

DÁIL ÉIREANN

AN COISTE UM CHUNTAIS PHOIBLÍ

COMMITTEE OF PUBLIC ACCOUNTS

Déardaoin, 12 Bealtaine 2022

Thursday, 12 May 2022

The Committee met at 9.30 a.m.

MEMBERS PRESENT:

Deputy Colm Burke,	Deputy Imelda Munster,
Deputy Jennifer Carroll MacNeill,	Deputy Catherine Murphy,
Deputy Matt Carthy,	Deputy Verona Murphy,
Deputy Cormac Devlin,	Deputy James O'Connor,
Deputy Alan Dillon,	Deputy Sean Sherlock.
Deputy Paul McAuliffe,	

DEPUTY BRIAN STANLEY IN THE CHAIR.

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

2020 Report of the Comptroller and Auditor General and Appropriation Accounts

University of Limerick Financial Report 2020

Professor Kerstin Mey (*President, University of Limerick*) called and examined.

Chairman: I welcome everyone to the meeting. No apologies have been received. Please note that to limit the risk of spreading Covid-19, the service encourages all members, visitors and witnesses to continue to wear face masks when moving around the campus or when in close proximity to others, to be respectful of other people's physical space and to adhere to any other public health advice. When people are speaking, obviously they can take off their masks.

Members of the committee attending remotely must continue to do so from within the precincts of Leinster House. This is due to the constitutional requirement that to participate in public meetings, members must be physically present within the confines of the place where Parliament has chosen to sit.

The Comptroller and Auditor General, Mr. Seamus McCarthy, is a permanent witness to the committee. He is accompanied by Mr. Peter Kinsley, deputy director of audit, from the Office of the Comptroller and Auditor General.

This morning, we engage with the University of Limerick, UL, to examine its 2020 financial statements. The university has been advised that the committee may also wish to examine the following matters to which the Comptroller and Auditor General has drawn attention: non-compliant procurement; the purchase of a site for the city campus, formerly known as the Dunnes Stores site; the overriding of controls; and the president's remuneration. UL has also been advised the committee might wish to examine the fact the Department had withheld capital funding until certain governance issues have been resolved.

We are joined in the committee room by the following officials from the university: Professor Kerstin Mey, president; Ms Mary Harney, chancellor; and Mr. Gary Butler, chief financial performance officer. We are also joined by the following officials from the Department of Further and Higher Education, Research, Innovation and Science: Mr. Keith Moynes, assistant secretary with responsibility for the higher education policy division; and Ms Emma Leonard, principal officer with responsibility for the climate action and capital planning unit.

As usual, I remind all those in attendance to ensure their mobile phones are on silent mode or switched off.

Before we start, I wish to explain some limitations to parliamentary privilege and the practices of the House as regards references witnesses may make to other persons in their evidence. As such witnesses are within the precincts of Leinster House, they are protected by absolute privilege in respect of the presentations they make to the committee. This means they have an absolute defence against any defamation action for anything they may say at the meeting. However, they are expected not to abuse that privilege and it is my duty as Cathaoirleach to ensure it is not abused. Therefore, if their statements are potentially defamatory in respect of

an identifiable person or entity, the witnesses will be directed to discontinue their remarks and it is imperative that they comply with such directions.

Members are reminded of the provisions of Standing Order 218 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 objective of such policies. Members are also reminded of the long-standing parliamentary practice that they should not comment on, criticise or make charges against a person outside of the House or an official either by name or in such a way as to make him or her identifiable.

I call the Comptroller and Auditor General, Mr. Seamus McCarthy, to make his opening statement.

Mr. Seamus McCarthy: The group total income of the University of Limerick for the accounting year 2019-2020 was €288 million. Some €90 million of this is recurrent State grant and pension funding. Academic fees amounted to €113 million, with 28% of this received directly from the Higher Education Authority. Research income recognised in the year was €33 million, including more than €23 million from State sources. In the year, other income fell by €6 million, largely due to the impact of Covid-19 related restrictions. Total expenditure of the group in 2019-2020 was €285 million, representing an increase of €4 million. Pay and pension costs account for €196 million of this. The group surplus for the year 2019-2020 was €3.9 million, and this compared with a deficit of €2.1 million in the previous year.

I am satisfied that the financial statements give a true and fair view of the transactions for the year and of the financial position of the university at end of September 2020. Consequently, my audit opinion on the financial statements was unqualified. As is the case for other universities, the audit report includes an emphasis on matters relating to the deferred pension funding asset. The purpose of this is to draw attention to the assumptions that underpin that part of the pension asset for which there is no explicit funding guarantee.

My audit report also draws attention to four matters that are disclosed in the university's annual statement of governance that accompanies the financial statements. The first matter is the significant expenditure incurred by the university on procurement that was not in compliance with the relevant procurement procedures. The second matter relates to the purchase of a property in Limerick in April 2019 for the development of a city centre campus. Arising from concerns raised by an employee, the university engaged a firm of consultants to conduct a review of the purchase. The review included an examination of the university's due diligence procedures around the purchase as well as the accuracy of the information provided to the governing authority when its approval was sought for the purchase. Members will be aware from updates provided by the university that finalisation and dissemination of the report has been held up as a result of High Court proceedings.

The third matter I draw attention to arises from an investigation into a series of allegations made in 2017 and 2020 about the actions of a member of the university's senior management. The investigator found the senior manager had breached the university's recruitment and procurement policies and procedures and, in relation to one of the allegations, the senior manager's actions were both inappropriate and unprofessional. The senior manager had left the university before the investigation report was completed in November 2020. The statement of governance sets out the progress in implementing the recommendations in the investigation report.

The final matter I draw attention to in my audit report relates to the arrangements entered

into by the university relating to the resignation of the former president, effective from the end of August 2020. The contract of employment with the former president did not contain clauses dealing with early termination or a notice period, which are standard clauses in employment contracts. Following negotiations, the university paid an amount equivalent to four months' salary, some €65,000, and just over €30,000 in respect of legal costs incurred by the former president. It also incurred legal costs of more than €15,000 on its own behalf.

Having reviewed the documentation relating to these payments, in my view, the agreement with the former president has the typical characteristics of a severance agreement. Therefore, before agreeing to the terms for ending the employment, the university should have consulted the Department of Further and Higher Education, Research, Innovation and Science about what was proposed and secured the prior approval of the Department of Public Expenditure and Reform. Those steps were not taken in this case. The statement of governance presents the university's view that the arrangement with the former president around his departure was not a severance agreement and, therefore, did not require prior approval of the Departments.

Chairman: I welcome Professor Mey back to the committee for her second appearance. As detailed in the letter of invitation, she will have five minutes for her opening statement. I note the statement is very long, so I would ask her to summarise it in four or five minutes. It has been made available to members.

Professor Kerstin Mey: I thank the Chairman and members of the committee for the invitation to attend today's meeting, which concerns the financial statements of the University of Limerick for 2019-20. Those in attendance with me are Ms Mary Harney, chancellor of the University of Limerick, and Mr. Gary Butler, chief financial and performance officer.

If the Chairman will allow, I would like to briefly share some thoughts on the institution, of which I am extremely proud to be president. A modern university must meet a variety of societal needs. It must be: a centre of high quality education and research; a place for the discovery of new knowledge and better understanding about the world and ourselves; and, perhaps most importantly, a vital force in realising the full cultural, social and economic potential of the communities it serves. Since its establishment, the University of Limerick has been a dynamic catalyst for change for the people of Limerick, the broader mid-west and nationally. The capacity of our university to build and sustain deep and mutually beneficial relationships with industry continues to be a major driver of the region's economic prosperity and social transformation. In addition, our strong academic and growing international research profile has attracted talented people across a broad range of disciplines, nationalities and cultures to come here to study, live and work.

Beginning this month, the University of Limerick will celebrate the 50th anniversary of its establishment in 1972. In addition to celebrating our unique heritage, this will be an opportunity for us to articulate and promote our excellence in research and education and highlight the extraordinary achievements of our students, alumni and staff. This important anniversary also coincides with, and has very much informed, our current strategic plan, UL@50, which we have recently refreshed, and also the development of our sustainability framework, which will provide us with a roadmap for development over the next decade. Students are at the heart of everything we do and the campus settings in which they receive their education is to the forefront of our drive for sustainability. Our objective during the lifetime of the strategic plan and beyond is to ensure that the university continues to evolve and prosper and contributes to a thriving world so that we can continue to provide future generations with an exceptional, inclusive and recreational environment in which they can excel.

I would like to share with the committee the performance of University of Limerick relative to its peers during the past number of years. We are honoured to be the recipient of multiple awards for our world class campus, marketing and communications success, excellence in the provision of academic and professional services, gender equality in higher education, our research and for our incredible Erasmus programme. In addition, we have: grown our student numbers to well over 17,500; our graduate employment is up 15% on the national average; we have become the first Irish university to engage with apprenticeships from level 7 up to doctorate qualification; and we have surpassed 10% of employment market share in Limerick.

Regarding our financial position, as requested, I have provided the committee with a comprehensive briefing paper outlining the university's financial position at the end of the 2019-20 year. I have also provided some more detail on many of the matters which members raised at our previous attendance before committee. My intention in so doing is to assure the committee of my personal commitment, as president, to ensuring our university's sterling reputation for excellence in education and research shall be matched by a commitment to the highest standards in corporate governance, transparency and accountability, and an open and inclusive, supportive and empowered organisational culture.

The 2019-20 year was unique and was characterised by the extraordinary uncertainty that accompanied the arrival of a global pandemic. We also had to contend with the evolution of Brexit. The governing authority, executive committee and staff of the university, in partnership with the student unions, worked tirelessly to ensure the continuation of academic activities and impactful research while also safeguarding our financial sustainability. In the relevant period, the university returned a surplus of €3.9 million. The executive committee and the governing authority are agreed that this surplus must be reinvested in areas that will directly and demonstrably further enhance the student and staff experience, including implementing the broad learnings from Covid-19. At this month's governing authority meeting we agreed to consult widely, especially with the student body on our intentions in that regard. The consolidated university statement of comprehensive income and net profit for the year to 30 September 2020 are shown on page 38 of the financial statements. During the period in question, Covid-19 impacted virtually all areas of the university's activities. From 12 March 2020, the campus was effectively closed to staff and students. While we continue to adhere to public health guidance and to assess ongoing and any permanent financial impact of the pandemic, it appears the worst is now behind us. Happily, the university is emerging from the pandemic in very good financial health.

The Comptroller and Auditor General issued an unqualified audit opinion on the financial statements for 2019-20. The university welcomes this. In the report of the Comptroller and Auditor General on information other than in the financial statements, attention is drawn to procurement non-compliance as disclosed in the annual governance statement; the purchase of a site for the city campus, the override of controls and the president's remuneration. With respect to procurement, I draw the committee's attention to a sustained reduction in the percentage of such expenditure deemed non-compliant. In the relevant period, non-compliance was 0.6%. That is two thirds lower than the prevailing rate in the sector, which is 1.8%. I am pleased to advise the committee that the university is one of the leading institutions regarding procurement compliance. There is still room for improvement, and I have outlined a number of further and better controls we have put in place. These will identify any future inadvertent or deliberate breach of public procurement protocols.

The university is wholeheartedly committed to its civil and civic mission, and this is very

much reflected in our strategic plan and the refreshed plan. We intend to contribute fully to the rejuvenation of Limerick city and we are working closely with our partners, including Limerick City and County Council, in that regard. We have opened up part of our existing city centre campus where our digital fabrication lab offers opportunities for exploration and learning to University of Limerick students as well as the community. The renovated space includes a Limerick City and County Council Community Engagement Hub and a further flexible space for teaching and events, which is heavily utilised. When circumstances permit, we hope to make the significant capital investment that will be required in order to develop a truly vibrant city campus, accessible to everyone and an exemplar of sustainability.

I am well aware the committee has been particularly concerned to understand the circumstances which gave rise to the university's acquisition of the former Dunnes Stores site for €8.343 million. KPMG was commissioned to conduct a review, which has been completed but which is the subject of a legal challenge. We are working with our legal advisers to try to unblock impediments to its publication. I appreciate this is still a very live issue. However, I hope the committee would permit me to draw a distinction between the process by which the property was acquired, arising from which the governing authority commissioned the KPMG review, and the enormous civic potential of this strategic site in the centre of Limerick city on the banks of the Shannon, which gives me cause for great optimism about the future of our city centre campus.

Chairman: I am conscious of the time. We need to move on. All members have read the opening statement. I thank Professor Mey for it. It is very comprehensive. Professor Mey mentioned a KPMG review. Before we get into the discussion proper, does she have the KPMG report with her?

Professor Kerstin Mey: No.

Chairman: Why not?

Professor Kerstin Mey: As much as I would like to share it in full with the committee, I am not in a position to do so because of the legal challenges with respect to the High Court proceedings that have been started.

Chairman: The work of this committee has been held up and impeded because of the absence of the availability of it and other reports. Regarding the legal challenges, when were the relevant legal papers lodged with the High Court?

Professor Kerstin Mey: They legal papers were lodged in March.

Chairman: They were filed by a former employee-----

Professor Kerstin Mey: Yes. That is correct.

Chairman: -----threatening action against the university if this is published. When were they lodged?

Professor Kerstin Mey: In March. I can give the Chairman the exact date. We are working with our legal advisers to speed up the process. I want to share the report as soon as we possibly can, and I would welcome the opportunity to talk the committee through the full detail of the report.

Chairman: There is no court injunction at this moment. It is not *sub judice*, so this does

not apply.

Professor Kerstin Mey: There are High Court proceedings lodged.

Chairman: There are High Court proceedings lodged but the matter is not *sub judice*.

Professor Kerstin Mey: The matter is *sub judice*.

Chairman: We expect to see a copy of the report. It is intolerable that we have a situation whereby there is a report that was commissioned by the board of governors, which is chaired by Ms Harney-----

Ms Mary Harney: May I answer that, Chairman?

Chairman: Can Ms Harney confirm if she has seen the report?

Ms Mary Harney: No. I have not seen the report.

Chairman: We have a situation where we have a report commissioned-----

Ms Mary Harney: That is correct.

Chairman: -----by the board of governors that Ms Harney chairs and that has 27 members. Is that correct?

Ms Mary Harney: That is correct.

Chairman: No one on the board, including Ms Harney as the chair, has seen it.

Ms Mary Harney: That is correct. It is because of the-----

Chairman: This was available before legal proceedings.

Ms Mary Harney: Can I just say-----

Chairman: Before the legal papers were lodged.

Ms Mary Harney: Can I just say, with respect, nobody more than I would like to see the report published. The governing authority commissioned the report. I think I can speak for the entire governing authority when I say that we are frustrated that we have not been able to publish it. The legal advice available to the president and the university is that the report first had to be circulated to those adversely affected by its findings and they had to be given time. Then the legal challenge came. As chair of the governing authority, I cannot expose the university to financial risk by ignoring our legal advice. The committee has its own powers, as the Chair knows. It has powers we do not have. It is a matter for the committee to decide on those powers. It has powers that we do not have.

Chairman: We have requested these documents on numerous occasions.

Ms Mary Harney: We are unable, because of our legal advice, to give them to the committee.

Chairman: The work of the committee is being impeded. This is a report into the spending of substantial public funding in Limerick. It is an intolerable situation by a body that is accountable to the Comptroller and Auditor General and the Oireachtas through the Committee

on Public Accounts. We have not seen that report.

Ms Mary Harney: Chair-----

Chairman: We expect a copy of that to be here.

Ms Mary Harney: The governing authority has not seen the report. The governing authority commissioned this report-----

Chairman: Can I ask Ms Harney-----

Ms Mary Harney: We want to see the report. Nobody wants to see the report more than me and the governing body of the University of Limerick.

Chairman: Who has seen it? Has Professor Mey seen it?

Professor Kerstin Mey: I have seen the report.

Chairman: Professor Mey has seen it?

Professor Kerstin Mey: I have seen the report.

Chairman: The chair and the governing body have not seen it even though they commissioned it. That could not happen in any other realm, whereby a company, public body, local authority or someone who commissioned a report would not be allowed to see it.

Ms Mary Harney: Chair-----

Chairman: It makes a nonsense of the procedures at the University of Limerick if this is how business is done there.

Ms Mary Harney: That may be the case, but we take advice from our legal advisers. They have strongly advised the president. We have to follow that advice.

Chairman: We will be sending-----

Ms Mary Harney: It would be reckless of me, as chair of the governing body, to ignore legal advice that would expose the university to financial penalties. The university, through the president, asked its legal advisers to expedite proceedings. No statement of claim has been submitted. We want to expedite the hearings in order that not only can we publish the report and send it to the committee, we can also can move on from this controversy.

Chairman: We will be requesting a copy of the report. The members have asked for it on a number of occasions.

Ms Mary Harney: The committee has powers that we do not have.

Chairman: I thank Ms Harney.

Deputy Cormac Devlin: I share the Chair's frustration. I am very pleased to hear the willingness of Professor Mey and the chancellor to publish the report. It is certainly some comfort to the committee. They can appreciate our insistence that we see it. When it is published, I imagine that we will be inviting them back to discuss it in more detail. I hope it is not a barrier to our discussion this morning.

There is a lot to discuss and I have a limited amount of time. I welcome our witnesses. The big thing I would like to discuss at the outset is the city centre campus. Primarily I would like to afford time to the witnesses to take us through from April 2019 until today. I heard them speak about the investment in the site and their excitement for the university about this site. This cannot overlook the enormous cost of the site and the increased cost of the site from €3 million originally when it was valued by Limerick City and County Council to what was paid for it at more than €8 million. Will the witnesses take us through the reason for the increase in costs?

Ms Mary Harney: I thank Deputy Devlin. It is a very obvious question as to how we went from €3 million to €8 million. This did not happen. The €3 million referred to, both in the public domain and here, was a valuation done on behalf of Limerick City and County Council for the purposes of declaring the site derelict and putting it on the vacant site register. It was the council's intention to compulsorily purchase the site. Dunnes took on the council and got a judicial review. The council did not succeed in having the site declared derelict and put on the vacant site register. I want to read from the so-called valuation. It was carried out by a highly reputable national company. It states that the figure it provided was on a high-level desktop basis and represented its estimate of value of the unencumbered freehold interest in the property. It also states that in order to undertake a full evaluation, it would need to obtain confirmation of floor areas and undertake inspection. It further states that it would also need to know the planning potential of the site. The valuation document indicates that in view of the location of the property, it was likely at a minimum to be able to sustain six floors and perhaps more. It states that based on this approach, it could look at a valuation appraisal to assist in determining what the site value or acceptable purchase price would be. There was no €3 million valuation as a market value. It was a valuation done to declare the site derelict to put it on the vacant site register and for the council to compulsorily purchase it. The affidavit presented in the judicial hearing in which Dunnes got a stay showed that on 30 September 2015 and subsequently the council indicated it wanted to compulsorily purchase the site. I understand it might have wanted to put a cultural centre there.

In 2013 or 2014, UL decided it should have a city centre campus as an experience for students and to play its part in the strategic development of the city. It looked at a number of sites and identified the Dunnes site as the preferred site. It is an iconic riverside site. It has been described as the preferred site in Limerick. Unfortunately, it was not available. Discussions took place with Dunnes over the time but it was not for selling. There was not a willing seller. There was a willing buyer. In April 2019, Dunnes indicated that it wanted to engage with the university to see if it was still interested. The university engaged in negotiations. Dunnes looked for €10 million. I understand from the documentation given to the governing authority that the university put €6.5 million on the table and that those involved in the negotiations settled on €8 million.

When we made the decision to purchase this site on 5 April it was a unanimous decision. I have read there were dissenters. There were no dissenters. There was great enthusiasm and excitement because of the location of the site. We were told that valuation papers were tabled in the negotiations. We made our decision based on the information before us. It subsequently transpired, as a result of a freedom of information request, that there were no written valuation reports. We were horrified as governors that we were told something based on a document that did not exist. This is why we sought an independent inquiry. This is why it is so important for me and the governing body to know whether we were misled or given the full facts when we made our decision. We are entitled to expect if a proposal is coming from the president and deputy president of the university that all of the information in the memorandum and proposal

is accurate. This is what we are awaiting in the KPMG report.

Deputy Cormac Devlin: The KPMG report covers the information given to the governing authority and the subsequent process the university undertook to acquire the site.

Ms Mary Harney: Deputy Devlin is right. The governing authority decided we should have an investigation. The governance committee of the governing authority said it should be one of the big four. I was not involved in that and nor was the governing authority. The president can deal with that. Essentially, what the investigation was to do was establish whether or not the correct information and the full information was put before the governing authority. This is the purpose of the report. That is why I said it to the Chair that nobody wants it more than me and the governing body. I assure the committee that it comes up at every meeting as to why we cannot see the report and publish it and move on from the controversy. It was a really good story. When we got the site not only were we all excited in the university but it was very well received in Limerick that the university was going to come into the city and create a campus at that location. Unfortunately, since the freedom of information request and the knowledge that there was not a written valuation, the matter has been dogged by controversy, including here this morning. I regret this very much, as do my colleagues.

Deputy Cormac Devlin: Would Professor Mey like to come in on that aspect?

Professor Kerstin Mey: In terms of the potential of the city campus, there is no question but that it will provide us with a fantastic engagement hub with communities, industries and businesses and local government. It is the most strategic site in the city and we have great plans for it. In terms of the value of the site, I will ask my colleague, the chief financial performance officer, Mr. Butler, to talk about the book value.

Mr. Gary Butler: I would like to update the committee on what we have done in terms of the preparation of the financial statements for 2020-21, which is the year following the one we are looking at this morning. In doing that, we did a review of the assets that the university had on its balance sheet in order to assess whether the carrying value was correct and was not overstated in the financial statements. In undertaking that exercise, we had independent advice on a reinstatement value for insurance purposes on the site as it stands and then a new-build cost if we were to build the equivalent today. Both of those figures came in at around €20 million. That gave us confidence that the amount that we were carrying in the financial statements was not overstated. This is a fairly common approach in terms of reassessing values each year to ensure that the financial statements give a true and fair view. That information was shared with our external auditors, PwC, in order that they could review it and approve the sign-off of the accounts.

Deputy Cormac Devlin: I thank Mr. Butler for that. The Opera site has not been mentioned yet. I ask the witnesses to talk about that site and when it was evaluated *vis-à-vis* the Dunnes site coming back into play which, Ms Harney said, was in 2019. Was the Opera site being considered prior to that? How advanced was that and was there expenditure made against the Opera site?

Professor Kerstin Mey: The Opera site was considered as the Dunnes Stores site was not available. We worked on plans and we made a Higher Education Strategic Infrastructure Fund, HESIF, application to be part of the Limerick City and County Council Opera site development. The HESIF application was submitted in early April and then the Dunnes Stores site was purchased.

Deputy Cormac Devlin: What is the Department's view of the expenditure that has been made? I note that the level of income from State grants has increased from 2014 through to 2020. Obviously there are questions about the pausing of some of those grants, which I might get to if I have time, but on the acquisition of this site, would the Department care to comment?

Mr. Keith Moynes: The acquisition of the site is, by statute, a matter for the university. The Department does not have a role in the acquisition of sites by the university.

Deputy Cormac Devlin: Would the Department not have a view on the process undertaken, given the fact that it is State money and given how the site was acquired?

Mr. Keith Moynes: There is a governance process in place between the Higher Education Authority, HEA, and the university. We have paused funding while we await the KPMG report because we wanted to close out that governance process. There is a process in place to look at the governance processes and to get assurance about them. That has been a constructive process between the HEA and the university. The final piece is the KPMG report which we want to see in order to understand the nature of the decision-making around that before we unpaue the funding.

Deputy Cormac Devlin: Does the pausing impact last year's funding as well as this year's funding?

Mr. Keith Moynes: There are two sums of money withheld. There was €1.7 million of devolved capital grant expenditure paused last year. This year, there is a contribution that we will be making to an energy efficiency and decarbonisation pathfinder programme and that is paused as well.

Deputy Cormac Devlin: The procurement non-compliance is in the region of €400,000. I also noted something strange in the accounts. The internal audit was outsourced up until 2019. Was that an historical decision? Was that always the case or was that something that was done over the past decade? Was it the same company or organisation that was conducting the internal audit for the university? Who was that?

Ms Mary Harney: I can answer that. Its a very good question. The current audit and risk committee recommended that we should bring in-house our internal audit function. Traditionally, it was outsourced to one of the accounting companies. That internal audit function is performing extremely well and we are enhancing the resources available to it. The audit and risk committee is really happy with the performance of the internal auditor. It was a very good and very wise decision.

Deputy Cormac Devlin: Was the company that was undertaking the internal audit in place for a long period or was it changed every couple of years?

Ms Mary Harney: I do not know the answer to that, prior to becoming chancellor and chairman of the governing authority, but it was an accounting firm. I do not know how long it had been conducting the internal audit.

Deputy Cormac Devlin: I ask that the university would send us a note on that because that raises questions for me. It is most peculiar to have an outside organisation doing an internal audit and it is certainly the right step that the university has taken in that regard.

Speaking of steps being taken, I note that total legal expenditure is €926,000, which is actu-

ally lower than the figure for 2019. I presume this year's figure might be higher, given what we discussed earlier. There is a brand refresh and implementation fund of €87,000, which is higher than the 2019 figure, which was €85,000. The university in its opening statement highlighted the impact this whole saga has had on the reputation of the university. Is that fund for repairing some of the damage?

Professor Kerstin Mey: We are a modern university in a global marketplace. We have ambitious plans and we need to communicate those plans and our achievements to a multitude of stakeholders. Deputy Devlin will be aware of how important that it in terms of securing our rankings and in supporting recruitment. We have been very successful in recruiting. We have expended money on refreshing our brand and our appearance as a contemporary university.

Deputy Cormac Devlin: The university has a public relations fund of €33,000 as well as a separate fund for what Professor Mey has called a brand refresh. If the fund was for the implementation of the strategic plan that would be fine but it is specifically referenced as a brand refresh, which stood out for me.

Professor Kerstin Mey: That is correct. We have refreshed our brand and our logo. We have a more green appearance and a contemporary logo and we have done that to underpin our profile as a contemporary, pioneering university in the national and international marketplace.

Deputy Cormac Devlin: Finally, does Professor Mey wish to comment on the legal expenditure?

Professor Kerstin Mey: The overall legal expenditure?

Deputy Cormac Devlin: Yes, a sum of €926,000 is marked for last year and €1.04 million for 2019.

Professor Kerstin Mey: We had legal expenditure as an institution as we worked through a number of cases, out of which these costs have arisen and for which we have accounted.

Deputy Cormac Devlin: I might come in again later, if there is time.

Chairman: Deputy Carroll MacNeill is next.

Deputy Jennifer Carroll MacNeill: How many legal cases?

Professor Kerstin Mey: I do not know, offhand.

Deputy Jennifer Carroll MacNeill: Is it three or is it 30? Could Professor Mey give us a ballpark figure?

Professor Kerstin Mey: I cannot give the Deputy an exact figure. I would prefer to come back to the Deputy-----

Deputy Jennifer Carroll MacNeill: I appreciate that the professor cannot give me an exact figure but these cases must come to her attention. They must cross her desk. Is it more like three or more like 30 cases? I ask her to give me a guide.

Professor Kerstin Mey: It is a number of court cases that does not give me reason to worry. I cannot give the Deputy an exact figure and would prefer to get back to her in writing with the exact figure.

Ms Mary Harney: I would just add that some of that expenditure was incurred as a result of investigations into whistleblowing, which proves to be very expensive. Not all of it relates to court cases. Some of it relates to other matters but suffice to say that the governing authority is very mindful of the high legal costs. I do not think I need to tell anybody here that legal costs are high in Ireland but-----

Deputy Jennifer Carroll MacNeill: I appreciate that.

Ms Mary Harney: We are doing everything we can to control them. We have recently recruited an in-house lawyer to help to alleviate some of those costs.

Deputy Jennifer Carroll MacNeill: I appreciate that and I appreciate the obligations arising from the whistleblower legislation. They do not always get to court. It is the ones that get it court that I am asking about. They must be high profile within the governance of the university and they must come to Professor Mey's desk. I am surprised there is not a general sense from, perhaps, Mr. Butler, that somebody cannot give me just a general figure about whether it is three or 30 High Court proceedings? I know it is not 30, so just tell me.

Let me ask a different way. If I were working at UL and I instituted High Court proceedings against the university, whose desk within the university would the fact, nature or management of those proceedings come to?

Professor Kerstin Mey: It comes to the corporate secretary.

Deputy Jennifer Carroll MacNeill: Does it go to the corporate secretary and then stops, not going any higher?

Professor Kerstin Mey: No. The live court cases will be reported at executive.

Deputy Jennifer Carroll MacNeill: Are both witnesses on that executive?

Professor Kerstin Mey: We are both on that executive. However, I do not have the figures at the moment for the number of court cases. I am aware of some, but I do not want to give the Deputy the wrong figure. It is as simple as that.

Deputy Jennifer Carroll MacNeill: I appreciate that Professor Mey does not want to give me the wrong figure. I am just asking for a ballpark figure. I am trying to get a sense of the scale of it.

Ms Mary Harney: If could say-----

Deputy Jennifer Carroll MacNeill: I will use my time elsewhere-----

Ms Mary Harney: I wish to say something to help the Deputy. In terms of my role as chairperson, I would understand it to be a handful of High Court proceedings, from the time I became chancellor.

Deputy Jennifer Carroll MacNeill: On the UL report, can I just get a bit more detail in terms of stages and process? I understand the report was commenced in March 2021. Is that correct?

Professor Kerstin Mey: Which report?

Deputy Jennifer Carroll MacNeill: The KPMG report. It was begun at March 2021. I

understand from Ms Harney that it was not the governing authority that selected it, but there was a broad sense that one of the big four was to take care of it. Who selected KPMG? Was it the executive body?

Professor Kerstin Mey: The firm was selected based on the big four considered-----

Deputy Jennifer Carroll MacNeill: Who selected it? Was it the executive?

Professor Kerstin Mey: The executive selected it. I can give the Deputy the basis for that selection.

Deputy Jennifer Carroll MacNeill: I am fine. I do not need that, thank you. I am sorry for being abrupt. It is because time is tight. When was it concluded?

Professor Kerstin Mey: The report was received on 21 December 2021.

Deputy Jennifer Carroll MacNeill: When did the legal proceedings Professor Mey previously referred to commence?

Professor Kerstin Mey: In March of this year. However, we already had the threat of legal proceedings prior to any attempt to publish the report.

Deputy Jennifer Carroll MacNeill: When did the university receive the threat of legal proceedings?

Professor Kerstin Mey: I would have to find the exact date, but it was early in the year.

Deputy Jennifer Carroll MacNeill: Was it before or after the university received the report on 21 December?

Professor Kerstin Mey: The legal proceedings started after, but we were already-----

Deputy Jennifer Carroll MacNeill: After what?

Professor Kerstin Mey: After the report was received by the university.

Deputy Jennifer Carroll MacNeill: The report was received by the university on 21 December. Presumably, Professor May had immediate sight of that.

Professor Kerstin Mey: I had sight of the report.

Deputy Jennifer Carroll MacNeill: Did anybody else have sight of that report?

Professor Kerstin Mey: The report was received by the director of human resources. The chief corporate officer also had sight of the report, as well as the chair of the risk and audit committee.

Deputy Jennifer Carroll MacNeill: Four people had sight of the report in and around 21 December.

Professor Kerstin Mey: Yes.

Deputy Jennifer Carroll MacNeill: Professor Mey said the legal proceedings were commenced in March 2022. By what mechanism were they commenced?

Professor Kerstin Mey: Through a High Court case.

Deputy Jennifer Carroll MacNeill: Ms Harney said that no statement of claim has been lodged. It is unclear to me whether they are personal injuries or defamation proceedings or simply a notice in the central office. I appreciate that Professor Mey does not know the nature of the proceedings. However, they are there since March.

Professor Kerstin Mey: Certain reliefs are being sought in regard to the investigation-----

Deputy Jennifer Carroll MacNeill: Are they injunctive reliefs?

Professor Kerstin Mey: Yes.

Deputy Jennifer Carroll MacNeill: They are injunctive reliefs. That was lodged in March. At some point between 21 December and March, the university received a threat of legal proceedings. That is what Professor Mey said stopped them.

Professor Kerstin Mey: That was already articulated beforehand.

Deputy Jennifer Carroll MacNeill: I am interested in the relationship between the executive and the governing authority. It is not satisfactory, clearly, that the governing authority has not been able to have sight of the report that has been commissioned. I am interested as to how quickly after 21 December 2021 that should have been brought to the attention of the authorities and they should have had sight of that.

Professor Kerstin Mey: The authorities were notified of the receipt of the report, but to protect the university, the report was not circulated beyond the four people.

Deputy Jennifer Carroll MacNeill: What made Professor May think that it should not be circulated beyond four people to protect the university? Why would it not be circulated with at least the chair of the governing authority?

Professor Kerstin Mey: It is a university report. For legal protection, we restricted it to the four people at that point in time.

Deputy Jennifer Carroll MacNeill: I can understand why Professor Mey would not share it with me as an individual. However, I struggle to understand why it would not be shared with the chair of her own governing authority. On 21 December, did she receive contemporaneous legal advice to suggest that it not be shared beyond the four people?

Professor Kerstin Mey: Yes.

Deputy Jennifer Carroll MacNeill: From whom? From the university's own legal advisers?

Professor Kerstin Mey: From our own external legal advisers.

Deputy Jennifer Carroll MacNeill: I understand that Professor Mey received both the report from KPMG and simultaneous legal advice from, presumably, a different body that was not KPMG.

Professor Kerstin Mey: Correct.

Deputy Jennifer Carroll MacNeill: Had the legal advisers seen the KPMG report? How

did the legal advisers know to tell Professor Mey not to share it with the governing authority?

Professor Kerstin Mey: The legal advisers were aware of the threat of legal action in the case of report's publication.

Deputy Jennifer Carroll MacNeill: Had the threat of legal action preceded the receipt of the report?

Professor Kerstin Mey: Yes. That is what I said previously.

Deputy Jennifer Carroll MacNeill: I apologise, as I misunderstood Professor Mey.

Professor Kerstin Mey: There was a threat of legal action before the receipt of the report, if the report were to be published.

Deputy Jennifer Carroll MacNeill: When was the threat of legal action received?

Professor Kerstin Mey: I would have to come back to the Deputy with the exact date.

Deputy Jennifer Carroll MacNeill: It was in the months or weeks prior to the KPMG report.

Professor Kerstin Mey: Yes.

Deputy Jennifer Carroll MacNeill: The threat of legal action came and Professor Mey notified the university's lawyers.

Professor Kerstin Mey: Yes.

Deputy Jennifer Carroll MacNeill: Professor Mey received the report and decided to contain it to the four people she mentioned and not share it with the governing authority.

Professor Kerstin Mey: Yes, and to work to publish it as soon as possible.

Deputy Jennifer Carroll MacNeill: Are there any other matters that are not shared with the governing authority?

Professor Kerstin Mey: No.

Deputy Jennifer Carroll MacNeill: When Professor Mey prepares documents for the governing authority, how far in advance, for example, does it receive it?

Professor Kerstin Mey: It is very important and I would like to stress that we have an approach of partnership, full accountability and transparency in the relationship with our governing authority. I worked very hard to develop that relationship of trust.

Deputy Jennifer Carroll MacNeill: I am terribly sorry to interrupt. Just so that I understand, what is the nature of the legal relationship between the governing authority and the university? I do not understand why, for example, there is such a separation that the chair of the governing authority cannot be considered a close enough partner to have been able to have sight of that report in a confidential way. Where is the problem there?

Professor Kerstin Mey: There is no problem at all. The governing authority is the oversight body - the approver of strategy, policies and budgets. The executive-----

Deputy Jennifer Carroll MacNeill: Ms Harney said she has not been able to receive it and it comes up at every meeting and they look for it. I am sorry to cut across Professor May, but time is just so tight. If the governing authority is the overseeing body, it has budgetary oversight and Professor Mey is working with it in an approach of partnership, why can she not share that report, at least with the chair of the governing authority?

Professor Kerstin Mey: I appreciate that the report has been received by the chair of the audit and risk committee. For legal protection of the university, we have not shared the report widely beyond these four people.

Deputy Jennifer Carroll MacNeill: I appreciate it was not spread widely, but not with the chair of the governing authority?

Ms Mary Harney: The Deputy makes a valid point. However, even if it were shared with me, it would put me in a very difficult position. When the president received the report on 21 December, she called me and told me she had received it. She told me she had taken legal advice, which was to circulate it to those who are perhaps are directly affected by the findings. That is what she did. It was in that process that the legal challenge was threatened. She followed the advice from her external lawyers right along and kept me informed of that. She informed the governing authority as well. I believe it was Professor Mey's intention to publish it in February-----

Professor Kerstin Mey: Absolutely.

Ms Mary Harney: -----at the governing authority meeting.

Deputy Jennifer Carroll MacNeill: Okay. My time is up.

Chairman: The situation is that one of the people who would be adversely affected by all of this is a former employee who has lodged papers with the High Court because, obviously, the contents of the report may put that person in a bad light, or that person may feel that. However, we can only surmise all of this because we have not seen it. If the chairperson of the board of governors has not seen it, what is the function of the board of governors of the university? I am actually puzzled at this stage. I read all the documentation the witnesses sent us. We have been trying to follow this. The more I look at the documentation, the more I am unable to figure out what exactly the role of the governing board of the university is. I have served on a number of different bodies but I have never come across a situation like this.

Ms Mary Harney: May I answer that? Obviously, the role is defined in the legislation.

Chairman: A report was commissioned.

Ms Mary Harney: Yes, that is correct. The role of the governing authority is defined in the legislation and the role of the chancellor is defined in the 1997 Act. I have clearly no role in relation to operational or management issues. We have an oversight role. We approve the budget and the strategic plan.

Chairman: I do not want to hold up the meeting because there are other Deputies to contribute. I am sure the chancellor wants to see the report. She has outlined her position, and I am sure she is like the rest of us in this regard. Is it the case that the chancellor is not trusted with the report? Is that the situation we have here? Why would the chancellor of the university not have seen this report, which has implications and covers a very contentious issue that has been

dealt with here and has been in the public domain? Is the chancellor not trusted? Yes or no?

Ms Mary Harney: Chairman-----

Chairman: I am sorry but I am asking the president. Is the chancellor not trusted?

Professor Kerstin Mey: The chancellor is fully trusted, but I have explained to the Chairman and other members the reasons we have not circulated the report. I have also stressed my intention. It has always been my intention to circulate the report as soon as possible without exposing the university to substantial risk.

Deputy Verona Murphy: I think it was exposed to substantial risk when it did not get a written evaluation. On the delegates' opening statement and the comments of the Comptroller and Auditor General on procurement, the university should be striving to be the bottom of the best as opposed to the top of the worst. I really do not get it when they are backslapping over the fact that there are universities that are worse than theirs. I ask that they remedy that in the future and strive to be the worst of the best.

The chancellor is sitting beside Professor Mey. I do not mind who answers my next question. Is it a fact that it was the governing authority that commissioned the report, not necessarily KPMG?

Professor Kerstin Mey: It is correct that-----

Deputy Verona Murphy: Was the purpose of that to safeguard the reputation of UL in purchasing a site that had no written valuation of €8 million and in respect of how that actually occurred?

Professor Kerstin Mey: The purpose of the report, as stated, was to look into the governance-----

Deputy Verona Murphy: That oversaw the purchase of that site.

Professor Kerstin Mey: -----of the acquisition of the site.

Deputy Verona Murphy: I am limited in time. I have overseen all this since last year. Basically, it was commissioned by the governing authority, received by Professor Mey in the first instance-----

Professor Kerstin Mey: That is correct.

Deputy Verona Murphy: -----and Professor Mey's reaction was to contact the chair, Ms Harney, but Professor Mey sought legal advice prior to that.

Professor Kerstin Mey: No, I contacted the chancellor to inform her that the KPMG report was received.

Deputy Verona Murphy: Who authorised Professor Mey to get legal advice on the report? Where did that come from?

Professor Kerstin Mey: We got legal advice on the report. It is a UL report-----

Deputy Verona Murphy: Is it correct that Professor Mey looked for the advice before she discussed it with the chancellor?

Professor Kerstin Mey: We looked for advice because we had a threat of legal actions.

Deputy Verona Murphy: Was it not up to the board to seek legal advice?

Professor Kerstin Mey: No, it was not up to the board because the governing authority, by its commissioning of the report, had authorised the executive to deal with the report.

Deputy Verona Murphy: That is fine. We will leave that there. We are not going to see sight of this report, but what we can see are the terms of reference set down. Is there any reason we cannot see those?

Ms Mary Harney: Of course they can be seen.

Deputy Verona Murphy: Who drew up the terms of reference?

Professor Kerstin Mey: The terms of reference were drawn up by the director of human resources and shared and approved by the audit and risk committee of the governing authority, which consists of external members.

Deputy Verona Murphy: Is the HR director a member of the governing authority?

Professor Kerstin Mey: As I said to the Deputy before, it is a UL review-----

Deputy Verona Murphy: I asked a question. Is the HR director a member of the governing authority?

Professor Kerstin Mey: No.

Deputy Verona Murphy: Who does the HR director report to?

Professor Kerstin Mey: The HR director reports to the chief corporate officer.

Deputy Verona Murphy: Am I correct in saying that is Mr. Flaherty?

Professor Kerstin Mey: Yes, Mr. Flaherty.

Deputy Verona Murphy: Who appointed the HR director?

Professor Kerstin Mey: He was appointed by an appointment committee.

Deputy Verona Murphy: Okay. Was that after Mr. Flaherty took up his role?

Professor Kerstin Mey: It was after the restructuring of the executive.

Deputy Verona Murphy: The HR director reports to Mr. Flaherty. I just cannot understand that the terms of reference had no input from the governing authority.

Professor Kerstin Mey: But that is not-----

Deputy Verona Murphy: Did the governing authority sign off?

Professor Kerstin Mey: The audit and risk committee approved the terms of reference for the KPMG report.

Deputy Verona Murphy: Why did it do so instead of the governing authority? Ms Harney has already said that, in fairness, Professor Mey took this very seriously and was aware

of her deep regret over the fact that there was not a written evaluation, which she discovered subsequently. Why was there so little input in relation to the terms of reference then on which a report was sought?

Ms Mary Harney: Deputy Verona Murphy is making a very valid point. The governing authority, when it learned there was no written evaluation, asked for an inquiry. It asked the executive to organise that inquiry in conjunction with the audit and risk committee, which would be our procedure within the university. The audit and risk committee approved the terms of reference that were drafted in conjunction with the executive. I do not believe there is any issue with the terms of reference. If the Deputy has not seen them, they can certainly be made available.

Deputy Verona Murphy: Ms Harney has not seen them.

Ms Mary Harney: I have seen them. I do not have an issue with the terms of reference; I think they are very extensive. We should remember that the purpose of the independent review was to find out whether the governing authority was given all the information in making its decision. The terms of reference certainly cover that, so I do not think there is any issue with the terms of reference.

Deputy Verona Murphy: So, we can see the terms of reference. My concern is basically that if the governing authority had no role in drafting the terms of reference, and the report has not been seen, I do not know how it could be a full review. I just do not know how we can allow a HR person to draw up terms of reference.

Ms Mary Harney: The Deputy is misunderstanding it. The audit and risk committee is one of our most important committees and is chaired by a very distinguished former Secretary General of a number of Government Departments. There are a number of leading financial experts on the committee. They oversaw the terms of reference. There is no issue with the terms of reference. I do not believe anyone on the governing body had any issue with the terms of reference.

Deputy Verona Murphy: Was there a procurement process carried out to appoint one of the big four?

Professor Kerstin Mey: Yes.

Deputy Verona Murphy: Was that fully compliant?

Professor Kerstin Mey: Absolutely.

Deputy Verona Murphy: In choosing KPMG, was there anything that would or should have been declared that would have interfered with the transparency of the process?

Professor Kerstin Mey: No.

Deputy Verona Murphy: Is the chancellor currently a member of the board?

Ms Mary Harney: I am not a member of the board. I chair its public interest committee. I declare that and other interests I have under the ethics in public office legislation every year to the corporate secretary. That means that were any matter I had an interest in to come before the governing authority, I would have to recuse myself. I understand that KPMG declared the information to the executive when it was asked to carry out the review.

Deputy Verona Murphy: It declared that.

Ms Mary Harney: It did, yes.

Deputy Verona Murphy: Did that not raise any red flag? Was Professor Mey still happy?

Professor Kerstin Mey: We were still happy.

Deputy Verona Murphy: I assume we will see all that correspondence. Could we see the procurement process documentation just to be sure? I am concerned because of the concerns of the Comptroller and Auditor General about procurement and one thing and another, so it would help to see the procurement process documentation and the declaration from KPMG on the chancellor's position.

Let us move on to how we can say this is a fully independent review. It has been on my mind for a couple of days that it was KPMG that was chosen. There were three others. From a transparency perspective, I am sure there was not that much difference in the cost. How much did the report cost?

Ms Mary Harney: Can I just say to Deputy Verona Murphy-----

Deputy Verona Murphy: No. I did not ask Ms Harney yet.

Ms Mary Harney: It just might help you.

Deputy Verona Murphy: Can I get an answer to that first? We will then come to Ms Harney.

Ms Mary Harney: It might help the Deputy. The other companies had a direct conflict either because they worked for Dunnes Stores or some of the key players in the university had trained and worked with them in the past.

Deputy Verona Murphy: Was KPMG the lesser conflict?

Ms Mary Harney: I do not think there was any conflict. I take conflict of interest very seriously. Anyone who knows me, whether they are political opponents or friends of mine-----

Deputy Verona Murphy: I see it. As a member of the Committee of Public Accounts, I see it as a conflict of interest that Ms Harney is chancellor of the governing board of UL, which is investigating a matter relating to the cost of a site that was purchased and the whole governance that surrounds that, that happens to be carried out by KPMG in which Ms Harney is an interested party. Does she see any conflict there at all?

Ms Mary Harney: No, I do not and I take conflict of interest very seriously.

Deputy Verona Murphy: That is fine. We have a difference of opinion.

Ms Mary Harney: Neither does the corporate secretary who receives my declaration of interest. I will further say we are talking about a very reputable and professional firm.

Deputy Verona Murphy: They are all very reputable. I just fail to see-----

Chairman: Allow the chancellor to answer.

Ms Mary Harney: The Chairman told us earlier to be careful when talking about people

who are outside the House. My role in KPMG as chair of the public interest committee is to oversee its audit function. In 2010, what are called public interest entities were transposed into Irish law under an EU directive. The regulatory body for accountants recommended that big accounting firms have a public interest committee of independent people to oversee that function. That is my sole role. To clarify the matter, I have no operational role, in-house role, executive role or director role at KPMG.

Deputy Verona Murphy: It is still a role.

Ms Mary Harney: It is a very independent role.

Chairman: Ms Harney has clarified her role.

Deputy Verona Murphy: I understand that. I am just surprised it has not raised its head up to now. That is it, but I will come back in. In case I forget, do we have a record number for the proceedings lodged in the High Court that can be submitted to the committee?

Professor Kerstin Mey: We can submit that.

Deputy Alan Dillon: I very much welcome our guests. I will start with the Comptroller and Auditor General's opening statement, where he stated his view that the agreement between the university and the former president regarding his resignation had the "typical characteristics" of a severance package. UL stated, based on its legal advice, it was satisfied that the recognition of payment did not constitute a severance package. It also referenced Circular 09/2018 and concluded that prior approval from the Department of Public Expenditure and Reform was unnecessary. I am trying to establish that the circular stated, in the case of a university, the new Department of Further and Higher Education, Research, Innovation and Science required prior approval through the Department of Public Expenditure and Reform.

I will provide the context in respect of the former president's resignation. He was paid more than €180,000 from 1 October 2019 to 31 August 2020. No contract or notice period was established in his terms of employment and he was paid €65,000 in September 2020 for his remaining four months, when an interim president was also appointed. His legal costs, which were in the region of €30,000, were covered by UL, in addition to UL's costs. Legal costs cost in the region of €45,000. My first question is for the Department's representative. Will he please explain whether the Department considered the former president's remuneration as a severance package?

Mr. Keith Moynes: At the outset, I acknowledge this is a complex issue. It is not a simple one, but in its considerations the Department took a view similar to that of the Comptroller and Auditor General, that it had the characteristics of a severance arrangement.

Deputy Alan Dillon: The characteristics. What steps has the Department taken against the university for making a payment like this to the former president?

Mr. Keith Moynes: We are still engaged. We recognise the university takes a different view on this. We have been engaged and we obviously had to take legal advice. There has been back and forth in seeking further information from the university. We are still considering what options are available to us under the variety of means available. We have not reached a definitive conclusion in terms of the action that will be taken.

Deputy Alan Dillon: At what stage in the process was the Department informed of the

remuneration package for the former president and what he received?

Mr. Keith Moynes: I will have to check my notes. It is not something I have been directly involved in.

Deputy Alan Dillon: What steps has the Department taken to ensure the same interpretations are not taken by any university or third level institution into the future?

Mr. Keith Moynes: I missed that question. My apologies.

Deputy Alan Dillon: In respect of the learnings, what steps has the Department taken to ensure the same interpretation is not taken by any future university or third level institution into the future?

Mr. Keith Moynes: These arrangements are so specific I am not sure that in any given circumstance there is necessarily a general rule we could apply over and above what is in the circular. There is a circular from the Department of Public Expenditure and Reform. It sets out what constitutes a severance. The critical point we make in all of this is early engagement and prior engagement with the Department. That is the rule we have.

Deputy Alan Dillon: I will ask the chancellor what involvement the governing authority had in the former president's resignation?

Ms Mary Harney: It would be helpful to have a little perspective here. On 5 May 2020, the president informed me he was going to resign because he said the virus impacted on his ability to serve the university. I sought a date from when that would take effect because we were in the middle of a pandemic. I pay tribute to the staff and students for the manner in which they adapted to the huge challenges of changing the way they worked and learned. We were getting ready to open up, which was the intention in September, and I wanted to make sure we had a president during that very difficult and challenging period.

The then-president said he wanted to be paid for a year through his legal advisers. Bizarrely, his contract had no notice period. I took legal advice. The current Minister, Deputy Harris, in a similar situation when the director general of the HSE was resigning, said in the Dáil on 17 May 2018 that payment in lieu of notice is normal. The Department was involved in a Supreme Court case way back in 1940, the Murphy case, and there is also Independent Newspapers and the Carey case in August 2003. There is significant case law that suggests people are entitled to a payment in lieu of notice.

I obviously did not want to pay a year. As we wanted to minimise that, negotiations took place between our external lawyers for the university and the former president's lawyers. As part of that, and on advice, legal fees were paid, which were €25,000 plus VAT. All of that was approved by the governing authority, although not the amount of the legal fees because we were not quite certain of it at that point. The governing authority approved the payment. The president got four months in lieu of notice and two months' holidays. He worked remotely until the end of August. I wanted to be in a situation where we could appoint an interim president and have a competition for it, rather than anoint somebody. That was obviously going to take some time over the summer. They are circumstances in which that was-----

Deputy Alan Dillon: Can I ask Ms Harney-----

Chairman: Just a second.

Ms Mary Harney: If I thought I needed the Department's approval, I would not have had a problem calling the Department.

Deputy Alan Dillon: That is my next question.

Ms Mary Harney: If it was a severance payment-----

Deputy Alan Dillon: Did the governing body-----

Ms Mary Harney: I have just one last point. If it was a severance payment-----

Deputy Alan Dillon: -----request the views of the Department of Further and Higher Education, Research, Innovation and Science's on the remuneration package? Did Ms Harney ask whether the remuneration package was sanctioned by the Department of Public Expenditure and Reform?

Ms Mary Harney: It did not need be to sanctioned, because it was not a severance package, in our view. If it was a severance package-----

Deputy Alan Dillon: Sorry, in terms of Circular 09/2018-----

Ms Mary Harney: Our involvement----

Deputy Alan Dillon: Did the governance authority have clear understanding-----

Ms Mary Harney: Yes.

Deputy Alan Dillon: -----around the requirement for the Department of Public Expenditure and Reform to review or be consulted around the remuneration package?

Ms Mary Harney: Only if it was a severance package, which it was not. The president was resigning. I told the committee about case law. I told the committee what the Minister, Deputy Harris, said in relation to the resignation of the director general of the HSE.

Deputy Alan Dillon: So-----

Ms Mary Harney: Can I just say-----

Deputy Alan Dillon: Sorry, Ms Harney, we are hearing differently from the Department-----

Ms Mary Harney: It would be helpful-----

Deputy Alan Dillon: -----in terms of their interpretation.

Ms Mary Harney: I will make one point. If it had been a severance package, the president would have been entitled to €12,460 of that tax free. We taxed it all as a payment in lieu of notice. There was no severance element. If it had been a severance, why would I not have been happy to contact the Department? I am used to-----

Chairman: Ms Harney has made that point.

Ms Mary Harney: I am very happy to talk to Government Departments. We took our advice and I followed the advice.

Deputy Alan Dillon: Maybe I will go back to the Department and ask them to clarify what

they have just listened to, in terms of their interpretation of whether that is a severance package.

Mr. Keith Moynes: This speaks to the complexity of the issue. I would not question the good faith in which the decisions were made. These are complex matters. The university took a certain approach. Our own view, as a Department, was different. However, these are complex matters. The decision or interpretation that we took was that it was a severance. The university did not take that approach. The chancellor has outlined the rationale that the university took. We are taking a different view on that. These are complex issues and there are probably elements of judgment attached to them, but we take the view that this was a severance. We are looking at the issues. I think it is something that people of good faith have-----

Chairman: The Deputy's time is almost up.

Deputy Alan Dillon: I have one final question.

Chairman: The Deputy must be very brief.

Deputy Alan Dillon: I ask the president why the university agreed to pay the former president's legal costs, in addition to the remuneration costs, which amounted to over €45,000?

Professor Kerstin Mey: The president, as an employee of the university, was entitled to have a legal team for negotiating the period of notice, given that there was no such clause in the contract that the president received. That is my understanding of the situation in terms of the contract that the former president had.

Chairman: I call Deputy McAuliffe.

Deputy Catherine Murphy: Chair, can I just ask-----

Chairman: No.

Deputy Catherine Murphy: -----the Comptroller and Auditor General-----

Chairman: I will let Deputy Catherine Murphy back in.

Deputy Catherine Murphy: -----a question on this particular issue? Could the Comptroller and Auditor General draw attention to typical characteristics of severance? Does he have a comment on this, so that we can close it off and so that we have an understanding?

Chairman: The Comptroller and Auditor General may make a brief comment.

Mr. Seamus McCarthy: Would the Deputy like for me to explain the typical characteristics?

Deputy Catherine Murphy: Yes.

Mr. Seamus McCarthy: The legal advice we received is that the agreement is in writing; that there is valuable consideration; that a sum of money is paid to the employee as consideration for waiving their rights; that the rights being waived are listed individually; that the employee is at a minimum strongly encouraged to take independent legal advice; and that the agreement specifies the working arrangements for the remainder of their relationship. It would typically also be included that the agreement is unequivocal in full and final settlement of all claims, with either a stipulation in relation to confidentiality or a reminder that existing obligations continue. The return of the employer's property, as well as a confidentiality clause in

relation to the settlement agreement itself, are typical.

Chairman: Okay. I call Deputy McAuliffe.

Deputy Paul McAuliffe: I thank the witnesses for being here today. I want to return to the issue of the site purchase for the city campus, and particularly the events of 5 April, when there was a governing authority meeting.

I will preface my comments by saying that I differ slightly from some of the previous members in that I would be concerned, as a member of the Committee on Public Accounts, if, despite legal advice not to publish the KPMG report, the university went ahead and did so and, as a result, the State or the university incurred significant costs. I would like to say that. However, I echo the absolute concern raised by all the members here, as well as, I can imagine, by the members of the governing authority, who do not feel that they can see sight of that KPMG report. I will return to that in a moment.

In essence, the KPMG report is a University of Limerick document. It was commissioned by the University of Limerick. It has no statutory basis. It is essentially a report that from the university and that was commissioned to KPMG for the university. Would that be correct?

Professor Kerstin Mey: Yes, it is a review that was commissioned by-----

Deputy Paul McAuliffe: Therefore, there is nothing to prevent the Committee of Public Accounts or any other body from carrying out a similar investigation and coming up with conclusions of their own. Would that be fair to say? For example, the Department could carry out an independent review.

Professor Kerstin Mey: That is fair.

Deputy Paul McAuliffe: That is correct. Okay. It is not unusual, I suppose, for people who are party to the findings of a report to seek the recourse of the courts to prevent their publication. This happens pretty much with every Government report that files a hard finding. All of that being said, I understand the university's position, but I hope the witnesses will appreciate our frustration as well.

I will come back to the issue of 5 April. I think Ms Harney said earlier in her comments that the governing authority was told that an independent valuation was available. Is that Ms Harney's evidence? Perhaps she might speak to that point.

Ms Mary Harney: Yes, Deputy. Obviously, a proposal was tabled. In that proposal, the governing authority was told that valuations were tabled at the negotiations. We were also told that we offered €6.5 million as an opening offer, Dunnes Stores was looking for €10 million and the negotiations ended with an agreement of €8 million.

Deputy Paul McAuliffe: Was that information tabled verbally at the governing authority?

Ms Mary Harney: No, it was in the proposed document.

Deputy Paul McAuliffe: Therefore, was a document circulated to the governing authority that detailed some of the information-----

Ms Mary Harney: Yes.

Deputy Paul McAuliffe: -----which Ms Harney is verbally reporting here? Was it circu-

lated to all members of the governing authority?

Ms Mary Harney: Yes.

Deputy Paul McAuliffe: If members of the governing authority other than Ms Harney were asked if they believed that an independent valuation was available, would they all be of the view, given the written evidence that was put before them, that a valuation was available?

Ms Mary Harney: Yes. My memory is that one member on the day asked if we did our due diligence. They were assured that we did. This was carried unanimously. People were very enthusiastic about it. However, the issue for the governing authority is whether or not-----

Deputy Paul McAuliffe: There is no concern on Ms Harney's behalf. DCU is a fantastic university in my area. They carry out a lot of good work. This is an empty site. I imagine that there was huge enthusiasm for it. Does Ms Harney believe that the enthusiasm in the room resulted in the members not carrying out the due diligence, or the conversation that should have happened? Or does she believe that the written documentation before them was sufficient?

Ms Mary Harney: No, the enthusiasm in the room was a result of the fact that we always wanted to get this site. It was our preferred site for many reasons. It is an iconic site. It is a riverside site. It is the premier site in Limerick. A property person said to me recently that if it had gone on the open market, there would have been a cat-and-dog fight for it. We were therefore excited that we now had it. At that point, after we got it, Limerick City and County Council dropped its attempts to have it declared derelict and put on the vacant site register. There was great enthusiasm, both within the university and externally. I do not think that the enthusiasm over getting the site took away from our responsibility to use our critical faculties and to look at the proposal before us-----

Deputy Paul McAuliffe: I appreciate that.

Ms Mary Harney: -----and we did that.

Deputy Paul McAuliffe: Ms Harney says that this was the preferred site.

Ms Mary Harney: Yes.

Deputy Paul McAuliffe: I can understand why it might be the preferred site. However, Ms Harney can understand our concern that just three days earlier, a funding application had been submitted to the Higher Education Authority, HEA, which included options. This site had not been included in that. First, I cannot get my head around why, if this was the preferred site, it was not included in that application. Second, just three days had passed. Can Ms Harney talk about how a document can be submitted to the HEA, but three days later an entirely different proposal can come before the governing authority?

Ms Mary Harney: That is an excellent question. From memory, in December 2018, the governing authority approved the procurement of what is called the "opera site". It was not an ideal site, but it was the only other site that was available. We approved that and then we made an application to the higher education strategic infrastructure fund. That application was only submitted a couple of days. When the president phoned me to put the matter of the Dunnes Stores site on the agenda for 5 April, among the reasons he used was the fact that we needed to change the site for the purposes of the HEA application, as well as the fact that he did not want Dunnes Stores to change their mind. That is why it went to that meeting for a decision. The

reason we wanted to go to the city centre, besides the fact that we wanted to play our part in revitalising the city, is that the university, for those who do not know, is 4 km east of Limerick city. We wanted to bring the university into the heart of the city. That has been an objective for quite a number of years.

Deputy Paul McAuliffe: I can understand that. I can understand the reasons for Limerick, as well as for the university. I will come back to the idea I was pursuing. The president submitted a document to the HEA. He was aware that a different, parallel option was available and that it was being actively explored by the university-----

Ms Mary Harney: In fairness, my understanding is that about two or three weeks before 5 April, Dunnes Stores came back to the university and asked us if we were still interested in the site. We had not signed any-----

Deputy Paul McAuliffe: So it happened within that window of-----

Ms Mary Harney: Yes. We had not signed any contract for the office site. There were issues with the office site relating to planning.

Deputy Paul McAuliffe: Does Ms Harney think it was the president's intention to submit an alternative report to the HEA? Was the HEA aware that an alternative site was being examined?

Ms Mary Harney: The person who submitted the report on behalf of the university was the former head of research. The intention was to switch the sites. I think the president was acting in good faith. I do not think there was any issue. The other site was not available when the application was being-----

Deputy Paul McAuliffe: Speaking on the issue of good faith, and I accept what Ms Harney has said, a document comes before her outlining an option to purchase it. I imagine there is huge enthusiasm in the room for it and it is approved. I accept all of that. However, there is a difference between that and the results of the FOI where the governing authority was told that a valuation took place and FOI and I imagine the university's own investigation show that no valuation took place.

Ms Mary Harney: A valuation took place but it may have been an oral valuation. We were told that valuations were tabled at the negotiations so clearly when you are told that, you assume written valuations are tabled. What transpired when the FOI request came in looking for a copy of that valuation was that no such valuation existed. That sent alarm bells ringing among the governing authority.

Deputy Paul McAuliffe: Does Ms Harney believe that there was a belief within the governing authority that it was misled?

Ms Mary Harney: I cannot say that now. Everybody is entitled to his or her good name. We must await the outcome of the investigation or the publication of the investigation, for which I cannot wait.

Deputy Paul McAuliffe: I accept that but Ms Harney is a member of the governing authority, has a view and is here before the committee. Does she believe the governing authority was given correct information or does she believe it was misled?

Ms Mary Harney: I believe it was our understanding that a written valuation was tabled. I

definitely believe that. It was certainly my understanding and that of my colleagues.

Deputy Paul McAuliffe: That would be the wide view of the-----

Ms Mary Harney: I think so. I have not spoken to everybody but that was the reason why we asked for the inquiry.

Deputy Paul McAuliffe: That brings the governing body to the unenviable position whereby a staff member who essentially heads up the university is providing information to the governing authority and the governing authority, which has an oversight role, relies heavily on the information provided by staff. For the benefit of anybody who is not a member of a board or governing authority, we are talking largely about a group of volunteers that is provided with papers in advance of a meeting and those papers are relied on in order to make those decisions. Would that be correct?

Ms Mary Harney: While we are there on a voluntary basis, I can assure the Deputy that we are no amateur governing authority. We have some of the most experienced people in the country, both those representing the university and people from the outside world. The people on the governing authority are very competent, capable and able. Obviously, like any-----

Deputy Paul McAuliffe: I do not doubt that in any way.

Ms Mary Harney: I know the Deputy is not saying that.

Deputy Paul McAuliffe: The governing authority does rely heavily on the information provided by the university.

Ms Mary Harney: Absolutely. It is like any board of directors. You base your decision on what is put before you in the same way that this committee would base its decisions on what is put before it.

Deputy Paul McAuliffe: I am looking beyond the publication of the report and any findings that come from that. The fact that the only source of information available to the board is from the people over which it has oversight does present an inherent risk to the board. In other words, there was no independent option for the board. It could only rely on the information put before it.

Ms Mary Harney: I do not think we could function otherwise. We have total confidence in the executive and the president who is presenting. You can only operate on that basis. You have to operate on the basis of trust.

Deputy Paul McAuliffe: This is why I imagine members of the governing authority are so frustrated. They believed they were presented with one set of information and it transpired that it was a different set.

Ms Mary Harney: Yes.

Deputy Paul McAuliffe: Where I would disagree with Ms Harney is on the idea that the corporate entity cannot share the document among itself. In my view, the document is within the University of Limerick and I do not see any reason why the governing authority could not see that report in advance of it being published unless it had received legal advice that circulating it to 27 people on a governing authority would be tantamount to publication. I believe the governing authority or at least a sub-committee of the governing authority should have access

to that KPMG report given that it is an internal document.

Ms Mary Harney: The president got advice and the advice was very strong. I was a party to one meeting with the advisers and heard that sharing it widely would mean that we would be putting the university at risk and we could not do that. As chairperson, I certainly would not want to chair a body that would put the university of risk.

Deputy Paul McAuliffe: Ms Harney has my sympathy on that point.

Chairman: Deputy Sherlock is next to speak. Following that, we will break for ten minutes.

Deputy Sean Sherlock: I welcome the witnesses and acknowledge the presence of our former colleague, Mary Harney. She is very welcome. Any dealings I have had with her have always been honourable, honest and straightforward. Although very rarely have I agreed with her from a politically ideological position, I have to say that my dealings with her have always been honest, straightforward and forthright.

Could I focus on the funding position in respect of the HEA? Based on correspondence we have received, we are given to understand that core funding amounting to €1.7 million has been withheld to date. Is that the current position?

Professor Kerstin Mey: It is correct that €1.7 million of the devolved capital grant was withheld by the HEA.

Deputy Sean Sherlock: So contrary to media reports, no further moneys have been withheld.

Professor Kerstin Mey: As Mr. Moynes said, we recently became aware that we were successful in being awarded nearly €2 million under the energy efficiency and decarbonisation pathfinder programme through the media and that this money is being withheld. It has been paused.

Deputy Sean Sherlock: The reason I am asking Professor Mey this question is because right now, the educational landscape within the State is such that there are employees of universities or technological universities on precarious contracts. To my knowledge, there are not enough people in proper career progression. Many lecturers are still below the bar and are going from contract to contract. I speak for staff within the University of Limerick. It seems to me that if there is a withdrawal or holding back of funding, it stymies the ability of the university to fulfill its mission and obligations to its own staff but also its wider mission to the mid-west and Munster region. I say this as a former Minister of State with responsibility for research and innovation. I am very much aware of the work of EPI-STEM, Lero and other such entities and the translational effect of the research provided by the University of Limerick. I worry that if the HEA is withholding funding, it will have a downstream effect on the university's ability to allow staff to progress from below the bar to above the bar positions or to allow the university to ensure that people progress and that there is a career path for employees within the university. Is it the case that the holding back of this funding is affecting staff's ability to progress?

Professor Kerstin Mey: Both grants are capital grants pertaining to the improvement and retrofitting of buildings. It does not have that impact on the ability of staff to progress or to be promoted. We are working with the HEA to get the money released as soon as possible.

Ms Mary Harney: First, I thank Deputy Sherlock for his kind comments. This is only my second time back. The last time was for the banking inquiry.

We learned about the €2 million mentioned by Mr. Moynes from a media outlet last Thursday, which I believe was very unfortunate. We were completely blindsided. We first learned we were approved for the grant and we also heard in the same call that the grant was being paused. That is not the way to do business. This blindsided us and it damages our relationships. I know the president has had a call from the Minister for Further and Higher Education, Research, Innovation and Science to apologise over the leak. He does not know how it happened. I hope we can engage with the Minister have these moneys paid over to the university as quickly as possible. The Deputy is correct because this does impact on our ability to make things happen.

Deputy Sean Sherlock: Why have these moneys been paused? What reason was given in that conversation between the Minister, Deputy Harris, and the president?

Ms Mary Harney: I, together with the chair of the audit and risk committee, met with the HEA chairman and CEO last August and I believe they were genuinely impressed with all the reforms the governing body had carried out in the university. The governing authority confirmed all those reforms and I, together with the president, had another meeting with them, including the CEO, on, I believe, 12 November. I believe the HEA, and I am not speaking for it nor do I have any such right, is satisfied serious reforms in governance have taken place at the University of Limerick. I hope the Minister, when he visits the university on the 23rd of this month and engages with the president and her colleagues, will be in a position to release that funding.

Deputy Sean Sherlock: Moving on then to what are reasonably modest but significant sums nonetheless in respect of what has been spent on external consultancy costs and adviser fees, the university spent nearly €600,000 on project management services, total legal expenditure was €926,000, estate planning was €250,000, brand refresh and implementation was €87,000, and public relations was €33,000. This is all money that has been spent on external services. Will the president tell me why the university spending €595,000 on project management services and what are these services? That is my first question for her.

Also, in respect of the brand refresh and implementation, €87,000 would pay the fees for one lecturer above the bar, if I can put it that way. My focus here is on staff and students, on what they are receiving and on what I would call their rights and entitlements. It seems to me the amount of money, which is approximately €3.1 million and is a significant amount, is all money that has been spent on external services that could reasonably have been expected to be ploughed into investing in staff, educational output, and research output.

Professor Kerstin Mey: I thank the Deputy for his question. The university is a dynamic institution and develops rapidly and radically in the realisation of its vision to offer excellent education and research. A number of projects have been carried out in that space to support the university to realise its ambition going forward. I already talked about the brand refresh, that it was essential for us to have our appearance in the marketplace in line with the character of the institution, which is actually something that supports us in recruiting, attracting talent and affirming our position in a global and very competitive marketplace. On the details of the expenditure, I will bring in my colleague, Mr. Butler, to talk the committee through some of the details.

Deputy Sean Sherlock: Will the president speak specifically to the legal expenditure, be-

cause this is by far the greatest amount at €926,000? In 2019, the university spent €1.04 million on legal expenditure alone. It is a hell of a lot of money on legal fees.

Mr. Gary Butler: I will come in on that question, if I may. The president referred earlier to the expenditure on the legal fees and we said we would provide more detail on that. It creates a situation whereby there are a number of cases for which legal advice was needed. We also often seek legal advice throughout the university on different developments we are undertaking.

On the expenditure mentioned by the Deputy, I would also like to comment on project management and consultancy. These are large figures but are an investment in our student record system. This system was introduced in 1999 and it is fair to say there was not regular investment in that, so a project has been undertaken to update and refresh that system to ensure it is fit for purpose. It is the bedrock of the university in how it manages its student records, and that investment will continue because the university takes very seriously the ability to have systems that work and are fit for purpose. That is the area around which the consultancy and project management moneys were spent. Further investment will be seen in these areas in future years.

Chairman: We are have run over time now and I will allow the Deputy in for a second round later if we have time. We will have a break now and a number of others wish to contribute after that. We will break now and we will resume at 11.15 a.m. sharp.

Sitting suspended at 11.06 a.m. and resumed at 11.18 a.m.

Deputy Catherine Murphy: I will go back to the question of the Dunnes Stores site. It has been described as an iconic site but it is certainly not an iconic building. Otherwise, Limerick City and County Council would not have been pursuing it with regard to the derelict sites register. It may well be an iconic site but it is certainly not an iconic building. There are many iconic buildings in Limerick but the last time I passed this building, which was not that long ago, it looked to be in poor shape. I would like to ask the Department of Further and Higher Education, Research, Innovation and Science about its role in this matter but, with regard to the report, will Professor Mey tell me who her employer is? To whom does she directly report?

Professor Kerstin Mey: I report directly to the chancellor.

Deputy Catherine Murphy: The chancellor is the professor's boss.

Professor Kerstin Mey: Yes.

Deputy Catherine Murphy: It makes it more difficult for me to understand why a report that was commissioned by the governing board was not provided to at least the chancellor, if not the board, given that is the relationship. I am finding it as difficult as other members of the committee to understand the relationships and the roles. I would have thought it would be the person or the body that commissions the report was the one to receive it. Who actually commissioned the report?

Professor Kerstin Mey: The report was commissioned by the university.

Deputy Catherine Murphy: What element of the university was it commissioned by? Was it the governing body-----

Professor Kerstin Mey: The executive commissioned the report.

Deputy Catherine Murphy: It was not the governing body.

Professor Kerstin Mey: The executive commissioned it under the guise of the governing authority.

Deputy Catherine Murphy: We need a map of the governance arrangements for the university. I ask that Professor Mey provides that because it is very difficult to understand the roles and responsibilities. That is certainly not helpful here.

Does the Higher Education Authority, HEA, have sign-off on UL or any other third level institution signing off on capital projects?

Mr. Keith Moynes: To clarify, we are from the Department, not the HEA.

Deputy Catherine Murphy: Okay. It is the Department that then signs off. What are the requirements from the Department before a sign-off happens? Does it look for a written valuation? Would that not be standard practice?

Mr. Keith Moynes: The acquisition of a site does not require any engagement with the HEA or the Department.

Deputy Catherine Murphy: Okay.

Mr. Keith Moynes: Valuations and such would not come into it because we are not there, involved, in the process around purchasing a site.

Deputy Catherine Murphy: Is there anything further to add to that?

Ms Emma Leonard: The only context in which we would be involved in due diligence would be if there were Exchequer funds involved. In this context, the site transaction was being progressed by UL using its own resources.

Deputy Catherine Murphy: The University of Limerick and the third level sector featured strongly in the last Committee of Public Accounts of which I was a member, unfortunately. Some of that related to whistleblowers. An investigation was completed by an external investigator in November 2020 into several of those allegations, some of which dated back to 2017. Some of the allegations were about people being appointed incorrectly. There were other issues as well. How many individuals were appointed incorrectly? What does that report tell us? Are the individuals still employed by the university? Was the director of strategy one of those individuals?

Professor Kerstin Mey: I do not understand what the Deputy means by incorrectly appointed.

Deputy Catherine Murphy: There was a report with regard to four allegations in areas of recruitment and procurement for which insufficient evidence was found. Some of that related to procurement and some of it related to recruitment.

Professor Kerstin Mey: The recommendations of the McKenna report have been addressed. Three have been concluded and three are in progress. In terms of one member, whom the Deputy termed as having been incorrectly appointed, the matters have been resolved with the individual in full. The individual signed an agreement with the university with regard to the individual's appointment.

Deputy Catherine Murphy: Was any compensation paid with regard to the result of the

external investigator's findings?

Professor Kerstin Mey: No.

Deputy Catherine Murphy: With regard to procurement, how many contracts did the allegations relate to? Are those contracts still in place? Has that all been rectified?

Mr. Gary Butler: In terms of procurement, I will go back to the disclosure we made in the financial statement that there was €407,000 worth of non-compliant procurement, which related to 11 contracts. All of those have now been resolved but as a result of that, there have been system enhancements. One of the issues is that if one has aggregated spend, four different people across the university could be trying to contract with the same supplier. There was no flagging in place to flag that one was going to breach that. Systems improvements have been made around that.

Deputy Catherine Murphy: I want to go back to some of the roles, such as the director of strategy. Who devised and created that role? Is there a job specification for it?

Professor Kerstin Mey: The director of strategy was devised long before me. We currently have a director of corporate strategy, if that is what the Deputy is referring to.

Deputy Catherine Murphy: What is the salary starting point for that role?

Professor Kerstin Mey: I understand that the starting point is as a senior administrative officer, SAO, 3.

Deputy Catherine Murphy: What would be the salary starting point?

Professor Kerstin Mey: I would have to go back to look at the exact starting point.

Deputy Catherine Murphy: Roughly.

Ms Mary Harney: I think the Deputy is talking about the McKenna report.

Deputy Catherine Murphy: Yes.

Ms Mary Harney: Obviously I will not mention any names here, nor can I, but the person in the role I think the Deputy is talking about is on secondment from the university.

Deputy Catherine Murphy: Is it a secondment as opposed to an employment?

Ms Mary Harney: No, the person is gone from the university on secondment elsewhere.

Deputy Paul McAuliffe: I do not understand it.

Deputy Catherine Murphy: I do not understand it either.

Professor Kerstin Mey: There were previously two roles in the university; the director of transformation and strategic projects, who has gone on secondment to the HSE, and the director of corporate strategy, who is employed in the university.

Deputy Catherine Murphy: Who devised the UL strategy? Does that include the governing body? Who does it include?

Professor Kerstin Mey: In terms of the strategic process, the governing authority that

approves strategy. The executive committee develops the strategy in consultation. We had a very wide consultation process in terms of refreshing our strategic plan, UL@50, as part of a bottom-up approach that was very consultative. That was discussed and approved first of all in the executive and then it went to the governing authority for approval, but I stress that the governing authority had an input into the refreshing of our strategic plan through workshops.

Deputy Catherine Murphy: Was that outsourced to a consultancy and if so, was there a cost in doing that?

Professor Kerstin Mey: It was previously outsourced with regard to the initial UL@50 strategy. I will hand over to Mr. Butler for the financial details but I would like to stress that the refresh of the strategic plan was entirely internally resourced and used members with expertise in community engagement who devised very innovative process and tools in order to get the widest-possible consultation on the refreshing of the strategic plan.

Chairman: We have gone over time. A number of members want to speak.

Deputy James O'Connor: I welcome the witnesses before the Committee of Public Accounts and I appreciate the work the Comptroller and Auditor General has done with regard to the consolidated financial statements for UL. I have a number of concerns, especially when it comes to due diligence and due process within the university. That has been highlighted to the Committee of Public Accounts. The significant level of procurement non-compliance and issues around property transactions that the university has been involved with have been particularly concerning. There were also HR matters in relation to the former president, his resignation and around severance agreements that were not submitted for sanction by the Department of Public Expenditure and Reform. That is something that is of particular concern to me.

How did the purchase of the €8 million site in Limerick city from Dunnes Stores for the UL campus come about? I put that to the head of the governing authority of the college who has overall responsibility regarding these matters as set out in legislation.

Ms Mary Harney: I answered this question in response to both Deputies McAuliffe and Devlin earlier.

Deputy James O'Connor: Would Ms Harney be so kind as to answer for me? I would appreciate that.

Ms Mary Harney: I am happy to repeat it. If the Deputy has not heard it, it is worth hearing because it will help our engagement. The €3 million valuation - I read from that report - that was done for the purpose was desktop. No inspection took place of the property and it was to be used for internal purposes only. That was emphasised by the reputable company that carried it out. It was done for the purposes of having the site declared derelict and having it put on the vacant site register because the council wanted to CPO it. Dunnes took a judicial review and it got a stay on that happening. UL always wanted to move into the city because we are four miles east of the city centre. That was identified as the preferred site but there was not a willing seller. However, in April 2019 Dunnes approached the university and asked if we were still interested and the university said yes. Negotiations took place between the university and Dunnes Stores. My understanding from what the governing authority was told is that we made an opening offer of €6.5 million. Dunnes was looking for €10 million and through the negotiations we settled on €8 million. That proposal was put to the governing authority and it unanimously supported that proposal. In the context of that proposal the governing authority was told that valuation state-

ments were advanced in those negotiations. It subsequently transpired that there was no written valuation when a FOI request was submitted. The governing authority was obviously concerned that there was no written valuation and that is why the KPMG inquiry was established.

Deputy James O'Connor: Was the value of the site flagged, as it is extremely concerning as €8 million and €3 million in terms of valuations-----

Ms Mary Harney: The point I make is that €3 million is not a valuation. It is a derelict site, a vacant site. I am sure the Deputy knows that if someone is going to CPO property they put in an opening offer. It sometimes goes two, three or four times higher than that. I do not want to read it again but it is in the record here. The people who carried out that valuation said it was desktop that they had not seen the property and they would need to have access to it and inspect it to know its potential from a planning point of view and then they would give a valuation in the context of a purchase or acquisition. The point I make is that €3 million cannot be compared with €8 million. It would not be fair or right to do so.

Deputy James O'Connor: Okay. That is interesting. I appreciate the response to the question.

On non-compliance around the resignation of the former president and the severance agreement, why was it not submitted to the Department of Public Expenditure and Reform for sanctioning, if it is okay to ask that question?

Ms Mary Harney: Earlier I dealt with that as well. The former president informed me on 5 May that he wanted to resign because he was not able to carry out his duties because he was vulnerable to Covid. I sought to get a date from the president. He engaged through his lawyers and said he wanted a 12 month payment in lieu of notice. Unfortunately his contract of employment had no notice period. We took legal advice. There is a lot of case law which I mentioned earlier. *Carey v. Independent Newspapers*, *Murphy v. Department of Education* and the Minister for Health, Deputy Simon Harris, in the context of the resignation of the director general of the HSE all upheld that in this kind of situation payment in lieu of notice is paid. The negotiations took place between our lawyers and the lawyers for the former president. They settled on a four-month payment in lieu of notice. He got two months where he worked virtually. Part of it was his holidays. It was four months. If it had been a severance payment he would have been entitled to over €12,000 tax free. We taxed it all. If it had been a severance payment of course I would have consulted the Department. That would never be an issue for somebody like me. I would naturally follow the advice and do what was appropriate. The Department spoke earlier. We differ on this. They say doctors differ and patients die. Lawyers differ too. The Department's view from its legal perspective and the view we had were very different and I followed the legal advice that was available to me

Deputy James O'Connor: I thank Ms Harney. There has been significant concern around the cost of the new student centre. It is around €20 million. There was an increase which was understandable in the context of construction related inflation that has taken place. However, in September 2020 the contractor for the construction of the student centre, unfortunately, was deemed to be in breach of the contractual obligations for the project. Can the committee be provided with an update? What is the latest status of the project?

Professor Kerstin Mey: The facts are right. As the Deputy may be aware, the project had to go out to a new tender to employ a construction firm. The tender process was concluded but the prices for construction are further exploding. Therefore the contract with the current con-

struction firm, as far as I am aware, has not yet been concluded amid fear of a further spiralling of the costs could create issues for the construction firm.

Deputy James O'Connor: The project is now likely to be in excess of €20 million. There are new rules and regulations around public expenditure in regard to that. Will UL undertake any cost benefit analysis required under the public spending code in relation to that project if it is likely to go in excess of what has been budgeted for it?

Professor Kerstin Mey: Absolutely. We will undertake all necessary processes in order to ensure that we are within the regulations.

Deputy James O'Connor: Can UL provide any further details on the breach of obligations and how it came about?

Professor Kerstin Mey: I cannot provide details on how that came about.

Ms Mary Harney: Is the Deputy talking about the initial company? I think it went into liquidation. That is my understanding.

Deputy James O'Connor: Okay. It is interesting to get further clarity on that. I will return on the next round of questions.

Chairman: Deputy Munster is next and has ten minutes. I will remind her when she has two minutes remaining because she is online.

Deputy Imelda Munster: Ms Harney said earlier that everyone was delighted with the Dunnes Stores acquisition. Can the committee get a copy of the minutes of the governing authority meeting where the acquisition was discussed and approved?

Ms Mary Harney: Yes. I would be happy to. I do not see a reason not to give the Deputy a copy. Yes, I would be delighted to do that.

Deputy Imelda Munster: That is great. I want to touch on the external investigation of HR issues, the McKenna report. Will the witnesses confirm that UL had or has a director of strategy or strategic alliance?

Professor Kerstin Mey: UL has a director of corporate strategy. As I said previously, we have a director of transformation and strategic projects. That person is on secondment to the HSE.

Deputy Imelda Munster: When was that position created?

Professor Kerstin Mey: The director of corporate strategy was established in a follow-up from the McKenna report.

Ms Mary Harney: No, sorry. The position was created in 2017 before this governing authority took office.

Deputy Imelda Munster: Okay. And was that position publicly advertised?

Ms Mary Harney: Yes. I think there were interviews.

Professor Kerstin Mey: Yes. It was publicly advertised, yes.

Deputy Imelda Munster: Great. What was the other position that was referred to? There

was one of corporate strategy. What was the other one?

Professor Kerstin Mey: The director of transformation and strategic projects. That role was created in 2017 and appointed through an open public appointment process.

Deputy Imelda Munster: What positions were appointed and were not advertised?

Professor Kerstin Mey: The director of corporate strategy was implemented as an outcome of the McKenna report.

Deputy Imelda Munster: Right. Can the witnesses explain that to me? That was one that was not publicly advertised.

Ms Mary Harney: No. I do not think there was any position not publicly advertised. I do not think that I understand the question. I am not aware of any position that was not publicly advertised. I do not know.

Deputy Imelda Munster: The Comptroller and Auditor General report-----

Ms Mary Harney: The Deputy may be talking about the restructuring.

Deputy Imelda Munster: -----makes reference to procedures having not been followed and individuals being appointed incorrectly. What are the details of this incorrect appointment?

Ms Mary Harney: The Comptroller and Auditor General is probably talking about the McKenna report. Perhaps he would like to elaborate.

Mr. Seamus McCarthy: I do not believe it is appropriate for me to give further detail on what is in the McKenna report. It is for the witnesses from the University of Limerick to answer any questions on that. Obviously, there is a lot of detail in the report and we have had sight of it but it would not be appropriate for me to give that detail. The witnesses from the university will have had legal advice with regard to what it is appropriate to disclose.

Ms Mary Harney: Clearly, we are restricted. That is another example of something that cannot be published. Suffice it to say that each of the recommendations of the McKenna report has either been implemented or is in the process of being implemented. The president may wish to comment further.

Deputy Imelda Munster: Prior to the findings of the McKenna report, were positions filled that were not publicly advertised?

Professor Kerstin Mey: No.

Deputy Imelda Munster: There were none whatsoever.

Professor Kerstin Mey: No.

Deputy Imelda Munster: Is that to say that the McKenna report did not flag any positions having been filled through an incorrect appointment procedure?

Professor Kerstin Mey: No. Without going into the McKenna report, that is not the case.

Deputy Imelda Munster: Is Professor Mey absolutely 100% sure that is the case?

Professor Kerstin Mey: I think-----

Ms Mary Harney: There are two issues. I do not believe anyone was appointed without an open competition. There may be issues around the process, who participated in the interview process and so on. All of those matters have been dealt with and changes have been made.

Deputy Imelda Munster: Ms Harney can categorically state that every position that was filled was publicly advertised.

Ms Mary Harney: I believe that to be the case, yes.

Professor Kerstin Mey: Absolutely.

Deputy Imelda Munster: What were the issues Ms Harney referred to?

Ms Mary Harney: Unfortunately, I am not at liberty to reveal what was in the McKenna report. The whistleblowing legislation is very strict with regard to revealing any details of the outcome of investigations. As the Comptroller and Auditor General has said, he cannot speak about it either. Suffice it to say that we carried out an independent investigation. The disclosure in this case came to my predecessor but proceedings were paused at the request of the person who initially made the complaint. It then came to me to be activated. As is the procedure, I appointed a group from the governing authority to look at the allegation. This group appointed Ms McKenna, a barrister, to carry out the investigation. Her report then came to hand. She made findings and each of these has either been implemented or is in the process of being implemented.

Deputy Imelda Munster: On the University of Limerick's strategic plan or vision for 2020, am I right in saying that management and advisory services in respect of the plan have so far cost at least €680,000 and possibly a lot more?

Mr. Gary Butler: I would have to confirm the precise figures, which I am happy to do.

Deputy Imelda Munster: What is there to show for the money spent in engaging those management and advisory services? What has been implemented?

Professor Kerstin Mey: We have developed an ambitious strategic plan. The initial plan was developed in 2019. As the Deputy will appreciate, the impact of the Covid-19 pandemic, Brexit and a changing external operational environment have made it necessary to recalibrate the plan. We have undertaken an extensive internally-resourced exercise to recalibrate our strategic plan, which involves very ambitious targets with regard to the transformation of our education provision as a research-led university and 360° of internationalisation.

Deputy Imelda Munster: Will Professor Mey give me an example of something that has been implemented?

Professor Kerstin Mey: As to what has been implemented, we are pioneers in higher education and were the first university to deal with apprenticeships. We offer six apprenticeships so far and a seventh will commence in September. These apprenticeships start at level 7 and reach up to level 10, doctoral level, in the case of principal engineers. We are providing the talents for the future. We have developed a range of innovative flexible programmes, including professional diploma and microcredential programmes, to support the reskilling and upskilling agenda of the Government and the national skills strategies. Significant processes of transformation have already taken place in the university. We have significantly enhanced our research performance with regard to quality, international standing and the money that has been

competitively awarded under the Horizon 2020 projects. We were the best performing university engaged in both rounds of the July stimulus package. Our graduate employability is 50% higher than the national average.

Deputy Imelda Munster: I wonder if the University of Limerick has counted the number of times it has been before the Committee of Public Accounts on its record. Have those apprenticeships been enacted? Are they up and running?

Professor Kerstin Mey: The apprenticeships are up and running. I am happy to report to the committee that we will see the first graduates of our apprenticeship programmes this summer.

Deputy Imelda Munster: That is good news. I have a question for the Department. There were two pension reports that were meant to be completed by the end of 2019. Where are they at?

Professor Kerstin Mey: I beg the Deputy's pardon.

Deputy Imelda Munster: I am sorry; this question is for the Department.

Mr. Keith Moynes: My understanding is that they are close to finalisation.

Deputy Imelda Munster: In 2019, the committee was told that the report on awarding years of pension entitlements on the basis of professional experience would be finished by the end of that year.

Mr. Keith Moynes: I am not close enough to the matter to know but obviously there were particular challenges into 2020 and beyond that diverted a lot of resources within the Department.

Deputy Imelda Munster: In fairness, this is three years on.

Mr. Keith Moynes: Indeed but it is my understanding that they are close to finalisation.

Deputy Imelda Munster: Okay. We will come back to that.

Professor Kerstin Mey: I would like to correct the record. The post of equality and diversity advisor to the president was not advertised. The Deputy asked me previously whether there had been any other unadvertised positions.

Chairman: I thank the president for that clarification.

Deputy Imelda Munster: May I come in on that point and ask about it because I had originally been trying to get that information?

Ms Mary Harney: To clarify, that person was already a professor in the university who was just reassigned to that position. It was not a person who was not already a member of staff but a professor who was given this new role.

Chairman: I thank Ms Harney for that clarification.

Deputy Colm Burke: I thank the chancellor and the president very much for being here and for dealing with the queries being raised. With regard to the accounts for 2020, I note that the total expenditure on legal matters was €926,000. That sounds extremely high. Even at €400

an hour, that is 2,320 hours. I am being generous with that €400 an hour. At 40 hours a week, that is 58 weeks of legal advice. That sounds extremely high. Are there a number of major legal proceedings ongoing? How did that figure arise?

Ms Mary Harney: I understand that the actual legal fees coming under that heading total somewhat over €460,000. The balance relates to patent registrations and estate costs.

Deputy Colm Burke: Perhaps we could be provided with a breakdown of that heading because it gives a very false impression of that issue. The second issue I will raise is one which many people have raised already, the proceedings currently pending that are preventing release of the report. Where are the proceedings at this stage? I presume proceedings have been issued and an appearance has been filed but, as I understand it, no statement of claim has been filed. Is that correct?

Professor Kerstin Mey: Yes.

Deputy Colm Burke: What is the indication in that regard? If someone does not file a statement of claim, it can obviously be left in limbo for a period. Has the university given instructions to its legal team to be proactive and that if the statement of claim is not filed within a particular period that it should issue a motion for the proceedings to be struck out?

Professor Kerstin Mey: We have instructed our legal team to expedite proceedings because, as I stated, I am very keen that we are in a position to publish the report and to share it with the committee as soon as possible. The High Court proceedings were issued on 23 March 2022. I can also give the case number if required.

Deputy Colm Burke: I know Professor Mey cannot discuss the legal advice given, but if this goes to a full trial, have the legal advisers given a timeframe?

Professor Kerstin Mey: I cannot interfere with the business of the High Court. The case would have to run its course.

Deputy Colm Burke: It would be helpful to the committee if we could find out the kind of time period for which the university is restricted from publishing its report. Are we talking about three months, six months, 12 months or 18 months?

Professor Kerstin Mey: We will endeavour to be in a position to publish the report as soon as is possible.

Deputy Colm Burke: But we could be talking about anything up to 12 months before we see this report.

Professor Kerstin Mey: I cannot interfere with the business of the High Court.

Deputy Colm Burke: I was involved myself in a case, not acting for a third-level institution, involving an incident in a college which went for a full six days hearing in the High Court. The case was appealed to the Supreme Court, which ordered a retrial, and it went back into the High Court for a further four days and then back into the Supreme Court again. The third-level college picked up the entire cost of it.

Ms Mary Harney: I share Deputy Burke's view. It is one of the things I am very keen to see happen before this governing authority ceases to exist next November. It would be unconscionable from my point of view and that of my colleagues on the governing body if we did not

have the report before then. We are going to use every legal vehicle open to us to make that report available to the governing body and, I hope, to the committee and others. It would be an awful pity if the body that asked for the report, which was commissioned by the university, could not get sight of the report before its term of office ends.

Deputy Colm Burke: By the way, the High Court and Supreme Court proceedings were in respect of a dog on the university grounds. I was acting for a totally independent party, but that is how long the case took, and at huge cost to a particular third-level institution. That is going back about 20 years ago and I was acting in a legal capacity.

The second issue I want to raise relates to the speculation about the valuation of the site. Does the college have an idea of the current valuation of the site?

Mr. Gary Butler: I can respond to that. Earlier, I outlined a process that we went through called the 2020-2021 financial statements where we did a review of the carrying value of all the assets on the balance sheet. That review included preparing a reinstatement insurance cost for the current facility and a new build cost. Both of those came out at close to €20 million in terms of what is currently there.

Deputy Colm Burke: So the current valuation for this site for which we paid €8 million is-----

Mr. Gary Butler: It is a reinstatement insurance cost and if we were to do a new build. It shows the value of the site and the fact that the university is not carrying the asset at a value above its worth in the financial statements.

Deputy Colm Burke: I will just go back to the decision by the governing body to acquire the site. I served on a State board - the board of the Port of Cork - for ten years. When we were purchasing new property we always got two other valuations and that would be the process available. With a 29-member board, how come nobody raised that question in regard to this purchase?

Ms Mary Harney: That question was raised about the valuation. I raised it with the president when he told me that we had succeeded in our negotiations with Dunnes. It was also raised at the governing body and we were told there were valuations tabled by both sides in the context of the negotiations.

Deputy Colm Burke: But the governing body was not presented with anything in writing to that effect.

Ms Mary Harney: No, but we were told in the proposal that there were valuations. We did not see a valuation or ask for it.

Deputy Colm Burke: When I served on the board we always insisted on getting the actual written documentation to cover ourselves as board members. I am surprised that a 29-member board would not have some legal expertise to protect everyone on the board.

Ms Mary Harney: I understand Deputy Burke's point but, in fairness, we trusted what was put before us and made our decision based on that. It was after all a negotiation between us and Dunnes Stores.

Deputy Colm Burke: But it did leave the members of the board very exposed because they had not seen-----

Ms Mary Harney: I would not say it left the members of the board exposed; what it did was make the members of the board inquire as to why there was no written valuation. I hope that will all be in the report. Clearly, there will be learning from that for the university.

Deputy Colm Burke: Is there not a message in that, in the sense that when a presentation like that is brought to a board and people are there to protect the public interest, they should look for something to be set out clearly in writing?

Ms Mary Harney: I think that will be the learning. Prior to this governing authority making changes, the president, with the approval of one of the subcommittees of the governing body, could spend up to €20 million. We have reduced that to €2 million. We have done a lot on governance issues to make sure that our oversight role is taken seriously. In the future, it is clear that there will be learning from what happened. The president has read the report and is in a position to make sure that learning is implemented as quickly as possible even before the report is published.

Deputy Colm Burke: When this issue arose, did the governing body feel there was a need to review other projects?

Ms Mary Harney: No.

Deputy Colm Burke: Were there other projects where property was acquired? Was it satisfied that all the boxes were ticked regarding valuations for previous projects?

Ms Mary Harney: There was an attempt to buy a property in Dublin in late 2019 and a deposit was paid on it. When it was brought to my attention by the president, because it was not part of our strategic plan and we had not done a business case, I did not allow that to go to the governing authority and asked for the money to be withdrawn, which it was. A subcommittee of the governing body was set up to look at whether we should have a facility in Dublin. I assure Deputy Burke that we use our critical faculties to make sure that anything we are doing is in compliance with our strategic vision. Any learning from the KPMG report will be put into effect as quickly as possible, including what Deputy Burke suggests.

Deputy Colm Burke: I wish to ask about long-term planning in the university. Does Professor Mey feel further development is required but that it has been restricted as a result of what has occurred in this case?

Professor Kerstin Mey: We have previously talked about the withholding of some funding towards the devolved capital grants and the pausing of the award for the retrofitting of a building. We are eager to resolve the issue working closely with the HEA and the Department of Further and Higher Education, Research, Innovation and Science in order to move forward. We are working on exciting projects, for instance plans for the development of the city campus moving forward. We hope to make significant progress in the near future.

Deputy Matt Carthy: I welcome the witnesses and thank them for being here. I would like to explore the role and *modus operandi* of the governing body. In response to the previous questions, Ms Harney said “we trusted what was put before us”. This committee could probably use that as a good title for most of the issues we deal with, where boards are simply not capable of or not willing to face up to the executive. This is not specifically confined to UL; unfortunately, it is widespread. I will ask a few questions to try to get a sense of how the board operated. Ms Harney mentioned that the university’s opening offer for the Dunnes Stores site was €6 million. Was the board aware of that offer being made at the time?

Ms Mary Harney: We were not aware of it at that time but we were aware when we were making our decision. It was in the proposal that was put before the governing authority. The offer was €6.5 million.

Deputy Matt Carthy: I take it the president made that offer.

Ms Mary Harney: I think the president and the deputy president were responsible for negotiations.

Deputy Matt Carthy: They felt they had the authority to make an offer of €6.5 million on a property without informing the board beforehand.

Ms Mary Harney: Yes. The fact is, as I said, that the president, under the rules that applied in the University of Limerick, could have made an offer of up to €20 million, subject to the approval of a committee. The president could certainly make an offer but he could not sign the contract for purchase.

Deputy Matt Carthy: Was Ms Harney, as chancellor, aware the offer had been made?

Ms Mary Harney: I was not.

Deputy Matt Carthy: Ms Harney has said she will publish the minutes of the board meeting at which the decision was made. Was that a long meeting? Will Ms Harney give us a sense of the deliberations in which the board was engaged? I presume the president made the presentation and outlined the rationale for the purchase of this site. How long did the meeting take after that?

Ms Mary Harney: A document with the proposal was circulated to the meeting. It was a comprehensive document and outlined the reason this was the preferred site. It was not the first time the university had looked at this site. Even when we decided to enter negotiations to buy the opera site, the preferred site would have been the Dunnes site but it was not available. The proposal was in writing, including pictures of the facility etc., and was put before the board. To the best of my knowledge, the deputy president presented the report and the president made comments. Two members of the governing body asked questions. One asked if full due diligence was done and was assured it was. Another asked when the facility would be made available and was told the end of May or June. From my memory, those were the two questions asked.

Deputy Matt Carthy: How much notice of the meeting were board members given? Were they given written notice?

Ms Mary Harney: It was a regular governing authority meeting.

Deputy Matt Carthy: Okay. Did the notice of the meeting indicate this was an item on the agenda?

Mr. John Hogan: It did not, but that is not unusual for governments or governing bodies. The negotiations only concluded two days beforehand.

Deputy Matt Carthy: The paper to which Ms Harney has referred was circulated at the meeting rather than beforehand.

Ms Mary Harney: That is correct. It was circulated to me the night before and was then

circulated at the meeting.

Deputy Matt Carthy: Did the meeting adjourn for members to read the report?

Ms Mary Harney: It did not. Members read the report but the meeting did not adjourn. Nobody asked for an adjournment. Nobody asked to postpone the decision or anything like that. It was a unanimous decision.

Deputy Matt Carthy: Was a vote taken? When Ms Harney says it was a unanimous decision, I take it that means nobody objected.

Ms Mary Harney: It was proposed and seconded and everybody agreed. Nobody said they wanted to disagree or wanted to record their disagreement.

Deputy Matt Carthy: Let us fast-forward then to the KPMG report we have been discussing. Ms Harney is indicating she has not seen the report and the board has not seen it based on legal advice. That legal advice was commissioned, I take it, by the executive.

Ms Mary Harney: Yes. The president received the report and I think she was getting legal advice-----

Deputy Matt Carthy: I am asking specifically about the board. Has the board seen the legal advice that indicates it cannot-----

Ms Mary Harney: I think we have seen it. We have certainly been informed and I think we have seen it.

Deputy Matt Carthy: Has the board challenged that at all? Has it sought independent legal advice as to whether it is entitled to see this report?

Ms Mary Harney: A very experienced and reputable company is giving us the advice. I have been involved in a call with the advisers around the circulation of the report.

Deputy Matt Carthy: Is the board satisfied it still has not seen this report?

Ms Mary Harney: It is not satisfied. I can tell the Deputy that the board wants nothing more than to see the report and to have it published. It is in the interests of everybody on the governing authority, particularly those who attended the meeting on 5 April and voted for this proposal. It is also in the public interest. As I said earlier, this governing body will cease to exist in November this year. It would be unconscionable if the report has not been published and circulated before that.

Deputy Matt Carthy: Ms Harney has made that point. In respect of the former president's exit package, I take it from Ms Harney's earlier comments she would dispute it was a severance package. Did that go to the board for approval?

Ms Mary Harney: It did.

Deputy Matt Carthy: I think Ms Harney said she was personally involved in the negotiations with the former-----

Ms Mary Harney: The lawyers on behalf of the university were involved. I had a small subcommittee, which included the head of the audit and risk committee, which is a subcommittee of the university, and the head of the finance, HR and asset management committee. I took

their counsel and they were involved with me. However, the legal advisers did the negotiation on both sides.

Deputy Matt Carthy: When the proposal for the package came before the board, was it Ms Harney who presented it to the board?

Ms Mary Harney: It was.

Deputy Matt Carthy: Was it unanimously agreed?

Ms Mary Harney: I think so. It was.

Deputy Matt Carthy: Could we get the minutes of that meeting?

Ms Mary Harney: Certainly.

Deputy Matt Carthy: Did any member of the board ask whether approval was required from any Department or agency?

Ms Mary Harney: No. I have quoted the legal advice and I do not want to repeat it and take up the time of the committee. Case history goes back to a Department of Education case in 1940 and *Carey v. Independent Newspapers (Ireland) Ltd.* The Minister for Further and Higher Education, Research, Innovation and Science, Deputy Harris, when he was talking in the Dáil on 17 May 2020, said in relation to the director general of the HSE that-----

Deputy Matt Carthy: Ms Harney has made all those points.

Ms Mary Harney: That was the advice I got.

Deputy Matt Carthy: The only question I am asking is whether any member of the board question any of that.

Ms Mary Harney: No.

Deputy Matt Carthy: Ms Harney was obviously a high-profile catch, if you like, as chancellor for the university in 2018. She has an esteemed record not only in this House but also elsewhere. She mentioned earlier she also has a role with KPMG. How many entities does Ms Harney sit on the board of or play a role within, in terms of committees?

Ms Mary Harney: The Deputy is asking with respect to committees.

Deputy Matt Carthy: Committees, companies or entities.

Ms Mary Harney: I am on the board of four private companies and I do other consulting as well.

Deputy Matt Carthy: Even with regard to the deliberations of this committee, there seems to be quite an amount of work associated with chancellorship. My understanding is Ms Harney waives any remuneration. Is that still the case?

Ms Mary Harney: It is not a remunerated position. I do not get any remuneration and I do not take travel or subsistence allowances. I am happy to play this role. I do so because I think the university is fantastic, with great students and staff. I do not want praise for it.

Deputy Matt Carthy: That is laudable.

Ms Mary Harney: In the context of the Act, the role is part time. It is clearly defined. It has, especially recently, taken up a considerable amount of time. There is no doubt about that.

Deputy Matt Carthy: I am conscious that part of the reason for the delay of this meeting was Ms Harney's availability. I understand why that was the case, considering her various roles. Will Ms Harney give a sense of how many hours per week she devotes to work relating to the University of Limerick?

Ms Mary Harney: On average, it is one day a week for at least ten months of the year. That is an average and sometimes it could be two or three days per week. Preparing for this meeting took a bit longer. I thank the Deputy for his concern. It does take up a considerable amount of time. There is no question about that.

Deputy Matt Carthy: The reason I ask is because a board needs a strong leader to challenge the executive. Does Ms Harney feel she has the time to be able to do that and provide that leadership, considering the number of issues that have arisen at this meeting alone?

Ms Mary Harney: I make the time available. I have excluded myself from other things to make this time available. Indeed, when the former president invited me to be chancellor, I had to exit some things to make the time. Obviously, it is a matter for the president to invite somebody to become the next chancellor. I do not wish to declare my intentions here. I should tell the governing authority.

Deputy Matt Carthy: That is fair enough. How often does the governing body meet?

Ms Mary Harney: When I came on board, it was probably meeting four or five times per year. It now meets at least seven or eight times a year. During the pandemic, it would meet ten times a year, albeit virtually. We meet, on average, once a month with the exception of July and August.

Deputy Matt Carthy: Is the president in attendance for the full duration of all those meetings?

Ms Mary Harney: Yes.

Deputy Matt Carthy: Is there ever any instance whereby the board would ask the executive to leave the room to deliberate on a matter?

Ms Mary Harney: Yes, but perhaps not to deliberate on a matter. We brought in a procedure, which is common practice on boards generally, whereby the executive would leave the room and board members would raise issues they may not wish to raise in front of the executive. We have had meetings of that kind.

Deputy Matt Carthy: Are those meetings minuted?

Ms Mary Harney: I would take notes. I did not chair the most recent meeting because I was not available. The deputy chair was the chairman. I would take notes at those meetings. The purpose of the meetings is then to go to the president with whatever issues were raised, and I have done that.

Professor Kerstin Mey: To clarify, the president and the provost and deputy president, as chief academic officers, are members of the governing authority. That is how they act.

Chairman: As regards the Dunnes Stores site up the river, Ms Harney mentioned that the university was interested in the Dunnes Stores site long before 5 April 2019. Are there records of that interest? Is it recorded in the minutes of meetings or anything like that that the university had an interest in the Dunnes Stores site stretching back over a period of one, two or three years? I am seeking a “Yes” or “No” answer because I have several questions.

Ms Mary Harney: The president and the deputy president informed me and the head of the finance and HR committee in September 2018 that we were in discussions at that time. I do not know whether it is in the minutes of the finance committee but I understand it considered all sites available.

Chairman: As was referenced, Ms Harney has vast experience as a former Minister for Health and Children and having held various other roles and I do not question that in the context of her competence. Was she ever a member of a county council?

Ms Mary Harney: I was.

Chairman: She mentioned that the county council had a valuation.

Ms Mary Harney: Yes.

Chairman: A county council will get a valuation for a derelict site such as that. It is obliged to get a valuation, even for sites that are far less valuable than this one. The University of Limerick, however, did not have a valuation of the site.

Ms Mary Harney: Let us distinguish between written and oral. I have confirmed here-----

Chairman: There is no evidence.

Ms Mary Harney: That is correct. There is no evidence of a written valuation.

Chairman: Am I correct in saying that a former person who held a consultancy role for the university told the university that this was the price, and that person negotiated solely with Dunnes Stores. I ask Professor Mey to confirm whether that is the situation. I am seeking a “Yes” or “No” answer. That person who was a consultant working on behalf of the university did the fixing on this and went to the university with a price, which was €5.3 million over the price valued by Limerick City Council.

Professor Kerstin Mey: The governance of the acquisition of the site is the subject of the KPMG report. I am happy to come back to the committee to report in full detail on the findings of the report.

Chairman: I am asking Professor Mey a question. The person who worked as a former consultant for the university was the person who was doing the business with Dunnes Stores and came back to the university with that price; is that correct? Professor Mey was on the executive of the university while this was happening; is that right?

Professor Kerstin Mey: I was on the executive at the point when that was happening. That is correct.

Chairman: Professor Mey was on the executive. Thank you. What is the approximate full cost of developing the site to bring it to what the university wants it to be? Is it in the region of €20 million or €200 million?

Professor Kerstin Mey: At this point, we are waiting to commence our master plan to get-----

Chairman: How much does the university have to spend on the master plan?

Professor Kerstin Mey: We have spent nothing. May I add-----

Chairman: How much is the university hoping to spend on it? If I was going to build a house, I would have a price range in terms of what I was going to spend and what I could spend. I ask Professor Mey to provide a range. Are we talking about a figure between €10 million and €50 million or between €50 million and €150 million?

Professor Kerstin Mey: We want to engage in developing an ambitious and exciting city campus.

Chairman: I know that.

Professor Kerstin Mey: It will be a substantial cost but because we have not commenced-----

Chairman: So is it €50 million to €150 million?

Professor Kerstin Mey: We have not commenced the master planning exercise, so I cannot give the Chairman a price.

Chairman: Okay. I ask Mr. Butler how much has been spent on the site to date.

Professor Kerstin Mey: On the site to date we have spent-----

Chairman: I asked the question of Mr. Butler. He is the finance officer.

Professor Kerstin Mey: Sorry.

Mr. Gary Butler: We have spent approximately €650,000 to date.

Chairman: That is on top of the purchase price.

Mr. Gary Butler: It is on top of the purchase price.

Chairman: Can Mr. Butler answer my question in respect of the price range in terms of the cost of fully repurposing this building and the site? Is there a range of costs? I do not expect Mr. Butler to give the cost. He could not do so.

Mr. Gary Butler: I need to address that question in the context that this is not the only development the university will want to undertake in the coming years. There will be a master plan developed that will be affordable-----

Chairman: For this site, are we looking at €50 million to €150 million?

Mr. Gary Butler: It depends on the spec of what we want to do with the site and how ambitious we want to be.

Chairman: Mr. Butler must have some notion of what the range will be.

Mr. Gary Butler: It could be up to €100 million or it could be more.

Chairman: It could be up to that amount.

Mr. Gary Butler: It depends on how we will use the site.

Chairman: Ms Harney is chancellor of the university and chairperson of the governing body. She stated that nobody expressed concerns in respect of the valuation of the site. I am puzzled about this. A verbal assurance was given but no documentation was presented, yet no one asked was there a second valuation or evidence of a second or third valuation. I have sat on boards that handle far smaller amounts of money than this - I chaired one of them - and I can assure Ms Harney that for deals that involve a tiny fraction of this amount, one would seek not one or two but three valuations. One would not rely on a person's word. Much of this seemed to rely on the good faith of former senior staff.

Ms Harney mentioned and Professor Mey confirmed that a deposit was paid on a house in Dublin that did not fit in with the strategic plan. Certain individuals sailed off to Dublin and put a deposit - I do not know how much it was - on a house the purpose of which was questionable. Obviously, it was decided that the house was not needed and that decision was probably correct. Fair play for stopping it. The same individuals, however, sailed in to the university and stated that there was a site that was worth nearly three times what Limerick City Council valued it at but no one questioned that or asked for a written copy of even one valuation. That is beyond belief.

Ms Mary Harney: I referred to the €3 million valuation. It is not a market valuation. As I stated, a property consultant in Limerick who was not involved in this told me-----

Chairman: Sorry, Ms Harney-----

Ms Mary Harney: With respect, I sat at Cabinet meetings where Ministers would bring proposals for acquiring properties-----

Chairman: I have borne that in mind all morning.

Ms Mary Harney: -----and they would rely on the documentation provided by their staff. On the governing body, we are not executives. We rely on the professional people who serve us and we base our decision on what they put before us.

Chairman: I do not meant this in a personal way-----

Ms Mary Harney: There may be learning from this.

Chairman: -----but Ms Harney was Minister for Health and Children. I am not questioning her role. Obviously, like Deputy Sherlock, I disagree with her ideologically, but I am not questioning her integrity. However, the very people who were involved in the purchase of a house in Dublin that was not needed by the university - a purchase from which the university subsequently pulled back and looked for, and presumably got, its deposit back - came to the governing body with this and the governing body said to fire away; it was going to do this. This took place at a late-night meeting on 5 April 2018, as I understand it.

Ms Mary Harney: It was not a late-night meeting. It was a normal meeting.

Chairman: At what time did the meeting conclude?

Ms Mary Harney: It concluded at lunchtime. It started at 10 a.m.

Chairman: At what time did it finish?

Ms Mary Harney: I think it finished at 1 p.m. or 12.50 p.m. It certainly was not a late-night meeting. We have never had a late-night meeting.

Chairman: Fair enough. I am open to correction on that.

Ms Mary Harney: The Chairman is making everything sound very dramatic. This site was something-----

Chairman: I am just trying to draw people out.

Ms Mary Harney: If the Chairman will let me answer, please-----

Chairman: This is a simple case of a board of governors sitting there and making the decision to spend more than €8 million without any written documentation in front of it and nobody, not even Ms Harney, asked whether there was a second or third valuation. That is the point I am making. Does Ms Harney accept that was a huge mistake?

Ms Mary Harney: There was a written document before us and I did discuss the valuation with the president.

Chairman: The board had no evidence of a valuation from an auctioneer or a local valuer.

Ms Mary Harney: With respect, the Chairman is chairing the meeting. I ask him please to give me an opportunity to respond. We are here to answer questions. I am happy to answer any question whatsoever. This site was something we wanted for a long time. There is no comparison between procuring this facility and procuring a Dublin property that was not part of our strategic agenda. This site was sought after not only by us, but also by Limerick City Council and many other interests. The University of Limerick entered into negotiations with Dunnes Stores with property advisers and a person to advise us on value. It is not realistic for a governing body to say, just as it would not be realistic for the Cabinet to say, that every proposal that comes before it could cure something and to ask to see all the documentation. That is not realistic.

Chairman: Two valuations-----

Ms Mary Harney: The reason we have an inquiry is to see what lessons can be learned, not just for the governing authority but for the executive.

Chairman: Surely the lesson is that the governing body would ask to see at least two valuations from reputable companies on the island of Ireland.

Ms Mary Harney: There may have been a number of valuations done; I do not know. The issue remains that this is an iconic riverside site. It did not go on the open market and if it did I am advised that it might have gone for a lot more. It was unencumbered-----

Chairman: I accept that but the Irish Universities Association's code of governance would require UL to have valuations done.

Ms Mary Harney: That only came into effect after this procurement.

Chairman: It came into effect a month or two after.

Ms Mary Harney: Yes. It was afterwards. We would comply with that.

Chairman: I am puzzled as to why none of the experienced people on the board, of whom there are many, saw fit to do this. Ms Harney is telling us that none of them, including herself, saw fit to do it. No valuation was seen; not even one. I find that incredible. Some members have indicated that they want to come back in briefly. I call Deputy Devlin.

Deputy Cormac Devlin: I will stay with the issue of the deposit on the house in Dublin. Corrective action was taken, which is good. Has there been an investigation to see if any other properties were bid for, purchased, had deposits paid for or anything else that is outside the scope of Limerick city and its environs?

Professor Kerstin Mey: We have not purchased any other property.

Deputy Cormac Devlin: For a while there I was thinking it was more like a property management agency than a university. I want to ask the Comptroller and Auditor General a question and I will return to that non-compliance amount of €407,583. What did that relate to and what corrective actions can he see that have been taken on the issue of non-compliance?

Mr. Seamus McCarthy: Corrective action is something we will be looking at in the following audit but I noted the statements earlier that all of those procurements had been resolved. There were a number of additional procurements where there were extensions of contracts because there was a reliance on the Office of Government Procurement, OGP, to complete processes. That is a significant issue as well but I would expect that most of those would have been resolved as the OGP managed to settle frameworks.

Deputy Cormac Devlin: I refer to protected disclosures, which there have been a few of. To ensure there is a confidence within the university to bring forward disclosures, what remedies or improvements has UL made to ensure there is protection for those individuals who feel they have information to come forward in the university?

Professor Kerstin Mey: First, we have a protected disclosure policy and we are working hard on further developing the culture within the university. We will be starting a cultural audit to identify where there is room for improvement that will involve all among members of the campus community. Since I have taken on the role as interim president and now as president I have worked hard to establish consultation processes, dialogue and a new communications platform so that we have regular exchanges. The executive goes on roadshows in order to develop a much more dialogical relationship in the universities and all of that contributes to establishing a culture of empowerment and trust that is underpinned by transparency and full accountability.

Chairman: Unfortunately a number of members have indicated that they want to come in so I will have to cut this round short and allow members only one question each.

Deputy Paul McAuliffe: I will make it a long question then. I want to clarify my contribution earlier. The document that was circulated earlier was presented by the president and prepared by the deputy president. Is that paper available to the committee? If we were to request it, could it be made available to us? It seems to have been heavily relied on by the executive body in making that decision. We have had a lot of discussions on the severance package for the president. I was not aware that the report was prepared by the deputy president. Is the deputy president still working with the university and are there any conflict of interest issues following their departure from the university if they are no longer working with it?

Professor Kerstin Mey: I will take the last question. The deputy president is no longer an employee of the university.

Deputy Paul McAuliffe: Are there any conflicts of interest in regard to where they subsequently went on to work? Who are they employed with now?

Professor Kerstin Mey: They are employed by the St. Vincent's group.

Deputy Paul McAuliffe: They are not employed by Dunnes Stores. There is no connection.

Professor Kerstin Mey: There is no conflict of interest.

Deputy Paul McAuliffe: Okay. My first question was whether those papers could be made available to the committee.

Ms Mary Harney: I would hope so but I will take advice on that. Subject to it not conflicting with some of the other stuff, I am happy for that to be provided.

Deputy Paul McAuliffe: It would have been a publicly circulated document within the-----

Ms Mary Harney: It was circulated among the entire governing body. Subject to advice, I will clarify that for the Deputy.

Deputy Catherine Murphy: The whistleblowers came forward and the witnesses have told us that the process was paused. Then there was a fresh round and the McKenna report followed that. I am reading from the briefing document, which states that the investigator found evidence that a member of senior management had breached the university's policy and procedures, that in the case of one allegation the investigation found that the actions of the member of senior management were inappropriate and non-professional, and that this manager left the university. Was any payment made to that person on leaving the university? Are there other protected disclosures in this same range of issues that are unresolved at this stage? Deputy Munster asked a question earlier about how recruitment happened. Does this relate to that issue? Can the witnesses give us some sort of indication on what the terms "inappropriate" and "non-professional" mean?

Chairman: I am sorry to have to cut the Deputy short. I do not like doing so but we must be brief.

Professor Kerstin Mey: We have two protected disclosures. One is at committee stage and that means the protected disclosure group is considering the submission under our protected disclosure policy. Another one has completed committee stage and is being investigated. I will be briefed on the outcomes of each of the protected disclosures.

Deputy Catherine Murphy: What do the terms "inappropriate" and "non-professional" mean and was any payment made when the senior manager left the university, as detailed in the report?

Chairman: We will ask Ms Harney to come back to the Deputy on that because it requires a long explanation.

Deputy Catherine Murphy: I ask her to explain what "inappropriate" and "non-professional" mean because that could mean a lot of different things. It is hard to decipher that.

Ms Mary Harney: We are not at liberty to reveal what was in the protected disclosure or to identify the person against whom the disclosure was made so we are in a difficult situation

with that question.

Deputy James O'Connor: I refer to all future acquisition of property and I will put the following question to the chancellor. What safeguards are we putting in place to avoid a situation like this reoccurring? Will the likes of independent valuations be put in place so that we will not have confusion and dispute on valuations on the site into the future? I mention the outstanding work the academic staff are doing in UL. It is a good university in general and I wanted to acknowledge that while the witnesses are before me.

Ms Mary Harney: I thank the Deputy and I share his view about the staff and students. It is a fantastic university and maybe the committee can visit the campus on some occasion. We love to host people individually. Safeguards are being put in place. If documents are to come to the governing authority in respect of the acquisition of property in the future, whomever has been involved and responsible will have to certify certain things. Those procedures are being put in place as we speak.

Deputy Colm Burke: In the 2020 report, it is stated the university employs 1,868 people and that its subsidiaries employ 292 people. Are the witnesses satisfied that there are adequate checks and balances to ensure that those subsidiaries are complying with all the rules and regulations relating to employment, etc.? What is the connection?

Mr. Gary Butler: Subsidiaries have a set of processes and procedures they are governed by. There is a board of directors, and it will follow all of those processes and ensure compliance around that. As a university, we are satisfied that they are operating in accordance with any compliance or regulation issues and adopting good governance throughout their operations.

Deputy Colm Burke: The witnesses are satisfied the university is protected with the checks and balances in place.

Mr. Gary Butler: Yes. That is in terms of the information coming through. They have regular board meetings and they are fed to the university through the finance, human resources and asset management committee and the audit and risk committee. They scrutinise that in the way that they would any other aspect of the university.

Deputy Matt Carthy: Ms Harney mentioned that there will be a new board in place in November. Can we get a note on exactly how the members of that board will be appointed, the bodies that will be represented and how it will be constructed?

My final question is to the Comptroller and Auditor General. It relates to the former president's package. Earlier, the representatives from the university indicated legal precedents dating back to the 1940s and other instances. Does the Comptroller and Auditor General have a view on whether the exit package as described has characteristics of a severance package or would it have been appropriate for departmental approval to have been given? This relates to the contract of the former president and the difficulties it led to. Does the Comptroller and Auditor General have a view on whether the package agreed was appropriate in the context of best practice?

Mr. Seamus McCarthy: I am satisfied that it has the substantial characteristics of a severance. In my view, sanction from the Department should have been sought in that regard. It is clearly a legal issue. The only way to finally thrash it out would be through a legal case. There is not one in this situation. The problem clearly stemmed from the comprehensiveness or lack of comprehensiveness of the original contract of employment. We have looked at other univer-

sities and seen the kinds of scenarios like termination and notice period included in the contract of employment. It is clearly good practice, and I expect to see the University of Limerick doing that in future. There is a learning there.

As to the value of the settlement or agreement, that is something on which I have not previously commented. In every situation, the circumstances determine what is a reasonable amount. I am not seeking to try to second-guess that; I am concerned with the process and ensuring things are done properly, and that those who are required to consider the matter are actually given the opportunity to do that.

Ms Mary Harney: The new governing body will be in compliance with the legislation currently going through the Oireachtas. It is on Report Stage in the Dáil. The proposal is to reduce the membership of the governing body to 17, and it will specify insiders, such as representative staff and students, and outsiders. With the contract I signed for the current president, Professor Mey, all the deficiencies identified in the previous contract were addressed. It contained a notice period, etc.

Chairman: As I understand it, a substantial document was submitted to the Department regarding the opera site. That document may have run to 50 or 60 pages. It was submitted to the Higher Education Authority and it concerned the opera site. Is that correct?

Professor Kerstin Mey: We submitted an application and a HESIF bid for the scheme. That document pertained to the opera site.

Chairman: Was there a substantial briefing document?

Professor Kerstin Mey: It was a substantial application that outlined the development of the opera site to provide new teaching and research facilities under that scheme.

Chairman: Okay. I have a question for the Department. I am sorry for cutting the officials short earlier. Is the Department happy with the way the University of Limerick went about purchasing the Dunnes Stores site?

Mr. Keith Moynes: We are holding money until we see-----

Chairman: The Department is not happy.

Mr. Keith Moynes: We are happy there is a process between the HEA and the university in terms of putting in place robust governance. We are happy the process is going in a satisfactory way. We need to see the KPMG report to understand the comprehensive nature of what happened and the remedial action that needs to be taken. When those are in place, we will be happy.

Chairman: Okay. We all, including the chancellor, look forward to seeing that.

Ms Mary Harney: Absolutely.

Chairman: We have had a broad discussion with many questions. I am sorry for cutting people short sometimes. Some people are online and we must try to meet the demands relating to meeting rooms, regulations and everything else. I thank the witnesses from the Department and the university. This is the first time the chancellor has been before the committee in my time as Chair. It is good to have her here.

Ms Mary Harney: The majority of the members of the committee were not here when I was a Deputy, and I am not gone that long.

Chairman: I was not.

Ms Mary Harney: I say this to illustrate the recycling of Deputies. Perhaps it is a warning for everybody.

Deputy Matt Carthy: I hope we can all be as successful as Mr. Harney afterwards.

Ms Mary Harney: Deputy Carthy is pretty successful.

Chairman: Ms Harney was in the battles in the 1980s, 1990s and 2000s.

Ms Mary Harney: I sure have. I thought I had learned how to watch my back but it was constant. I describe myself as a recovering politician.

Chairman: We will settle on that. I thank Ms Harney and her staff for coming and preparing for the meeting. We understand the work involved. I also thank the Comptroller and Auditor General and Mr. Kinsley, who is here with us today, for the work they have done. Is it agreed to request the clerk to seek any follow-up information and carry out any agreed actions arising from the meeting? Agreed. Is it also agreed that we note and publish the opening statements and briefings provided for today's meeting? Agreed. With the agreement of the committee, we will resume in private session very briefly after lunch to deal with some housekeeping matters before moving into public session to consider correspondence and any other business of the committee. Is that agreed? Agreed.

The witnesses withdrew.

Sitting suspended at 12.38 p.m. and resumed in private session at 1.30 p.m.

Business of Committee

Chairman: The business before us is the minutes from previous meetings, accounts and financial statements, correspondence, our work programme, and any other business. The minutes of our meeting of 5 May were circulated to members. Do members wish to raise any matters? Are the minutes agreed? Agreed. As usual, the minutes will be published on the committee's web page.

No financial statements and accounts were presented to the Oireachtas Library between 2 and 6 May 2022. We will return to this item next week.

Moving to correspondence, as previously agreed, items that were not flagged for discussion for this meeting will continue to be dealt with in accordance with the proposed actions that have been circulated, and decisions taken by the committee in relation to correspondence are recorded in the minutes of the committee's meetings and published on the committee's web page.

The first category of correspondence under which members have flagged items for discussion is correspondence from Accounting Officers or Ministers or both, and follow-up to meetings of the Committee of Public Accounts. No. 1217 B is from Mr. David Moloney, Secretary General, Department of Public Expenditure and Reform, dated 28 April 2022, enclosing the

minute of the Minister for Public Expenditure and Reform in response to our report on the National Paediatric Hospital Development Board's 2019 financial statements. Our first recommendation was that the report outlining the timeline and estimated costs for the completion of the national paediatric hospital be published as a matter of urgency. We have requested sight of it on a number of occasions. The response to the recommendation, which is not accepted, restates the board and the Department's position that the analysis is commercially sensitive and "must remain confidential at this time, so as to ensure that the NPHDB's ability to enforce the contract is not prejudiced, and ultimately the project is not adversely affected." In our latest correspondence with the Department on this topic, we asked for clarification as to whether the report could be provided to the committee on a confidential basis, and we await that clarification.

Our second recommendation, which was accepted, included a number of changes that will improve transparency in the National Paediatric Hospital Development Board's accounts in respect of expenditure on this project, and that is welcome.

Our third recommendation was that future capital projects of this scale prioritise value for money, which was also accepted, and that a comprehensive review is carried out following completion of the project to ensure lessons are learned for future capital projects. This is a requirement under the public spending code and will be done.

It is proposed to note and publish this correspondence. Is that agreed? Agreed. Deputies Catherine Murphy and Carthy have flagged this item for discussion. I ask Deputy Carthy to try to be brief.

Deputy Matt Carthy: There is not much to say. Again, the issue of commercial sensitivity in respect of the hospital is being cited as reason for not providing this committee with a report that was previously promised to us before its publication. For the life of me I do not understand how if there is a contract in place, the publication of a report into that contract could result in commercial difficulties. We have been in regular contact with the Department of Health in respect of this, but I propose that we write back to the Department of Public Expenditure and Reform asking it if it has an estimate of the final costing of the children's hospital and, if so, if it will share it with the committee.

Deputy Catherine Murphy: The Chairman has stated that the committee recommends "that a comprehensive review is carried out following completion of this project to ensure lessons are learned for future capital projects". We do not know what the timeline of this is, but it could be another couple of years before it is completed and we see the conclusion of this. In the meantime, a similar project which was earmarked as costing €300 million in 2017 is now being talked about as a project of the same scale costing €1 billion, that is, the new national maternity hospital, which is equally mired in controversy about its site. It is very difficult to see how lessons are learned if the project is completed before the other one starts. How do we get even an interim understanding or some lessons? The two-phase process is not similar, but how do we get some lessons we do not have to wait another five years for? That is what it looks like. We will have the National Paediatric Hospital Development Board in before the committee. It would be useful to know what the most recent set of accounts is and whether another set of accounts is due soon.

Mr. Seamus McCarthy: I will have to check that for the Deputy. The 2020 accounts are the latest set on which an audit has been completed. I will get an update for the committee for next week as to where the 2021 accounts are and when we expect to have them. I just do not

have that information at the minute.

Deputy Catherine Murphy: It is really a comment rather than a question.

Chairman: The next item of correspondence is No. 1221 B, from Ms Anne Graham, chief executive of the National Transport Authority, NTA, dated 29 April, providing information requested by the committee regarding public funding of An Taisce. It is proposed to note and publish the correspondence. Is that agreed? Deputy Carthy, you have flagged this for discussion.

Deputy Matt Carthy: I do not have much comment other than to say that this correspondence should be a template for other agencies and Departments as to how to answer questions because, in fairness, the NTA answered the questions comprehensively and succinctly where necessary and should be commended for that. It is to be hoped others will follow suit. It is refreshing to put questions to an organisation and to get the questions asked answered.

Chairman: We will note and publish the correspondence.

The next item of correspondence is No. 1222 B, from Mr. Mark Griffin, Secretary General, the Department of the Environment, Climate and Communications, dated 29 April. It provides information requested by the committee regarding National Broadband Ireland's 2022 updated interim remedial plan. The plan confirms a target of 102,000 premises passed by the end of contract year three, which is 31 January 2023. The Secretary General states that "under the contract, National Broadband Ireland is entitled to claim relief against its contractual obligations in circumstances where delays are due to circumstances beyond its control (such as the global pandemic)". The national broadband plan is approximately 12 months behind schedule, eight and a half of which are accepted by the Department, as Members will note in the correspondence, as beyond NBI's control. It appears that sanctions will apply in respect of the other three and a half months. It is proposed to note and publish this item of correspondence. Is that agreed? Agreed.

I raised this over lunch break, when we had the opportunity to raise it with the Taoiseach. It was not to get in before I said it at this meeting, but I pointed out to him and the officials from his Department the fact that at least three and a half months are not accepted as within NBI's control. It is important a penalty is levied for that. The Taoiseach committed to speaking to the Minister about it. One of the reasons given in the correspondence relates to blocked ducts. It can be expected when starting to push cables through existing duct that there will be problems and glitches. Covid has been overplayed as a reason, as I have mentioned before. In the first quarter of last year, 2021, NBI was on the ground working, as far as I could see. If it was not, it should have been. While progress would have slowed, there was a certain amount of work NBI could do. It is important that we keep on with that and that, along with raising the matter with the Taoiseach, the committee writes back to the Department asking it to clarify if a penalty is now being levied for those three and a half months. On page 3 of the correspondence it states, "While these are addressed by the ... [updated interim remedial plan], sanctions are accruing against non-delivery of those Milestones." That is what it says about non-delivery. We should question that. Deputy Carthy, do you want to come in briefly on this?

Deputy Matt Carthy: You have asked a number of the questions, Chairman. We were informed, if I recall correctly, that the target of 60,000 premises to be passed by March was still in place at the time of our hearing. My understanding is that the most up-to-date figures we have received are that 41,000 premises or thereabouts were passed. I think that those figures relate

to last month and that only a little over 9,000 premises had actually been connected. There is a problem here and, for the life of me, I do not understand why the Department is not live to that and reflecting the urgency of remedial actions in order to get this project back on track. We have talked about the huge costs involved in this project and the number of communities that are desperately awaiting broadband. The Government pursued this particular mechanism to deliver it and, clearly, NBI is not doing it in line with its own targets and milestones. We need to keep on top of this issue, particularly in respect of the penalties, as you have mentioned, Chairman, and whether or not they are being applied or whether or not they can be applied. The fact that penalties have not applied to date is concerning from my point of view.

Chairman: It is important. I am certainly not a fan of the contract, but whatever powers are there need to be used because only 27,000 premises out of the original 115,000 were reached by January, and we are now moving into phase three.

Deputy Catherine Murphy: The penalties are put in because of the nature of the contract. If there is non-compliance-----

Chairman: Yes.

Deputy Catherine Murphy: It should not be arbitrary. The numbers are black-and-white. I know that allowances were made for Covid for time that was not available, but that cannot continue to be used as an excuse. In fact, if Covid has showed us anything, it is that it is even more essential that reliable broadband be provided.

Chairman: It is important we pursue the matter because Members will note that in the reply given to me in the Dáil Chamber about a year and a half ago a Minister said there were no penalties. It is important we are absolutely clear. It is the first time I have seen any document from the Department state that sanctions are accruing against non-delivery of these milestones. The importance of this is that it is a first, so it is important that that is seen through. We will ask for clarification of that and of the nature of the penalty, that is, whether it is a financial penalty or otherwise.

The final item of correspondence is No. 1223B, from Mr. Mattie McCabe, board secretary of the Sustainable Energy Authority of Ireland, SEAI, dated 29 April 2022 providing information requested by the committee arising from our meeting on 24 March 2022 with the SEAI. The correspondence provides responses to eight questions across a range of areas, including retrofitting and electric vehicles, EVs. It is proposed to note and publish this item of correspondence. Is that also agreed? Agreed. Deputy Catherine Murphy indicated that she wants to discuss this further.

Deputy Catherine Murphy: Yes. We are in a very different environment now as against last year and this retrofitting scheme really has to succeed. It is important that we ask the Department how it is taking into account the changed environment in relation to inflation in both labour and materials and to get an update on same. It is useful to get this response but we are going to have to keep on top of that because we have legal obligations to meet our targets and if inflation is going to be an impediment, it would be an issue.

I wish to raise another issue. We had a discussion last week with the Department of Finance and I asked a question in relation to the target of 100,000 EVs by 2030. It is a nice round figure and I am always very wary of round figures. Apparently the Department of Transport provided that figure but there does not appear to have been a robust exchange between the Departments

of Finance and Transport on the ability to achieve that target but we will end up paying fines if we do not achieve it. That is the point I was making last week, that it will come back on the Department's budget. I suggest that we look at the McKinsey report on the second-hand EV market because the vast majority of people will not be able to buy new EVs at their current prices.

Chairman: What is the name of the report?

Deputy Catherine Murphy: The McKinsey report. It is referred to in the final paragraph. We need to follow up on how to reduce the price of EVs. I personally think that the strategy should focus more on public transport and getting really good transport systems in place but the Government's strategy is to get 100,000 EVs on the road by 2030, a target with which we are supposed to comply but I do not see evidence of a sufficiently robust exchange between the various Departments on this.

Chairman: Are you suggesting that we seek clarification from the Department about what kind of process it went through?

Deputy Catherine Murphy: The Department of Finance is due to come back to us on this. I asked that it would do so last week and I am sure the clerk to the committee has followed up on it. In the meantime, we should get the McKinsey report.

Chairman: That is fine Deputy Murphy.

The next item on our agenda is the work programme. The following engagements are confirmed for May: the Department of Public Expenditure and Reform on 19 May and the Department of Health and the HSE on 26 May. Two meetings have also been confirmed in June, namely, the Department of Children, Equality, Disability, Integration and Youth on 2 June and the National Paediatric Hospital Development Board on 16 June. We also agreed to schedule an engagement to examine local government oversight and accountability in June. If we were to hold one engagement in relation to local government on 23 June, that would leave three meeting slots before the summer recess. I ask members to review the work programme in advance of next week's meeting so that we can prioritise engagements for those remaining meeting slots. We had a discussion earlier about how to handle the local government issue and agreed that we would bring in the Department of Housing, Local Government and Heritage. Is that agreed? Agreed. Again, I ask members to review the suggestions that were submitted for the work programme and to let the clerk know if there is any issue they would like to prioritise for the vacant slots before the summer recess and we can agree them next week.

As there are no matters that members wish to raise in relation to the work programme, I will take it as agreed. As I said, if there are any specific items of interest, please revert to the clerk. Is there any other business that members wish to raise? As everyone is happy, we will adjourn the meeting now.

The committee adjourned at 2.55 p.m. until 9.30 a.m. on Thursday, 19 May 2022.