making a payment upfront before any work is done.

Mr. Diarmuid Collins: That was part of the merger agreement with the IMI-----

Deputy Catherine Connolly: Why?

Mr. Diarmuid Collins: -----as part of the acquisition.

Deputy Catherine Connolly: Why?

Mr. Diarmuid Collins: It showed real commitment-----

Chairman: A phone is ringing at one side of the room, near one of the microphones.

Mr. Diarmuid Collins: It showed commitment that we were going to enhance the asset.

Deputy Catherine Connolly: That does not make sense but I will leave it. Is my time nearly up?

Chairman: The Deputy is on the button.

Deputy Catherine Connolly: I understand UCC is the main actor in this wonderful Irish Maritime and Energy Resource Cluster. I know other stakeholders are involved, but UCC is the main administrator of it. I have a very specific question about this. If the witnesses cannot answer me, that is okay; I just ask that they come back to me. An external review was carried out, I understand, in May 2016. Are the witnesses familiar with that?

Professor Patrick O'Shea: Yes.

Deputy Catherine Connolly: An external review was carried out of this Irish Maritime and Energy Resource Cluster. Is that available?

Professor Patrick O'Shea: I will get back to the Deputy on that.

Deputy Catherine Connolly: Professor O'Shea will check whether it is available, and if it is-----

Professor Patrick O'Shea: Exactly.

Deputy Catherine Connolly: That is point No. 1. Point No. 2: have changes been carried out as a result of the May 2016 review?

Professor Patrick O'Shea: Yes, and we can get back to the Deputy on that.

Deputy Catherine Connolly: Can Professor O'Shea outline the changes for me?

Professor Patrick O'Shea: May I get back to the Deputy?

Deputy Catherine Connolly: There was an internal audit. What happens with that? Following that review, I understand there was an internal audit of this organisation, or this entity.

Has that gone up to the board of governors? Will you set out in writing for us whether that has happened?

Professor Patrick O'Shea: Yes. We can let the Deputy know about that.

Deputy Catherine Connolly: I will tell the witnesses why I am asking this. We are sick, sore and tired sitting here trying to extract information. That is one question to which I want a simple reply. Finally on this, I presume - and again, the witnesses are going to give me reassurance - that UCC complies fully with all the Government guidelines, procedures, rules and regulations for staff appointments. The witnesses are nodding. Representatives of every institution have nodded, as the representative of UL nodded earlier about issues prior to his time. I have his opening statement. The witnesses have given me reassurance that in respect of employment matters, the guidelines are always complied with. My question, then, is this: has anybody been employed outside of those procedures at senior level without the permission of the Department?

Mr. Michael Farrell: We have governing body regulations controlling the appointment of every category of staff in the university, including contracts under the year. Those regulations are always complied with for all appointments.

Deputy Catherine Connolly: Mr. Farrell tells me UCC complies with the regulations. I understand that if there is an exception, it needs prior permission from the Department. Has UCC gone outside in the last couple of years to employ senior people without the Department's permission?

Mr. Michael Farrell: Where we need permission from the HEA is in respect of people who stay on 20% of the time post-retirement. Under the employment control framework as it now works, we do not need specific approval for particular appointments. We fill our positions using governing body regulations. The Universities Act requires us to fill them under a statute or a regulation. We have regulations covering every kind of appointment, and they are followed.

Deputy Catherine Connolly: Have they been complied with in the case of the organisation I have mentioned or anybody employed out of it?

Mr. Michael Farrell: Which organisation?

Deputy Catherine Connolly: The Irish Maritime and Energy Resource Cluster.

Mr. Michael Farrell: They are research appointments. We have separate regulations on them. We would have to check-----

Deputy Catherine Connolly: That is okay. I understand. Mr. Farrell will come back on all those issues.

Chairman: He will do so by next Wednesday. That is in one week's time. Is it possible to do this within a week? Our committee will be issuing a report in the coming weeks. We will start to consider the drafting of our report next week, the Dáil recess is coming up soon and we have a report to do on the Garda Síochána, so we want to complete this work fairly promptly.

Deputy Aylward is next, but we are probably heading into the voting-----

Deputy Bobby Aylward: We will keep going as long as we can. I have quick questions to ask Professor Fitzgerald. What is the current status of the two whistleblowers who highlighted this thing? I know they are on suspended leave. Are they being paid by the university while

on suspended leave?

Professor Desmond Fitzgerald: They are being paid by the university.

Deputy Bobby Aylward: They have been on suspended leave for two years. What will their status be when this report that UL is bringing forward is concluded, which, hopefully, will be in September? Will they be reinstated?

Professor Desmond Fitzgerald: I have said that I will engage with them sympathetically and see how we would bring them back into the workforce.

Deputy Bobby Aylward: Will there be recognition of what they did and what they disclosed about the governance of the University of Limerick? Will there be compensation of some form for stress and strain and-----

Professor Desmond Fitzgerald: I cannot say that.

Deputy Bobby Aylward: -----I suppose, abuse in one way of them?

Professor Desmond Fitzgerald: I cannot say that at the moment. As I said, I will be very sympathetic to them. I want to bring this to a rapid conclusion.

Deputy Bobby Aylward: Is their employment status guaranteed or is it subject to the result of this inquiry?

Professor Desmond Fitzgerald: I am not going to engage with them until the inquiry is finished because a major element of Dr. Thorn's inquiry is the manner in which these whistleblowers have been treated.

Deputy Bobby Aylward: As a newcomer coming in from the outside, does Professor Fitzgerald have respect for the whistleblowers and does he admire what they did in bringing this situation to a head?

Professor Desmond Fitzgerald: I think the whistleblowers and the person referred to as "A" have done an important service in bringing some of the issues to public attention and to the attention of the university.

Deputy Bobby Aylward: I am probably asking him a hypothetical question but does Professor Fitzgerald think his board in general would recognise the same and give a similar comment to Professor Fitzgerald's?

Professor Desmond Fitzgerald: I have not addressed the matter with the board yet. What I have told the board is that we will go through this process of the review and that the recommendations of the review would be implemented, including any recommendations concerning the whistleblowers.

Deputy Bobby Aylward: When does Professor Fitzgerald think the review of the inquiry will finally be brought to fruition? When does he hope to have the whole thing sorted?

Professor Desmond Fitzgerald: The target from the outset was the end of September and I do not think that has changed.

Chairman: I thank Deputy Aylward.

Deputy Bobby Aylward: I have a few more questions. I have five minutes, have I not?

Chairman: Yes.

Deputy Bobby Aylward: I want to come back to UCC. What business was the IMI involved with over the years until UCC took it over? What was its main business and why was UCC interested in taking it over? I want to get to the bottom of this. Why did UCC look towards the IMI and seek to take it over by amalgamation?

Mr. Diarmuid Collins: The IMI was involved in executive education, that is, education for people already in the workplace, primarily executive programmes. We did not have that offering as part of our business school. It is a gap in what we provide. We are obliged under the Universities Act to retrain and reskill and deliver lifelong learning, and in the area of business we did not have that offering. The IMI now allows us to make that offering. It delivers programmes for multinationals, Irish and overseas companies and small businesses on developing leadership, management and provides executive education in Ireland and abroad.

Deputy Bobby Aylward: As a business, it did not seem to be very profitable, if one looks back on the accounts over the last ten years. What is going to change, now that-----

Mr. Diarmuid Collins: I would not agree that it was not profitable. Our assessment, and this was confirmed by our own external advisers, was that it had revenue growth, and the settlement of its pension liabilities with the pension trustees in 2012 put it on a path to sustainability. Since then, its revenue and profits have been growing. It was profitable in 2013 and 2014. We are expecting to see a profit for 2016 and again this year.

Deputy Bobby Aylward: When Mr. Collins says profit, what kind of profit is he talking about?

Mr. Diarmuid Collins: The profit was more than €1 million in 2013 and an amount greater than that in 2014.

Deputy Bobby Aylward: Will the profits that it is hoped will be generated in the future be absorbed into the accounts of UCC?

Mr. Diarmuid Collins: There have been conversations here previously about consolidation. These were a subsidiary and they will be fully consolidated in the accounts of UCC. When the Comptroller and Auditor General is auditing UCC, he will also be auditing the accounts of the IMI.

Deputy Bobby Aylward: If everything goes according to plan, this could be a big gain for UCC and for the future of education in Cork.

Mr. Diarmuid Collins: We would hope that it will be a success into the future.

Mr. Cormac McSweeney: It fits with the competency objectives in the business school, which has the highest number of business undergraduates in the country and the second highest number of taught postgraduates. The school now has an executive education arm it can draw on as well, so in terms of strategic ambition, it is very important to UCC.

Deputy Bobby Aylward: Why did the witnesses say that if things did not work out, UCC could sell off some of the land assets?

Mr. Diarmuid Collins: As part of our normal risk management, we would ensure-----

Deputy Bobby Aylward: That is just in there as cover.

Mr. Diarmuid Collins: For the governing body, it was a fail-safe in order that if things were not a success, we would have that option.

Deputy Bobby Aylward: What is on the 13 acres of land in Sandyford at the moment?

Mr. Diarmuid Collins: The IMI buildings in which the various programmes are delivered.

Deputy Bobby Aylward: Are the 13 acres fully utilised?

Mr. Diarmuid Collins: Yes, they are fully utilised. The residential arm of the institute is also there, which allows students to stay overnight. Some of the programmes are delivered over more than one day and students can stay overnight. That residency element is part of the institute too.

Mr. Cormac McSweeney: Conferences are also hosted there, as part of the offering.

Deputy Bobby Aylward: What land would UCC be selling off if there was a problem?

Mr. Diarmuid Collins: We have not considered that yet.

Deputy Bobby Aylward: I have one last question on the €1.4 million contribution to the pension for a former CEO and the High Court case that was taken against the IMI. What is the situation in that regard? If that money has not been paid, has UCC and the IMI agreed to the payment of this pension, valued at €1.4 million over the lifetime of the arrangement?

Mr. Michael Farrell: That was a High Court action taken by a private individual who worked for a private company. The individual was not a public servant and was not in receipt of any public funds or any public payment or pension. Beyond that basic information, we cannot go too far because we are party to a confidentiality agreement in relation to that settlement. However, the payment that has been made has been long-standing. It was a prerequisite of UCC's governing body's approval of the acquisition that the legal case be settled. The university would not take on the IMI if there were any outstanding legal cases. That legal case was settled and the payment that continues to be made to the person concerned is from IMI revenue.

Deputy Bobby Aylward: The IMI refers to it as a pension liability but UCC has not listed it as such. Why is there a discrepancy between the two bodies?

Mr. Diarmuid Collins: They are the IMI's own accounts and are the accounts of the institute before we acquired it. We are happy that it is in our schedules and appendices that the pension liability is removed from the IMI, as confirmed by Mercer and PricewaterhouseCoopers. In the case of this individual, he will still get his pension from the pension trustees into the future. This is a separate payment that is paid by the IMI. It is not a pension in so far as it is not linked to the performance of the pension asset and it is not paid by the pension trustees but by the IMI. We do not know what the performance of the pension asset will be, but were that asset to go into decline, this individual would still get paid that separate payment. It is a separate payment beyond what is paid by the pension trustees and the pension trustees have been totally removed from the IMI since 2012, which we confirmed-----

Deputy Bobby Aylward: I have just one more question. When was the first time UCC

received communications from “RTE Investigates” regarding the IMI’s financial statements? When did RTE first contact the university? When did the university become aware that RTE was investigating third level institutions?

Mr. Michael Farrell: We got a series of freedom of information requests at the end of last year and the beginning of 2017 from “RTE Investigates”.

Deputy Bobby Aylward: Were the witnesses shocked by what was revealed in the RTE programme?

Mr. Michael Farrell: In relation to UCC?

Deputy Bobby Aylward: Yes.

Mr. Michael Farrell: No.

Deputy Bobby Aylward: No?

Mr. Michael Farrell: In relation to the programme itself, we are not satisfied-----

Deputy Bobby Aylward: I presume all the witnesses saw it-----

Mr. Michael Farrell: We are not satisfied with the way the university was portrayed in the programme and we have submitted a complaint to RTE in that regard.

Deputy Bobby Aylward: UCC has complaints about the way the university was portrayed in the programme.

Mr. Michael Farrell: Yes, we do.

Deputy Bobby Aylward: My last question is for the witnesses from the Department. Was the Department aware of the arrangements whereby a contractual pension liability was transferred to a bank debt on the balance sheet of UCC?

Mr. Tony Gaynor: The Department was satisfied with the due diligence that was undertaken in relation to the proposal.

Deputy Bobby Aylward: It accepted it as presented. Is that right?

Mr. Tony Gaynor: We were satisfied with the deal that was proposed.

Chairman: Deputy Catherine Murphy is next. All the votes to be taken in the Dáil today will be walk through votes because certain Ministers of State have not been reallocated their seats in the Chamber yet so the electronic system cannot be used. In that context, we will try to finish in the next few minutes because a number of votes are due to be called soon. It would be great if we could finish this session before the votes in order that we can move on to the next session when we resume our meeting.

Deputy Catherine Murphy: We have just been given a document from the Department of Education and Skills about re-engagement of staff, which was something that featured in the “RTE Investigates” programme. The programme revealed that certain people were re-engaged by the University of Limerick the day after they retired. The timing raised questions. The university has accepted that these matters need to be investigated and that an independent review is now warranted. There are very clear rules about this and the rules were breached. What are

the consequences for breaching the rules? Unless there consequences, behaviour tends to be repeated and people will tend to breach or break the rules. Are there consequences here?

Mr. Tony Gaynor: We do not have in front of us the document that members have, but the Department was querying some of the issues around those payments and was not satisfied with some of the information it was getting. The decision was taken then that the issue of the severance payments would be tied in with the review that is being undertaken by Dr. Thorn. We will have to await the outcome of that review and its findings with regard to the severance payments.

Deputy Catherine Murphy: Generally, are there consequences?

Mr. Tony Gaynor: Under the financial emergency measures in the public interest, FEMPI, legislation, there is a provision that allows the Minister for Public Expenditure and Reform to recoup unauthorised allowances or unsanctioned moneys that are paid by institutions. There is a power there under the FEMPI legislation.

Deputy Catherine Murphy: Does the Department press that? Has it pressed that?

Mr. Tony Gaynor: To my knowledge, we have not used it yet.

Deputy Catherine Murphy: Is it something to which consideration would be given?

Mr. Tony Gaynor: We will have to see the outcome of the review first.

Chairman: The Higher Education Authority, HEA, wants to come in on that topic.

Mr. Andrew Brownlee: On the question of recouping unauthorised allowances, we have in the past put in place arrangements to do that with the universities regarding previous unsanctioned payments. We have done it in the past. The other thing we are doing, in the context of the ongoing review of our funding allocation model, is looking at building in a penalty system with regard to governance compliance issues.

Chairman: The HEA recoups from the institutions rather than from the individuals. Is that right?

Mr. Andrew Brownlee: Yes.

Chairman: Is it then left to the institutions and the individuals to sort it out?

Mr. Andrew Brownlee: Absolutely.

Deputy Catherine Murphy: Mr. Brownlee spoke about EUROSTAT looking at the universities. What prompted that? Is that something that was reviewed before?

Mr. Andrew Brownlee: It is an ongoing process of review. I understand that EUROSTAT does this every five years. It looks not just at the universities but at the whole State balance sheet, what should be in and what should be out. It is a standard-----

Deputy Catherine Murphy: Do we know what the combined liability of the universities is?

Mr. Andrew Brownlee: I can get that information for the Deputy. I do not have it to hand today.

Deputy Catherine Murphy: I would appreciate that. Turning to UCC, Professor O'Shea

was at pains to say on several occasions that public funding was less than 50% and that the majority of funding was not coming from the public purse. UCC has picked us up on that a few times and I understand there is an issue with the funding of third level, but we will leave that aside. Would the campus exist without the public purse?

Professor Patrick O'Shea: No. We apply the same accountability, procurement and accounting standards to all of the financing that we get.

Deputy Catherine Murphy: What proportion of the campus has been constructed? Presumably, most of it was constructed using public funds. Is that the case?

Professor Patrick O'Shea: Obviously, I cannot give the Deputy details off the top of my head.

Deputy Catherine Murphy: It would be fair to say that it was.

Professor Patrick O'Shea: I presume so.

Deputy Catherine Murphy: It is not the only consideration and a range of other aspects of a university have value, including knowledge, reputation, etc., but the campus would not have been built without the investment from the public purse.

I will keep my next question as short as possible. It relates to the IMI and the pension liability. How many people were involved?

Professor Patrick O'Shea: I will have to defer to my colleagues.

Mr. Diarmuid Collins: Approximately 34 people were in the closed pension scheme that was taken on by the trustees.

Deputy Catherine Murphy: Were those people who had already retired or-----

Mr. Diarmuid Collins: They were people who had retired as well as a few - one or two - staff members in the IMI.

Deputy Catherine Murphy: What type of pension scheme was it?

Mr. Diarmuid Collins: It was a defined benefit pension scheme. It has closed. Anyone employed since then has been in a defined contribution scheme.

Deputy Catherine Murphy: How are those future pension liabilities funded?

Mr. Diarmuid Collins: The defined contribution scheme depends on the performance of the fund itself. There is no call on the university for that.

Deputy Catherine Murphy: When did the separation between the IMI and its assets and liabilities occur?

Mr. Diarmuid Collins: I went through the outline of the transaction. That all happened on 21 November 2016. On that day, the company was acquired and the asset was purchased and leased back in the same transaction.

Deputy Catherine Murphy: It was not separated before that.

Mr. Diarmuid Collins: No.

Deputy Catherine Murphy: I will leave it at that.

Deputy Mary Lou McDonald: I invite Dr. Thorn to confirm whether he will interview and speak to Professor Don Barry, former president of the University of Limerick, as part of his investigation.

Dr. Richard Thorn: Yes.

Deputy Mary Lou McDonald: I thank Dr. Thorn. He is examining many dimensions and it is a substantial job of work that he has undertaken. What qualifies him to investigate allegations of fraud, which is what this amounts to in respect of bogus expenses claims?

Dr. Richard Thorn: The investigation is wide-ranging. There is a particular concern that there are organisational cultural issues. It is within that context that the overall investigation is taking place. I have extensive experience on the governance and leadership-management sides.

Deputy Mary Lou McDonald: I recognise that.

Dr. Richard Thorn: If there are technical issues to do with those matters, I will be seeking the support and advice of the HEA.

Deputy Mary Lou McDonald: There will be matters that are technical in nature and potentially relate to fraudulent claims.

Dr. Richard Thorn: I do not want to prejudge fraud or otherwise. Where there are technical issues in respect of which I do not believe I have expertise, I will be asking for assistance.

Deputy Mary Lou McDonald: Has that been factored into the HEA's plans?

Dr. Graham Love: If Dr. Thorn needs it, we will assist and provide it.

Deputy Mary Lou McDonald: Provide technical expertise. In other words, Dr. Thorn will not draft a report that shows conspicuous absences within his investigation.

Dr. Richard Thorn: No.

Deputy Mary Lou McDonald: I wish to ask Professor O'Shea about Professor Emeritus Connell Fanning and the Keynes Centre. We do not have time to get into it, but a question was asked of UCC and Professor Fanning about the centre's output. Is it a separate institute?

Professor Patrick O'Shea: Yes. We will be conducting a review of it in the autumn.

Deputy Mary Lou McDonald: It was an unanswered question in our programme. Could we have some detail of that?

Professor Patrick O'Shea: Yes. We will be conducting a review, but I am unsure of the precise date.

Chairman: We will suspend until 2.30 p.m. because the Dáil is voting. Actually, I am sorry, Mr. Farrell is indicating.

Mr. Michael Farrell: May I make a brief comment before we finish?

Chairman: Yes.

Mr. Michael Farrell: If I correctly interpreted some comments that were made at the outset about governance and governing bodies, I would not like it sitting on the record that anything done in respect of the IMI and its acquisition was outside of the Universities Act or the powers of UCC's governing body. The decisions taken by the governing body were completely in line with the legislation. It conducted extensive due diligence, set extremely stringent conditions for the acquisition of the IMI and risk managed the process throughout the period.

Chairman: Is Mr. Farrell concerned that something might have been said?

Mr. Michael Farrell: I am concerned that the comments about governance in universities might extend to governance in UCC, which is exemplary governance from where I am sitting.

Chairman: The essence of today was to tease out matters. At the previous meeting, the phrase used was essentially "We bought it for nothing". No one present got that. That was the phrase that people believed could not be left to lie without the relevant details being teased out. We have done a bit of that today. I am being upfront. It was that phrase that prompted some of our questions.

We will suspend. I thank the witnesses for their attendance. Those from UL and UCC are free to leave. The Cork and Dublin institutes of technology will be before us at 2.30 p.m. All of the witnesses will take their seats, but we will start with the Dublin Institute of Technology, DIT, because some of its delegates have flight arrangements. We want to get the DIT people away first, but both groups will attend the same session.

The witnesses withdrew.

Sitting suspended at 1.17 p.m. and resumed at 2.30 p.m.

Chairman: I apologise to our witnesses for the late start this afternoon. The morning session took quite a bit of time, and then the voting session in the Dáil took much longer than expected. We will proceed with this afternoon's business. We will continue with our follow-up on the third level education sector. For this session, we are joined by Professor Brian Norton, Dr. Noel O'Connor, Mr. Colm Whelan and Dr. Philip Cohen from Dublin Institute of Technology; and by Dr. Brendan Murphy and Mr. Paul Gallagher from Cork Institute of Technology. We are also joined by Ms Colette Drinan, director of audit at the Office of the Comptroller and Auditor General, in substitution for Mr. Seamus McCarthy.

I ask Ms Drinan to make a brief opening statement on Cork Institute of Technology, since representatives from it were not here at the last meeting. Then I will ask Professor Norton and Dr. Murphy for opening statements, if they have statements.

Ms Colette Drinan: The financial statements before the committee in this session relate to Cork Institute of Technology's financial year ending on 31 August 2015. The institute's consolidated income for the year amounted to €97 million, of which State grant funding accounted for €37 million. Tuition fee income of nearly €31 million included fees of €5.6 million paid by the State and student contribution income of over €18 million. Research grant income was €15 million. A percentage breakdown of income is shown in the diagram on-screen. Expenditure in the year was nearly €98 million. Approximately 68% of this was accounted for by staff costs. A detailed analysis of expenditure is given in note 12 of the accounts. The institute incurred a deficit of €1.2 million for the year, and had an accumulated deficit of €1 million on 31 August 2015.

COMMITTEE OF PUBLIC ACCOUNTS

Chairman: I ask Professor Norton to make a brief opening statement. This is for Dublin Institute of Technology, DIT, so I ask him to distinguish between the two organisations here today.

Professor Brian Norton: Arising from discussion at our last appearance before the committee, we were asked to provide additional information and clarify some issues that were raised, and we have done so.

Regarding the delivery of DIT programmes in partnership or through third-party providers, this type of delivery is in keeping with national strategy for higher education. Such arrangements represent a very small proportion of DIT provision and are entered into where there is clear student demand and where, for reasons of resources, we cannot deliver the programme in-house. Students registered on such a programme are recognised as full DIT students with access to services, from the medical centre and counselling, to sports, clubs and societies. The DIT commercial modern music degree, delivered through the British and Irish Modern Music Institute Dublin, BIMM Dublin, is an example of such a programme which has run very successfully for five years. The future delivery is currently under public tender.

We also provided further information concerning the library subscription service, Swets UK. This company had been procured through a national public tender in 2012 but went into bankruptcy in 2014. DIT has provided an additional document to the committee that relates to an investigation undertaken by DIT and conducted by an external consultant, Ernst & Young, EY, into the processes that gave rise to the payment by DIT to Swets UK. The issues raised in this report are also addressed in the final management report, which was submitted in July 2016 to this committee. I regret that the EY report was not specifically included. There were press reports this morning in *The Irish Times* that the report was not provided to this committee, but we have a receipt from the secretariat for the Committee of Public Accounts dating to 31 May 2017 that it was received. I would like that to be in the record for the avoidance of doubt, since there seems to be a public view that it has not been submitted. It has been.

Chairman: I want to confirm that we received it and the committee considered it this morning. If there is any confusion, that is regrettable, but we have the report.

Professor Brian Norton: The EY report also identified payments of €29.5 million over a three-year period, which were deemed not to have gone through appropriate levels of approval. DIT assures the committee that these payments for a range of services had full budgetary approval and had been appropriately procured. For example, they included annual rental for DIT buildings, utilities and energy costs, catering contracts, audit by the Comptroller and Auditor General and library resources. These payments now go through the levels of formal approval required by our finance system for all payments under our authority to bind.

A loss of €718,000 was incurred by DIT as a result of the Swets UK bankruptcy. We subsequently procured the required services through another supplier at a cost of €760,000. While the cost is higher, the terms of the new contract do not require full prepayment and therefore reduce the exposure to potential commercial failure. DIT has been excluded from IReL, the Irish Research electronic Library which is funded by the HEA and to date has only been available to universities. Access to this resource would reduce our exposure to the viability of commercial provision. I am pleased to inform the committee that we yesterday received notification that a process is under way to grant DIT access to it.

The scale of the loss incurred by the Swets bankruptcy reflects the scale of the library service in DIT, which accounts for approximately 6% of our annual non-pay expenditure. The ser-

vice provides access to relevant and current texts, research and related findings for our student population of 20,500 who are pursuing courses at levels from apprenticeship to PhD and our academic staff of over 1,200. The library's extensive resources include 286,000 books, 18,500 dissertations and updated subscriptions to approximately 35,000 online journals, periodicals and databases to support students across a wide range of activities and disciplines and support our research activity.

We currently operate six libraries, which are located in Aungier Street, Kevin Street, Bolton Street, Cathal Brugha Street, Rathmines and Grangegorman. Their dispersed nature adds to costs. This will be alleviated by the development of a single library on the new single DIT campus.

I am delighted to say that despite some recent setbacks, by late 2019 DIT will have 10,000 students on campus at Grangegorman. There are currently 1,200 students, researchers and entrepreneurs on campus and it is already making a very significant contribution to Dublin's north inner city. Over the next five years, the development of the campus will assist in transforming this part of the city through contributing to the renewal of neglected areas and creating opportunities for educational access, community engagement and economic vitality. Served by the new cross-city Luas line, it will change the map of Dublin.

Finally, I would like to briefly mention technological university legislation. Since the publication of the Hunt report on higher education in 2011 and its adoption as national policy, DIT has been working closely with our partners in IT Tallaght and IT Blanchardstown towards creating a technological university for Dublin. We have successfully gone through stage three of the four-stage application process. We understand that the proposed legislation to enable us to move to stage four may come before the Houses of the Oireachtas in the very near future. We ask members to support this legislation in order that, building on our combined strengths, we can create our new institution to serve the Dublin region.

I thank members for this opportunity to answer any questions they may have. My colleagues and I will endeavour to do so fully and frankly.

Dr. Brendan Murphy: I thank the chairman and members of the committee for the invitation to attend this meeting to discuss the financial statements of Cork Institute of Technology, CIT, for 2015 and the KPMG reports conducted into anonymous allegations made in 2014. I am joined by the vice president for finance and administration, Mr. Paul Gallagher. Given that it is our first appearance before the committee, perhaps I could outline what CIT is all about. It is one of the largest, most progressive and successful institutes of technology in the country with approximately 11,000 higher education students, 3,000 craft and junior music students and a staff of 1,400. It operates on four major sites in Cork city and county. CIT's Bishopstown campus comprises 38 ha, including major sports facilities, research centres and the Rubicon innovation centre. The CIT Crawford College of Art and Design and the CIT Cork School of Music are both based in the city centre, and the National Maritime College of Ireland is based in Ringaskiddy, County Cork, close to the naval base in Haulbowline. CIT is a major national provider of STEM education and research. Its annual income and expenditure is approximately €100 million and research activity constitutes 20% of its total budget. CIT, in partnership with IT Tralee, has successfully completed three of the four stages of technological university designation.

CIT enjoys a national and international reputation for the quality of its education and research and the professional capabilities of its graduates. It leads Irish higher education in the

recognition of work-based learning and prior learning and the development of joint degrees, which is done in conjunction with UCC and universities in Europe. The quality of its education programmes and research is overseen by Quality and Qualifications Ireland, QQI. Its governance is provided by its governing body and through its three committees: audit, finance and strategic development. Its internal audit, while tendered for on a sectoral basis, operates on an independent basis in each institution. It operates under the Institutes of Technology Acts 1992 to 2006 and the HEA has a regulatory oversight of the institutes of technology.

Higher education in Ireland has been operating in a very challenging financial environment since 2008, with significantly increased higher education student numbers, reduced staff numbers and reduced State funding. Even though CIT has continued to be successful in this period, it is not immune to these financial challenges as may be seen in our 2015 financial statements. CIT incurred deficits in the academic years 2013 to 2014 and 2014 to 2015. I apologise because the figure of €126 given in the briefing in this regard should read €126,000. The representatives of the Comptroller and Auditor General will be glad to know that we both agree that the deficit was €1.2 million rather than €1,216. It is amazing that one can read something and miss a vital detail. A break-even position was recorded in the 2015 to 2016 academic year and, following an extensive review and planning process in conjunction with a HEA process, forecasts for the next four years demonstrate the ability of the institute to remain in a sustainable financial position. The forecast for the academic year 2016 to 2017 is in line with expectations.

The reason for the deficits in the academic years 2013 to 2014 and 2014 to 2015 relate, in the main, to the STEM and apprenticeship areas. In terms of STEM, the funding model has negatively impacted on the weighting of funding in this area following the introduction of the flat-rate student contribution of €3,000 per annum. In terms of apprenticeship, CIT had approximately 100 staff working in this area in 2008 and carried the cost of maintaining these staff during a period of collapse in provision. Fortunately, the area of apprenticeship is now experiencing significant growth and is contributing directly to the recovery in CIT's financial position.

CIT has always been prompt in the submission of its financial statements to the Comptroller and Auditor General for audit. With a year end of 31 August and deadline for submission of 31 December, CIT has consistently submitted its accounts in late October or November. CIT's last set of financial statements for the year ended 31 August 2016 are expected to be signed off by the Comptroller and Auditor General this month. No outstanding issues of a high rating are expected.

The committee has indicated that it wishes to revisit the issue of the KPMG report. This report relates to two anonymous letters received by the Comptroller and Auditor General in 2014 in regard to CIT. As for the first anonymous letter received in March 2014, a total of 175 allegations were made. Many of these were grossly defamatory. The anonymous letter was referred by the chairman of governing body to the audit committee, which was authorised by governing body to obtain independent legal advice. Based on this advice, the audit committee, again with the agreement of governing body and via the independent legal advisers Arthur Cox, tendered for and engaged KPMG to carry out an independent review of the allegations.

KPMG's engagement was structured on a phased approach to ensure that the audit committee could retain oversight of the investigation while ensuring KPMG had sufficient freedom to complete its work. KPMG's remit was to investigate the allegations as presented and was not limited to the handling of the process by CIT. Indeed, KPMG noted in its report that it did not note any material limitations of scope as part of the review which prevented it from completing the scope of work as set out. The phased approach included a review of the anonymous let-

ters and management responses; a corporate governance review and review of internal policies and procedures and CIT's compliance; a review of expenditure documentation in CIT and its subsidiaries; consideration of whether each allegation had been addressed; and production of a comprehensive report of findings.

The results of the KPMG review were as follows: 32 of the allegations contained insufficient evidence to allow further review; 35 were responded to sufficiently at the outset by CIT management and no further action was deemed necessary; 52 were deemed repetitious to other allegations in the same letter; and 56 allegations were identified for additional information and documentation. This was facilitated and of those 56 allegations, 47 were deemed to require no further action as they had been adequately addressed by the institute; three were considered to contain no evidence and therefore needed no further action; and six allegations were deemed repetitious to other allegations and required no further action.

In respect of the second anonymous letter received in December 2014, another 21 allegations were made. Again, many of these appeared to be grossly defamatory and all were considered by the audit committee of CIT. The audit committee engaged KPMG to carry out a further independent review, which determined that two of the allegations had been previously addressed by KPMG and did not require any further action; three were sufficiently addressed at the outset by CIT management and no further action was deemed necessary; one was deemed repetitious to previous allegations; and 15 of the allegations were identified for additional information and documentation. This was facilitated and those 15 allegations were then deemed to require no further action as the allegations had been adequately addressed by the institute.

In summary, the outcome of the KPMG independent reviews was that of a total of 196 allegations, 35 were deemed to have insufficient evidence to allow further review, 102 were deemed to require no further action as the allegations had been adequately addressed by the institute and 59 were deemed repetitious to other allegations and required no further action.

The governing body received updates from the audit committee during the process. A final report issued from the audit committee was considered by the governing body at its meeting on 26 March 2015. It concluded that after two intensive external investigations, all individuals and-or agencies identified within the letters had carried out their professional duties highly diligently and with total integrity. The governing body concluded that no further response or action was required from the institute's executive.

During the course of the extensive KPMG reviews, a small number of issues were found aside from the 196 allegations contained in the anonymous letters. As is the case with any audit report, these matters and management responses were considered by the audit committee and controls were changed or strengthened as appropriate. A full copy of the audit committee's final report to the governing body and the KPMG reports have been provided to the HEA, the Department of Education and Skills and the Comptroller and Auditor General. The chair of the governing body also provided the HEA with a full written account of the process undertaken to address the matter. The matter was also addressed at a meeting of the Committee of Public Accounts on 10 December 2015 and extracts from the relevant statements of the Comptroller and Auditor General, the HEA and the Department of Education and Skills are attached in the appendix provided today. All attest to the satisfactory manner in which CIT dealt with the matter.

We remain at the disposal of the committee to answer any questions it may have on these and other matters.

Chairman: I thank Dr Murphy. The first speaker for this session is Deputy Catherine Murphy. She will be followed by Deputies Alan Kelly, Marc MacSharry, David Cullinane, and Mary Lou McDonald. The first speaker has 20 minutes, the second speaker has 15 minutes and everyone else has ten minutes. There will be a second chance to come in. It is the normal procedure.

Deputy Catherine Murphy: I want to address my remarks to Professor Norton. Did he watch the “RTE Investigates” programme? Was there anything in it that surprised him or on which he would like to comment?

Professor Brian Norton: As I said in the opening statement, two aspects need to be clarified. The impression was given that the loss from SWETS UK was of two amounts. The bankruptcy loss was €718,000 but the service that was subsequently procured was a budget amount that applied to that. There was only one sum of money lost yet the impression was given that there were two. Additionally, the impression was given that the review by Ernst & Young had identified sums of money that were not properly approved through our processes and that somehow, some money had gone amiss. The approval process in its transaction had not been appropriate and we amended that subsequently. However, those monies were budgeted for, approved and procured.

The other observation I would make is that the Ernst & Young report itself had been provided to the Comptroller and Auditor General and the HEA and fully discussed with the latter. This was alluded to in the covering report we supplied to the Committee of Public Accounts. It is to the regret of our governing body and my own personal regret that we did not provide it here. We did not do so because the issues and what we have done about them were covered in the management report we provided. Again, there is a suggestion that in not providing the Ernst & Young report we were not giving the full information to the committee or that we were misleading the committee. I can assure the members that this was not the case.

Deputy Catherine Murphy: Professor Norton was with us on 6 April last. Subsequently, we received the Ernst & Young report. I have just dug out the transcript of our meeting from 6 April. Professor Nolan told us that the service had been contracted for the previous 15 years. I asked if the controls would be as robust as if a new service was being contracted. Essentially, the response was that the kind of due diligence carried out would have been as if it had been a first-time contract. It is very interesting to compare that transcript to the content of the Ernst & Young report. The system that it seems to have gone through really consisted of somebody in the library signing off on it. It was assigned at director level and did not go through the Agresso system, which would have provided checks and balances at either end. This was a very large amount of money. It looks to me like due diligence was not performed as I was led to believe it was when I asked the question on 6 April.

Professor Brian Norton: The Deputy is certainly correct that the transaction was not in Agresso and would not have come to me for approval. It should have done and we have amended our process to ensure that this happens in future. In respect of the exact due diligence that we undertook previously, I will defer to my colleague, Mr. Colm Whelan.

Mr. Colm Whelan: To clarify the point the president has just made, the transaction did go through Agresso. The references in the Ernst & Young report are to the effect that it did not go through our standard workflow process in Agresso.

Deputy Catherine Murphy: It only went through Agresso when generating the payment.

That is the only aspect that seems to have gone through Agresso.

Mr. Colm Whelan: Correct. The transaction was approved by the head of library services and the payment was approved by me.

Deputy Catherine Murphy: It did not escalate to the finance section. It seems to be have been signed off by the person in the library service instead.

Mr. Colm Whelan: I signed it for finance.

Deputy Catherine Murphy: Only at the very end.

Mr. Colm Whelan: Yes. The point is that our standard processes did not apply in as much as the particular transaction did not go to director level for approval.

Deputy Catherine Murphy: What we are trying to establish is whether this loss could have been prevented if there had been robust due diligence done on the company in advance of the transaction being placed?

Mr. Colm Whelan: On the due diligence point, we made the point the last time we appeared before the committee that the education procurement service conducted the procurement exercise which contained certain standard due diligence checks on the tenderers. The winner of that process was the Swets UK company. Those checks were standard checks involving three years' worth of clean accounts-----

Deputy Catherine Murphy: When did this happen?

Mr. Colm Whelan: At the time the tender was awarded, about 2012.

Deputy Catherine Murphy: We were told the last time Mr. Whelan was here that services had been contracted for the previous 15 years. Were they contracted with the same company for the previous 15 years? In 2012 there was a new tendering process. This company came through that tendering process in 2012 and then it was just a repeat in 2013 and 2014.

Mr. Colm Whelan: I will defer on the details to my library colleague who knows the history better than me. The tender exercise was concluded in 2012. It resulted in a contract for a three-year period and in the course of that three-year period, Swets UK and its parent company failed. The loss came from the failure of Swets UK and our exposure to that company in the magnitude of the pre-payment we had made.

Professor Brian Norton: May we add some relevant information?

Deputy Catherine Murphy: I have a very limited amount of time. I do not need a history lesson. The witness may add something if it is a very short response.

Professor Brian Norton: In order to present complete information, I will defer to Dr. Philip Cohen.

Dr. Philip Cohen: It is true there had been contracts with Swets UK for 15 years. There was a tender exercise in 2012. There had been a previous tender exercise in 2006.

Deputy Catherine Murphy: The witnesses are telling us things have changed since. I hope they have. We got some information about that the last time the witnesses appeared before the committee. It is a very large amount of money and if anything could have been done

to prevent it I think it is incumbent on us to make sure it is scrutinised. There seems to be quite a small number of very large payments that go through annually. I think 60 or 70 is the figure mentioned. Why would something of this size not be signed off on? Why would it not have been signed off on at the appropriate levels in advance so that all the checks and balances kicked in?

Professor Brian Norton: I will ask my colleague to give details on that but it should have been and now is. I stress that it is not to say the amount was not scrutinised and known. The amount was budgeted for and was known to all the senior managers in the institute, including me, because we benchmark our library spend against other institutions. We knew how much we were spending and we budgeted for it. The transactional process was not as it should have been; that is a fact. It now is. Does Mr. Whelan want to add anything?

Mr. Colm Whelan: That is the point.

Deputy Catherine Murphy: The Ernst & Young report is a very short report. The committee was circulated a very extensive report which was generated on foot of the Ernst & Young report. The Ernst & Young report was the independent report. It was the one we should have been provided with. It should have been obvious to provide us with it in advance of the meeting. Why was that overlooked? Why was it decided not to give it? Tell us what happened?

Professor Brian Norton: I regret it was not provided. The report we provided to the committee in July last year dealt with all the issues. We were asked a specific set of questions on the issue. That report dealt with all those questions and with what we have done subsequently whereas the Ernst & Young report only partially deals with that. As the Deputy said, it is a short report. It was not the comprehensive report that was sought. We provided that. Looking at it now-----

Deputy Catherine Murphy: Can I just say-----

Professor Brian Norton: Could I-----

Deputy Catherine Murphy: Very quickly.

Professor Brian Norton: Could I finish so I do not mislead the committee because this is important? The report was provided in full to the Comptroller and Auditor General. It was provided in full to the HEA. It was provided last year after an FOI request to RTE, which is why it had it. We certainly were not concealing the report. We should have provided the report but all the issues are in the report we provided.

Deputy Catherine Murphy: I have heard Professor Norton talk about regrets several times and, to be perfectly honest, it is almost annoying at this stage because it would have been self-evident to send in the Ernst & Young report, which was the independent report. It would have been self-evident that it should be the report provided to us. It is after the event. It would have been very helpful to us while going through this if we could match it against the much longer report that was internally generated as a consequence of this report. Having an independent pair of eyes on this is what we wanted. I have a question mark in my mind about managing the fall-out from this on the information that was provided to us. I do not know if Professor Norton agrees with me on that but that is certainly what it feels like. What management arrangements have been put in place on due diligence, specifically for very large amounts? Are the witnesses just sticking with the rules that were already in place? Are there other controls?

Professor Brian Norton: I will let Mr. Whelan answer with the details in a second but, essentially, we have an authority policy that sets the levels of authority to sign which is rigorously enforced. Anything I sign comes with a recommendation from a director to sign it having checked all due diligence beforehand. We are all in a clear workflow process and all major contracts come to us in a leadership team meeting and are signed off there. There are very thorough policies on double checking all the due diligence on all major contracts and making sure we look at multi-annual values, because it can creep into higher values by looking at a particular year's value. We look at both contracts that come to us and contracts we pay out.

Is there anything else I have missed?

Mr. Colm Whelan: It is in the various reports. We apply the same rules to all transactions. We have fully rolled out our Agresso system so with regard to the list of payments alluded to in the Ernst & Young report - it is in The Irish Times this morning - virtually all of those transactions are processed through our standard workflow process. Utilities are-----

Deputy Catherine Murphy: I have very limited time.

Mr. Colm Whelan: Okay.

Deputy Catherine Murphy: Just conclude that response.

Mr. Colm Whelan: Utilities is the principal area - there are one or two others - in which, historically, we pay those transactions by direct debit. We do not do prepayments. Prepayments was the principal exposure that led to the loss, aside from the failure of the company.

Deputy Catherine Murphy: Given the response I got to a very straight question about whether the controls would be as robust if a new service was being contracted, I feel I was misled on the last occasion the witnesses appeared before the committee. On the issue of the loss-----

Professor Brian Norton: Could I answer that question?

Deputy Catherine Murphy: Yes.

Professor Brian Norton: The answer I gave referred to the controls we now have in place. They are very robust. A contract of this value would come to us in a leadership team meeting-----

Deputy Catherine Murphy: That was not the question I asked Professor Norton. I asked whether the controls would be as robust as if a new service was being contracted. I was specifically asking about the loss. That was the context of the question.

Professor Brian Norton: Maybe I misunderstood. If a new service was contracted today, it would be on our current system.

Deputy Catherine Murphy: No, Professor Norton is not putting it into the future.

Dr. Noel O'Connor: Would it be helpful to the Deputy to outline what has changed with the new service that is being provided by the replacement of Swets UK?

Deputy Catherine Murphy: No. I accept that DIT has changed the regime since this occurred. We are examining why it occurred and whether it could have been avoided. That is the context.

Professor Brian Norton: There is a suggestion that I misled the committee. I am acknowledging, and I will not use the word “regret” again because it may be tedious, that the transaction approval was not appropriate. It is now and my answer to the question previously – maybe I misunderstood the question – was related to a new provision and a new process that would apply to that. If I misunderstood the question, I apologise, but I never claimed that the system we have now applied at that time. It did not.

Deputy Catherine Murphy: I have the Official Report of the meeting but I am not going to waste my own time reading it out. I know the context the question was asked in.

Were college services affected by the losses? For example, the library in Mountjoy Square was closed down. Was that a casualty of the losses?

Professor Brian Norton: There was no diminution whatsoever of the library service. The programme provision that was in Mountjoy Square and in Portland Row in Temple Bar moved to the Grangegorman campus, and the library in Mountjoy Square moved to Grangegorman with that provision. There was no loss of library provision.

Deputy Catherine Murphy: The governing body has expressed concerns about procurement issues relating to a subsidiary of the college which provides computer services, which I think was called An Cheim. It has been wound up and replaced by a company called Edu-Campus Computer Services Limited. Are there potential conflicts of interest in respect of this company? If so, will the witnesses outline them and what has been done about them?

Professor Brian Norton: Let me first set the context and then I will hand over to Dr. O’Connor to give the detail of An Cheim. It was set up many years ago at the behest of the Department of Education and Skills and the Higher Education Authority, HEA, to provide computer services to the institutes of technology, ITs. It was hosted by DIT as DIT’s legislation enabled it to host a subsidiary company and I understand the legislation for the other institutes of technology did not allow that to happen. The company is funded directly by the HEA and has a board which is chaired by the president of another institute of technology, usually in rotation or a senior figure from an institute of technology, and has a membership drawn from representatives of the Department of Education and Skills and the institutes of technology, including DIT. It is a body that provides services across the sector. Now I will hand over to Dr. O’Connor.

Dr. Noel O’Connor: An Cheim is in the final stages of being wound down and it might be timely to dwell on that process and give a bit of background and context. Accounts for the company have been approved by the board of An Cheim and by the auditors for the company, the Comptroller and Auditor General, earlier this month.

A full overview of the wind-down is contained in the statement of internal control in the accounts which will be posted by the end of this month on the Oireachtas website, and they relate to 31 August 2016. With the permission of the committee and in the spirit of absolute transparency, I will go through some of the summary of the statement of internal control. The company was established as a shared service support to the institutes of technology. The main focus of the company was to deliver on a range of technology related systems, management information systems, MIS, to support human resources, student records, library management and finance needs across the ITs, for approximately 100,000 students and 7,000 staff. It covered everything from registration, examinations and data management to all staff related systems. The company was incorporated in 2006 with its own board of directors and a chief executive officer, CEO, with an annual budget from the HEA. In 2013, as part of the consolidation of State agencies

and also to provide an opportunity for greater synergies within the wider higher education sector, it was agreed to transfer the services of An Cheim to a new company, EduCampus Computer Services Limited, to be formed as a subsidiary of HEAnet and to wind down An Cheim. There was a logic to that and it was a wise decision.

The process of gaining all the necessary governance approvals to establish EduCampus with charitable status and to transfer An Cheim services and assets to it was undertaken through 2014 and 2015. A key objective of all parties was to ensure the continuity of service for core business applications across the ITs. Accordingly, the smooth transfer of activity, staff and resources from An Cheim to EduCampus was seen as being very important.

On 1 October 2015, the HEA transferred all funding of activities from An Cheim to EduCampus and all suppliers and clients of An Cheim were informed. Five of the eight An Cheim staff transferred to EduCampus and three returned to DIT. The CEO of An Cheim remained as CEO to direct the contract novation process and to wind down the company. An Cheim retains-----

Deputy Catherine Murphy: If we see the detail of this in the next few weeks, we can come back to it. I am conscious that time is short and there are other things I want to explore. Will the Chairman put my name down for further questions?

Deputy Alan Kelly: My first question is to the clerk to the committee. This committee wrote to the Secretary General of the Department to ask several questions. I was not a member of the committee at the time. Was there any answer from the Department? I do not need an answer now but I would like the clerk to check it out, and if there was no reply, to ask why not.

Chairman: When did the committee write the letter?

Deputy Alan Kelly: There was a meeting in December 2015, and as a result, I understand questions were asked of the Department. I have not seen any correspondence come back.

Chairman: We will check with the former committee. It might not have transferred to this committee since the election.

Deputy Alan Kelly: This will be a quick-fire round of questions to Cork Institute of Technology, CIT, the HEA and the Department. How much did 46 Grand Parade cost?

Dr. Brendan Murphy: It cost €1.25 million.

Deputy Alan Kelly: What was the guide price?

Dr. Brendan Murphy: I am not quite sure.

Deputy Alan Kelly: My understanding was that the guide price was quite a bit lower than the price paid, so why did CIT end up paying €1.3 million?

Dr. Brendan Murphy: As for any acquisition, we had an evaluation undertaken.

Deputy Alan Kelly: What did the valuation say it was worth? Who did the valuation? Dr. Murphy can write to me with the response. Is it true that only the ground floor can be used for teaching because of fire or health and safety regulations?

Dr. Brendan Murphy: No. In order to bring it into public use, in particular for accessibility, as it was being used previously by a bank which was not a public building, various-----

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Deputy Alan Kelly: I ask Dr. Murphy to write into us on those questions. Is all going well with regard to the merger and the new technological universities?

Dr. Brendan Murphy: With IT Tralee, we await the passage of the legislation.

Deputy Alan Kelly: Is it all going well from the point of view of the HEA and the Department?

Dr. Graham Love: Outreach with the TUI has gone well and that should facilitate the passage of the legislation.

Deputy Alan Kelly: Are the Department and the HEA supporting the process?

Dr. Graham Love: I believe so, yes.

Deputy Alan Kelly: Was there a special meeting of the board of the HEA on 10 October to discuss this?

Dr. Graham Love: I will have to check with my colleague. It was before my time.

Mr. Andrew Brownlee: Was that 10 October 2015 or 2016?

Deputy Alan Kelly: 2016.

Mr. Andrew Brownlee: A special meeting?

Deputy Alan Kelly: A special meeting.

Dr. Graham Love: I do not believe so, but I ask the Deputy to allow us to check and come back.

Deputy Alan Kelly: The witnesses can come back to me.

Dr. Graham Love: I may be able to get it during the meeting.

Deputy Alan Kelly: What I want to know, and I am not worried about the date, is whether a meeting was specially convened on this issue. Were the minutes of the meeting published? I do not believe so, because they are not on the website. Was it recorded at the meeting that the majority of the members of the board of the HEA actually opposed the creation of this university and the merger? The meeting definitely took place and there are minutes, but unlike all the other minutes they are not published. Why?

Dr. Graham Love: If the Deputy will allow us, we will check it and we may even be able to get an answer during the meeting.

Deputy Alan Kelly: I would appreciate if Dr. Love did so because it is pretty serious stuff if the majority of the members of the board disagreed with it and the minutes are not even published.

With regard to the Maritime College in CIT, tell me about SEFtec offshore training company. Who owns it?

Dr. Brendan Murphy: It is a private company.

Deputy Alan Kelly: Does CIT own any of it?

Dr. Brendan Murphy: No.

Deputy Alan Kelly: What is the difference between SEFtec offshore training and SEFtec Global Training? Is it the same company?

Dr. Brendan Murphy: I do not know. Certainly, we have a joint venture company.

Dr. Brendan Murphy: What is it called?

Dr. Brendan Murphy: It is usually referred to by its acronym, SNO.

Deputy Alan Kelly: What does it stand for?

Dr. Brendan Murphy: I will revert to the Deputy if I may.

Deputy Alan Kelly: Dr. Murphy does not know what SNO stands for, and CIT owns half of it.

Dr. Brendan Murphy: As in many areas in education things are referred to by their acronym.

Deputy Alan Kelly: What does the company do?

Dr. Brendan Murphy: It provides training.

Deputy Alan Kelly: For whom?

Dr. Brendan Murphy: Normally for mariners.

Deputy Alan Kelly: It is a joint venture between CIT and whom?

Dr. Brendan Murphy: SEFtec-----

Deputy Alan Kelly: Okay.

Dr. Brendan Murphy: -----which is a private company.

Deputy Alan Kelly: So SEFtec has nothing to do with CIT.

Dr. Brendan Murphy: Not as a private company.

Deputy Alan Kelly: Who owns SEFtec? Does Dr. Murphy know?

Dr. Brendan Murphy: I know there are a number of directors.

Deputy Alan Kelly: SNO is owned by CIT and SEFtec.

Dr. Brendan Murphy: Yes, it is a joint venture.

Deputy Alan Kelly: Is it 50:50?

Dr. Brendan Murphy: Yes.

Deputy Alan Kelly: Are any of the people who work or have worked in CIT shareholders in SEFtec?

Dr. Brendan Murphy: I do not know. It is a private company.

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Deputy Alan Kelly: Dr. Murphy's answers are very strange. Surely, as the president of CIT, which is in a 50:50 joint venture with a company where taxpayers' money is being used, he would want to know whether people he employs are part of the shareholding of that company, to make sure there are no conflicts of interest. There may be no issues, but it is alarming, to say the least, that Dr. Murphy has not investigated this and does not know it.

Dr. Brendan Murphy: Deputy Kelly asked me straight whether I knew and I do not know.

Deputy Alan Kelly: Does Dr. Murphy's colleague, Mr. Gallagher, know?

Dr. Brendan Murphy: I know due diligence was done at that time the joint venture was set up.

Deputy Alan Kelly: Does Mr. Gallagher know?

Mr. Paul Gallagher: Certainly I am not aware that any employee of CIT is a director in SEFtec.

Deputy Alan Kelly: So nobody involved in CIT is in any way involved in SEFtec.

Mr. Paul Gallagher: That would be my understanding, but the Deputy is catching me off guard so I would have to check.

Deputy Alan Kelly: I ask the witnesses from CIT to go back and diligently check this.

Mr. Paul Gallagher: Absolutely.

Deputy Alan Kelly: When it comes to the arrangement in the Maritime College, does this company, SNO, pay for its presence at the Maritime College? Does it pay for everything it uses at the Maritime College? I presume it pays rent. I presume it pays to use facilities. I presume it uses assets of the Maritime College.

Dr. Brendan Murphy: SNO itself has no physical assets in the National Maritime College.

Deputy Alan Kelly: Does it pay rent to use the facilities?

Dr. Brendan Murphy: How do I describe it? We take a 50% dividend. If the company through training generates a profit we take 50%.

Deputy Alan Kelly: Has it made a profit?

Dr. Brendan Murphy: Yes.

Deputy Alan Kelly: That meeting was in 2014, by the way. Does SNO pay rent? If not, why not?

Dr. Brendan Murphy: It is not renting anything.

Deputy Alan Kelly: It uses the facility.

Dr. Brendan Murphy: Yes.

Deputy Alan Kelly: Call it whatever.

Dr. Brendan Murphy: The profits are split 50:50.

Deputy Alan Kelly: It does not pay anything to use the facility, versus any other training company.

Dr. Brendan Murphy: It is not the same as any other training company.

Deputy Alan Kelly: Why?

Dr. Brendan Murphy: Because this is a joint venture company.

Deputy Alan Kelly: I know, and frankly that is irrelevant. My point is there is a facility, and I understand the Maritime College has a 25 year arrangement. Is that correct?

Dr. Brendan Murphy: It is a PPP.

Deputy Alan Kelly: It is a PPP with a 25 year arrangement, and the building is in pretty bad order at present I understand. I do not understand how a company that is a joint venture, and it does not matter that it is a joint venture, is using the facility and is not actually paying to use the facility.

Dr. Brendan Murphy: It does in the sense that we actually take half the profits generated.

Deputy Alan Kelly: Dr. Murphy might supply us with documentation on the profits.

I want to get onto the process of what happened with regard to the report. I am particularly interested in the Department of Education and Skills and HEA. Pretty serious allegations were made. Under the licence agreement the HEA has with colleges it has the right to investigate, so what happened here? I am not happy about it, to be honest.

Dr. Graham Love: I will ask Mr. Brownlee to answer as he was there at the time, if that is acceptable?

Deputy Alan Kelly: That is no problem.

Mr. Andrew Brownlee: The Minister for Education and Skills has the power to appoint an inspector. It is different from the universities.

Deputy Alan Kelly: I understand.

Mr. Andrew Brownlee: We do have that power.

Deputy Alan Kelly: What happened here?

Mr. Andrew Brownlee: I understand a series of anonymous allegations were received by the Comptroller and Auditor General in March 2014.

Deputy Alan Kelly: Yes.

Mr. Andrew Brownlee: They were then passed to CIT and the HEA. CIT then wrote to the HEA, stating KPMG was to be appointed by the audit committee following a competitive tendering process to look into all of the anonymous allegations.

Deputy Alan Kelly: Then it went through the audit committee.

Mr. Andrew Brownlee: It went through the audit committee. Further allegations were received in December 2014.

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Deputy Alan Kelly: The audit committee obviously went through a tender and got KPMG and hired a firm of solicitors. Some of the allegations were made about the same company that was hired to do the work.

Dr. Brendan Murphy: That is not the case.

Deputy Alan Kelly: Fine. Does Mr. Brownlee believe that if this investigation were being done now he would do it any differently? Does he believe improvements could be made?

Mr. Andrew Brownlee: It was a robust review undertaken by a professional firm of accountants.

Deputy Alan Kelly: Mr. Brownlee might just answer the question. We are under time pressure. Would he have done anything differently?

Mr. Andrew Brownlee: No, I do not believe so.

Deputy Alan Kelly: Is Mr. Brownlee happy that KPMG - and I am not casting aspersions on that or any other company - went about its business and conducted this in a robust way, that evidence was taken in writing and that everything was done appropriately and investigated 100%?

Mr. Andrew Brownlee: I am satisfied that a robust investigation was undertaken, yes.

Deputy Alan Kelly: This has come back in front of the committee because we still have lots of questions. There are issues. Who set the terms of reference?

Mr. Andrew Brownlee: I believe it was the audit committee of CIT.

Deputy Alan Kelly: The audit committee of the college set up the terms of reference to investigate the college.

Dr. Brendan Murphy: They were based on the legal advice provided by Arthur Cox.

Deputy Alan Kelly: Fine. Let me just say the following, because this is why I asked about any learnings. The audit committee of the college, with, granted, legal advice, set up the terms of reference for the investigation into the college. Is that not bananas? If Mr. Brownlee cannot see that, I am sorry but there is something wrong. This is just insane.

Mr. Andrew Brownlee: Well, I suppose-----

Deputy Alan Kelly: It is like any company being told to go off, take legal advice, set up its own terms of reference and, if it finds out it did anything wrong, come back and say so. That is crazy stuff.

Mr. Andrew Brownlee: We were provided with the terms of reference and we felt that allowed KPMG to conduct a robust and independent review.

Deputy Alan Kelly: The whole foundation of the investigation falls if the terms of reference are not robust enough, but the HEA just accepted them.

Mr. Andrew Brownlee: If the terms of reference were insufficient, we would have challenged them. As the Deputy mentioned, there are other steps we could have taken if we were not satisfied.

Deputy Alan Kelly: Legally, it is the HEA's role to investigate. Surely, it should have set the terms of reference instead of having the people who were being investigated doing it themselves. Is that not just common sense? Am I missing something? Do any of my colleagues believe otherwise? This is extremely strange, unusual and, frankly, wrong.

Dr. Graham Love: If I could come in, as the funder and regulator of the institutions, we are trying to support a system whereby institutions can, in fact, account for themselves. If they set out terms of reference, publish them, publish the process by which the investigation takes place and publish the report itself, we support that and seek to develop that within the institutions so that it is not necessary for us in all cases to go in. While we should be capable of and willing to go in when necessary, we are trying to develop a system that will do that.

Deputy Alan Kelly: Okay, fine. Dr. Love is kidding me. This is a rapid-fire round, but this is just wrong. I am sorry but that is my opinion. It is not a reflection on the witnesses individually. Can I just say how wrong I think this is? The HEA is going to have to start over in respect of CIT and do it all over again. That is my belief.

I am stuck for time so I move on. Because it is a rapid fire round, I would appreciate it if the witnesses would write to us as they are not going to get to answer all of the questions. I have to give a fair time to answer. Professional fees, travel and subsistence are very high. Can the witnesses provide a spreadsheet for the last five years on the amounts of money and set out why they were so high? On the redacted document that was sent in, how could a document redacted to that extent have been accepted? How does one know what is behind the black?

Dr. Brendan Murphy: If I may, the unredacted document was provided to the Comptroller and Auditor General, the Department of Education and Skills and the HEA.

Deputy Alan Kelly: We do not know. This is a judgment call. We are guessing here. I have a number of questions to which the witnesses might write back. How much has been spent on PR firms for the last five years? Were any pictures or portraits commissioned in the college over the duration of Dr. Murphy's tenure and, if so, how much did they cost? He might also get his organisation to write in about the terms of the retirement package which he will be receiving. I would also like to know about the subsidiary accounts of the student services company which are not auditable by the Comptroller and Auditor General. Will Dr. Murphy agree to an independent review and audit of those accounts for the last five years? He can come back to us in writing.

Dr. Brendan Murphy: They are audited every year and the Comptroller and Auditor General has access to that audit. The accounts are consolidated in the overall.

Deputy Alan Kelly: I thank Dr. Murphy. Legally, they do not have to be provided so the fact that they are is, actually, a good thing. I thank him for clarifying that. Can we be provided with a breakdown of the payments, even if they were appropriate salary payments, to the former head of the National Maritime College of Ireland? I will not mention his name.

Dr. Murphy was on the board of FÁS.

Dr. Brendan Murphy: I was, yes.

Deputy Alan Kelly: He is aware of the public sector rule for people who serve on boards who are also State employees, which is "One person, one salary". Did Dr. Murphy receive any payments from FÁS while he was President of CIT?

Dr. Brendan Murphy: Speaking from memory, I did until the rule the Deputy described.

Deputy Alan Kelly: After that rule came in, Dr. Murphy received no payments.

Dr. Brendan Murphy: From memory; I cannot remember.

Deputy Alan Kelly: Will he check and come back to us?

Dr. Brendan Murphy: Yes.

Deputy Alan Kelly: Will he provide us with the names, reasoning and amounts paid to any staff member who retired from the organisation during his time who was then re-hired as consultants? It seems to be an ongoing issue. There are retirement dos, people leave and the following Monday, they walk back in as consultants. To be fair, Dr. Murphy can provide details where the total payments were over €10,000. He does not necessarily need to be going through everyone. However, this seems to be prevalent, which is deeply concerning.

Chairman: We will move to Deputy MacSharry. Does Dr. Love wish to comment first?

Dr. Graham Love: I have two very quick responses to Deputy Kelly. We are still trying to get an answer on October 2014. If we do not get it, we will write in, just to get that clarified.

Deputy Alan Kelly: Publish the minutes.

Dr. Graham Love: Okay. On the issue of investigations, it is critical that we create a system of governance in each of the institutions whereby they have the capacity to credibly investigate themselves.

Deputy Alan Kelly: However, this was not credible.

Dr. Graham Love: We believe the terms of reference were good enough. We reviewed them, we reviewed the process and we reviewed the output of the report. I am trying to make a system point that it is important that this exists in the institute and that it does not rely purely on and default to the idea of the HEA coming in.

Deputy Alan Kelly: That is Dr. Love's opinion and he is entitled to it, but my opinion is that this failed. No college should be writing its own terms of reference when it is being investigated as regards investigating itself. The HEA is going to have to do it all over again.

Deputy Marc MacSharry: I welcome the delegation. For my few minutes, DIT is off the hook because my focus is on CIT. At the outset, I have a proposal as a new member who was not here the last time CIT was before the committee and there was a possibility to consider some of these matters. With the onset of the election, it was impossible for the last committee to continue its work and we now only have a two-member overlap in the membership of the current committee. As such, I propose that the KPMG report, the whistleblower report or whatever was provided to the last committee be provided to all members of the current committee. While we are doing a report on our hearings of the last few weeks, I propose that we schedule an early meeting after the recess to recommence the consideration by the new committee and perhaps do a complete job. Due to the calling of the election, the previous committee was not in a position to do that.

Chairman: All of the documentation is available.

Deputy Marc MacSharry: If it is available, I propose-----

Chairman: That it is sent on to us.

Deputy Marc MacSharry: ----that it be a formal action on the work programme that we begin once again what the committee did not get to finish.

Chairman: Put it on the list for the work programme.

Deputy Marc MacSharry: That is fine. In that context, who decided on the redactions to the report?

Dr. Brendan Murphy: We were asked, if memory serves me right, by the HEA and by the Department of Education and Skills if CIT had any concerns with providing, with the Department, or the HEA, or both, a non-redacted version. We expressed that we had what we would describe as grave concerns about the publication. Once it comes to this committee, it has entered the public domain. We had grave concerns that the publication of the KPMG report would damage the good name and reputation of CIT and, perhaps more importantly, the large number of individuals and organisations who were basically the subject of false allegations.

Deputy Marc MacSharry: That is why redactions were made rather than who decided on them. Who decided what was to be redacted?

Dr. Brendan Murphy: Legal advice.

Deputy Marc MacSharry: Legal advice? Who would that be? Is that an internal legal office in CIT, in the HEA, in the Department, Arthur Cox, other solicitors, or who?

Dr. Brendan Murphy: The legal advisers to CIT provided it.

Deputy Marc MacSharry: Is that an independent legal firm or in-house lawyers?

Dr. Brendan Murphy: It is an independent legal firm.

Deputy Marc MacSharry: What is its name?

Dr. Brendan Murphy: O'Flynn Exhams.

Deputy Marc MacSharry: O'Flynn Exhams. How much did it charge for that?

Dr. Brendan Murphy: For these reports, it was, in round figures, €9,500.

Deputy Marc MacSharry: Who advised that firm?

Dr. Brendan Murphy: I am not sure, but I think if it needs to seek counsel advice-----

Deputy Marc MacSharry: I have a lawyer who I have had to use for different things. If I wanted him to take some work, I would give him a brief. Was O'Flynn Exhams provided with a brief in advance?

Dr. Brendan Murphy: We asked it what its advice was on the full KPMG report going into the public domain, given that it identified a large number of individuals and organisations. The results of the KPMG report indicated that there was no substance to the 196 allegations.

Deputy Marc MacSharry: Except the 35 requiring further review?

Dr. Brendan Murphy: No, Deputy, as I read in the opening statement, all of them were

gone through.

Deputy Marc MacSharry: Maybe I heard Dr. Murphy wrongly that 35 required further review.

Dr. Brendan Murphy: I said that, “In summary, the outcome of the KPMG independent reviews was that of a total of 196 allegations, 35 were deemed to have insufficient evidence to allow further review, 102 were deemed to require no further action as the allegations had been adequately addressed by the institute and 59 were deemed repetitious to other allegations”. A feature of some of the allegations was that they were quite vague. One was trying to guess what they were about.

Deputy Marc MacSharry: I misheard Dr. Murphy. Would his understanding of the redactions be that they were the taking out of names to protect the identity of an individual?

Dr. Brendan Murphy: Names and positions that would identify them.

Deputy Marc MacSharry: So it may just say “a person” rather than identifying the department or role, because that would identify that person?

Dr. Brendan Murphy: Yes.

Deputy Marc MacSharry: My understanding is that the report provided to members of the Committee of Public Accounts is missing 53 pages. Is that reasonable?

Dr. Brendan Murphy: Missing pages? I will certainly-----

Deputy Marc MacSharry: It amounted to 53 pages not being included. Those are pages 14 to 45, appendix letter one, and pages 47 to 67, among others. I have seen redacted material. I was involved in the Committee of Inquiry into the Banking Crisis. It seemed like an extraordinary amount of omissions.

Dr. Brendan Murphy: My colleague has just mentioned that some appendices might include the list of organisations. We will certainly check it.

Deputy Marc MacSharry: Would it be standard procedure? Was this the first ever whistleblowers’ report that arose in-----

Dr. Brendan Murphy: It was the first anonymous one.

Deputy Marc MacSharry: Why was KPMG employed? Why was an accountancy firm employed?

Dr. Brendan Murphy: Arthur Cox, the independent legal adviser, undertook an independent tender. The institution was careful to try to put as much distance from it as possible.

Deputy Marc MacSharry: What was the tender for? What did the tender site say? Did it say “We have had an anonymous allegation and want to investigate it”?

Dr. Brendan Murphy: It would have the terms of reference as referred to previously, requesting institutions that believe that they could carry out an investigation based on those terms of reference.

Deputy Marc MacSharry: How many current staff of CIT are shareholders in third-party

companies that are in receipt of revenue from CIT?

Dr. Brendan Murphy: How many staff of CIT are shareholders-----

Deputy Marc MacSharry: How many staff of CIT are shareholders, in whatever capacity, in companies in receipt of revenue from CIT?

Dr. Brendan Murphy: I do not think there are any.

Deputy Marc MacSharry: Is Dr. Murphy certain?

Dr. Brendan Murphy: Fairly certain, answering the question off the top of my head.

Deputy Marc MacSharry: Is public relations, PR, work carried out by anybody who happens to be on staff who gets paid independently for that?

Dr. Brendan Murphy: Not to the best of my knowledge.

Deputy Marc MacSharry: Dr. Murphy might check that, have a close look, and report back to us.

Dr. Brendan Murphy: We have tendered for a PR company and an individual, but the person is not an employee.

Deputy Marc MacSharry: We will include former employees in that as well, following on from Deputy Alan Kelly's question.

Dr. Brendan Murphy: On the PR question or-----

Deputy Marc MacSharry: On services generally. As we are going to restart this process, there is a whole series of issues that I would like to raise, but I do not want to waste all my time today. A prior year account adjustment was done in 2013 and 2014 for €483,000 that was classified as "buildings". Can Dr. Murphy recall what it was reclassified as?

Dr. Brendan Murphy: I think it was an apprenticeship building that never proceeded.

Deputy Marc MacSharry: There seems to be an extraordinary level of professional fees. Would they tend to be legal actions, PR, or accountancy?

Dr. Brendan Murphy: Certainly not PR, and I would not have thought legal actions either.

Mr. Paul Gallagher: If I could take this question, we work to a common format of accounts within the institutes. The professional fees as stated include many various types of payment. In the main, a large part of it is payments under research contracts. There are payments to other organisations for research activity, so they are not strictly speaking professional fees in the sense that we might expect them to be legal, accounting or other services. We provide a breakdown of that to our finance committee on an annual basis and we can provide a copy of that to the Committee of Public Accounts.

Deputy Marc MacSharry: To put on record for the HEA, I agree entirely with Deputy Kelly. It was wholly inappropriate for somebody to allege, anonymously or not, and without prejudice to its validity or not, that the fox had attacked the henhouse and to allow the fox to set the terms of reference for the investigation into the alleged incident.

Dr. Graham Love: It is the same point again, but I stress that there was a robust process,

as I understand it.

Deputy Marc MacSharry: That is Dr. Love's determination of it. The Committee of Public Accounts received a doctored version of the report to protect people's identities, which, to my mind, seemed to have an extraordinary level of redactions. The Comptroller and Auditor General saw it and he is satisfied. That is fine and is his prerogative. The committee cannot satisfy itself, without prejudice to anybody, as is. I will ask a question of Dr. Murphy and Mr. Gallagher. They probably will not answer it, but I have to ask it. Was anybody mentioned or implicated, however outrageous, in the allegations made in the two letters that was, for example, on the audit committee?

Dr. Brendan Murphy: No, to the best of my recollection.

Deputy Marc MacSharry: I cannot test that.

Dr. Brendan Murphy: I know.

Deputy Marc MacSharry: It is something I would like to test. Were there allegations against Dr. Brendan Murphy and Mr. Paul Gallagher, for example? The witness should not answer that. If there was, how could they oversee and be-----

Dr. Brendan Murphy: We did not oversee.

Deputy Marc MacSharry: Fine. If they were implicated, how could they be party to that and concurrently be heads of an organisation within which the terms of reference were set? There is an inherent governance problem there. Maybe legislative change is needed to ensure that when these types of things happen, they can be dealt with. Representatives of the Garda have been attending this committee this week. I am sure the witness saw some of it. Without prejudice to the outcome of the issue, there is a problem with people investigating themselves. Everybody might be innocent but there is a problem. To say that there was a robust process, the boxes were ticked, everything was gone through and nothing was found is fine. Maybe the outcome would be no different if the terms of reference were set by the HEA or the Department of Education and Skills and the review was carried out independently. Maybe the outcome-----

Dr. Graham Love: Possibly approved by the HEA would be-----

Deputy Marc MacSharry: I disagree with the witness on that point. Approved by the HEA. It is a box-ticking exercise. What is the HEA doing? Why is it the licensing authority and funder? This is what it is there for. It protects my interests as one of the people contributing €37 million to this institution, and I have a problem with that €37 million being given over by the HEA saying it looked at the institute's examination of itself and was delighted with what it saw.

Dr. Brendan Murphy: We did not investigate ourselves. There was an independent investigation.

Deputy Marc MacSharry: There was.

Dr. Brendan Murphy: The audit committee-----

Deputy Marc MacSharry: I know nothing about it because I have not seen the internally-set terms of reference or the full report because it is heavily redacted to protect people who may have been implicated. That is not transparent or robust by any objective analysis. How could

it be robust, regardless of and without prejudice to the outcome?

Dr. Brendan Murphy: The HEA-----

Deputy Marc MacSharry: Just to move on-----

Dr. Brendan Murphy: The HEA, the Comptroller and Auditor General and the Department of Education and Skills all had sight of the terms of reference and the full unredacted report.

Deputy Marc MacSharry: They did. I am criticising them, not the witness specifically, although he does not escape all criticism. Those bodies should not have accepted that. It was inappropriate governance for them to accept a set of guidelines set by the witness' organisation. People, however innocent they may be, who were potentially implicated by a whistleblower's report were party, albeit with a couple of degrees of separation, to setting the terms of reference. That is wrong and it stinks to high heaven. In terms of people's innocence and good standing, it does nothing for the good name of those implicated that the HEA had a look and concluded that it looked great. In their interest, we will start again in September. One thing that jumped out and bothered me was that, as Deputy Alan Kelly said, a portrait of the witness was painted. I have seen it and it is very good. Is there an art college in CIT?

Dr. Brendan Murphy: There is.

Deputy Marc MacSharry: Prior to the witness' portrait being painted, was it the practice to get students from the art college to paint portraits of the president of the institute?

Dr. Brendan Murphy: No.

Deputy Marc MacSharry: Never?

Dr. Brendan Murphy: Not to the best of my knowledge.

Deputy Marc MacSharry: Is that the case?

Dr. Brendan Murphy: I am not aware of any portrait being done by-----

Deputy Marc MacSharry: Perhaps that might be checked. My information is that it was. Was it always put out for tender for artists to indicate their interest in painting the portrait?

Dr. Brendan Murphy: The general practice, which will now be changed, was that the artist was chosen.

Deputy Marc MacSharry: The artist was chosen?

Dr. Brendan Murphy: Yes.

Deputy Marc MacSharry: And the artist would send in a bill and an invoice which would be paid?

Dr. Brendan Murphy: Yes.

Deputy Marc MacSharry: Was the artist a Mr. Magee?

Dr. Brendan Murphy: The artist was Mr. Mick O'Dea.

Deputy Marc MacSharry: Mr. Mick O'Dea. Apologies. I looked at his website and saw

some good stuff. It costs around €4,000 apiece. Why was the bill for the portrait €22,000?

Dr. Brendan Murphy: There were two portraits painted.

Deputy Marc MacSharry: Two portraits were painted?

Dr. Brendan Murphy: Two portraits.

Deputy Marc MacSharry: The KMPG report only mentioned one.

Dr. Brendan Murphy: I cannot say if that is so. There are two portraits that are in the grounds-----

Deputy Marc MacSharry: Would the witness not have asked one of the art college's fine people to paint the witness' portrait or that of an outgoing chairman or president in order to support it and as an opportunity to promote its students and the great work done by its teachers?

Dr. Brendan Murphy: That has not been the practice.

Deputy Marc MacSharry: The witness might review the practice, bearing in mind the financial deficit in the institute over several years, in one of which there was a loss of €126,000. That loss might only have been €104,000 had the portraits not been paid for. It niggles at people that a portrait of the college president is commissioned at a cost of €20,000 but the college is teaching artists in whom it does not have sufficient confidence to ask them to do the portrait.

Deputy David Cullinane: Who carried out the independent report?

Dr. Brendan Murphy: KPMG.

Deputy David Cullinane: Who paid KPMG?

Dr. Brendan Murphy: CIT, ultimately.

Deputy David Cullinane: How much did it pay KPMG?

Dr. Brendan Murphy: Slightly over €21,000.

Deputy David Cullinane: It was put to the witness that the review was carried out independently. In reality, it was carried out by an organisation whose services were procured and paid for by CIT. To whom did KPMG then report? When the report was completed, to whom was it given?

Dr. Brendan Murphy: It was given to the audit committee.

Deputy David Cullinane: Which audit committee?

Dr. Brendan Murphy: The audit committee in CIT.

Deputy David Cullinane: Is the witness satisfied that that was an independent process?

Dr. Brendan Murphy: It was an independent process.

Deputy David Cullinane: One of the issues that we examined in the context of all the institutes of technology is the same names coming up over and over again, such as Deloitte, KPMG, Ernst and Young, Arthur Cox and many more. All of those organisations were well

paid to do work for the institutes. I want a ten-year look-back, broken down by year, institute and what work each organisation did for the institutes and how much they were paid. It strikes me that he who pays the piper plays the tune. Perhaps Mr. Love can explain why the HEA exists at all if all this money is being handsomely earned by those organisations? He has mentioned self-regulation, self-investigation and self-examination by the institutes on several occasions today and sees that as a good thing. Ireland does not have a good history of self-examination or self-investigation. The HEA exists for a reason. Why does it exist and why does Mr. Love, a well-paid public servant, head up that organisation? What is his role in regard to the process when complaints are made and examined?

Dr. Graham Love: In answer to the Deputy's first question, we undertake to provide that data to the committee. To answer his second question, our functions are threefold: firstly, to fund the system and allocate State funding to the institutions in a transparent and clear manner; secondly, to provide oversight and I will return to that topic in a moment; thirdly, to act in an advisory capacity to the Minister, assist with policy development and so on. Our second function, oversight, has been beefed up significantly since the Hunt report in 2013 in terms of helping to develop the system, technological universities, clusters and so on. I do not want to give the committee the impression that we think the only reliance should be on self-investigation. It is a good thing that we get the level of governance and capacity to assess things at a considerable level in an individual institute-----

Deputy David Cullinane: There is an outsourcing of oversight by the HEA to KPMG, Deloitte, Ernst and Young and so on. Why does the HEA not have the in-house capacity and experience to do that work itself? Why is further money being spent on these organisations? The institutes are hiring and paying them over and over again. That the organisations benefit from being hired by the institutes must have some impact on their work. I am not satisfied that that is truly independent. That view is shared by some other committee members. There is a practice of outsourcing of governance and oversight and that is not good enough. Mr. Love has said he will revert to the committee with the breakdown. However, I am concerned that that is what I am hearing from him today and it is also my experience from dealing with these matters over the past months in this committee.

Dr. Graham Love: We would not be in a position staffing-wise to be able to service those kind of requirements, both in sheer volume as we would need a staffing of many orders of magnitude larger than we have but also as it happens that there are peaks and troughs in these kind of things. Having a State agency staffed to that level would be difficult and I am not sure it would even be appropriate in some cases.

Deputy David Cullinane: Is Dr. Love aware of the methodology that was used by KPMG to carry out the examination in this institute?

Dr. Graham Love: Not in the specific case.

Deputy David Cullinane: That is my point. Dr. Love is not even aware of the methodology that they used.

Dr. Graham Love: I would have officials who are, sorry. There would be others. As I explained, I am not familiar with all of them.

Deputy David Cullinane: I am asking. When I say, "Dr. Love", I mean the HEA. Sorry, is the HEA aware?

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Dr. Graham Love: Sorry, yes, we would. Apologies.

Deputy David Cullinane: Are any of those officials who can answer my question here?

Dr. Graham Love: I am not sure. I will ask. Andrew, would you be familiar with it? If not, we will find out and submit to the committee.

Mr. Andrew Brownlee: I would need to check to get the details but I understand it was a robust USI review of, I think, 175 allegations in the first one and then subsequent allegations.

Deputy David Cullinane: Would Mr. Brownlee be aware of whether or not allegations were answered on a verbal basis and where documentation, for example, in evidence, was not requested? Would that be something that Mr. Brownlee would be aware of?

Mr. Andrew Brownlee: I understand that was a substantially desk-based review.

Deputy David Cullinane: A desk-based review?

Mr. Andrew Brownlee: Yes. A review of all of the documentation that was available.

Deputy David Cullinane: Will Mr. Brownlee describe what a desk-based review would be?

Mr. Andrew Brownlee: It would not involve direct consultations with individuals. Perhaps the IT could advise on that.

Dr. Brendan Murphy: If I may, Chair, I know that people were interviewed. As in what one would describe as normal audits, there was sampling carried out depending on the nature of the allegation. It was not a desk review as such.

Deputy David Cullinane: It was not?

Dr. Brendan Murphy: It was not. There was a portion of it where the institute-----

Deputy David Cullinane: The HEA said it was but Dr. Murphy is saying it was not.

Dr. Brendan Murphy: I am saying there was also an element of interviewing with people, of sampling. If there was, let us say, an allegation about expenses, there would be a sample, not only looked at there but of the processes surrounding those.

Deputy David Cullinane: Were management interviewed? Was Dr. Murphy interviewed?

Dr. Brendan Murphy: Yes.

Deputy David Cullinane: Dr. Murphy was. Would management have been?

Dr. Brendan Murphy: Yes.

Deputy David Cullinane: Who was the accounting officer? Who signs the cheque for KPMG?

Dr. Brendan Murphy: Ultimately, I am the accounting officer, as the president.

Deputy David Cullinane: I thank Dr. Murphy.

In relation to O'Flynn Exhams Solicitors that was mentioned, did Dr. Murphy state that CIT

paid them over €10,000?

Dr. Brendan Murphy: Nine thousand four hundred and sixty-one euro.

Deputy David Cullinane: Nine thousand four hundred euro. Were they at the centre of any of the allegations that were made?

Dr. Brendan Murphy: I would be reluctant to start naming who was because, Chair, we are now heading down the avenue of-----

Deputy David Cullinane: Dr. Murphy is reluctant.

Dr. Brendan Murphy: I said I myself was interviewed. As the accounting officer, I have no problem saying that.

Deputy David Cullinane: Dr. Murphy is reluctant, I would say, because my understanding is that they were. If they were, why were they one of those firms that were then paid €10,000 in the course of this work? If they were - Dr. Murphy will not answer - one of those who were at the centre of the allegations and then they were hired and paid almost 10,000, is that not a conflict of interest?

Dr. Brendan Murphy: That is why Arthur Cox was brought in as independent legal advice - so that in the legal advisers of the institute there would not be that conflict, if there was a conflict.

Deputy David Cullinane: Is it correct that the Comptroller and Auditor General's office has stated that it received an unredacted copy of the report?

Ms Colette Drinan: Yes.

Deputy David Cullinane: Did the HEA receive an unredacted copy?

Dr. Graham Love: I think so, yes.

Deputy David Cullinane: The Department would have received an unredacted copy. It is only the Committee of Public Accounts that received a redacted, heavily redacted, copy of the report. Are we the only ones who received the redacted version of it?

Chairman: All I know is that the copy the committee received was heavily redacted. I myself saw the document this morning.

Deputy David Cullinane: What I am saying is that-----

Deputy Mary Lou McDonald: It is illegible.

Deputy David Cullinane: What I am saying is that everybody else has full unredacted copies of it, except this body. We are the public representatives, the democratic oversight. We are kept pretty much in the dark.

Dr. Brendan Murphy: I repeat what was redacted were the names of individuals and organisations or their particular job titles that would have readily identified them. After all, there were 196 allegations-----

Deputy David Cullinane: But they were identified, I am sorry, Dr. Murphy.

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Dr. Brendan Murphy: -----none of which stood up to investigation.

Deputy David Cullinane: That is irrelevant. In the unredacted version, those names and their titles were given to the HEA-----

Dr. Brendan Murphy: Yes.

Deputy David Cullinane: -----they were given to the Comptroller and Auditor General, they were given to the Department-----

Dr. Brendan Murphy: Yes.

Deputy David Cullinane: -----but they were not given to us. Why not us?

Dr. Brendan Murphy: I do not know. I did not supply. We supplied a redacted version to the HEA and to the Department.

Deputy David Cullinane: Maybe Mr. Gallagher can answer.

Mr. Paul Gallagher: We did undertake legal advice in terms of who we should provide the report to. The advice was that information coming to the Committee of Public Accounts would be public in nature and available publicly and that that was a threat to the individuals who were named and the organisations who were named in those allegations. The advice was that we should not be providing that.

Chairman: For Mr. Gallagher's benefit, and probably the benefit of viewers, in relation to that particular issue, documents coming to the Committee of Public Accounts are not necessarily published. I can think of one quite recent one in relation to the HSE internal audit into Console. That entire document was present to the committee. We decided to note it and not to publish it because it was not our document, and not one syllable ever leaked. Others, outside of the Oireachtas, who had copies of that document chose to put it into the media.

I would ask - this is a comment across the board for all Accounting Officers - if documents are being sent here in a redacted manner in future that Accounting Officers consult with the committee secretariat regarding the use of the document. I fully understand there was a belief that we would be publish it and I can understand that concern, but that need not always be the case. We can make arrangements and we have successfully done that and protected the identity of those included, and specifically chose not to publish a report. That is a general comment all accounting officers.

Deputy David Cullinane: If it is in order, I have a few quick questions for Professor Norton. In relation to Swets UK-----

Professor Brian Norton: It is a Dutch company.

Deputy David Cullinane: -----is it correct it went bust owing its customers €9 million?

Professor Brian Norton: Yes.

Deputy David Cullinane: Is it correct that there was a €1 million loss across 37 libraries in Ireland?

Professor Brian Norton: Yes.

Deputy David Cullinane: How much of that €1 million would have been attributed to Professor Norton's organisation?

Professor Brian Norton: We lost €718,000.

Deputy David Cullinane: Some 71.8% of the €1 million loss. It is quite shocking for Professor Norton that it was 71.8%. It was described in the past as quite shocking by his organisation. What did Professor Norton do about that when it happened? Did the institute itself commission a report into this?

Professor Brian Norton: I see what the Deputy means. The report which the committee has, the report we were discussing earlier on-----

Deputy David Cullinane: Who carried out this report?

Professor Brian Norton: I was answering the question. That was commissioned by our governing body independently. I was not involved, nor was any of the management team. It was a fully independent report to the governing body.

Deputy David Cullinane: Who carried it out?

Professor Brian Norton: Ernst and Young.

Deputy David Cullinane: Ernst and Young, here we go again. How much did they get paid for that?

Professor Brian Norton: It is in the order of €27,000.

Deputy David Cullinane: Twenty-seven thousand euro for that. When Professor Norton was here at the previous meeting, did he inform the committee of the existence of that report?

Professor Brian Norton: In the correspondence with the report, we did submit-----

Deputy David Cullinane: No, no. That was after. I am talking about-----

Professor Brian Norton: No, no, let me finish the answer, please. We did indicate in the correspondence there had been an internal review. We did not supply the internal review because the report dealt with all the issues in that internal review, but in our covering letter we indicated such a review existed and that was supplied to this committee in July of last year. We also supplied the report to the Comptroller and Auditor General and to the HEA. So there was no attempt to conceal it. As I said earlier on in my response to Deputy Catherine Murphy, I do not want to use the word again and be tedious, but I think we should have provided it. We provided it to everybody else but we felt that the report we provided - because we were not asked for a report; we were asked to answer the specific questions - answered fully all those questions that we were actually asked in the request from the Committee of Public Accounts.

Deputy David Cullinane: Is it correct that the report found - it was quite critical in some areas - that there was a lack of management oversight?

Professor Brian Norton: That is correct.

Deputy David Cullinane: Who was responsible for the lack of management oversight?

Professor Brian Norton: I am the Accounting Officer, so I am.

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Deputy David Cullinane: Professor Norton is the Accounting Officer. Does he take responsibility for that?

Professor Brian Norton: Yes.

Deputy David Cullinane: Was it a failure on Professor Norton's part? Was he in charge at the time?

Professor Brian Norton: Yes. I have been the Accounting Officer. I am accountable for that and have taken measures subsequently to make sure that everything is in place.

I should point out that it is a very particular failing. The items were, as I indicated, budgeted for. I knew the amounts, I mean, the actual amounts of the transactions, but the actual approvals for the transactions were not correctly done. It is a very specific thing.

Deputy David Cullinane: Is it correct there was no formal contract?

Professor Brian Norton: The negotiation of the Swets contract was undertaken as a national tender. It was undertaken by the educational procurement service-----

Deputy David Cullinane: Was there a formal contract-----

Professor Brian Norton: Can I?

Deputy David Cullinane: -----because I am seeing in from of me a long-winded answer to a straightforward question. Was there a formal contract or not?

Professor Brian Norton: I do not wish to be long-winded but I do not wish to mislead the committee and it is not simple. There is a national framework agreement which is negotiated by the education procurement service unit in the University of Limerick. That, as part of the national overall contract, is manifested in service level agreements in the institutions. Dr. Cohen wants to pick up on how that operated.

Dr. Philip Cohen: The additional tender exercise was conducted by EPS, education procurement services, in Limerick. Our understanding was it passed on the result of that exercise to the individual institutions.

Chairman: Deputy Cullinane's time is up but I will give him two or three more minutes.

Deputy David Cullinane: That is the benefit of asking the Chairman and his forgetting.

Dr. Philip Cohen: The results of the exercise were then passed on to the individual institutions. A service level agreement was then issued by SWETS which we signed.

Deputy David Cullinane: Was a risk analysis carried out?

Professor Brian Norton: No because it was a national procurement exercise. The risk analysis is part of the due diligence exercise, which applies to everyone. The due diligence is the responsibility of the organising -----

Deputy David Cullinane: But was that not a critique in the report?

Professor Brian Norton: And we now undertake risk analysis, but the -----

Deputy David Cullinane: Can I stop Professor Norton there?

Professor Brian Norton: Can I please answer?

Deputy David Cullinane: No, I am going to ask Professor Norton to stop.

Professor Brian Norton: It is important to answer the question.

Deputy David Cullinane: I am asking Professor Norton to stop and he can come back in.

Chairman: Professor Norton can come right back in.

Deputy David Cullinane: I merely asked if a risk analysis was done. That was a critique in the report. He has acknowledged that no, there was no risk analysis done. I know he is going to tell me that they are going to review all of that and make changes but either a risk analysis was done or it was not.

Professor Brian Norton: That was not going to be my answer. This was a national tender which was done across the country. As part of the due diligence for the national tender, EPS would, as part of that, have done a risk analysis. On whether we did any additional risk analysis in the IT, the answer is “no”.

Deputy David Cullinane: And that was part of the critique, is that correct?

Professor Brian Norton: Yes, that is correct.

Deputy David Cullinane: Was there any form of approval by anyone regarding making the pre-payment?

Professor Brian Norton: Yes.

Dr. Philip Cohen: I signed the invoice.

Deputy David Cullinane: Dr. Cohen did.

Dr. Philip Cohen: I did.

Deputy David Cullinane: Was that a mistake?

Dr. Philip Cohen: It depends on what the Deputy means by mistake.

Deputy David Cullinane: Was there a loss of €718,000?

Dr. Philip Cohen: There was.

Deputy David Cullinane: That would be a fairly big mistake, would it not?

Dr. Philip Cohen: If the Deputy is asking me if I feel personally responsible for that loss, then yes, I do.

Deputy David Cullinane: Then a further €760,000 had to be spent on a second supplier, is that correct?

Professor Brian Norton: On a replacement supplier.

Deputy David Cullinane: How did that go?

Professor Brian Norton: I am not quite sure of the question.

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Dr. Philip Cohen: As part of the EPS tender exercise, a number of companies tendered for the contract. The successful tenderer was SWETS and the second tenderer was EBSCO, a big company based in the US. We contracted with them to supply the journals for 2015.

Deputy David Cullinane: I will make a general point which I have made already. This committee is going to produce a report on the third level institutes. The HEA's role in examinations and investigations should form part of it. The committee needs to consider whether it is satisfied with the use of these external companies and the handsome money they are paid to do work, and whether the HEA is truly independent since the institutes themselves pay and write the cheques. Hopefully, when that work is done we might tease out some of these issues with Dr. Love and his team.

Chairman: I think Dr. Love wants to come in here.

Dr. Graham Love: I do not want to waste the committee's time except to point out the growing regulatory role of the HEA. That comes out of the Hunt report. We have started down that road and we need more and we will do more. I want to stress that even where we have an oversight and the capacity to go in and investigate, we should not let institutions off the hook for the capacity for a certain capability of that themselves. It is important that they have that capacity through their audit committee and otherwise. Yes, we should sit above that and be capable of going in when necessary. That is a culture that we want to improve in the institutions.

Chairman: Deputy McDonald.

Deputy Mary Lou McDonald: I will not reiterate any of the points that have been made already. Can Dr. Love say if the HSE ----

Dr. Graham Love: HEA.

Deputy Mary Lou McDonald: ---- HEA or the Department had sight of the whistleblowers' complaints?

Dr. Graham Love: Which ones?

Deputy Mary Lou McDonald: The anonymous ones.

Dr. Graham Love: In CIT?

Deputy Mary Lou McDonald: Yes, in CIT.

Dr. Graham Love: I will check with my colleague.

Deputy Mary Lou McDonald: I just want to know was the Department and the HEA ----

Dr. Brendan Murphy: It is my understanding that it was. They went to the Comptroller and Auditor General and the Comptroller and Auditor General sent it on to the Department, the HEA and ourselves.

Deputy Mary Lou McDonald: So they had been in the HEA's line of sight. I will return to CIT.

The issues regarding DIT have been well rehearsed. I want to welcome DIT to Grangeogorman. It is within a stone's throw of where I live. The campus is stunning and I wish the DIT well there. It will be a big opportunity for the inner city and for educational opportunity in our

neighbourhoods which is much needed. I would like to talk with them about that at some stage. I hope they will take this in the spirit in which it is intended, because it is mildly critical, but I do not find its staff very engaging with the community. It is a problem and I will talk to Professor Norton about it on another occasion. I have been very frustrated in trying to make it happen and I hope he will hear that message.

It was December 2015 when Dr. Murphy was here last, so it was on the brow of a general election. Does he remember I asked him what was going on? He had a whole series of anonymous allegations that came in two waves. I felt at the time he had been a little dismissive; he wondered who was to get into the mind set of someone who would bring forward these allegations and I suggested to him that perhaps he might look at the culture in CIT and what was going on. It is quite something for people to come forward, albeit anonymously, with such a comprehensive critique of the organisation for which Dr. Murphy is in charge. I do not know if Dr. Murphy is still active or has he retired?

Dr. Brendan Murphy: I am still the accounting officer.

Deputy Mary Lou McDonald: Is Dr Murphy about to retire?

Dr. Brendan Murphy: I will do so on 31 August.

Deputy Mary Lou McDonald: So Dr. Murphy is finishing his tenure. I do not know if he has availed of the opportunity to consider the cultural issue but I listened to him today and what I hear that there were 196 allegations, none of which stood up and there is nothing to see here, move on.

Dr. Brendan Murphy: We have yet to receive a protected disclosure under CIT's protected disclosure policy.

Deputy Mary Lou McDonald: Is Dr. Murphy absolutely sure about that?

Dr. Brendan Murphy: Yes.

Deputy Mary Lou McDonald: Dr. Murphy knows that the legislation is retrospective in terms of its definition of protected disclosures? Is he absolutely sure about that?

Dr. Brendan Murphy: We have not received a protected disclosure.

Deputy Mary Lou McDonald: Because I am aware of a case outside of the two anonymous disclosures that I believe falls under the category of a protected disclosure.

Dr. Brendan Murphy: We have not received a protected disclosure.

Deputy Mary Lou McDonald: Does Dr. Love wish to say something here?

Dr. Graham Love: For the committees information, we received one very recently from CIT through the Department. It is on our desk in the HEA now. We are looking into that as we speak. It has just arrived.

Deputy Mary Lou McDonald: So the HEA is in receipt of a protected disclosure in respect of CIT. Can I ask the Department if it is in receipt of a protected disclosure?

Mr. Tony Gaynor: Yes, we got it and referred it on.

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Deputy Mary Lou McDonald: Thank you for that clarification, Mr. Gaynor. Yet, Dr. Murphy is insistent that he has had no protected disclosure. I want him to bear in mind the legislation governing and defining protected disclosures is relatively recent but it is retrospective in terms of the definitions and the protections that it affords. Does Dr. Murphy wish to revise his response to me?

Dr. Brendan Murphy: My remembrance is that the Act came into effect in the middle of 2014. Since then -----

Deputy Mary Lou McDonald: Dr. Murphy is not hearing me when I say retrospective. Forget the legislation. How many disclosure has Dr. Murphy received - these anonymous ones which he says have been comprehensively disproved?

Dr. Brendan Murphy: We did not receive the anonymous allegations. They went to the Comptroller and Auditor General.

Deputy Mary Lou McDonald: Leave aside the anonymous disclosures. Has Dr. Murphy received any other disclosures?

Dr. Brendan Murphy: No.

Deputy Mary Lou McDonald: None.

Dr. Brendan Murphy: No.

Deputy Mary Lou McDonald: I do not believe that is accurate testimony. Is Cork Institute of Technology currently in litigation with any employee or former employee in respect of any complaint brought forward which could be described as a disclosure?

Dr. Brendan Murphy: As in any large organisation, there would be a small number of cases which have gone into the legal arena. I do not think any of those could be described as a protected disclosure.

Deputy Mary Lou McDonald: I believe they could be. The one that I am thinking of relates to, I imagine, the same information which has landed with the Department, and now with the HEA.

Dr. Brendan Murphy: I do not know what has landed with the Department.

Deputy Mary Lou McDonald: We could do cat and mouse here all day. I have no interest in doing that. There is another disclosure. It is not new. It is known to Dr. Murphy. The matters contained therein are very serious. I am not in a position to adjudicate as to the accuracy of any of these matters or to verify them. I am not casting myself in that role.

Dr. Graham Love: In respect of the disclosure that recently landed on our desk via the Department, we are going through the process in the HEA first. We have not yet contacted the institutions, so they would not be aware of it yet. We are doing due diligence internally first.

Deputy Mary Lou McDonald: When the HEA has done its due diligence it will discover that CIT is very well aware of the situation. I say that as a word to the wise.

Dr. Graham Love: I am sorry. We are fresh to it.

Deputy Mary Lou McDonald: That is fine. I thank Dr. Love. My point is made. There

is no doubt that we will have to return to CIT. We only had a very cursory look at it back in December 2015. There is no doubt in my mind, for all of the reasons that other members have set out, that we need to come back and do a comprehensive piece of work. Dr. Murphy will be enjoying his retirement at that stage, but I hope he will come back and appear before the committee and assist us with that investigation.

Dr. Brendan Murphy: I will see.

Deputy Mary Lou McDonald: I would hope that he will make himself available. May I just ask Dr. Murphy about KPMG and Arthur Cox? Who from KPMG was involved? Is there an office in Cork or did they come from Limerick?

Dr. Brendan Murphy: We think that it was the Cork office.

Deputy Mary Lou McDonald: What about Arthur Cox? Likewise, I assume it has a fairly big presence. Does it have a Cork office?

Dr. Brendan Murphy: No to the best of my knowledge. They are based in Dublin.

Deputy Mary Lou McDonald: They came from Dublin. Although it lays claim to being the real capital, Cork is quite a small city. What are the interactions between boards, boards of directors and the movers and shakers in CIT and KPMG?

Dr. Brendan Murphy: I do not think we have used KPMG as a-----

Deputy Mary Lou McDonald: Is there any crossover in terms of membership of any of CIT's boards or so on?

Dr. Brendan Murphy: Is the Deputy referring to members of the governing body?

Deputy Mary Lou McDonald: The governing body or any of the organisational apparatus.

Dr. Brendan Murphy: To the best of my knowledge, none of the members of the governing body have been, or are, connected with KPMG.

Deputy Mary Lou McDonald: It is something we should investigate. This is not to put anybody on the defensive necessarily but it occurs to me that we live on a small island and we have a relatively small population. Once one starts getting into circles of people, people know people who know people. We, as the oversight body, have to be sure that nobody allows themselves unthinkingly to be in a position of conflicted interest. Does Dr. Murphy take my point?

Dr. Brendan Murphy: Yes.

Deputy Mary Lou McDonald: We need to check that out. When Dr. Murphy was before the committee the last time, 10 December 2015, we asked questions about staff retiring and then returning to work. Interestingly, after Dr. Murphy's appearance we received a letter from the Cork colleges branch of the Teachers Union of Ireland, TUI. In that letter, the information which Dr. Murphy gave to this committee was contradicted. Does he recall the evidence he gave to the committee on the last occasion?

Dr. Brendan Murphy: No.

Deputy Mary Lou McDonald: I will help Dr. Murphy. The question was put. Dr. Murphy was asked if people had retired and come back to work and he said:

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Up to this academic year, we did not. However, in the context of industrial action by the Teachers Union of Ireland, under which it basically instructed its members to engage in no overtime whatsoever, there have been a number of cases in which, because of the specialised nature of the expertise being sought and the difficulty of operating at short notice ... we have had occasion to look to retired staff. A note I have in front of me says that four lecturers who were retired have been brought back on a part-time basis

He then went on to elaborate on this topic. The TUI tell us that his response is contradicted by information that CIT provided to the teaching union under a freedom of information request. That response said that 15 retired staff members have been re-engaged by CIT. There is quite a discrepancy there, is there not?

Chairman: We are on time at the moment. The Deputy will get back. I wish to let Deputy Connolly in.

Deputy Mary Lou McDonald: I use that by way of example of the need for a proper investigation of these matters.

Chairman: I call on Deputy Connolly. I believe Deputy Murphy has gone to the Chamber for a few minutes. She will be back.

Deputy Catherine Connolly: I have only a few practical questions and the question raised by Deputy McDonald is one of them. We have all been notified about the discrepancy in respect of the number of staff who had left the college who have come back. Can that be clarified? It is a practical question.

Dr. Brendan Murphy: Certainly, however we do not have the details here with us today. We certainly were not copied with-----

Deputy Catherine Connolly: I understand that. It is like being ambushed in a sense. I do not wish to do that. If I just stay general for a moment and then I will ask my three or four specific questions. I have noticed over the last number of engagements that we are dragging things out of institutions. The HEA are reliant on the institutions to be more or less self-managing. We have all of these independent outsiders coming in, such as EY. At the same time, every single third level institution tells us that they have no money. We need money for all of these third level institutions.

For me, the worst thing, and the most worrying thing, is the blurring of the boundary between industry and education. It is jumping out. A question was asked earlier on in respect of some company, I did not quite catch its name. One of my colleagues asked whether it paid rent, as they were based on the campus. The answer was vague - that it does not pay rent because it is not really based there. They pay dividends. The National University of Ireland, Galway, which is not here today, has a foundation which operates from an office in the university but which does not pay rent. There is all of this language around the situation being very good for the institutions. In the guise of education, we are being told what is good for us with very little accountability. Regarding the two institutions here today, I presume there are no foundations or trusts in questions. Is that right?

Professor Brian Norton: DIT has a foundation.

Deputy Catherine Connolly: Okay. DIT has a foundation. Does it have an office on its campus?

Professor Brian Norton: It does indeed, yes.

Deputy Catherine Connolly: Does it pay rent for that?

Professor Brian Norton: It does not.

Deputy Catherine Connolly: Why not?

Professor Brian Norton: The sole role of the foundation is to provide funds to DIT so the transaction would be for it to pay rent and then to give funds to DIT. It is a net contributor of philanthropic gifts to DIT. If it was a policy decision that it should pay rent, we would obviously abide by that, but it is of net benefit to DIT.

Deputy Catherine Connolly: It is something I have asked to come back to. If I take the case of NUIG, its foundation does not pay rent, as Professor Norton is saying of DIT's foundation, because they give money. They give money under conditions however. We do not know what the conditions are. I am just taking it as an example. It builds lots of buildings as opposed to looking at poverty or putting in a professor of Irish, a vacancy which has existed for a long time. The money is coming with conditions and with a corporate tinge because we have a list of who is on the foundation in New York. I will come back to this separately in respect of all the foundations on another occasion. Goldman Sachs, Coca Cola and so on make contributions with no discussion over control. All we are being told is the DIT has no control over the foundation. The relevant question is what control the foundation has over education in those colleges. That is just a comment.

Professor Brian Norton: A comment was made earlier about misleading by not giving the fullest answer. The DIT foundation is a small operation. It operates to the benefit of DIT. The gifts come directly to DIT and the foundation has a particular function for particular activity. It follows all charity commission guidelines. Its accounts are audited and they will be consolidated with those of DIT so there will be full disclosure.

Deputy Catherine Connolly: Am I correct that DIT is the first institution to agree to consolidate their foundation accounts with its own accounts?

Chairman: NUIM does as well.

Deputy Catherine Connolly: It has minor foundations. The bigger foundations have not been consolidated by the colleges.

Dr. Noel O'Connor: I reassure the Deputy that they are a great asset and resource.

Deputy Catherine Connolly: I do not want reassurances. That is for another day. I only want to know about accountability.

Dr. Noel O'Connor: In terms of accountability, there is a clear connection between the foundation and the institute. The president and I, as directors and senior members, sit on the foundation board. In our case, the board is working towards the new code of practice for foundations and charities. All the accounts are on the website. Everything is accessible.

On the point relating to restricted and unrestricted funding for certain projects, there has been a strong emphasis in DIT on a balance around scholarships for students, targeting disadvantage and channelling the funding obtained through the foundation towards improving participation in higher education. A good example of that recently, albeit with a corporate element,

is the new access apprenticeship programme trying to improve gender in apprenticeships. It is entirely funded through the foundation.

Deputy Catherine Connolly: I welcome that clarification and it is something to which I would like to return. I look forward to getting more information on it. That contrasts with the Galway foundation, which is the richest foundation in the country.

I have a number of questions for Dr. Murphy regarding his college. I put the first question to the UCC delegation earlier. Is it correct that CIT, UCC and the Naval Service are behind IMERC?

Dr. Brendan Murphy: Yes.

Deputy Catherine Connolly: UCC and CIT co-commissioned a review, which was completed in May 2016.

Dr. Brendan Murphy: I believe so.

Deputy Catherine Connolly: It is important that Dr. Murphy would know because governance issues keep coming up in the context of all third level institutions, some of which are worse than others. IMERC is only a few years old but when the review was carried out, serious governance weaknesses emerged. Is that true?

Dr. Brendan Murphy: They were raised. There was-----

Deputy Catherine Connolly: Did the review find serious governance weaknesses? “Yes” or “No”?

Dr. Brendan Murphy: Yes.

Deputy Catherine Connolly: I understand the review highlighted major weaknesses and made recommendations. It stated the recommendations should be monitored to ensure their implementation within a number of months. Has that happened?

Dr. Brendan Murphy: Following the review, both organisations, rather than continuing with IMERC, which was brought together under an MOU-----

Deputy Catherine Connolly: Have the recommendations been implemented?

Dr. Brendan Murphy: They have been superseded. Rather than implement those recommendations-----

Deputy Catherine Connolly: Who carried out the review and how much did it cost?

Dr. Brendan Murphy: As to the details of the review, there was a chairman and, to the best of my recollection, four or five international members.

Deputy Catherine Connolly: How much did it cost?

Dr. Brendan Murphy: Our 50% was approximately €8,000 so the review cost €16,000.

Deputy Catherine Connolly: Will the Chairman seek in writing the details of the review, including who conducted it and the cost, and a copy of the review?

Chairman: Okay.

Dr. Brendan Murphy: The committee was promised it this morning.

Deputy Catherine Connolly: I am not sure about that because that part of the meeting was rushed.

Dr. Brendan Murphy: I was present.

Deputy Catherine Connolly: That is fine. We are in a position where people come to us. We do not wish to ambush Dr. Murphy. The purpose of the committee is to ensure better accountability. It is frustrating for both sides but it is particularly frustrating on this side on behalf of the public.

How many PR companies has CIT?

Dr. Brendan Murphy: We have one.

Deputy Catherine Connolly: We are getting information, which states there is more than one PR company. Is that information incorrect?

Dr. Brendan Murphy: I am sorry. My colleague has reminded me that the MTU, which is the coming together of IT Tralee and CIT to form a technological university, has a PR company.

Deputy Catherine Connolly: I have been told there are at least three PR companies, which I will not name. How many PR companies has CIT used over the past two years? Why are they necessary? How much have they been paid?

I have a final question on policy, which Dr. Love might help me with. When someone makes an anonymous allegation and it leads to a huge review such as this, who decides how to act on that? What is the policy on an anonymous complaint?

Dr. Graham Love: If it is submitted to us or if it comes to us via another entity such as the Department, we take it to our governance and accountability team, assess its veracity, and go back to the institution, very often, to see what its response. We may deem it acceptable or not acceptable. These are also the steps that we go through even for a protected disclosure and we are going through them increasingly at the moment. The legislation is gaining acceptance and knowledge in the sector. If we deem a complaint acceptable, we go back to the discloser or the person making the allegations or it may, in some cases, give rise to further investigation, as we have seen.

Deputy Catherine Connolly: I specially refer to an anonymous complaint.

Dr. Graham Love: We would still go to the institution-----

Deputy Catherine Connolly: So the HEA would assess its credibility.

Dr. Graham Love: -----and seek a response on it.

Deputy Catherine Connolly: Did that happen with the anonymous complaint involving CIT?

Dr. Brendan Murphy: Yes, we received the anonymous letters from the Comptroller and Auditor General's office.

Deputy Catherine Connolly: Was their credibility assessed?

Dr. Brendan Murphy: No, we were requested by the Comptroller and Auditor General to respond to the two letters.

Mr. Paul Gallagher: Could I clarify that?

Deputy Catherine Connolly: Yes.

Mr. Paul Gallagher: Our disclosure policy specifically includes mention of anonymous correspondence. It is not so much about credibility but about the seriousness of the allegation. If we deem it to be at a serious level, we undertake----

Deputy Catherine Connolly: The quality and quantity of the allegations, therefore, were serious enough for the college to set up a review.

Mr. Paul Gallagher: Absolutely. The allegations were serious in nature.

Chairman: I have a few questions for Dr. Love because we have different people working for State organisations before the committee such as those in the section 38 organisations under the HSE. Talk me through the roles of president, chairperson and those in other full-time employment positions in the institutions. Start with UCC and Mr. O'Shea.

Dr. Graham Love: He is full-time employed and president.

Chairman: He would not be expected to have any employment outside the college which might eat into his time.

Dr. Graham Love: We understand he is devoted fully to that job.

Chairman: What is the situation in the Dublin Institute of Technology? This has full-time courses and one would not expect any other involvement to eat into those.

Dr. Graham Love: Yes.

Chairman: In the Cork Institute of Technology the Minister, Deputy Murphy, is full-time. In the University of Limerick the position is full-time and the president of Waterford Institute of Technology also holds a full-time post.

Dr. Graham Love: Yes, they are all full-time posts.

Chairman: In the HSE, we found people were managing public hospitals but devoting some of their time to other activities. I do not want to be personal but what range of salaries are being paid?

Dr. Graham Love: It is public knowledge. In the institutes of technology I think the salary range is between €130,000 to €140,000, though I am shooting from the hip in this matter.

Chairman: What about the universities?

Dr. Graham Love: The range is around €180,000. We can give the Chairman the exact figures in due course.

Chairman: I will return to Dublin Institute of Technology and the library issue, specifically the contract with Swets for the electronic journals. Dr. Love said steps were taken to make sure services to students were not affected as a result of the loss of that contract.

Dr. Graham Love: Yes.

Chairman: Tell me about the access and international programmes. What category of students are in those? An “access programme” suggests students do not have a high level of educational qualifications but need assistance.

Professor Brian Norton: DIT operates six libraries in the city. What is in those libraries changes with courses and locations. There was a library in Mountjoy Square but it moved, along with the visual communications and product design facility, as well as the centre in Temple Bar and the Portland Row centre for fine art and photography, to Grangegorman.

Chairman: Were these for access students?

Professor Brian Norton: No. The facility in Mountjoy Square was concerned with fine art, art design, visual communications and product design. In Portland Row it was fine art and in Temple Bar it was photography. We have the building in Mountjoy Square on a long-term lease and we want to continue to use the property. It is close to our campus in Cathal Brugha Street but we do not provide libraries on all our sites. We only provide libraries on six sites and students move between them. We have a range of access programmes in Mountjoy Square and the students there use the library in Cathal Brugha Street. We keep this under review, because if there is a particular need for a subset of library stock we will provide that.

There are a number of access programmes, such as mature access programmes as well as more traditional programmes, which are offered as taster programmes for a range of things. These exist in Mountjoy Square and other campuses.

Chairman: Tell me about the access programmes.

Dr. Noel O’Connor: We have a number of access programmes. There are two distinct programmes in Mountjoy Square. One is a mature student access programme targeting students aged 22 or over, of whom there are some 100. It is a very important programme, a one-year programme for individuals who want to come back into higher education. There is also an international foundation programme targeting students coming to Ireland from abroad who have to make up a gap in their education before entering into higher education, very often involving adjusting to another country, city and language. Both programmes run side by side and have been very effective. The mature students access programme targets the Dublin city region and the north inner city in particular, and it is funded through philanthropy. The students do not pay fees and can pick up their entire grant when they start third level programmes. Along with the international students, when they successfully complete the programme and meet the requirements they automatically move into mainstream undergraduate programmes.

Chairman: How many are there in total?

Dr. Noel O’Connor: There are approximately 250, maybe 300.

Chairman: These are students who would not have had the required education to go straight into third level.

Dr. Noel O’Connor: Yes. It is a bridging programme.

Professor Brian Norton: They might have the requirements for other opportunities but not for third level education.

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Chairman: These seem to be the more educationally disadvantaged students in DIT.

Dr. Noel O'Connor: Yes.

Chairman: Yet, it is the one location in which there is no library.

Dr. Noel O'Connor: I accept that entirely.

Chairman: Dr. O'Connor understands what I am saying.

Dr. Noel O'Connor: I understand and accept it.

Chairman: There was a library until-----

Dr. Noel O'Connor: 2014.

Chairman: Dr. O'Connor probably knows the paper, The Edition. It is one of DIT's publications.

Dr. Noel O'Connor: Yes. It is a very good publication.

Chairman: An article of 4 2016 May states that DIT Mountjoy Square access students were being left out when it came to opening hours and library facilities, due to lack of funding. This was three months after the Swets contract issue blew up and went wrong.

Dr. Noel O'Connor: I accept that.

Chairman: In July 2014 the contract for online journals went belly-up and within three months one of the libraries closed - the one in Mountjoy Square which has the 250 most educationally disadvantaged students in DIT. The witnesses are now telling me the students can go down to Cathal Brugha Street to look at the books down there. If we investigate this further will we find a proper series of books in Cathal Brugha Street suitable for the students on the access programme?

Professor Brian Norton: I will come back to the question but wish to deal with another issue because the question has a misdirection which I wish to clarify.

Chairman: Yes.

Professor Brian Norton: No library was closed; a library was moved. Let me finish because this is important.

Chairman: Mountjoy Square library was closed.

Professor Brian Norton: No, the same library that services the students who were in Mountjoy Square moved with those students when they moved.

Chairman: Okay.

Professor Brian Norton: Let me finish. There were six libraries and there are six libraries and we are still spending 6% of our non-pay budget on libraries. There was no diminution in the resources available to those libraries and, historically, in the 130 years of the Dublin Institute of Technology students in DIT, which has many more than six sites, have moved to other sites to access library provision. Increasingly, library provision is actually online. That is actually what the Swets UK contract is for but Dr. Cohen can talk about the actual provision

on Mountjoy Square.

Chairman: Before Dr. Cohen does so, I cannot buy what Professor Norton has said. It is the equivalent of the Health Service Executive telling the committee that it had not closed a health centre on Mountjoy Square but moved it to Grangegorman. It is meaningless to tell people in Mountjoy Square that the facility has not been closed. The centre that was on the square no longer exists and has moved miles across the city. I do not buy that it was a transfer because it was a closure as far as the students on Mountjoy Square were concerned.

Dr. Noel O'Connor: I accept the Chairman's point.

Chairman: It has been stated that steps were taken to ensure the service to students would not be affected as the result of the Swets contract. We find, however, that this happens within a very short period. Is Dr. O'Connor about to tell me that was a total coincidence?

Dr. Noel O'Connor: I do not dispute that. The first thing is-----

Chairman: Can Dr. O'Connor see the connection?

Dr. Noel O'Connor: I can see it. Can I say for the record that the answer to this is to move the students from Mountjoy Square to Grangegorman and to complete the campus as quickly as possible. We are working on that.

Chairman: I have asked Dr. O'Connor about the figures. There are still 250-----

Dr. Noel O'Connor: There are still 250 students there.

Chairman: Since 2014, students on Mountjoy Square, including the 250 students in this academic year and the 200 students in the previous academic year, have had no library on site.

Dr. Noel O'Connor: There is no library on site but they have access. Just to be clear, in Mountjoy Square originally and in the surrounding areas, Portland Row and that, there were nearly 1,300 students. We had students in the department of photography in Temple Bar who had a lot further to travel to get access to a library. Portland Row students had to do the exact same. Those students have now moved up onto the campus and they are thrilled and delighted. We would want the same level of service for those students, as the Chairman rightly said.

Before I hand over to my colleague, can I just say that DIT has fully supported the mature student access programme. We are getting no funding from the State for it. We are funding that ourselves through our own philanthropy. That is a huge commitment. In both cases, we have put in designated full-time co-ordinators to work on those programmes. We have two individuals, which is very unusual, we have 1,000 access students spread across the rest of DIT and we have 1,200 students with disabilities spread across the rest of DIT. We are hugely committed to this. I accept entirely that what is happening in Mountjoy Square is not ideal. We are desperately trying to balance the fact that, through no fault of our own but through a legal challenge, all of those students who should be moving into brand new facilities, that move has been pushed back to September 2019.

Chairman: The contract that went wrong was for online journals. Did that contract exclude books?

Dr. Philip Cohen: It excluded books.

Chairman: How much was spent on old-fashioned library books in each of the past three years? If Dr. Cohen does not have the figures, perhaps he will send them to me.

Dr. Philip Cohen: In round figures, it is about €400,000 a year.

Chairman: On books.

Dr. Philip Cohen: On books alone.

Chairman: That is separate from the contract of approximately €700,000.

Dr. Philip Cohen: Yes. In round figures, the library budget on library information resources in 2017 is about €2.4 million.

Chairman: Will Dr. Cohen send us a breakdown of that figure? The impression may have been given that the original contract had implications for all library services. It was for the on-line journals only. While the witnesses are fully aware of that, it gets lost in translation.

Professor Brian Norton: Let me be clear; we spend 6% of our non-pay budget on library services, not pay. That has remained pretty much constant and has not changed up or down. We have maintained that even though financial pressure on the institution, etc., made that challenging to do. We are committed to providing a full library service to all students. I should say from my direct personal experience - I have the pleasure of meeting students regularly - students from all sites go to all other sites. So, there will be students who are in Mountjoy Square who I will meet in Aungier Street or Bolton Street. They do use the other facilities and libraries. They are not that far apart and that is the reality of the DIT experience. Because they are often involved in clubs and societies with other students, etc., there is a lot of moving around. That is just the reality of DIT. They are not kinetic to a location in any way.

Chairman: How concerned was Professor Norton about the “Prime Time Investigates” programme?

Professor Brian Norton: In relation to the part about DIT, I was concerned, although, as I said earlier, there were two impressions given. One is that we lost two amounts of money. There was a budget for this. We lost one amount of money which was budgeted for but that subsequently was spent on another contract. There was one amount of money lost. Secondly, certainly the inquiry that was done, which identified that there were procedures that should be tightened up, and they have been, but that does not mean that any of those items identified were not properly budgeted for or properly procured or indeed that we knew about them. That impression was given which impinges on the reputation of the institute and a lot of hard work by a lot of colleagues in a time when we had an employment control framework and a moratorium on appointments, particularly at administrative level, which meant a huge reduction in administrative staff who were working very hard. Speaking personally, the loss of Swets was heartbreaking.

Chairman: Professor Norton believes the “Prime Time” programme had a serious impact on the reputation of the institute.

Professor Brian Norton: Yes.

Chairman: I believe it was broadcast on a Thursday night and at 15.51 on the following day, Friday, Professor Norton issued an email to all staff.

Professor Brian Norton: Yes.

Chairman: How regularly does he issue emails to all staff?

Professor Brian Norton: Weekly, and sometimes more frequently than that. There would be regular emails to staff.

Chairman: I will read from the email issued as a result of the “Prime Time” programme, which can be circulated. It states that all issues identified and the steps taken subsequently were included in the information provided by DIT to the Committee of Public Accounts. They specifically did not say that. The email gave the impression that all documents - people knew about the Ernst & Young report - had been given to the committee. Professor Norton issued that email the day after the “Prime Time” programme.

Professor Brian Norton: Correct.

Chairman: The email stated that DIT had always maintained a balanced budget and is required to do so. The collapse of Swets UK, it continued, was unavoidable but the loss was very significant. In the short term, it continued, the loss was absorbed by DIT’s financial reserves and savings were made through postponement of some senior appointments and some areas of capital expenditure. It added that steps were taken to ensure that services to students were not affected. A couple of weeks later, we saw the Mountjoy Square library closing or, as Professor Norton described it, transferring miles away. He will understand, therefore, that people took a wry view of that. The email issued on Friday and at a meeting of the governing body on the following Tuesday, Professor Norton, according to media reports, was essentially told to send the Ernst & Young report to this committee, which he did the following day.

Professor Brian Norton: Yes

Chairman: The governing body must not have been happy that the committee was in possession of the Ernst & Young report even after-----

Professor Brian Norton: Not only-----

Chairman: Will Professor Norton explain what happened?

Professor Brian Norton: Neither the governing board was happy, nor was I happy. As I said earlier, we had provided the Ernst & Young report to the Comptroller and Auditor General and Higher Education Authority. We had fully discussed it with the HEA. It was the external review that is alluded to in the covering letter signed by myself that was sent with the report we sent last July to the committee. With hindsight, because it gives an impression that things were being concealed, we should have provided it. That is self-evident now but we were not actually asked for a report. We were asked the circumstances and what measures we have taken. The EY report does not discuss the measures we took. What we have provided is the fullest report of the issues and what we have done about them. That is actually what we were requested to provide. With hindsight, frankly, I agree. I have no problem in making sure that was supplied. We had supplied it previously. Incidentally, we supplied it over a year ago as an FOI request to RTE. We have made no attempt whatsoever to conceal it, but we should have provided it here. I accept that totally.

Chairman: Okay. I have one final issue to ask the witness about. That is why I asked Mr. Love to give us an understanding of the presidents of the various third level institutions and

whether their employment was full time or whatever. Obviously, at the salary being paid, we would expect full-time service and not something else. The witness might talk to us about something that is public knowledge. I think he is chairman of Action Renewables. That is a Northern Irish company that was the principal adviser to people who applied for the cash-for-ash scheme, or the renewable heat incentive. The witness said that he was not responsible for designing or delivering the scheme, which is undoubtedly the case. However, I think his company processed at least 30% of the applications. That seems to be the accepted figure of all applications under the renewable heat incentive. Some people felt that that organisation - I do not know whether it has claimed some charitable status - should have advised the State in some way because of that possible charitable status that this scheme was not good for the people. I think the witness or executives of his company would say that it was not their job to do that, that their job was to assist applicants and that it would have been wrong of them to assist applicants who apply for funding under the cash-for-ash scheme and at the same time be recommending to the Government that the scheme was not a good scheme. The witness might talk to us about his commitment to the Action Renewables company, his involvement and any remuneration he receives from that company, because we have had this with the HSE and other organisations to which the State is paying full-time salaries. We would like to be sure that we are getting a full-time commitment in return. I ask him to talk to us about that.

Professor Brian Norton: Indeed. Action Renewables is a charity established in Northern Ireland. My technical expertise is in renewable energy. I am involved in charitable work - it is a charity - in a private personal capacity outside of work to promote renewable energy. I previously worked with the University of Ulster and had a link through the promotion of renewable energy in Northern Ireland. Action Renewables is, as I say, a charity. Its activity is to develop and assist in policy measures and interventions with those who want to promote renewable energy, such as developing capabilities. For example, the renewable energy training academy in Northern Ireland, which was an INTERREG activity, came through Action Renewables. The all-Ireland grid study has enabled electricity that goes North-South throughout the island. That came out of a study done by Action Renewables. It is about enabling measures for renewable energy. If there are particular schemes that are introduced, and the renewable heat incentive was such a scheme, Action Renewables will advise those who want to avail of those schemes on how to do so. There are a number of schemes. There are schemes for photovoltaics, wind energy and others. Around 20% of the applicants came to Action Renewables. That is actually quite a small proportion of the overall haul. It was a small part of the organised activity. I chair Action Renewables as a charitable activity as part of the public good. I receive £2,000, which I donate to charity.

Chairman: Say that again.

Professor Brian Norton: I receive £2,000 a year, which I donate to charity. I do it in my own time. It is a charitable activity. I do not play golf, for example. I would use the analogy that it is-----

Chairman: Did I see a figure that the income generated as a result of the fees charged for processing these applications were substantial seven-figure sums - over £1 million and more - and were put through that organisation?

Professor Brian Norton: One is confusing the grants that are received by-----

Chairman: I am sure the organisation charged a fee for processing the applications.

Professor Brian Norton: Yes, but we are looking at very modest fees for each individual application of the order of less than £100. That is being confused with the grants. The organisation does not receive any of the grants.

Chairman: We know. We are talking about the organisation's fee for processing the applications. Nobody is ever suggesting the grants went to the organisation. They went to the applicants.

Professor Brian Norton: The fees would be modest.

Chairman: The reason I asked as Chairman of the Committee for Public Accounts is, and I am sure members agree, that when salaries of the scale of €130,000 or €170,000 are being paid, the taxpayer would expect a full-time commitment. I am pleased that the witness is saying that it is not a substantially remunerated position. I accept what the witness is saying about it being a very modest amount.

Professor Brian Norton: For want of an analogy, as I said, I do not play sport. Might colleagues might smile at this. This is my interest.

Chairman: This is the witness's outlet.

Professor Brian Norton: It is a charity. In my own time, I am involved in chairing the charity-----

Chairman: The witness can understand why I sought clarification there.

Professor Brian Norton: It is not a commercial entity. It is a charity.

Chairman: Charities can be commercial too. An organisation can be a registered charity and be a multi-million euro business.

Professor Brian Norton: It is not of that scale.

Chairman: I understand. The last question I want to ask of DIT I will also ask of CIT. I should have asked it earlier. Can the witnesses send us a note on the organisations' total legal costs incurred in each of the last three years or whatever? We will take the last three years and-----

Professor Brian Norton: Excuse me, Chair. One important point I need to state about Action Renewables in order not to mislead the committee is that when I was invited to be chair, I sought and gained the formal approval of the governing body of DIT to do so.

Chairman: Okay. So it is documented.

Professor Brian Norton: Yes.

Chairman: That is fine. I appreciate that.

Professor Brian Norton: That is just so that is understood.

Dr. Noel O'Connor: I might intrude for a moment. I will confirm as a colleague of Professor Norton that nobody gives more to DIT than our president. I wish to put that on record.

Chairman: Very good.

Dr. Noel O'Connor: We are very fortunate to have somebody of his calibre and work ethic.

Chairman: And he is very fortunate to have Dr. O'Connor too. The last thing I ask is for both organisations to send a note on legal fees and how much of those fees relate to staff issues of protected disclosure, allegations of bullying or the settling of cases. I am leaving it to the witnesses to work out the information so that it reaches the committee in an understandable manner from our perspective.

Are they any final questions? I am sorry, I have to call Deputy Murphy. She went out and missed her opportunity. She is now back.

Deputy Catherine Murphy: I thank the Chair. I had a Topical Issue so had to leave. Going back to the procurement, it was a national tender with regard to the online library service. The provider was EPS and it did all the due diligence and organised the process. The EY report stated that it could not find any documents indicating that there was a formal decision to commit to the process. Was there a formal decision to commit to the process?

Mr. Colm Whelan: I will defer to library colleagues. Library colleagues engaged with EPS. As far as a formal decision to commit to the process, does the Deputy mean to procure-----

Deputy Catherine Murphy: I am just reading what the EY report stated. It stated that it had not been provided with any documentation indicating that there was a formal decision to commit to the process. It precedes that by stating that a third-party organisation referred to as EPS ran the tender process on behalf of a number of universities and institutes of technology.

Mr. Colm Whelan: On the overall point, DIT's senior leadership team decided to engage with the EPS as a matter of policy. We were encouraged to do so by the HEA and probably by the Department of Education and Skills as one of the national emergency measures to engage in assured services and procurement specifically. DIT was committed to try to engage in collaborative tenders with national procurement-----

Deputy Catherine Murphy: I can understand that when there is a lot more involved, better value can be gotten and so on and so forth. EPS would have done the work, looked at the background of it, ran the tendering process and done the due diligence on the various people who put in tenders. It was a three year contract, spanning 2012, 2013 and 2014, is that right?

Dr. Philip Cohen: It was negotiated in 2012 and the contract covered 2013, 2014 and 2015.

Deputy Catherine Murphy: EPS would have had the knowledge of what the due diligence was. The witness did not have it.

Dr. Philip Cohen: No.

Deputy Catherine Murphy: What would the witness have used in subsequent years to evaluate the company or to do due diligence on the company?

Mr. Colm Whelan: The point is a valid one and it was also made in the Ernst and Young report. Perhaps it was in between the lines in that report. Dublin Institute of Technology, DIT, relied on the due diligences that were carried out at the time of the procurement exercise. That resulted in a three year contract, and we continued with the practices that we had had for several years in terms of deciding what to purchase and when to pre-pay.

Deputy Catherine Murphy: It was carried out by an outside organisation in 2012 and it

was accepted that it was a three year contract and that there was very limited oversight other than paying when the fee was due. It was due in advance.

Mr. Colm Whelan: To address the Deputy's issue I would say that we should have had a more comprehensive due diligence exercise annually in advance of making a substantial pre-payment.

Deputy Catherine Murphy: Collaborating in that way has negatives as well as positives. Were lessons learned by HEA or DIT on that particular aspect?

Dr. Philip Cohen: It might be useful for the librarian to talk about what has happened since then under the new system and the changes that were made.

Deputy Catherine Murphy: It does not just relate to the library, but the process.

Dr. Philip Cohen: Perhaps I am missing the point then. I apologise. I would make a couple of observations. In a national procurement one is more vulnerable to that sole supplier failing. It also tends to take other suppliers out of that marketplace and so it can entrench monopolies. I would also say that subscription based models are increasing. What is referred to as "the cloud", software as a service, we are moving from buying the software and having it as something that can be put in a machine to subscribing to it and paying it beforehand. If we take those two tendencies together there is an increased risk of exposure to the system of major contracts that require----

Deputy Catherine Murphy: That isn't really the point that I was making. The point is that EPS did all the work of evaluating the tenders and the companies. The witness did not then have sight of that and took it as a three year contract. The work had already been done, and there is increased exposure by doing things in that particular way.

Mr. Colm Whelan: It is a fair point.

Deputy Catherine Murphy: I want to move to something else entirely, which is the issue of a building near Hammond's Corner in Dublin 7 that I understand has been purchased by DIT. Is that the case? I can name the building if necessary.

Professor Brian Norton: We are in a process and it would probably be to a commercial disadvantage if we discussed it too much.

Deputy Catherine Murphy: Has there been a robust inspection of that building? Has it been done or will it be done in advance of any conclusion?

Dr. Philip Cohen: We are in the process of exploring the possibility of acquiring such a building and that as part of that process there is in the first instance quite a rigorous requirement, through the HEA, in terms of completing a capital acquisition business case. That is one part of it. The other part of it is in terms of getting technical advice on the quality of the building, which we have undertaken.

Deputy Catherine Murphy: I will not press it any further if it is not concluded. I would make the point that I had concerns that that is going to happen, and the witness has just said that it will happen.

The witness said in his opening statement that one area that received attention was the delivery of DIT programmes through third party providers. It was said that this is in keeping

with national strategy and will increasingly become a feature into the future. I understand that a language institute has been contracted to deliver core modules on the international foundation programme and that the company is owned by an English language course provider. Whatever is done in terms of partnerships is something that must be evaluated by the college, but how does that impact on the people who are directly or potentially employed? I have been told that people are now on a year to year contract rather than on a longer term contract or employed on foot of the outsourcing of some of the teaching elements.

Professor Brian Norton: I will explain the context and will ask Dr. O'Connor to give more details. We offer an international foundation programme. People take a foundation programme to gain the qualification to join a regular level seven or level eight programme. Part of that may be a gap in their English language ability, which needs to go to a particular level to meet the necessary entrance requirements. To do that we need to draw on English language teaching provision which is IELTS accredited, so it actually meets the accreditation requirement for the relevant qualification they need to pass at the relevant level to gain entry. That provision goes through the whole year, including the summer. We do not have colleagues who deliver that type of provision. Indeed, our colleagues deserve their summer holidays. It goes through the entire year. We went out to tender, to procurement, and we have a supplier of that service. The nature of the foundation programme is about the gap in what students have and what they need in order to progress.

We get different intakes, and the nature of that will change. We do not know whether English language ability is going to be a feature in the future, so if we invest in a large amount of infrastructure and then find that the next year involves no requirement for it because the school systems in those countries have improved. It is contacted and it goes through the whole year.

Dr. Noel O'Connor: It is probably a unique partnership because it is not something that we do in-house - although we have a very fine school of languages - but the IELTS element is essentially a level five in terms of the overall qualification framework. Using academic staff within the institute to deliver such programmes would not be the most cost-effective way of delivering them. What has worked to date has been a very strong partnership with the third party. The staff in question are located on site as a part of the team. What has happened is that the company that has been providing the service to date has been bought out, and we are looking at the implications of that ourselves.

Deputy Catherine Murphy: It is disenfranchising or does it have the potential to disenfranchise staff that are there? Increasingly we are seeing, not just in DIT but across the university sector, that people are being employed on short-term contracts. We are hearing that people are being given one research hour for one contact hour, which hardly adds to the credentials of the university sector.

Deputy David Cullinane: Dr. Love will be aware of that. Very extensive questions were put to the president of Waterford Institute of Technology. The issue centred around potential conflicts of interest. At all times, as Mr. Love knows, there were never any allegations of wrongdoing by any individual but issues of concern were certainly raised in regard to the extent and number of conflicts of interest.

I should disclose to the committee that I met Dr. Love and presented him with a synopsis of a number of protected disclosures that I received from people inside and outside Waterford Institute of Technology that back up many of the questions I put. I also suggested terms of reference for a review. What we were looking for was what Mr. Love described in the past as

a “deep dive” to examine not only the single issue that the internal review in Waterford considered but also all the wider issues. Can Mr. Love explain to this committee what is planned, the terms of reference for this review and who is conducting it?

Dr. Graham Love: For the record, the document I have to hand was submitted to the committee a number of weeks ago. I will not read out both pages but give a quick summary and read the five bullet points of the terms of reference. Would that be acceptable?

Chairman: Yes.

Dr. Graham Love: We accepted the request from the institute and, for the reasons the Deputy explained, “The HEA agrees that an external validation of the review is appropriate and that it should extend beyond the current case [the FeedHenry case] to the governance, policies and procedures for commercialisation activities of the TSSG [the Telecommunications Software & Systems Group located within the institute of technology] particularly as they relate to spin-out companies.” That was the sort of extension beyond the initial remit.

May I read the five bullet points of the terms of reference to the committee?

Deputy David Cullinane: Yes.

Dr. Graham Love: The document states:

The following terms of reference will apply:

- Having regard to the national guidelines and policy applicable over the period, examine whether appropriate policies and procedures were in place and implemented in respect of activities related to FeedHenry and other spin-out companies from the TSSG;
- Consider the adequacy of the decision-making structures regarding IP commercialisation in WIT in respect of FeedHenry and other spin-out companies from the TSSG [the software group], including remit, membership, reporting and their links to the wider Senior Management Team and governance of the institution;
- Assess whether conflicts of interest were appropriately managed throughout the creation of the IP which underpinned the establishment of FeedHenry, the spin-out of that company and the subsequent rewards secured by WIT staff upon its sale to Red Hat [the company that purchased it]. These issues will also be examined in respect of other spin-out companies from the TSSG.
- Having considered the above issues, assess whether the WIT internal review identified and appropriately considered all issues of relevance to the development of IP and spin-out and subsequent sale of FeedHenry;
- Having reviewed the issues set out above, the reviewer will consider the matters of concern that have been raised and prepare a report that shall make findings and/or recommendations for TSSG, Waterford Institute of Technology, relevant national agencies and government departments. This might include issues related to IP policies and procedures, governance, HR, financial and other administrative processes and procedures.

We have appointed Mr. Michael McLoone to be the investigator. The investigation is kicking off next week. We are targeting the end of October for delivery, and the HEA is providing the support, etc. We are also hoping to borrow information from another rolling governance

review that emerged from this committee when I was here in March and April. It is on the general implementation of intellectual property policy across our higher education sector. We are going to select Waterford Institute of Technology as one of the institutions that should be able to borrow the expertise related to this review appropriately.

Deputy David Cullinane: I have seen in the past reviews that considered the processes in place in terms of conflicts of interest and they stated the processes were actually quite good. Rather than just considering the process, one needed to consider how it was applied. That is the important part because there was one critical element of the policy in Waterford to be born in mind. It refers to one having a conflict of interest or business relationship with an individual and to where one reports to an individual. Therefore, it is very important that that be part of it. One can say the process is robust but it is a matter of how it is applied and works.

Dr. Graham Love: It is the implementation of the policy that applied at the time that we are targeting.

Deputy David Cullinane: I thank Mr. Love for that. It is well-----

Dr. Graham Love: As a general comment, I hope the Chairman and Deputy will have noticed that the HEA has been listening. This is the third review we have kicked off since I have been in here 12 weeks ago. I have been in here on three days. As the HEA beefs up its regulatory role, I hope it is listening.

Deputy David Cullinane: That is three gold stars.

Deputy Catherine Murphy: I want to clarify this. There is a school of languages in DIT.

Professor Brian Norton: Yes. It is part of another school but we have provision in European languages.

Deputy Catherine Murphy: Is this a partnership in respect of the English language module or is there outsourcing of core work?

Professor Brian Norton: It is an outsourcing of level 5 work. DIT, under the national qualifications framework, offers qualifications from level 6 to level 10. Here there is level 5 work in English language tuition, which involves students gaining competence in the English language to be able to pursue another course, whereas our language provision in our school is at levels 6 and 7. These are advanced levels in the language. It is not core to what we do, not in the sense the Deputy described.

Deputy Catherine Murphy: Would somebody who can tutor between levels 6 and 10 be able to tutor at level 5?

Dr. Noel O'Connor: They could. It was an issue that we considered and discussed at the time. It was felt that English language tuition for international students was delivered well using a third party like the one we have been using to date. It has been very successful. Students move up in terms of the scores and it has worked very well.

Deputy Catherine Murphy: Is Dr. O'Connor saying absolutely that this is not about outsourcing core work?

Dr. Noel O'Connor: It is not.

Professor Brian Norton: To be clear, it would not be a matter of just asking, “Could someone do this?” We would actually have to have IELTS-accredited provision that would satisfy the requirements of the test that students are going to take. That is something that must be set up formally.

Deputy Catherine Murphy: Does the institute not have an accreditation responsibility or function?

Dr. Noel O’Connor: Yes, but in the case of English language tuition there is very clear international accreditation. Certainly from the point of view of DIT, the notion of moving into that realm would actually require us to have to reflect on whether it would be appropriate.

Professor Brian Norton: It is very different from what we do. It is a level 5 provision in basic English language tuition in which we would have to invest substantially. It is very different from what our model is. As a prerequisite to allowing students to fulfil opportunities for entry, we want to be able to facilitate that. This arrangement does that but we decided not to do it as as a core activity. It does not fit within the levels 6 to 10 spectrum of what we do.

Deputy Catherine Murphy: Are there people in the institute who believe this is core work?

Professor Brian Norton: I do not believe so but I am sure that if the Deputy asks someone, he or she might say “Yes”. I have not asked that question.

Chairman: Might the level 5 work be done at ETB level rather than-----

Dr. Noel O’Connor: It could. To some extent, it is not the realm that we want to move into, but we would definitely like to put on record that staff engaged as a part of the programme teams on the international foundation programme, in the particular case, are staff whom we regard as part of the programme team. They are making a very important contribution. They have done so to date. It has been very successful. We have looked at progression rates from the international foundation programme into our mainstream education and they are the exact same as our normal progression rates at undergraduate level. Those are students who are coming in from abroad. There is a huge amount of energy and resources going into it. The teams involved have been in place for some time. I accept the Deputy’s point in that we want that to continue, and we have to sit down with the new providers to see how we might achieve that.

Chairman: I believe we are finished. If any witnesses feel there is something they needed to say that they did not, I ask them to please do so, in case there was a point they wanted to make that they did not get to make. Do the witnesses from the Department of Education and Skills wish to add anything?

Mr. Tony Gaynor: No.

Dr. Graham Love: I call on the committee as Oireachtas Members and their colleagues for support. The Department is strengthening our legislation to enable a firmer regulatory role for us in the Higher Education Authority and I call on the Oireachtas to help to get that through to give us those additional powers.

Chairman: The witnesses from Cork Institute of Technology, CIT, have no final comment. Do witnesses from Dublin Institute of Technology, DIT, have any final comments?

Professor Brian Norton: I was not expecting questions on my role as chairman. It came up

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in this meeting, so I think it is important to contextualise that here. As chairman, there would be ten meetings of about an hour a year. That is the level of commitment we are talking about, as well as some reading around that and telephone conversations with the managing director. It is a very small commitment. It is charitable and it is fully approved by a Government body.

Chairman: As the Chairman who raised it with Professor Norton, I am happy with the response I got. It is a very minor role and very minor issue. I was not aware of it, but I wanted to know the extent of it. Professor Norton has answered it satisfactorily from my point of view.

On behalf of the Committee of Public Accounts, I thank all our witnesses from the Department of Education and Skills, the Higher Education Authority, DIT and CIT for the information they supplied. We want any information that we asked for within the week, because we are meeting next Tuesday to commence preparation of a report that we intend to issue in July.

The witnesses withdrew.

The committee adjourned at 6.15 p.m. until 11 a.m. on Tuesday, 27 June.