



Trinity College Dublin

Coláiste na Tríonóide, Baile Átha Cliath
The University of Dublin

Incorporating any amendments approved at subsequent Board meetings

Board Meeting 19 January 2022

This meeting was conducted remotely using the Zoom application and was hosted in the Provost's Office.

Present: Provost (Dr L Doyle), Vice-Provost/Chief Academic Officer (Professor O Sheils), Registrar (Professor N Cox), Bursar/Director of Strategic Innovation (Professor E Denny), Senior Lecturer/Dean of Undergraduate Studies (Professor D Shepherd), Professor K Ahmad, Professor S Alyn Stacey, Professor L Brennan, Professor A Burke, Mr K Byrne, Ms B Genockey, Mr D Grouse, Ms L Keogh, Ms R Mathews-McKay, Professor K McTiernan, Ms S Mueller-Owens, Professor A Nolan, Professor D R Phelan, Professor L Roe, Ms G Scanlon, Professor A Seery, Professor J Walsh.

Apologies: Professor D Faas, Ms J Donoghue, Professor R A Kenny, Professor R McManus, Professor F Sheerin.

In attendance: Assistant Secretary to the College (Ms V Butler).

(ex officio) Secretary to the College (Mr J Coman), Treasurer/Chief Financial Officer (Mr P Reynolds).

(by invitation) Interim Chief Operating Officer (Ms O Cunningham), Vice-President for Global Engagement (Professor E Stokes).

SECTION A

The Provost opened the meeting by thanking Board members for coming together for this special meeting of the Board.

BD/21-22/132 Statements of Interest

The Secretary to the College advised that no potential conflicts of interest had been received.

BD/21-22/133 Higher Education Authority Bill, 2022

The Provost introduced the item noting the importance of the Board coming together to discuss the HEA Bill, 2022.

(i) Trinity-specific elements of the Bill

The Secretary to the College made his presentation based on the memorandum dated 14 January 2022 which had been circulated. He advised the Board that the Bill was published on 7 January 2022 and he outlined the specific provisions in relation to the Trinity Board and to the Trinity Visitors as contained within.

The Secretary to the College advised the Board that no change had been made to the proposed composition of the Board as had been previously discussed by the Board which provides for:

- An external chairperson appointed by the Board
- The Provost

- 5 internal members (other than the Provost) appointed in accordance with regulations made by the university (with the approval of the Minister)
- Two student members appointed by the Board
- Eight external members (other than the chairperson) appointed by the Board.
- Of the external members, three are nominated by the Minister. The other five (and the external chairperson) are appointed by the Board in accordance with a process determined by the Board and approved by the Minister.

In addition, it was noted that Trinity can appoint 5 additional members of the Board who are Fellows.

The Secretary to the College advised that the changes to Board composition as outlined in the Bill would require changes to the Consolidated Statutes 2010 and it is proposed that as the legislation goes through the various stages in the Dáil and the Seanad, the Statutes and Schedules Working Party will commence the drafting of the necessary changes so that the amendments are ready to be brought to the Board as quickly as possible.

It was noted that members of the Board will be selected in line with a competency framework, as had been agreed in the Board Review Working Group Report, and that the external Chair is non-voting unless in the event of a tied vote where they would have the casting vote only.

Referencing the reduction in College Officers and staff as members of the Board, the Secretary to the College noted the potential to strengthen the role of Principal Committees and maintain significant levels of engagement across the University.

It was noted that the Provost had raised the issue of student membership of the Board with the Department of Further and Higher Education, Research, Innovation and Science. It was understood that the Students' Union had also raised the matter with the Union of Students in Ireland, but that no change had been made to the original proposal of 2 student members on the Board. However, it was also noted that there may be opportunities to invite student representatives to be in attendance at Board meetings or to include recent graduates and alumni as external members on the Board.

The Secretary to the College advised that s.75 of the Bill makes provision for a new s.16B in the 1997 Universities Act, which enables the HEA if it has a concern with the governance of Trinity, to request the Visitors of Trinity College to make a general visitation in accordance with the statutes of TCD as regards the matter (and thus this is an aspect of the legislation which may require a change to the Trinity Statutes). The Visitors may carry out such a visitation if they are satisfied that there are reasonable grounds for doing so and that it is appropriate to do so. He informed the Board that discussions with the Visitors in respect of this provision have been ongoing for a number of months and that they have no objection to this provision as currently drafted.

The Secretary to the College concluded by advising the Board that the Department of Further and Higher Education, Research, Innovation and Science in its discussions with Trinity has discussed a hybrid approach to the legislation whereby the Trinity specific provisions could be adopted using Oireachtas processes connected with private legislation. It is understood

that this is ultimately a matter for the Oireachtas to decide, however this is something that will continue to be monitored and discussions with the Department are ongoing in relation to this point.

The Provost thanked the Secretary to the College and opened the item for discussion.

During the course of the discussion the following items were noted:

- It should be noted that the internal members are intended to be elected to the Board.
- The outcome in relation to student membership is disappointing and that attempts to have this matter revisited should continue as the Bill goes through the Oireachtas. In particular, the importance of having the Students' Union Welfare Officer at Board meetings was acknowledged.
- The possibility of appointing a graduate and/or a retired member of staff as external members of the Board should be considered.
- The question of the appropriateness of control of universities by the State and of the State prescribing the Board composition and selection process for members of the Board in view of the distinct legal structures and composition of Trinity's Body Corporate.
- The proposed increase in State control at a time when State funding continues to decrease as a proportion of overall funding and constitutes a minority of Trinity's budget.
- The importance of ensuring that there is clear communication on the rationale for which Trinity specific provisions have been sought.
- The importance of widening engagement and participation across the University particularly for those cohorts where their membership on Board is being decreased.

In response to comments and a query from a Board member, the Registrar advised that an overview of the impact of the Bill on the Statutes will be prepared and that such an overview of the required amendments will be brought to the February meeting of the Board.

In response to comments from Board members, it was noted that there are ways to continue to ensure the student voice is heard including the possibility of having the students in attendance at Board meetings, as had been the case prior to 2001. Also, a strengthening of the Principal Committees could also rebalance opportunities for input to College governance processes for students and staff.

The Provost responding to comments from a Board member clarified for the Board that the process by which external members are to be appointed is to be determined by the Board, and approved by the Minister, and that careful consideration can be given to what competencies and experience will best serve the work of the Board.

In response to queries and comments from Board members in relation to the possibility of strengthening the role of Principal Committees, the Provost advised the Board that the Secretary to the College is preparing an analysis of the membership of committees and the implications of the changes to Board composition which will be brought to a future meeting of the Board for discussion. The Secretary to the College noted that there will be a smaller

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number of Board members to invite to join the committees, but that consideration could be given, as expressed in the Provost's manifesto, to widening membership and engagement across the University.

(ii) Wider elements of the Bill

The Registrar with reference to the memorandum from himself and the Secretary to the College dated 14 January 2022, which had been circulated in advance, provided the Board with an overview of some of the wider elements of the Bill which will impact on the activities on the University and the Higher Education sector in general. He noted that the new Bill would replace and repeal the Higher Education Authority Act, 1971 and would introduce new provisions including allocating considerable responsibility to the Chief Executive Officer of the HEA rather than the Board of the HEA.

The Registrar then summarised some of the most relevant provisions of the Bill under the following headings:

- Strategic Planning for Higher Education
- Governance
- Provision of Funding by the HEA
- Students
- Data Protection and Sharing
- Designated Institutions of Higher Education
- Oversight of Governance by the CEO of the HEA
- Codes of Practice.

The Provost thanked the Registrar and drew the Board's attention to a slide in the circulated presentation which details the various stages in the Dáil and Seanad through which the Bill will pass before being enacted.

In response to comments from a Board member, the Provost advised that she and the Secretary to the College are preparing a communication for the College Community to bring to their attention the Bill and other relevant information.

A Board member, noting the role Universities have in enhancing society through diversity and autonomy, expressed concern regarding the blanket application of the Bill to all Higher Educational Institutions regardless of their specific nature and activities.

Throughout the course of the discussion the following items were raised:

- The legal implications of the Bill on existing legislation and the Statutes.
- The potential for the role and responsibilities of Provost/President in the Universities to be diluted.
- Potential difficulties with changing Ministers and, in turn, changing strategies for the Sector.
- The importance of trying to maintain the existing level of student membership at the Trinity Board and of also ensuring the Professional staff and Academic staff who are not Fellows continue to be appropriately represented.

- An absence of co-regulation in the Bill which is moving clearly towards defining the HEA as a regulatory body rather than an advocacy and funding body.
- The Bill contains a detailed list of remedial measures including the withholding of funding and the development of rectification plans which impacts on the autonomy of Universities.
- The Appeals Board, as provided for in the Bill, is not independent.
- The Bill gives statutory weight to existing performance frameworks which in effect could now become legally-binding.
- While the Board composition as set out in the Bill is quite prescriptive, by reviewing and further empowering the committees across the University, there may be opportunities to ensure greater levels of engagement for some cohorts.

In response to comments from Board members, the Registrar clarified the role of the Minister in respect of developing a strategy for the Higher Education Sector. He also noted that some of the provisions of the Bill require the HEA in its Objects (Section 8) to respect the principle of academic freedom and the responsibilities of Higher Education Institutions for their own governance.

The Provost advised the Board that consideration is being given to specific amendments which could be sought noting that the original Heads of the Bill invested certain responsibilities in the Board of the HEA rather than the HEA CEO and that this is something that the Universities could look to have revisited.

The Registrar, noting the University's existing connections with linked providers, advised that such institutions will now have to decide whether to apply to be a designated Higher Educational Institutions which are subject to the Bill and that this may also have additional implications for Trinity.

The Provost summarised the proposed next steps for the Board which include issuing communications to the whole community to ensure everyone is kept informed. In addition, she, the Vice-Provost/Chief Academic Officer, the Secretary to the College and other Officers will continue to work closely with legal advisors and with the IUA to propose and promote a set of detailed amendments to address concerns with the Bill. The Provost also noted that there will continue to be regular updates to the Board as things progress.

A Board member noted the lack of a sustainable funding plan for the Higher Education sector noting that a provision for the Minister to deliver such a funding model should continue to be sought by the IUA. In response the Provost advised the Board that it has been indicated that an announcement in respect of funding for the Sector is due from the Government shortly.

The Provost concluded by encouraging members of the Board to share any further comments or observations they may have on the draft Bill with her in the coming days.

Action/Decision

133.01 The Board noted and discussed the memorandum from the Registrar and the Secretary to the College dated 14 January 2022, and enclosures: Higher Education Authority Bill, 2022 and Explanatory Memorandum for the Higher Education Authority Bill, 2022.

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133.02 The Registrar will prepare for the Board an overview of the impact of the HEA Bill, 2022 on the College Statutes.

133.03 The Secretary to the College will prepare for the Board a discussion paper on the membership of Board committees.

The Provost thanked everyone for their time in attending this additional meeting and closed the meeting.

Signed:

Date: