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Issues of Higher Education
Institutional Governance

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PREFACE

I would like to thank Minister for Education and Skills Ruairí Quinn for requesting the views of the Academy on issues of how institutional governance affects third-level institutions. The Academy wishes to play an active role in policy formation and hopes that this will be the first of many such requests. In this working paper we have attempted to capture the voices of members of the Academy with experience of, or strong views on, institutional governance issues. Inevitably, we have not been able to include all the views expressed, but I believe that the paper broadly reflects the views of the Academy membership.

The first important point to be made is that there is a general desire for reform of the structures governing third-level education. There are, of course, differences of opinion between individuals and variations between institutions, but nobody thinks that the system of governance in operation in their particular institution at present is optimal. Nor do they think that there was a golden age of governance in the past to which we should return. It is worth noting that the governance of a third-level institution—especially a large university with aspirations to world status—is complex, and more akin to the governance of a state than of a commercial body. In both cases there are multiple objectives to be balanced against each other, and multiple constituencies, both internal and external, whose interests have to be addressed. Perhaps more fundamentally, a third-level institution, like any political entity, can only function effectively if it develops a sense of community, with common shared values and a common identity. In many ways, a third-level institution is a microcosm of the society in which it is embedded, and to a

limited extent the relationship works in the other direction as well; many of the future leaders of society will have passed through its third-level institutions. These considerations should give pause for thought to those who argue that the imposition of policy from above is the most effective way to run third-level institutions. The inclusion of a significant level of participatory democracy in the system of governance of third-level institutions may not be efficient in the short-term, and is certainly an inconvenience to those in power, but in the long run it delivers better and more lasting results, enhances social cohesion and is less liable to make serious errors.

The second point of importance is that the third-level education system at present is complex, better than its reputation and far from broken. In many ways it does a remarkable job in educating a far larger portion of the population than it was originally designed for, with very limited resources. Clearly, there is room for improvement. Mobility of students (and staff) between institutions could be facilitated and encouraged. There is scope for

sharing facilities and back-office functions, and for the creation of regional alliances and local clusters. New technology could be more widely and more effectively used. The challenge is to frame reforms in such a way that these developments are encouraged; that institutional autonomy, initiative and diversity is preserved; and that wasteful competition and duplication is avoided. Internal governance of our institutions of third-level education is an important part of this broader picture, but it is only one part; reforming the external governance of the system as a whole is at least as important.

Proposals for reform of the institutions governing third-level education will attract wide support if they are seen to be informed by the following overarching principles:

- Support for diversity of mission and delivery, and an avoidance of 'one-size-fits-all' solutions.
 - Recognition of the value of institutional autonomy and academic freedom.
 - Reduction in the weight of bureaucratic form-filling and 'management by numbers'.
 - Careful design of funding models and evaluation processes to avoid unintended consequences and perverse incentives.
 - Enhancement of collegiality within institutions, and a recognition of the importance of fostering a sense of community among academics, administrators, students and support staff.
- Perhaps most importantly, restoration of trust at all levels: intra-institutional, inter-institutional and between the institutions and civic society.

In conclusion, I would like to thank the many members of the Academy who have contributed to this report. It is a thoughtful and thought-provoking analysis, in which we can all take pride. It is my pleasure as President of the Academy to commend it to Minister Quinn for his consideration.

Luke Drury



President, Royal Irish Academy
March 2012



I. INTRODUCTION

In December 2011, the Minister for Education and Skills, Ruairí Quinn, wrote to the Royal Irish Academy to request formally that it commission a submission to his department on the issue of governance arrangements for higher-education institutions (HEIs) in Ireland. The minister requested that this submission take the form of a working paper, which would set out:

- a detailed proposal on the options which might be pursued in the reform of governance models within institutions.

Specifically, he requested that the proposal should:

- encompass composition of governing bodies (size, representation, etc), their reserved functions, the role and powers of academic council and the role of the chief officer.

Furthermore, the paper should:

- identify models of best practice internationally, to relate these to broader strategy priorities and the Irish system requirements and to make recommendations on the optimum legislative arrangements that should be advanced in respect of the governance of Irish higher education institutions into the future.

The present document represents the outcome of the process undertaken by the Academy to fulfill this request from the minister. It opens by framing the challenge of HEI

governance in Ireland, highlighting the complexities of the institutional context within which any reform efforts must be undertaken. It then sets out general principles that should be used to inform and drive any governance reform agenda. Finally, this working paper considers how the different elements of the HEI governance system currently function, and it points to potential reforms that it may be necessary to consider in order to enhance the effectiveness of governance within the institutions and within the Irish higher-education system as a whole.

Given the complexity of the important issues involved, the main focus of the working paper has been to attempt to frame the key issues and provide some guidance towards reform, with a view to making progress on what are substantive and difficult matters.



2. METHODOLOGY

A consultation methodology was followed in bringing together the information presented here, and the analysis and recommendations contained within this discussion paper are based on four sets of inputs:

Desk-based review A detailed investigation of the Irish and international academic literature on, and policy reports relating to, HEI governance was undertaken. The legislative framework for HEI governance was reviewed, and the current governing arrangements for Irish HEIs were documented.

Submissions from Academy members The Academy issued a call to all members for submissions on the issue of governance in HEIs. All submissions received were reviewed, and common themes were identified.

Interviews A total of fifteen interviews were conducted with key informants, including former HEI chief officers as well as current and former members of the governing authorities and academic councils of the HEIs. Consultations were also undertaken with experts on higher education and governance.

Academy workshop A meeting on institutional governance was organised by the Royal

Irish Academy on 20 February 2012.¹ Participants included chief officers from universities and institutes of technology, nominated members of HEI governing bodies and members of the Academy's Council. Following this, a number of those who had participated at the workshop provided submissions detailing their views and reflections on HEI governance.

DEFINITION AND SCOPE OF HEI GOVERNANCE

For the purposes of this document, governance of institutions of higher education is defined as being about '...the frameworks in which universities and colleges manage themselves and about the processes and structures used to achieve the intended outcomes—in other words about *how* higher education institutions operate'.²

The governance system for HEIs consists of the explicit and implicit procedures that allo-

¹ The event consisted of a keynote presentation by Rector Lauritz B. Holm-Nielsen of Aarhus University in Denmark, followed by a questions and answers session. Key themes considered during the event included: (i) balancing institutional autonomy with accountability and societal relevance; (ii) governance models for third-level institutions; (iii) functions of a governing body; (iv) composition and size of governing authorities; and (v) influence of interest groups on governing authorities. See Appendix 1 for the workshop programme.

² Maassen, 2003: 32.

cate to various participants involved in the provision of higher education the authority and responsibility for making institutional decisions. While much of the public debate about the system of governance for the HEIs in Ireland is restricted to the relationship between the state and the HEIs—and the role and functioning of governing bodies appointed to guide each of the HEIs and oversee the public interest in them—this report contends that such a limited framework runs a risk of constraining the potential of any governance review. In defining the scope of HEI governance structures, therefore, this discussion paper determines the scope of internal governance in HEIs to include:³

i) Governing body oversight – the steering power exercised by the internal and external members of the HEI’s governing body to which the state has delegated certain responsibilities.

ii) Academic self-governance – the governance of academic matters through consensus within and among the academic communities of the HEI (e.g. academic council, college boards).

iii) Managerial self-governance – the senior leadership and management structures, often referred to as executive management, established to set the goals for, make decisions on the direction taken by, and manage the resources of the HEI.

While the minister’s letter to the Academy specifically requested submission of options for the reform of governance models *within* the institutions, it became apparent during the preparation of this working paper that external regulation impacts on internal governance structures. Therefore, it was determined that some consideration of the *external regulation and governance structures* affecting HEIs should be included in the scope of the review. Thus, in this working paper, the scope of governance is also considered to include:

iv) External regulation – the authority of the state to lay down the rules of operation for HEIs, including models for education and research funding, quality assurance control and accreditation frameworks.

³ Adapted from Eurydice, 2008.



3. FRAMING THE CHALLENGE OF HEI GOVERNANCE IN IRELAND

The need for governance reform

Among the academics and members of the Academy consulted for the preparation of this working paper, there was a broad and enthusiastic welcome for the idea of reform of the governance structures in Irish HEIs. Although it was strongly felt that Irish institutions of higher education have performed extremely well in spite of significant cuts in state funding in recent years,⁴ there was a clear sense that governance practices are in need of attention. In particular, many of those involved in the consultation articulated the view that a kind of ‘crass managerialism’ has gripped some Irish HEIs in recent years, and that this is having some very damaging effects, which, if unchecked, could have serious long-term implications for the quality of the academic work carried out therein.

Many academics feel increasingly demoralised and alienated by moves to establish much more autocratic institutional governance practices in recent years. The rise of an intensified audit culture, which has led to an expensive, time consuming and demoralising increase in bureaucracy and box-ticking, was also a

prominent theme raised by the participants in the consultation. It was felt by many that the triumph of this kind of purely calculative rationality may be implicated in altering academic culture in dangerous, and possibly irreversible, ways. In particular, the rise of a very instrumental academic individualism and the demise of traditional notions of collegiality were noted.

Interestingly, however, there was no yearning for a return to some previous ‘golden age’ of HEI governance; many of those consulted were quick to point out the deficiencies of previous structures of governance, in which a small number of academics (Heads of Department, for example) enjoyed excessive power with limited accountability. The mood, then, is decidedly for change; but change that is sensitive to the complex particularities of the institutional context of higher education in Ireland.

Appreciating the complexities

There is still no common understanding of or agreement on the most effective mode of governance for higher education.⁵ The avail-

⁴ Public expenditure in Ireland on tertiary education institutions as a percentage of GDP has declined despite increased participation rates. Ireland is amongst the most cost efficient countries for higher education in the EU (see OECD, 2009; ECOFIN, 2010; OECD, 2011).

⁵ Eurydice (Network on education systems and policies in Europe), 2000; Larsen, Maassen *et al.*, 2009: 3.

able empirical evidence on the outcome of reform initiatives is decidedly ambiguous.

Larsen *et al.* argue that:

In many countries it is difficult to conclude that universities are more effective and efficient. New decision-making structures do not always lead to the desired behavioural changes, and the outcomes of the new governance arrangements seem to have a number of unintended consequences.⁶

These authors further argue that because reform failures are usually explained by the ‘... mismatch between reform design and cultural and historical characteristics of higher education institutions’,⁷ we should attend to the possibility that ‘...reform packages have been poorly designed, and have been based on a range of mutually contradicting reform intentions’.⁸

Such sentiments point to the critical importance of carefully understanding the specificities of the institutional context of higher education, as well as to the increasing range of (sometimes contradictory) social functions that HEIs are expected to serve.⁹ Many arguments about HEIs and their distinctiveness appeal to the ‘idea’ of a university. A key problem with this approach, however, is that higher education ‘currently embraces such a diversity of types of institution fulfilling such a variety of functions that they cannot be gathered under the umbrella of a single “idea”’.¹⁰ It would seem important, therefore,

to appreciate and actively foster institutional heterogeneity in the Irish context.

Diversity between institutions

If we accept in principle that Ireland’s higher-education needs might best be served by a diverse range of HEIs (each of which might primarily be oriented to different kinds of educational, social and economic functions), then it would seem very likely that governance arrangements would need to be tailored to the specific requirements of each institutional type. One key challenge, therefore, is to develop a more nuanced conception of the different kinds of HEIs that might be desirable to foster in the Irish context; what kinds of HEIs are needed, for what kind of society? This requires the development of more discriminating ways of thinking and talking about HEIs than is currently in evidence in public policy circles. A good starting point here might be Olsen’s attempt to discriminate between four stylised visions of HEIs, which are based on different assumptions about what an institution is for (function) and the circumstances under which it will work well (governance practices). Thus, Olsen envisaged the HEI as a *community of scholars*; an *instrument for national purposes*, a *representative democracy*; and a *service industry embedded in competitive markets*.¹¹

There may, of course, be some, not inconsequential, political and ideological difficulties associated with explicitly acknowledging the

⁶ Larsen *et al.*, 2009: 3. See also Reed, 2002; Maassen and Stensaker, 2003; Kezar and Eckel, 2004; Carmeli and Schaubroeck, 2006; Whitchurch, 2006; Meister-Scheytt, 2007; Santiago, 2008; Ferlie, Musselin *et al.*, 2008.

⁷ Maassen and Olsen, 2007.

⁸ Larsen, Maassen *et al.*, 2009: 4.

⁹ See Baker and Brown, 2007; Brennan and Naidoo, 2008; Kavanagh, 2011.

¹⁰ Collini, 2003: 3.

¹¹ Olsen, 2005.

need for institutional diversity. Collini argues persuasively that the existence of a kind of implicit snobbery, associated with a very traditional and romantic notion of the 'idea' of a university, has impeded progress in this area:

In principle this should be done in a way that makes clear that 'different' doesn't mean 'inferior'...Just as a kind of snobbery helped to sink the idea of the polytechnics, so snobbery, and the anxieties snobbery expresses, may be the biggest obstacle to trying once again to differentiate types of institution in terms of their respective functions.¹²

Diversity within institutions

As well as inter-institutional diversity, there is also an important case to be made for the preservation, and indeed active cultivation, of intra-institutional heterogeneity. The vogueish, but highly simplistic and misleading, 'knowledge economy' rhetoric does much to occlude the complexity of HEIs as knowledge producing institutions. This discourse typically presents 'knowledge' as a monolithic and tangible (measurable) entity, produced by means of a standardised process (the 'scientific' method). From work in the sociology and philosophy of knowledge, however, we know that 'knowledge' is not all cut from the same cloth.¹³ Rather, there are qualitatively different 'knowledges', which are produced by different traditions (or epistemic communities)¹⁴ in different ways. Not only do different epistemic

communities produce and disseminate different knowledges in different ways, they are also founded upon different kinds of relationships with broader society.¹⁵

All knowledge, then, is *situated* within a particular tradition, or epistemic community, and an important consequence of this is that assessments and discriminations about the worth of particular contributions to knowledge by a particular tradition can only be made by those who are steeped in that tradition. Furthermore, academics owe a duty of care not only to their institution, but also to their specific academic tradition as embodied in an international epistemic community of scholars-in-practice.

PRINCIPLES OF GOVERNANCE REFORM

On the basis of the points made above in relation to the institutional distinctiveness of HEIs, it is possible to frame a number of general principles that should be used to inform and drive any governance reform agenda. In what follows, we offer six such principles that would appear to be crucial in this regard.¹⁶

1 Tailor governance practices to the particularities of individual HEIs

As superficially appealing as general comparisons across the HEI sector may be, on closer inspection they are revealed to be deeply flawed and dangerous, evidencing little appre-

¹² Collini, 2003: 9.

¹³ Wittgenstein, 1953; Foucault and Gordon, 1980; Latour, 1987; Lave and Wenger, 1991; Knorr-Cetina, 1999.

¹⁴ Knorr-Cetina, 1999.

¹⁵ This is a point that was implicitly understood by Clark Kerr ([1963] 2001), former president of the University of California, who argued that the notion of a 'university' was a misnomer; rather HEIs might be better understood as 'multiversities', a term that captures the diversity of disciplinary traditions and practices that constitute these institutions.

¹⁶ This discussion assumes, of course, that there is some clarity on the different kinds of HEIs that we need to foster and support in the Irish context. This is hardly a trivial point, but a discussion of this important issue is beyond the scope of the current document.

ciation for the specificity and complexity of individual HEI contexts.

It is important that the easy analogy with the corporate model is resisted, not least because the functions of a university are different from those of a company and demand a different style of governance and management if they are to be successful.¹⁷

We need to be aware of the dangers of simplistic 'views from a distance' on higher education, which are insensitive to the distinctiveness and diversity of HEIs.

Care should also be exercised in relation to applying 'off-the-shelf' 'best practice' models that are claimed to pertain specifically to governance in higher-education contexts. As is argued above, the empirical evidence to support the benefits of using such models is often extremely limited, or non-existent. There is not necessarily a direct transmission of outcomes between structures and practice; that is to say, the same governance structures in place in two different HEIs may result in very different governance practices. Consequently, we should be careful to distinguish between *espoused governance models* and *governance institutions in-practice*. It is to the latter that attention should be directed when comparing HEIs.

2 Protect and foster academic freedom and autonomy

The importance of preserving academic autonomy emerged as a consistent theme

throughout the process of preparing this working document, and real concerns were raised about the prospect of state 'capture' of academic practice. Not least for reasons outlined previously, it should be obvious that a significant degree of academic independence is necessary for a well-functioning higher education sector. Moreover, independent HEIs are crucial institutional components of any open and democratic society.¹⁸ As one non-academic contributor to the consultation, with considerable experience of service on an Irish university's governing authority, put it:

it is important that in any provisions which may be made for better governance, the state resists the temptation to see universities, and indeed third-level institutions in general, as, in effect, semi-state bodies. It is their comparative autonomy and distinctive character which allow them freedom to 'question' and to 'put forward new ideas' which, at the time, may be controversial. These are values to be preserved not simply in the interests of these institutions themselves, but, in the longer term, of the state and all its citizens.

It could be argued that Irish HEIs failed in this duty in recent times by not holding up a sufficiently critical lens to important aspects of economic and business practices during the so-called 'Celtic Tiger' period.

Of course, the notion of academic freedom goes beyond issues pertaining to the freedom of expression. Not only should academics be encouraged to question and critique conven-

¹⁷ Shattock, 2006.

¹⁸ See Kavanagh, 2011. Kant's 'Conflict of the Faculties' (1992) provides a base text for academic freedom and, in particular, the duty of the state to support the organ (i.e. the university) of its own critique. As such, it might be important not to frame HEI governance as a system where all power and authority is derived from the state (be that the political or bureaucratic class).

tional wisdom, they also need autonomy to choose the problems to which they apply their intellectual efforts.¹⁹ This raises questions about the role of funding bodies in the shaping of academic research agendas, especially if these bodies are at a step removed from active academic communities.

3 Reduce bureaucracy

Harvey and Williams, in an extensive review of 15 years of contributions to the journal *Quality in Higher Education*, reach a number of worrying conclusions in relation to the ever-expanding quality assurance regimes that are colonising HEIs internationally:

The proliferation of quality-assurance agencies is being followed by a mushrooming of qualifications frameworks and the growing pressure to accredit everything, even if it is a poor means of assuring quality and encouraging improvement.

...the use of industrial models and TQM in particular...[is] regarded as of little use in higher education settings.

...national performance indicators are viewed with suspicion, especially when they simply measure the easily measurable.

...ranking systems are critiqued for their validity, methodology and the inadequate information they provide for students.²⁰

They go on to criticise the box-ticking, bureaucratic nature of such regimes, before concluding pessimistically that:

it is still not clear that, even after 15 years, quality assurance systems have really enhanced higher education.²¹

Most importantly, however, they identify a key danger of bureaucratic and summative/calculative approaches to delivering 'accountability'; namely, the undermining of trust:

external quality evaluations are not particularly good at encouraging improvement, especially when they had a strong accountability brief. An essential element in this failure is the apparent dissolution of trust.²²

This breakdown in trust can foster a dangerous culture of cynicism within the academic world.

4 The need for sophisticated evaluation

If we accept that there exists a diversity of legitimate and important academic practices, then we must also accept that these different practices need to be valued in different ways. As such, different approaches to assessing/appreciating the 'value' of distinctive contributions is essential.²³ The recent explosion in the

¹⁹ This kind of decentralised intellectual market-type solution is likely to be much more effective than any centralised planning approach to selecting research areas.

²⁰ Harvey and Williams, 2010: 3.

²¹ Harvey and Williams, 2010: 81.

²² Harvey and Williams, 2010: 3.

²³ Of course, any kind of value assessment based on some form of 'utility' is also complicated by issues relating to the appropriate timing of the evaluation exercise. The outcomes of some practices take longer to bear fruit than others.

use of relatively standardised performance measures (particularly in the context of evaluating research outcomes) noted above appears to be having a very dangerous homogenising effect, which threatens to do harm to important academic traditions and knowledge-producing practices.²⁴

It is clear that the ‘valuing’ of certain academic practices has become increasingly problematic as the public discourse around ‘value’ has narrowed, to the point that it appears to relate only to that which can be measured in an administratively expedient manner.

At a time when higher-education institutions and the broad humanities and social sciences research community are under pressure to become more utilitarian and ‘vocationally relevant’, and when the relevance of the humanities may be becoming less obvious in the eyes of the public, there is a perception that higher-education institutions may be turning away from their historical commitment to these core disciplines.²⁵

Consequently, it might be important to take a broader perspective that views education less as a tradable service and more as a public good, which would ‘...involve acknowledging the limits of justifications couched exclusively in terms of increased economic prosperity’.²⁶ Moreover, Collini goes on to make the impor-

tant observation that ‘Intellectual activity can, for the most part, only be judged but not measured’.²⁷

A pertinent question, therefore, concerns how we might develop systems that emphasise critical judgement rather than calculative measurement, and thus shift the focus from questions of administrative/economic expedience to more holistic conceptions of value. Judgement in these matters, of course, cannot be arbitrary, but must be exercised by those who are in a position to discriminate on the basis of a long and active engagement with the domain in question.

5 Place academic practices and communities centre stage

A key aim of HEI governance should be the cultivation of vibrant, engaged, open and effective knowledge-producing institutions. As opposed to the conventional technocratic preoccupation with abstract structures and processes, therefore, we might better be served by adopting a more cultural perspective and shifting the focus to the kinds of academic practices that should be fostered.²⁸ Structures should support and serve these practices, and institutional effectiveness should not be sacrificed for the sake of administrative expediency.

Much more important in modern university governance than structure is good commu-

²⁴ Kelly and Murnane, 2006. The importance of a diverse range of measures has been emphasised by the Academy in RIA/IRCHSS, 2009.

²⁵ RIA/IRCHSS, 2009.

²⁶ Collini, 2003: 9.

²⁷ Collini, 2003: 9. Undoubtedly one can design a measurement system and, at that level, one can quantify intellectual activity. Not only are there all sorts of problems with this kind of calculative rationality, however (see Dreyfus and Dreyfus, 2005), but academics are typically clever enough to work any such system. On the dangers of measurement in an educational context, see Dunne, 1988.

²⁸ Indeed, more recent contributions to the literature on HEI governance have suggested that there is a need to move beyond structural approaches, to embrace richer culturalist perspectives; see Gumpert, 2002; Kezar, 2004.

nication, trust and a sense of participation in decision-making either institutionally or at least at the level of the basic [academic] unit...Universities remain people-intensive businesses and do not respond well to an imposed hierarchy which elevates structure, of itself, to be an organising principal...The greatest threat to shared governance is that the academic community becomes no longer willing to invest in making it work.²⁹

Shattock's comments emphasise the importance of fostering trust, care and commitment in higher-education contexts. One senior academic interviewed for the present consultation process remarked on the 'astoundingly low quality of discussion' at the governing authority meetings of his institution: '...things are said, not discussed, and we move onto the next agenda item'. Comments such as these describe a lack of engagement that is becoming increasingly familiar in Irish HEIs. Another interviewee mourned the recent demise of vibrant practices of collegiality at his institution, blaming this on promotion systems that emphasise arbitrary measures of personal research productivity at the expense of collegial behaviour and institutional commitment.

If knowledge is produced by 'communities in conversation',³⁰ then we have to be concerned about the demise of academic solidarity. If academics fail to take ownership of and responsibility for the care and development of their institutions, colleagues and students, then the future for HEIs is bleak.

We need to consider, therefore, the kind of academic values and practices that need to be fostered,³¹ and to think about how governance practices might promote rather than stifle these.

6 Promote sensitive participative management practices

Collins argues persuasively that management in a social sector context is far more challenging than in the private sector, as social sector managers rarely have the kind of executive powers enjoyed by their private sector counterparts. Consequently, social sector managers must develop and employ 'legislative' (as opposed to 'executive') leadership practices, which rely more upon personal engagement, persuasion and political skills. Interestingly, Collins does not mourn this lack of recourse to executive decree in social sector contexts; on the contrary, he views it in very positive terms, as he argues that this kind of management approach is likely to be much more effective, and generate much more commitment, in the longer run.³²

Legislative leadership practices require managers to invest themselves heavily in the development of genuine collegial relationships, as a means of building trust, legitimacy and influence, and this demands energy, engagement, humility, selflessness, care and commitment to the communal cause.

These ideas raise interesting questions with regard to HEIs and their management. How

²⁹ Shattock, 2006.

³⁰ McDermott, 1999.

³¹ For instance, one might consider practices that promote openness, respect, collegiality, curiosity, engagement and active dissent as being central to strong and vibrant academic life.

³² Collins, 2006.

do management practices in Irish higher education measure up, when viewed in these terms? Some of those interviewed during the preparation of this working paper complained about a perceived lack of engagement, and a relative aloofness, on the part of some senior managers within their particular institutions, while one disparagingly referred to a distinctive style of 'management by PowerPoint'.

In conclusion, then, it is important to appreciate the significance of particular kinds of management practices in nurturing healthy and vibrant academic cultures—cultures that promote engagement, care, trust, commitment and collegiality. We need to ensure that governance reforms value and promote these kind of management practices for the betterment of Irish higher education



4. EMERGING PRIORITY ISSUES FOR GOVERNANCE REFORM IN HEIs

In response to Minister Quinn’s request, we focus specifically upon the key internal governance mechanisms within Irish HEIs: the Governing Body, the Academic Council and the Executive. We examine the extent to which the members of the Academy who made submissions for the working paper perceive these mechanisms to be operating effectively. We conclude this section by noting external issues that have significant implications for internal HEI governance practices.

(A) GOVERNING BODIES

Here, we examine views regarding the espoused functions, size and composition of the governing bodies of Ireland’s HEIs. We also consider appropriate selection mechanisms for appointment to these bodies.

Espoused function and operation

Up to a few decades ago, the governing bodies of HEIs in most systems would have been rather shadowy groups, whose precise function would not have been altogether clear to other members of the university/institution or to the public more generally.³³

While there have been many recent attempts to define and understand what these bodies should do, within the overall governance architecture of an educational institution, a

practical definition is set out in the Committee of University Chairs (CUC) code. According to this code, a governing body is ‘unambiguously and collectively responsible for overseeing the institutions’ activities, determining its future direction and fostering an environment in which the institutional mission is achieved and the potential of all learners is maximised’.³⁴

The governing body has responsibilities to both the internal and external stakeholders of our higher-level education system. The views expressed by members of the Academy who made submissions on this issue echo the findings from the recent review of higher education governance in Scotland.³⁵ In summary, it is understood that the work and operations of governing bodies should be rooted in the principles of autonomy, accountability, transparency, quality and oversight. Furthermore these bodies should:

³³ Kelleher, 2006.

³⁴ CUC, 2009: 5.

³⁵ von Prondzynski, 2012.

- ensure the effective stewardship of the HEIs to secure their long-term sustainability;
 - protect and support enhancement of the academic culture and community of the institution;
 - safeguard the mission of the HEIs and the services they provide for the public benefit;
 - secure the proper and effective use of public and other funds;
 - ensure stakeholder participation; and
 - be accountable to society for the value created by the HEIs.
- Current membership composition that is inappropriate in meeting the defined roles and responsibilities of the governing body.
 - Current practices that are ineffective in utilising the skill-set and experience of board members.
 - Lack of clarity regarding the role and duties of the board members.
 - Inadequate information and communication between the senior management and board members.

In Ireland, the Universities Act (1997) and the Institutes of Technology Act (2006) set out recommendations for the composition, size and selection procedures for HEI governing bodies. Together with the Higher Education Authority's governance code, these pieces of legislation are understood to provide the HEIs with the tools for 'good governance', which, the code suggests, should be an 'aid to effectiveness' for third-level institutions.³⁶

Much of the discourse on governance is couched in very abstract terms. A lot has been written about the espoused workings of governance systems, but we know very little about how these systems work in practice. What do high-performing governing bodies look like?

In practice, it is easier to point to factors that lead to poor performance than to predict good performance. Among such factors are:

Schofield points to several less obvious reasons for governing body ineffectiveness, including (i) weak leadership by its chair; (ii) a lack of motivation, willingness and time on the part of members to deal with difficult issues; (iii) a tendency towards groupthink on boards where conventional assumptions go unchallenged; and (iv) an absence of trust and integrity amongst members of a board.³⁷

It is clear, then, that effective governance for HEIs is rather complex, and that structures and governance infrastructures, whilst important, play perhaps a secondary role to the practices that bring these structures to life. Among the members of the Academy who made submissions on this issue, a concern was expressed that governing bodies and, more correctly, the broader governance infrastructure of Irish HEIs, are not effective. Among the points noted in the submissions were that the current structures are not 'fit for purpose'; that governing bodies are composed of 'a lot of dead-weight'; and that they have become 'increasingly removed from academics and

³⁶ HEA/IUA, 2007, 5.

³⁷ Schofield, 2009.

from a day-to-day understanding of the university and what it is about’.

The ‘optimal’ size of the governing body?

Section 16 of the Irish Universities Act (1997) stipulates that governing board membership should be between twenty and forty (while the Institutes of Technology Act provides for nineteen members). In practice, because of various university-specific provisions, membership tends to be close to forty (see Appendix 2).

Internationally, there has been a move to reduce the size of HEI governing authorities,³⁸ and the OECD has recommended that Ireland follow international trends in this regard, as has the Hunt Report.³⁹ Some Academy members who made submissions for the working paper expressed the view that the numbers of governors should indeed be reduced; noting the ‘dead-weight’ that currently exists on these boards. Others, however, pointed to a number of successful examples of large governing bodies in the Irish HEI context, and explained that large bodies can be very effective.⁴⁰ These respondents believed that the functioning of these governance boards can, in fact, be enhanced by the views and opinions of a variety of stakeholders. The practices associated with making the work and operations of governing body sub-committees effective was highlighted as being important in these instances.

There is no consensus in the literature regarding the most appropriate ‘size’ for a governing body. In so far as comparisons might be made, the literature on corporate governance is quite contradictory on this issue. Some studies have found large boards to be more effective,⁴¹ whilst others report the opposite—smaller boards are more effective.⁴² In his critique of the Dearing report into university governance in the UK, Shattock notes that the top ranking institutions in UK have larger boards.⁴³

Respondents considered that, rather than ‘size’ being of major significance, the key issue is the manner in which these bodies are run; that is, the practices that are put in place to deliver effective outcomes.

The ‘optimal’ composition of the governing body?

A more immediate concern held by Academy members related to the composition of the HEI governing boards. Respondents spoke about three possibilities:

- a governing body composed of internal members of the university/institution only;
- a body with a significant majority of internal governors; or
- a body on which the majority are external governors.

³⁸ Fielden, 2008: 188.

³⁹ Report of the Higher Education Strategy Group, 2011.

⁴⁰ The analogy was drawn with a parliamentary style of governance that focuses on debate and the ratification of legislation, rather than the more directive and concentrated nature of the executive model.

⁴¹ Coles, 2007, 2008; Pathan, 2007.

⁴² Eisenberg, 1998; Yermack, 1996.

⁴³ Shattock, 2002; see also the report of the National Committee of Enquiry into Higher Education in the UK (Dearing Report).

Respondents were very strong in their beliefs that the objectives and functions of HEIs should be foremost in any consideration of the composition of a governing board. If this is accepted as a guiding principle, it follows that the governing board should be composed of individuals who understand the HEI context(s) and whose experiences and competencies are well aligned to the functions of the governing board.

Views were mixed as to whether there should be a majority of internal or external governors on these bodies. It was argued that internal members best understand the vision, mission and context of the Irish higher education system; they appreciate the particularities of their institution and also tend to be very committed to it.

While external members were seen to make valuable contributions on these bodies (specifically in the areas of finance and law), current arrangements, whereby external members are nominated, *inter alia*, by government were criticised. While many members who made submissions on this issue accepted that the HEIs should improve their engagement with external stakeholders, some questioned the appropriateness of the governing body as a forum for doing so.⁴⁴

Echoing the view held by the OECD on this point, there was a unanimous agreement that external governors should be appointed on the basis of experience, competencies and their

understanding of the HEI context.⁴⁵ A similar recommendation also featured in the recent report of the review of higher education governance in Scotland chaired by Professor Ferdinand von Prondzynski, MRIA. This report recommended that governing bodies be 'required to draw up and make public a skills and value matrix for the membership of the governing body, which would inform the recruitment of independent members of the governing body' and that 'the membership of the governing body should be regularly evaluated against the matrix'.⁴⁶

As regards the size and external/internal balance of the HEI governing boards, the Finnish and Danish governance models were highlighted as examples warranting consideration. These models present two very different propositions in terms of the approaches they take on governing body size and composition.⁴⁷ Moreover, as is clear from the sample views outlined above, there is no consensus on these issues among the Academy members who made submissions. This suggests that issues such as size and composition might be determined better at local level, where due consideration can be afforded the institution's history and future direction.

Selection mechanisms

GOVERNORS

The dominant view among those participating in the process to produce this working paper is that appointments to HEI governing bodies

⁴⁴ Several interviewees suggested that the establishment of Advisory Boards could offer a more appropriate forum for such interaction. This structure has been instituted in several European countries, see Eurydice, 2000: 167, and has served to enhance internal debate by bringing external perspectives and opinions to bear.

⁴⁵ OECD, 2004.

⁴⁶ von Prondzynski, 2012: 19.

⁴⁷ At the University of Helsinki, the governing board has a total of sixteen members: five academics; five non-academic staff; five students and one external (or lay) person. The Danish system favors a much smaller body (eleven members), with a majority of external governors.

should be through election or some other appropriate competitive process (that is, not by political nomination or designated representative nominations). There was a clear consensus that the selection of internal members of a governing body should be by election only. Respondents cautioned that care should be taken when designing the electoral panels designed for this process.⁴⁸

Some participants recommended that the practice whereby an institution's entire senior management team attends governing body meetings in an *ex-officio* capacity should be discontinued immediately. Those holding this view contend that the practice creates the obvious risk that meeting agendas may be subject to undue influence by the executive. Many Academy members expressed the view that senior managers, other than the Chief Officer, should only attend governing body meetings as required in relation to specific agenda items.

Respondents believed that government should not be involved in the nomination of external members of HEI governing bodies, because this 'runs counter to good governance and institutional autonomy'. Rather, it was suggested that external members be invited to apply for a seat on a governing body following a public advertisement process. A nominations committee could then be set up to select nominees based on experience and competencies. Neither the Chief Officer nor other members of the executive management team of any HEI should be part of the selec-

tion process. Respondents stressed the importance of ensuring openness and transparency in this process. In the absence of openness and transparency, the leadership of the institution and the governing body will likely leave itself open to accusations of patronage, but more importantly from a governance perspective, inappropriate deference to management may result. The skills and values matrix suggested above for the membership of a HEI governing body could guide the selection process of external members. Use of this matrix could also guard against the potential for replicating existing expertise and experience, and provide for diversity in the composition of the governing body.

CHAIRPERSON

It was generally agreed that the Chairperson plays a pivotal role in the effective operation of the governing body. The Chair has a central role in setting the agenda for meetings, usually in conjunction with the Chief Officer. The Chair also sets the tone for governing body meetings, and has a responsibility to ensure that the workings of the body are underpinned by effective and inclusive practices involving all members. The skills of the Chairperson are vitally important in fostering teamwork among governing body members.⁴⁹ Interviewees noted that it is important that the Chairperson has a functioning relationship with the Chief Officer, but also that he or she remains independent of the Chief Officer.

Prior to the implementation of the Universities Act (1997), the individual HEI governing

⁴⁸ At present, in addition to the student representatives, internal members on university governing bodies are selected through professoriate academic staff, non-professoriate academic staff and non-academic staff panels, and through academic and non-academic staff panels in the institutes of technology. One alternative suggested during the current process was that internal members should be elected through panels arranged around the different missions of the HEI—teaching, research and engagement with the wider society.

⁴⁹ Schofield, 2009: 202.

bodies were chaired by the Chief Officer. The legislation allowed for this to continue, though in practice, most governing bodies now have independent Chairpersons, elected from the external membership.⁵⁰ Respondents agreed that the Chairperson should continue to be elected, and that the Chief Officer/Executive should not have any involvement in this process.

Respondents also acknowledged the very specific skill-set needed to execute successfully the role of Chairperson of a HEI governing body, and while many believed that this position should be filled from within the group of appointed board members, others highlighted the potential need to look beyond the board in cases where the skills-set is unavailable internally. One suggestion was that the position be publicly advertised and a shortlist of suitable candidates drawn up and interviewed. This process could be overseen at a national level (by a commission appointed by the Minister for Education and Skills) or managed locally (by the institution). Respondents held the view that the Chairperson should be permitted to serve only a single term.

Currently, the term served by all members of HEI governing bodies in Ireland (apart from university officers and student representatives) is three to five years. After this time, members can be re-elected or re-nominated. The consensus is that three to five years is an appropriate term. In addition, there is wide-

spread agreement that members should be entitled to seek nomination for a second term, but that both internal and external candidates should go through the election/competitive selection process once again.

In sum:

- Appointment of members to the governing bodies of HEIs should be by means of election or some other appropriate competitive process.
- Internal governors should be elected.
- External governors should be appointed by a selection committee, which should be wholly independent of the executive of the HEI.
- All appointments should be made based on candidates' competencies, relevant experience and understanding of the higher-education context, and on the particularities of the HEI in question.
- All appointments should be for three to five years, and all governors should be allowed to seek re-appointment.
- The Chairperson should either be elected from within the governing body membership or, when the requisite skills and competences are not found amongst the governors, by means of a competitive process. This should be overseen by an independent commission. The Chairperson should be appointed for one term.

⁵⁰ The current system for selecting the Chair of the governing bodies of the Institutes of Technology is by ministerial appointment. One interviewee pointed out that several such appointments have been distinguished by early conflict between the Chair and the Chief Officer and other governing body members. This system of appointment is also open to criticism on the grounds of political patronage.

Evaluation of the governing body

Several of those interviewed in the course of the preparation of this working paper suggested that benefits could be obtained by instituting periodic reviews of governing body effectiveness. These reviews should focus on the effectiveness of the governing body in fulfilling its purpose as delineated by the relevant statutes underpinning it, but also on the principles of effective governance detailed earlier. Such reviews should seek to yield recommendations that enhance governing body operations, advise on governing body composition, and identify how the reporting systems feeding in to the governing body might be enhanced. The UK Committee of University Chairs has developed a checklist of possible review points that can be synthesised in the following questions:

- Is there clarity and agreement on the role and responsibilities of the governing body, and do governing body members sufficiently understand the context for the HEI's role, mission, and strategy?
 - Are there appropriate governing body procedures or reporting mechanisms to monitor the functioning or otherwise of the HEI's academic processes?
 - Are the principles of conduct of public life (e.g. integrity, openness, transparency) being observed in the governing body's internal and external dealings?
- Are there appropriate capabilities, competencies and systems within the governing body and its method of operation to enable it to discharge its responsibilities?⁵¹

Independent persons with a contextual understanding of governance requirements and the context of HEIs should be charged with undertaking the reviews.⁵² The transparency offered by independent reviews also provides an opportunity for the steering power of the institution to capture higher levels of trust from the institution's key stakeholders. Outcomes from these reviews should be published.

(B) ACADEMIC SELF-GOVERNANCE: STRENGTHENING THE ACADEMIC COUNCIL

The principal collegiate academic body responsible for academic self-governance in HEIs in Ireland is the academic council. Under the Universities Act (1997), each university is required to have an academic council whose remit it is to 'control the academic affairs of the university, including the curriculum of, and instruction and education provided by, the university'.⁵³ As such, an institution's academic council is positioned to complement the broader remit of the governing body, in a dual structure of shared governance. There is a dominant view amongst Academy members that academic councils should be required to control issues of academic standards and quality, and that they should have 'absolute authority' on all academic matters.

⁵¹ UK Committee of University Chairs, 1999.

⁵² In its original guidelines the Committee of University of Chairs suggested that the governing body itself should take ownership of the review, using external facilitators where appropriate. However, subsequent reporting by the committee (2006) found that governing bodies have tended towards relatively light and informal reviews.

⁵³ Universities Act, 1997: Section 27.

Members of the Academy also believe that any reforms should address the current shortcomings of these councils. The current functioning and operation of academic councils in a number of HEIs was identified as posing a very worrying internal governance risk. In sum, many of these councils are 'ineffective talking shops', and many Academy members feel that their ability to influence decision-making within the broader institution has been steadily diminished. This may have consequences if the governing authority relies on the academic council to provide a counterweight to the Chief Officer and is, as one respondent noted, 'completely reliant on the university's academic council to govern academic matters'.

Possibly the greatest threat to shared governance is an alienated academic community.⁵⁴ Interviewees confirmed their experiences of poor attendance at academic council meetings and explained how a general lack of engagement had become a very common feature within councils. Several explanatory factors were identified, including:

- The size of the academic council. Large councils do not facilitate effective debate on academic matters. For example, in one university the academic council consists of the entire professoriate of almost 250 members, and meetings have been described as being reduced to 'PowerPoint presentations' in large lecture theatres.
- The Chairperson. In Institutes of Technology, the academic council, by its

composition, tends to be dominated by a permanent management structure, which is typically chaired by the president of the institute. This is believed to stifle open debate.

- Efficiency vs. Effectiveness. In many cases, important academic issues are elided in academic council meetings in the name of 'efficient agenda management'.
- The establishment of new administrative functions relating to academic quality management has resulted in an exasperated academic body abrogating their responsibility for academic standards to the administration.

Interviewees offered a number of recommendations for reform.

- The size of the academic council should be limited to a scale that can conduct business in an effective and participatory manner. It should be a forum for meaningful consultation and committed participation.
- Academic managers (e.g. Chief Officers, Deans, Heads of School, Heads of Department, etc) should not be permitted to dominate proceedings⁵⁵.
- Members of the academic council should be elected by the academic faculty of the institution.

In addition, many of the participants who provided information on this issue suggested that the Chief Officer should attend the meetings

⁵⁴ Burgan, 2006: 16.

⁵⁵ The report of the Review of Higher Education Governance in Scotland recommends that, apart from the Principal and Heads of School (or equivalent) who should attend, *ex-officio*, all other members should be elected by the constituency they represent; see von Prondzynski, 2012: 201.

of the academic council and engage with the academic community, but not have overall leadership responsibility for academic matters. One interviewee suggested the creation of a new position, the remit of which would be to set the academic tone for the institution and represent the council on the governing body.

(C) THE EXECUTIVE

A number of interviewees expressed the view that HEI Chief Officers should be elected (as opposed to being appointed), because 'elections inform the candidate'. One interviewee explained that 'the kind of people who go in front of an electorate are likely to have (or be very quickly disciplined into developing) a sensitivity to the importance of listening and achieving consensus within the organisation', that is, they would have a more legislative approach to leadership. Other participants, however, cautioned that the use of elections to select Chief Officers could create a bias in favour of internal candidates. It was proposed that the selection process governing the appointment of a Chief Officer should involve candidates publicly presenting their vision and proposals for the institution at appropriate forums of academic and non-academic staff, governing body members and students. Feedback should be then gathered and forward to a selection committee appointed to recruit for the position. Regardless, it was suggested that a meaningful level of staff and student participation in the selection of Chief Officer is to be encouraged.

The current term for most Chief Officers is ten years; the consensus among those who participated in the preparation of this working

paper is that this is too long and that the term should be reduced, perhaps to seven years. Respondents also called for a change in the duration of senior appointments in the Institutes of Technology.

(D) EXTERNAL INFLUENCES ON GOVERNANCE

In discussing the internal governance challenges in their institutions, many of the participants in this consultation process also spoke about the importance of the external environment. The changing nature of state funding; the increased emphasis on accountability regimes and the questioning of the role and function of higher education have all placed numerous and varied pressures on HEIs.

Respondents' views on this issue are perhaps best summarised by reference to the work of Salter, who presents these external pressures as a series of 'games', that must be played if institutes of higher education are to 'compete effectively in the political game for resources'.⁵⁶ Some respondents explained that HEI responses to these external pressures were far more consequential for governance than considerations regarding the size or composition of governing bodies.

Over the last number of years, HEIs have been required to compete for funding in very select fields of research. In an effort to play this 'game', HEIs have promoted the development of the sciences, tailored internal funding allocation models to that end and implemented performance measurement systems that are heavily biased towards the scientific model of

⁵⁶ Salter, 2002: 245.

research. Playing this 'game' is resulting in the steady demise of the social sciences and humanities within the HEIs, the alienation of academic communities and the narrowing of the overall HEI mission.

Similar 'games' are understood to be at play in the competition for students, for which an identified outcome has been the proliferation of programmes in narrow fields, and in the heightened pressures to secure accreditation and quality assurance by national and international awarding bodies. It is argued that this

has resulted in moves from academic to administrative management of quality, and from 'dialogic' to 'bureaucratic' processes.⁵⁷

In summary, and taking account of the observations of Rector Lauritz B. Holm-Nielsen of Aarhus University in Denmark in his address to the Royal Irish Academy, it is strongly recommended that reform of the governance structures of Ireland's HEIs *must not* be undertaken in isolation from overall reform of the institutional structures, governance arrangements and funding models.

⁵⁷ Salter, 2002.



5. CONCLUSIONS AND SUMMARY OF RECOMMENDATIONS

The importance of good governance practice within HEIs was neatly articulated by one interviewee:

Governance, properly exercised, ensures that higher education systems are capable of answering the questions that society puts to them, and that they do so in a way that is both efficient and effective, on the one hand, but also equitable and transparent on the other. So understood, governance is at the heart of the story of higher education.

The results of our consultation process, however, indicate that all is not well in the Irish HEI governance context. There was a clear consensus amongst the academics and members of the Academy consulted that governance practices in Irish HEIs are in need of reform. As such, Minister Quinn's intentions in this regard are enthusiastically welcomed.

The reform agenda, however, needs to be approached with caution and sensitivity. The empirical evidence regarding the outcomes of recent reforms in the higher education sector internationally is not encouraging. Moreover, there is evidence to suggest that the moves to more autocratic forms of management in Irish HEIs may be having some very damaging implications for academic engagement and morale.

In planning future reforms, there is a need to avoid simplistic analogies between the governance of HEIs and commercial organisations, and to appreciate the complexities and particularities of HEIs as knowledge-producing environments. Furthermore, in advance of any reform programme, consideration should be given to the different kinds of HEIs that we need to foster in an Irish context. Given the vast range of functions that HEIs are expected to serve, it may be necessary to consider more explicit forms of institutional differentiation. Consequently, governance arrangements will need to be tailored to each specific institutional context, and so legislation should not be overly prescriptive.

When introducing any new governance arrangements, it is important to distinguish between the *espoused governance institutions* and the *observed governance institutions-in-practice*. A focus on the latter acknowledges the empirical fact that there is no direct transmission of outcomes between abstract structures and quotidian practices, as the former can be animated in a range of different ways. Our consultations indicate that institutions with similar governance structures can exhibit very different governance practices. Consequently, the outcomes of any structural changes need to be monitored over time, as new constellations of governance

practices emerge in specific institutional contexts. In monitoring such changes, it is important to remain especially sensitive to possible adverse, or homogenising, effects on the practices of the different epistemic communities/traditions that constitute all academic institutions.

The different components of the internal HEI governance complex—the governing body, academic council, and the executive—each also have specific issues that need to be addressed. In this regard, the important considerations relate to:

- The function and operation of the governing body.
- The optimal size and composition of the governing body.
- Mechanisms for the selection of members and chair of the governing body.
- Instituting a process for evaluating the governing body.
- Strengthening the academic council as a mechanism for academic self-governance.
- Reforming the size and composition of the academic council in order to foster engagement and participation.
- Reforming the method of selection and term of office for the executive.
- The effect of external pressures (competition for funding and for students) on the effective governance of HEIs.

While it is incumbent upon our higher-education institutions to design and marshal their internal governance arrangements appropriately, this is only one part of the story. Governance reform must be part of a broader reform of the entire higher-education system. The internal governance of HEIs is intimately bound to an external complex of funding and regulatory institutions.

Overall, the reform of governance arrangements in Ireland's HEIs should be informed, and driven, by a set of key principles:

- 1 Tailor governance practices to individual HEIs.
- 2 Protect and foster academic freedom and autonomy.
- 3 Reduce bureaucracy.
- 4 Create and implement sophisticated evaluation methods.
- 5 Place academic practices and communities centre stage.
- 6 Promote sensitive participative management practices.



APPENDICES

Appendix 1

Consultation on Institutional Governance
20 February 2012, Academy House

Workshop programme

| | |
|---------------|--|
| 10.30–11.00am | Registration and Coffee |
| 11.00–11.10am | Introduction Professor Luke Drury, President, Royal Irish Academy |
| 11.10–11.40am | Presentation Rector Lauritz B. Holm-Nielsen, Aarhus University, Denmark |
| 11.40–11.50am | Question & Answer session |
| 11:50–1.00pm | Discussion Chaired by Professor Luke Drury |
| 1pm | Lunch |

Appendix 2

Governing authority membership*

| Institution | Number of governors | Internal | External |
|------------------------------------|---------------------|----------|----------|
| Dublin City University | 27 | 12 | 15 |
| Trinity College Dublin | 27 | 25 | 2 |
| NUI Maynooth | 29 | 14 | 15 |
| University of Limerick | 31 | 16 | 15 |
| NUI Galway | 38 | 17 | 21 |
| University College Cork | 39 | 19 | 20 |
| University College Dublin | 39 | 19 | 20 |
| Dublin Institute of Technology | 20 | 6 | 14 |
| All other Institutes of Technology | 19 | 6 | 13 |

*Membership includes Chairperson & Chief Officer

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