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Irish university governance in transition

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Abstract

Governance structures in Irish universities are undergoing a significant transformation as the passing of new legislation in October 2022, the Higher Education Authority (HEA) Act, heralded the beginning of a new relationship between the Irish state, the universities and their regulator, the HEA. This paper provides an analysis of the changes taking place in university governance with the implementation of the HEA Act and locates the current developments in the context of wider governance reforms that have taken place across European higher education. The findings of an empirical research study involving elite interviews with key stakeholders in Irish higher education governance are also presented; the results capture the early experience of implementing governance reform, with key stakeholders agreeing that smaller supervisory boards result in better governance, more rigour in the way board members approach their roles, and greater accountability required of executives, which is expected to lead to greater tension between boards and their executives. The paper concludes by identifying opportunities for further research with a follow-up study of the impact of the governance reforms on board effectiveness proposed once the new governing boards have served a full term.

Keywords: board size, European higher education, Higher Education Authority Act 2022, Irish universities, supervisory boards, university governance.

Introduction

On 12 October 2022, President of Ireland, Michael D. Higgins signed into law the Higher Education Authority (HEA) Act and in so doing, initiated a transformation in the governance arrangements of the Irish higher education (HE) sector. The HEA Act 2022 marks the beginning of a new relationship between the Irish state, the universities and their regulator, the HEA. In common with established trends in the evolution of HE governance structures across Europe, the Act seeks to strengthen institutional governance within universities – by providing new board structures and new functions to the governing authorities – while simultaneously reinforcing the powers of the HEA and increasing the boards' accountability to the state.

The HEA Act establishes a 'co-governance framework' between governing boards and the HEA, with responsibility for internal governance of higher education institutions (HEIs) resting with university governing authorities, which are in turn overseen by the HEA. The primary purpose of the HEA Act is to legislate for the powers of the HEA as regulator. Accordingly, the Act provides far-reaching new powers of review and sanction to the HEA to address any governance or performance concerns the regulator may have about individual institutions. In order to strengthen governance within universities, the HEA Act requires a reduction in size of university governing authorities from forty-person stakeholder boards to nineteen-person competency-based supervisory boards, with a majority of external members. The legislation also sets out significant new responsibilities for the governing boards, including internal performance management and accountability for university strategy; ensuring compliance with government policy; and performance management of the Chief Officer.

The purpose of this article is to provide an analysis of the most recent changes to governance arrangements in Irish HE with the implementation of the HEA Act 2022, and to evaluate the extent to which those changes reflect broader international trends in governance structures in HE. The article will also outline the findings of an empirical research study with key stakeholders in Irish HE governance to capture the early experience of implementing governance reform, examining how key stakeholders are experiencing the changes and what challenges and opportunities are evident in managing the changes.

In what follows, this research study will examine a transformational moment in the governance landscape of Irish HE by tracing the transition to supervisory governance boards in Ireland's universities. Next it provides the background and context for governance reform in Irish HE, setting out the changes to governance structures required by the HEA Act, and linking the Irish context to broader trends across Europe. The analysis is grounded in the theoretical perspectives underpinning corporate governance, emphasising the agency approach as the dominant perspective evident in the new legislation, and arguing for a multitheoretic approach to fully comprehend the transformation that is currently taking place in HE governance. The paper also provides a brief overview of the key themes emerging from the literature on corporate governance trends across European HE, with a view to understanding the extent to which recent changes in Irish HE governance are reflective of wider European trends. Subsequently, the article includes discussion and analysis of the roll-out of governance reform in Irish HE arising from the HEA Act, as well as reporting the findings of an empirical research project involving elite interviews with key stakeholders in the sector to capture the early experience of implementing governance reform. Finally, the paper concludes by presenting a summary of the findings in the context of the previous literature in the field and draws conclusions from the research, as well as identifying new avenues for further study.

Background and context

Prior to October 2022, the Universities Act 1997 provided the primary legislative basis for Irish HE structures. The 1997 Act provides for a bicameral structure of a governing authority with overall responsibility for university governance and an academic council which oversees academic governance. The governing authority is the ultimate authority with extensive powers, including controlling the university's land and property, appointing the Chief Officer and managing their performance, creating statutes and regulations, approving the university's strategic plan and budgets (Universities Act, 1997, chp. 2, section 18). The Act also provides for a Chief Officer/University President with significant executive authority to 'manage and direct the university in its academic, administrative, financial, personnel and other activities', who is answerable to the governing authority as the Accounting Officer (Universities Act, 1997, fourth schedule, (1) (2)). Although not explicitly provided for in legislation, in practice

University Presidents have executive teams which are responsible for the day-to-day operation of their institutions, resulting in a two-tiered board structure of a management board and a supervisory board. The Technological Universities Act (2018) provides the legislative underpinning for Ireland's five technological universities and similarly includes a bicameral structure of a governing authority and an academic council, with a Chief Officer (President).

Recent amendments to the Universities Act and the Technological Universities Act via the HEA Act 2022 introduced significant changes to the composition and responsibilities of university governing boards. In autumn 2023, governing boards evolved from forty-person representative stakeholder boards to nineteen-person competency-based supervisory boards with an external Chairperson and a majority of external members. Reflecting an agency perspective, the HEA Act sets out a cogovernance model between university governing authorities and the state's agency, the HEA, with new responsibilities for the governing boards, including internal performance management and accountability, and oversight of compliance with government policies (Universities Act, 1997, chp. 2, section 18, as amended by HEA Act 2022).

The changes to governance structures in Irish HE broadly reflect trends in European HE, as well as the broader context of public sector reform. The last three decades have witnessed a transformation in the governance structures of HEIs. The advent of new public management in the 1980s resulted in widespread reform of public sectors, with the transfer of many public services from direct government control to quasigovernmental organisations that operate at arm's length from the state (Cornforth & Chambers, 2010). In HE, the evolution of governance structures has followed a similar pattern across Europe, with governments stepping back from direct intervention as the emphasis shifts from governing to governance, and devolving more responsibility to Chief Executive Officer (CEO) style university leaders, overseen by supervisory governing boards of predominantly external members bringing skills from the corporate world (Magalhães et al.; 2018, Shattock, 2014; Ferlie et al., 2009; Enders et al., 2011; Gornitzka et al., 2017). At the same time, led by the European Union, a growing recognition emerged of the central role of universities in creating 'knowledge economies' to meet the social and economic needs of society. In a shared governance model, emphasis is placed on the governance structures within universities, while the state steers the HE system from a distance ensuring national strategy and policy delivery on socio-economic needs (Bleiklie & Kogan, 2007; Corbett, 2013; Elken et al., 2011).

Historically, universities were characterised by the central role academics played in their management and governance, described by Henry Mintzberg as 'professional bureaucracies' (1979 quote cited in Carvalho & Videira, 2019, p. 763), and by other commentators as 'a republic of scholars' (Bleiklie & Kogan, 2007, p. 477), or an 'academic oligarchy' (Clark, 1983 cited in Paradeise et al., 2009, p. 58). Within universities, stakeholder boards have been replaced by smaller, supervisory boards, while the role of the once powerful academic councils has diminished (Magalhães et al., 2018; Facchini & Fia, 2021; Carvalho & Videira, 2019). Massification and the increased globalisation of HE have resulted in a more complex business model, with CEO-style Chief Officers and executive management teams leading the development of strategic and financial planning, overseen by governance boards, while academic councils become the guardians of academic standards and quality.

In the next section, this overview will be positioned within the broader context of trends in organisational governance, by providing a summary of the theoretical perspectives which have informed the evolution of governance structures more generally.

Theoretical perspectives on organisational governance

Several theoretical perspectives have been developed over time to explain the relationship between governance structures and the organisations being governed. The main theoretical approaches relevant to the HE sector are summarised in Table 1.

Since the late 1970s, agency theory has provided the dominant perspective in corporate governance research. Its core tenets of board independence, the separation of decision-management from decision-control (Fama & Jensen, 1983), the role of the board (the principal) in monitoring management (the agent), have formed the basis of codes of practice and corporate governance standards for decades (Eisenhardt, 1989). However, the 'perceived passivity and inability of boards to prevent corporate scandals' (Peij et al., 2012, p. 192) such as those of Enron, Tyco and Worldcom in the early 2000s, and Lehman Brothers in 2008, raised questions about the effectiveness of the agency approach.

Limitations of the agency approach include its assumption of managerial opportunism which has been contested by proponents of

Table 1: A comparison of theoretical perspectives on organisational governance (Cornforth, 2003, p. 12)

Theory	*Interests*	*Board members*	*Board role*	*Model*
Agency theory	Owners and managers have different interests	Owners' representatives	Compliance/conformance: safeguard owners' interests oversee management check compliance	Compliance model
Stewardship theory	Owners and managers share interests	Experts	Improve performance: add value to top decisions/ strategy partner/support management	Partnership model
Democratic perspective	Members/the public contain different interests	Lay representatives	Political: represent constituents/members reconcile conflicts make policy control executive	Democratic model
Stakeholder theory	Stakeholders have different interests	Stakeholder representatives: elected or appointed by stakeholder groups	Balancing stakeholder needs: balance stakeholder needs make policy/strategy control management	Stakeholder model
Resource dependency theory	Stakeholders and organisation have different interests	Chosen for influence with key stakeholders	Boundary spanning: secure resources maintain stakeholder relations being external perspective	Co-option model
Managerial hegemony theory	Owners and managers have different interests	Owners' representatives	Largely symbolic: ratify decisions give legitimacy managers have real power	'Rubber-stamp' model

stewardship theory, which sees the manager as motivated by nonfinancial motives (Muth & Donaldson, 1998). Process scholars have also criticised agency theory's exclusive focus on independent variables such as 'the usual suspects' of board structure and composition, and CEO duality, and attempts to link these to output variables like organisational performance, while neglecting board processes and interactions (Pettigrew, 1992; Finkelstein & Mooney, 2003; Huse, 2007). Others have criticised overemphasis on the board's control and monitoring role, at the expense of other roles such as the board's strategic and advisory roles (Hung, 1998; Huse, 2007). Further, empirical studies have delivered weak results when attempting to demonstrate a link between agency variables like board independence/proportion of outside directors and organisational performance, and delivered few insights into how boards actually work (Pettigrew, 1992).

Theoretical pluralism

In the early 2000s, researchers began to call for an alternative approach to the dominant agency paradigm. In 2003, Daily et al. called for a 'dismantling of the fortress' of agency theory and an opening up of the 'black box' of actual board behaviour through process-oriented research. Daily et al. highlighted a significant limitation of agency theory in its exclusive focus on a board's monitoring/control role at the expense of service, strategic and resource roles, and called for a 'multi-theoretic approach to corporate governance' to better recognise the multitude of factors which contribute to organisational performance (2003, p. 372).

In his seminal work on value-creating boards, Morton Huse argues for a behavioural approach to the study of boards to enable boards to create value in organisations (2007). Recognising the limitations of 'input–output' economic approaches to corporate governance research, Huse argues for a behavioural approach which takes account of context, the interactions between board members and stakeholders inside and outside of the boardroom, and which 'bridges the gap between… board task theories and actual board task performance' (2007, p. 4). Chris Cornforth argues that, taken individually, the various theoretical approaches are one-dimensional and fail to capture the breadth of the role of the board, so a multiparadigm perspective is more appropriate (2003, p. 11).

Cornforth proposes a 'paradox perspective' where he outlines some of the key paradoxes facing public boards (2003, p. 11), some of which are highly relevant to HE boards transitioning from stakeholder to supervisory boards. Drawing on the work of Garratt (1996), Cornforth identifies a paradox in the tension between the conformance and performance roles of the board (2003, p. 13). Agency theory emphasises the board's conformance role which involves oversight, scrutiny and risk aversion, whereas stewardship theory emphasises its performance role, requiring vision, a strategic approach and an element of risk-taking. The HEA Act attempts to reflect both the conformance and performance roles, but on balance, seems to place greater emphasis on conformance and compliance with government policy (HEA Act, 2022, sections 64–6 and 77). This is an important tension for the new university boards to navigate because as some critics have observed, governance reforms which are focused on 'tick-the-box compliance' with formal governance codes sometimes overlook informal behaviours of boards such as how boards address issues of information asymmetry with management and how effective boards are in their questioning of management (Peij et al., 2012, p. 193; Bezemer et al., 2014, p. 26).

It could be argued that a multiparadigm approach to corporate governance is necessary to fully comprehend the transformation that is currently taking place in Irish HE governance. The particular characteristics of the HE sector – including flat hierarchies, decentralised structures and strong individual autonomy, and the absence of meaningful incentives, mean that corporate governance approaches based exclusively on control and monitoring tasks are unlikely to enable the board to maximise its contribution to the success of the organisation. By applying a multitheoretic approach, boards may be evaluated based on their contribution to value creation in the organisation through sharing knowledge, expertise and access to resources (Huse, 2007).

Theoretical approaches underpinning governance of Irish higher education

It could be argued that the new legislation governing Irish universities follows a principal–agent approach, with the aim of ensuring that the principal (a combination of university governing authorities and the HEA) controls and monitors the agent (university executives). Since the global financial crisis in 2008, well-documented fiscal and governance failures in the Irish banking sector have led to widespread reform initiatives, including the establishment of a new Department of Public Expenditure and Reform, heightened levels of governance scrutiny and accountability requirements across the public sector, including the HE sector, and the publication of a new *Code of practice for state bodies* (Government of Ireland, 2016). A number of well-publicised governance failures in the HE sector (Bray, 2009; O'Brien, 2017) led to calls for greater scrutiny and control of the sector. In introducing the HEA Bill to the Dáil in 2022, the then Minister for Further and Higher Education, Research, Innovation and Science, Simon Harris, emphasised the enhanced control of the sector that would result from the changes to governance structures: 'The reforms in this Bill will improve oversight and regulation of higher education institutions including in respect of financial matters …' (Harris, 2022). The Act includes many provisions which reflect an agency perspective. The most visible alteration to governance arrangements lies in the changes to the structure, size and composition of university governing boards. Aligned to principal–agent theory, the Act addresses three of the four 'usual suspects' (Finkelstein & Mooney, 2003) of board governance by prescribing a smaller, independent board, with a majority of external members; and an independent external Chairperson, to avoid CEO duality, with the introduction of term limits for members (HEA Act, 2022).

The legislation also sets out board task expectations which reflect the agency view that the primary role of the board is to monitor and control management, including internal performance management and accountability for university strategy; ensuring compliance with government policy; and management of the performance of the Chief Officer (Universities Act, 1997, section 18, 1A (c) as amended by HEA Act, 2022, section 76).

Agency relationships operate at different levels and in multiple directions within the HE sector, with the minister as the ultimate principal and university staff as the ultimate agents. In particular, while university governing boards are established in the legislation as principals and given new oversight responsibilities, they are also simultaneously cast in the role of agents when interacting with the HEA. The purpose of the HEA Act is to provide a legal basis for the functions of the HEA (Department of Further & Higher Education, Research, Innovation and Science, 2022). Accordingly, the legislation provides new powers to the CEO of the HEA when faced with non-compliance from university boards, including the ability to impose remedial or other measures (HEA Act, 2022, section 42). Likewise, the HEA as regulator is explicitly a principal when dealing with the universities, but in its relationship with the Minister for Further and

Higher Education, Research, Innovation and Science, the HEA becomes an agent of the minister, with the powers of the minister to issue directions and guidelines to the HEA clearly delineated in chapter 2 of the Act. The CEO of the HEA is also explicitly accountable as agent to the Public Accounts Committee and other Oireachtas committees (HEA Act, 2022, sections 27, 28).

Governance reform in European higher education

This section provides a brief overview of the key themes emerging from the literature on the evolution of corporate governance structures across the European HE sector, with a view to understanding the extent to which recent changes in Irish HE governance are reflective of wider European trends.

Governance reforms across European HE systems have been the subject of a number of large scale comparative studies over the last two decades, with trends identified in these studies including a reduction of direct state control over HE in favour of the 'state steering' model and an expansion of institutional autonomy (Neave & van Vught, 1991); external market pressures which include increased participation by students, increased scale and international competition, and in some countries, changes to the funding regime all shaping HE governance structures (Ferlie et al., 2009; Shattock, 2017); the challenge of balancing enhanced autonomy with increased accountability requirements (Dill, 2001; Jongbloed et al., 2018), and a gap created between a university's formal autonomy and its actual ability to act independently (Christensen, 2011); the strengthening of HEIs as unitary organisations with strong CEO-type Presidents/Vice Chancellors leading executive teams, overseen by supervisory governing boards made up of predominantly external members (Enders et al., 2011; Ferlie et al., 2009), with traditional concepts of collegiality and consensus-based decision-making perceived to be under threat (Organisation for Economic Co-operation and Development's *Thematic reviews of tertiary education by country* (2007–9); Eurydice, 2008; Enders et al., 2006; Pruvot et al., 2009, 2011, 2017 & 2023; de Boer et al., 2010).

In terms of their size and composition, governance structures in European HE have followed trends in the private sector with the emergence of smaller, supervisory boards made up of predominantly external members (de Boer et al., 2010; Peij et al., 2012). The increasing prevalence of external stakeholders on HE governance boards is frequently cited as one of the most significant imports from the corporate sector over the last two decades, with some studies contending that the shift from academic self-governance to externally dominated boards has resulted in 'boardism' (Magalhães et al., 2018; Veiga et al., 2019). However, across Europe there is a tendency to maintain some element of democratic representation from staff and students on governance boards, with a corresponding decline in the role of collegial academic senates (Shattock, 2021; Gornitzka et al., 2017; Bleiklie & Kogan, 2007). In Ireland, the HEA Act brings governing authorities into line with European trends, with smaller boards with a majority of external members, and some internal membership required, though at nineteen members, Irish boards are closer in size to their United Kingdom counterparts than to most European HE boards.

One notable gap is the lack of diversity of board membership in European HE. This is an area of growing significance in the context of the increased globalisation of HE and the internationalisation of staff and student communities. A comparative study of supervisory boards in Europe found that university boards were not representative of society with limited diversity of gender, age or socio-economic background in the membership and 'an old boys' network' mentality, with women accounting for between 20 and 30 per cent of members; 75–85 per cent of members being over fifty; and the majority of governors holding higher education degrees (de Boer et al., 2010). In Irish HE, significant progress has been made in improving gender diversity on boards with at least 40 per cent of female members required (HEA, 2016); however, other dimensions of diversity are largely unrepresented. The lack of diversity on HE boards threatens to render them out of touch with the communities they serve; this is an issue which merits further study in the Irish context.

While a substantial body of literature is devoted to describing the changes that have taken place in HE governance over the last two decades, less attention is paid to the impact of these changes on board effectiveness or on institutional performance. Recent studies on the governance of universities find ineffective governance structures with governors who lack time, expertise and knowledge attempting to oversee extremely powerful CEOs/Vice Chancellors with significant information asymmetry on the part of the governors (Kakabadse et al., 2020; Greatbatch, 2014; Shattock, 2013). On the other hand, others make the case for an association between good governance and organisational performance, arguing that smaller public sector boards with a majority of external directors can more easily achieve organisational improvements (Cornforth & Chambers, 2010, pp. 17–8).

Governance in transition

As outlined above, the passing of the HEA Act in October 2022 represented the most significant change to governance arrangements in the Irish HE sector for the last twenty-five years. This section will examine the roll-out of governance reform in Irish HE arising from the HEA Act, as well as reporting the findings of a small-scale research project to capture the early experience of this governance transformation, examining how key stakeholders are experiencing the changes and what challenges and opportunities are evident in managing the change. Two years on from the passing of the HEA Act 2022, and one year into its implementation, Ireland's twelve universities which fall under the legislation have implemented the required changes to board structures, appointing competency-based boards of nineteen members, with an external Chairperson and a majority of external members. As the new boards contend with their expanded responsibilities, their accountability requirements to the HEA as regulator have intensified. In order to discharge its responsibility for oversight of effective governance of HEIs, the HEA has put in place a Governance Oversight Framework, including annual oversight agreements between the HEA and each HEI and annual governance statements, to ensure compliance with the policies of government and appropriate accountability for providing value for money for the funding provided by the state, with the aim of underpinning public confidence in the HE sector. The decision of the HEA to apply the *Code of practice for state bodies* (Government of Ireland, 2016) to the sector, instead of previously agreed university codes developed for the sector, reflects the regulator's intention to bring the HE sector into alignment with the governance requirements of the rest of the public sector.

Unanticipated financial challenges at three universities have raised concerns about financial governance in the sector, resulting in the triggering of one of the powers of the HEA under the new legislation, to instruct the governing authorities of each of the three universities to initiate an independent review into the matters of concern, with the findings to be reported to the regulator (HEA Act, 2022, section 64 (1)). As governance in the HE sector comes under the spotlight of media and Public Accounts Committee scrutiny, university executives and their boards are having to learn to adjust to a new relationship with their regulator and the state.

Capturing the early experience of reform in Ireland

The findings of the literature review informed the development of a small-scale empirical research project specific to the Irish HE context. Semi-structured interviews were conducted with six elite stakeholders in HE governance, including board members, Chairpersons and Committee Chairs. The choice of interviewees was informed by the following criteria:

(a) All interviewees are current governors at an Irish university and therefore aware of the context and requirements of the HEA Act.
(b) Board members currently hold a leadership position on their boards.
(c) Board members have experience of serving on multiple boards.
(d) Board members are external to their universities, for greater independence.

All respondents were interviewed individually and asked the same set of questions, and all interviews were conducted using a mix of online and in-person approaches. To preserve the confidentiality and non-traceability of participants, data analysis took the form of a thematic analysis to identify key themes (Denscombe, 2021). The data are presented through the common themes that emerged from all six interviews; comments are generalised, and quotations are not attributed.

Common themes from the research

A thematic analysis of the data presented in the transcripts from all interviews identified a number of common themes on the early experience of the governance transformation and the anticipated impact of the transition to supervisory boards within universities.

Smaller boards are more effective

Interviewees were overwhelmingly of the view that governing authorities would function better with fewer members, with most believing that nineteen is still too big and twelve members would have been preferable. Respondents expressed the view that the board will understand its function better with fewer members, and that the expectations of members will be clearer. There is a strong sense that smaller boards should be better able to hold management to account.

The shift in emphasis towards a majority of external members is seen as positive. Interviewees were confident that workload on a smaller board could be managed by, for example, adding external non-members to subcommittees. External non-members were also seen as helping to prevent group think, especially where there may be tension with the executive: 'external non-members hold a mirror up to the GB [Governing Body] members'.

Role of the Chairperson

The role of the Chairperson was seen as critical, particularly in terms of setting the tone for engagement with management and the expectations of other board members, as well as preventing sectional interests from dominating. The Chair's ability to deftly manage a challenging discussion to consensus is pivotal, while allowing members to share their concerns. One interviewee suggested that the Chair should do annual 360-degree feedback sessions with members, using such sessions as an opportunity to set expectations of members and gain feedback on their own performance.

The relationship between the Chairperson and the University President was also seen as crucial; this relationship requires trust but can also be fraught. One interviewee expressed the view that

> There needs to be a complementarity and a chemistry between the Chair and the President because, in their different ways, they will be setting the tone for the board; other members will look to them for a cue, and if they are in conflict that will not make for a happy board, but if they have a common view of the way the board should work, then you have a good recipe for success.

Diversity

In general, interviewees felt that ensuring board diversity across multiple grounds was difficult to achieve and requires constant attention. As the governing authority effectively controls only ten of the member positions, interviewees felt that they do not have the levers to influence diversity fully. It was noted that it may be difficult to encourage minority group candidates to join as they are in great demand on many boards. Respondents observed that selection procedures can impact on diversity as females are sometimes reluctant to run for elections, while attention needs to be paid to board induction to ensure members from diverse backgrounds are enabled to make full contributions. It was suggested that social class represents the biggest diversity gap on university boards, especially given the socio-economic demographics of parts of the country and noted the absence of remuneration for HE boards as a potential disincentive to participation.

Challenges to recruiting the right board members

There was broad consensus that the main deterrent to joining a HE board is the time commitment involved. This was noted as being a particular issue for universities outside of Dublin, with many potential board members based in Dublin and the distance to travel to meetings seen as an obstacle. Very often universities are drawing on retired candidates who have more free time. Other issues which make it difficult to attract the right calibre of board members include potential reputational damage – issues in the university sector tend to feature in the media in a way they do not in the private sector, thereby exposing board members to reputational risk. It was also noted that the HEA Act confers significant legal liability on board members. One interviewee observed that recent governance failings at the national broadcaster, RTÉ, would create ripple effects across the whole public sector, with the prospect of being compelled to appear before the Public Accounts Committee a real deterrent to potential board members.

Less important and an issue which divided opinion was the absence of remuneration for governing authority members. It was noted that members of state boards are paid, while HE board members are not, which may send a message about the level of value placed on the work. One respondent felt that HE boards are not performing to a level that would make remuneration appropriate, while another felt that members are freer to be critical if they are not paid. On the other hand, university boards are seen as attractive to people with professional qualifications who understand the importance of passing on expertise and who value what a university education did for them.

Information asymmetry

Interviewees expressed concern about the problem of information asymmetry between the board and the executive and had practical suggestions for overcoming this knowledge gap. Participants felt that it was important for board members to be able to engage with people in the university below the level of the management team to find out what is going on and to increase the level of awareness of the governing authority and what it does – it was notable that interviewees themselves had numerous contact points within their universities. Creating informal opportunities for governors to find out more about the workings of the university was also suggested, with one respondent advocating a 'man-marking' system where governors are linked up with colleagues in the university to learn more about its business. The quality of information presented to governing authorities also needs to improve with participants anticipating more specific demands for information and a need for the improved presentation of information, for example in the form of a dashboard of key performance indicators where the board can monitor progress; summaries of key issues/risks; a page limit on documentation, all of which, if done well, can serve to manage performance and enhance transparency. One interviewee expressed the view that a 'paradigm shift is now required of executives with the old approach of blinding boards with papers no longer acceptable'.

Relationship with the executive
A strong theme emerging from the empirical research was the extent to which participants believe the relationship between the board and the executive will change in the light of the new legislation. A smaller board makes for more insightful discussion at meetings and greater ability to hold management to account, with less scope for deflection and obfuscation. There was a sense that the new governance arrangements should enhance the rigour with which the governing authority does its business – the specificity of the board's obligations under the Act requires greater professionalism on the part of the executive in responding to matters of compliance, with greater tension expected between the two bodies as the board can no longer be satisfied by accepting the assurances of the CEO. The important role of subcommittees and subcommittee Chairs in holding the executive to account was also emphasised. One interviewee noted that under the HEA Act, the governing authorities now have enormous power and responsibilities, which has the potential to lead to tension because 'Presidents perceive themselves as autonomous agents of authority – who do not see their power as flowing from the governing authorities'.

One interviewee cautioned against setting up a lack of trust between the board and the executive:

> If you set up the authority in opposition to the executive you are starting from the wrong place. People have to understand they are all there for the good of the university, that the board is going

to ask difficult, challenging questions, that the executive must be truthful and open, and that the board won't meddle in operational matters.

Discussion on issues arising from the research findings

Overall, there were mixed views on how the new governance arrangements will evolve over time. In general, interviewees were positive about the prospect of smaller boards leading to greater professionalism and more effective governance but also aware of the challenges of attracting high calibre members and of the changing dynamic with executives. It was suggested that the new governance structures should be reviewed after the first term to see how the supervisory boards have worked. One interviewee expressed the view that university executives 'do not desire governance and oversight, nor do they want to go through the complicated process of coevolving appropriate governance accountability and delegation'. In such a scenario, it would be easy for governing authorities to slip back to where they were because if high calibre members do not see themselves making an impact, they will exit and boards will become dysfunctional 'rubber-stampers'. It was also noted that the civil service sees the governance system as the solution to the performance problem in HE, while failing to recognise that the sector has been in 'a state of managed decline' with systemic underfunding relative to international norms and a system that is bottom in Europe for staffing autonomy, with an instrumentalist approach to policy driving homogeneity. As one interviewee observed: 'Government is tinkering with what it can tinker with in order to make the "trappings of governance" take place'.

The impact of the governance reforms on the performance of the Irish HE sector remains to be seen. It is too early to tell how the new governance arrangements will evolve over time but one critical dimension to consider is how the relationship between the new boards, their executives and the HEA develops. If the implementation of the HEA Act by each of these bodies adopts a narrow agency-led focus on 'tick-box compliance' rather than a broader perspective on the performance of the sector as a whole, it will be challenging for the new boards to deliver effective governance. Reflecting on Cornforth's paradox perspective (2003) and the tension between the board's conformance and performance roles, the new boards will need to consider how they balance their monitoring, strategic and advisory roles if they are to truly create value for their universities.

Conformance is necessary but not sufficient; performance is also required. While the political system tends to look to governance reform as the solution to the performance problem, it is also important to recognise that by European standards, the Irish HE sector is underfunded relative to international norms – in 2022, government spending on tertiary education in Ireland was the third lowest in the European Union at 0.5 per cent of gross domestic product (Eurostat, 2022), while Ireland ranks in the bottom percentile in Europe for staffing autonomy (Pruvot et al., 2023). Performance has two dimensions – endogenous and exogenous; while effective governance can enhance endogenous variables like the quality of staff hired, internal work practices and behaviours, effective systems and processes, exogenous variables are harder for boards to influence. Higher education is an internationally competitive sector where the performance of the Irish system must be seen in the context of the performance of the global HE system; Irish universities compete internationally – for students, for staff, for research funding – but it is challenging to attain international standards without comparable levels of investment in the sector. A key measure of success for the new university boards will be whether they can rebuild public and political confidence in the governance and performance of the sector, in order to justify the level of public investment required to make the Irish HE system internationally competitive.

Limitations of the research and future research priorities

The main limitation of the research is the small sample size of six key stakeholders in Irish university governance. The interviewees can be described as elite participants because the seniority of the positions they hold means that they are uniquely placed to provide insights on the governance structures: the focus here is on quality of inputs rather than quantity. However, the participants may be influenced by individual bias in being unduly shaped by their own experiences. Many of the findings in the empirical research align with the insights from the literature overview, but to validate the findings of the study, further research should be undertaken with a broader cohort of governing authority members, and for comparative purposes, with members of university executives as well. A further limitation of the research is that it was conducted within the first year of passing the new legislation. A follow-up study when the legislation is fully implemented, and the new boards have completed a full term is planned and likely to provide further insights into the impact of the legislative reforms on governance of the sector.

Conclusion

The passing of the HEA Act in October 2022 heralded the beginning of a transformation in governance arrangements in the Irish HE sector. This article has provided an overview of the main changes to governance structures within universities and between universities and the state. The HEA Act has essentially established a cogovernance framework whereby university governing authorities are responsible for ensuring good governance internally within universities and externally are answerable to the HEA as regulator. To achieve this, university governing authorities have transitioned from large stakeholder boards to smaller, supervisory boards of predominantly external members, with increased functions and performance management and accountability responsibilities. These developments have also been considered in the context of broader corporate governance trends across Europe. A review of the literature indicates that changes to governance structures in Irish HE broadly reflect European models but have not evolved at the same pace as their European counterparts.

The literature overview also demonstrates that changes to the composition of Irish governing authorities under the HEA Act are reflective of the evolution of governance structures across Europe, with smaller supervisory governing boards made up of predominantly external members being the norm, and with a corresponding decline in the role of collegial academic senates. However, adaptation of global trends to suit local and national circumstances is also evident with most HE sectors opting for a balance of competency-based and representative boards, with some element of democratic representation included in board membership. One notable gap is the lack of diversity of board membership in HE. This is an area of growing significance in the context of the increased globalisation of HE and the internationalisation of staff and student communities.

The analysis of governance reform in Irish HE is grounded in the theoretical perspectives underpinning corporate governance research, with principal–agent theory identified as the dominant approach evident in the new legislation, although the influence of stakeholder theory is also evident in the representation of staff and students on the board. The limitations of the agency perspective are considered, and the case is made for adopting a multitheoretic approach, incorporating behavioural approaches, in order to fully comprehend the transformation that is currently taking place in Irish HE governance.

Building on the findings of the literature, the results of a small-scale empirical research project involving elite interviews with key participants in the governance structures of Irish HE are presented and provide an insight into the early experiences of managing the governance transition. Overall, there was consensus among interviewees that smaller supervisory boards result in better governance, more rigour in the way the board approaches its role and greater accountability from executives. However, it was also anticipated that the changes to governing authority functions would result in more tension between boards and their executives who are used to a lighter-touch approach to governance. Recognising that the new supervisory boards and the cogovernance arrangements with the HEA will result in more conformance and compliance with government policy, there was some scepticism from interviewees as to whether this would prove effective in enhancing the performance of the HE sector, with concerns expressed about the emergence of an instrumentalist approach to HE.

Finally, the limitations of the study were identified, and future research opportunities were highlighted, including the need for a follow-up study of the impact of the governance reforms on board effectiveness once the new governing authorities have served a full term. At this critical juncture in the evolution of governance structures in Irish HE, it is opportune to explore how the transition to supervisory boards is taking effect, how the key actors are experiencing this governance transformation and what challenges and opportunities are evident in managing the change. A study of the key variables of board structure, processes and roles – the operation of the new supervisory boards and the impact on the principal–agent relationship between the board and the executive and between the universities and their regulator, the HEA, is likely to yield important insights into the effectiveness of the new HE supervisory boards and the impact of governance reforms on the performance of the sector.

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