

CRUINNIÚ BHORD OIDEACHAIS AGUS OILIÚNA CHIARRAÍ KERRY EDUCATION AND TRAINING BOARD MEETING

Date and Time:	Tuesday, September 26 th , 2023, at 04:15 pm				
Location:	Hybrid: Kerry ETB Head Office, Centrepoint, Tralee, Co. Kerry and via Microsoft Teams				
Chairperson:	Cllr. Jim Finucane				
Secretary:	Mr Colm McEvoy, Chief Executive Officer (CEO)				
Attendance (Reserve Members):	 Cllr. Aoife Thornton Ms Celia O'Shea Cllr. Deirdre Ferris (VC) Cllr. Fionnán Fitzgerald (VC) Cllr. Jim Finucane Mr Joseph Brennan Cllr. Johnnie Wall Cllr. Marie Moloney (VC) Cllr. Maura Healy-Rae (VC) Cllr. Michael Cahill (VC) Mr Niall Lucey Cllr. Niall O'Callaghan Cllr. Norma Moriarty (VC) Ms Tara Donoghue (VC) Cllr. Terry O'Brien Mr Zaid Kassoob 				
Attendance (Executive Members):	 Mr Colm McEvoy, CEO Ms Ann O'Dwyer, Director of Schools, Youth and Music (SY&M) Ms Maria Brennan, Director of Organisation Support and Development (OS&D) Mr Owen O'Donnell, Director of Further Education and Training (FET) Ms Aileen O'Connor, Head of Corporate, Capital and Technology (CCT) Ms Yvonne Cronin, Acting Head of Human Resources Mr Tommy Conroy, Head of Finance Mr Padraig O'Sullivan, Buildings Officer Ms Trisha Tierney, Executive Support Ms Jennifer Drumm, Executive Support 				

Apologies:	Cllr. Cathal Foley, Board Member
	Ms Joan McCrohan, Board Member
	Mr John O'Roarke, Board Member
	Ms Maria O'Gorman, Board Member
	Mr Tim Daly, Board Member
	Ms Betty Corkey, Head of Human Resources
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09/2023/0	CONFLICT OF INTEREST COIMHLINT LEASA				
	As per Section 1.18 of Circular Letter (CL) 0002/2019, a conflict of interest form was circulated to each Board Member before the meeting for signature. Furthermore, the Chairperson, Cllr. Jim Finucane asked Board Members to disclose any conflicts of interest prior to the commencement of the meeting. There were no conflicts of interest disclosed relevant to the meeting's				
	agenda items, as discussed.				

09/2023/1	CONDOLENCES COMHBHRÓN				
	 Condolences/Comhbhrón An Cathaoirleach expressed his sympathy and that of the Board to: Ms Anne-Marie Lane, Head Office, on the death of her mother, Ms Mary Lane. Ms Geraldine Collins, Kerry College, of the death of her father-in-law, Michael Collins. Ms Ancilla O'Regan, Head Office, on the death of her aunt, Ms Mary O'Connell. Ms Nora Corridon, Quality Assurance Unit, on the death of her mother-in-law, Mary Corridon. To the family of Cllr Damien O'Reilly, Chairperson of the Board of Louth-Meath ETB. 				

09/2023/2	CONGRATULATIONS COMHGHAIRDEAS				
	Congratulations/Comhghairdeas An Cathaoirleach shared congratulations to the following: • Kerry ETB post-primary learners upon receiving their Leaving Certificate results on August 25th, 2023. • Kerry College learners enrolled in the Digital Journalism, Podcasting, and Radio course who were shortlisted in the "Short Feature" category at the national IMRO Radio Awards 2023 for their "Dear Kerry" series. • The team of learners who represented Kerry ETB and Kerry College at the national World Skills Ireland event. • Silver Medal winners: Kieran Finnerty (Architectural Stonemasonry category) and Ciara O'Sullivan (Beauty Therapy category), as well as Alison O'Sullivan, who secured the runner-up position in the Cookery category. • Castleisland College learners Shauna O'Keeffe and David Peskett, along with their teacher Laura Leahy, who secured second place in the European Finals of the Foróige Enterprise Competition. An Cathaoirleach requested that an invitation be extended to the learners involved in the World Skills to join a future meeting in recognition of their achievements. This was agreed.				

09/2023/3	MINUTES OF LAST BOARD MEETING - FOR ADOPTION MIONTUAIRISCÍ ÓN GCRUINNIÚ DEIREANACH BOIRD – LE GLACADH				
	The minutes of the previous Board meeting held on July 25th, 2023, were circulated to the Board Members in advance of the meeting.				
	The minutes were presented to the Board for approval.				
	Proposed: Cllr. Niall O'Callaghan Seconded: Cllr. Terry O'Brien				
	The minutes were adopted and signed at the meeting.				

09/2023/4	EDUCATION AND TRAINING TOPICS FOR DISCUSSION ÁBHAIR OIDEACHAS AGUS OILIÚINT LE PLÉ				
4.1	Input from Education and Training Boards Ireland – Mr Paddy Lavelle, ETBI Secretary General The Members of the Board and Executive extended a warm welcome to Mr Paddy Lavelle, the General Secretary of ETBI (Education and Training Boards Ireland). Mr Lavelle conveyed his appreciation to the Board for the invitation to attend the meeting and subsequently delivered a presentation covering the following key areas: • About ETBI • Governance • Strategy implementation priorities • Executive structure (including the wind-up of the Association and transfer of funds and assets to the Company Limited by Guarantee) In the ensuing discussion, some of the key points were noted: • The value of continued collaboration between ETBs and ETBI was emphasised, particularly in the context of informing national policy development. • The shared challenges across the sector were discussed, including the rollout of the Community National School (CNS) model, Organisational Design II, reforms of the Central Applications Office for FET, and the role of ETBs in meeting special educational needs				
	 requirements in the future. The growing role that ETBs will need to play in leading efforts on equality, diversity, and inclusion, given their geographical scope, was discussed. Potential new areas of development for ETBs were discussed. 				
	The CEO expressed gratitude to Mr Lavelle for his presentation and attendance at the meeting. The CEO concluded the discussion by reiterating the importance of the work carried out collectively by ETBs and ETBI.				
	Finally, the An Cathaoirleach extended thanks to Mr Lavelle for attending and wished him success at the forthcoming ETBI Conference in Cork, commencing September 27 th , 2023.				

4.2

English as an Additional Language (EAL) and English for Speakers of Other Languages (ESOL) - Mr Pat O'Sullivan, Special Education Needs and Access Support Officer, Ms Brenda Kelly, International Protection Response Manager and Mr Kevin Fay, Adult Education Officer

Due to time constraints, it was noted that the EAL (English as an Additional Language) and ESOL (English for Speakers of Other Languages) presentations would be rescheduled to the October 2023 Board meeting.

06/2023/5	MATTERS ARISING FROM MINUTES NITHE ATÁ AG ÉIRÍ AS NA MIONTUAIRISCÍ The 'Matters Arising From Minutes' were addressed under the relevant reports as follows:				
	4.1	Legal Summons by Valley Healthcare Infrastructure Investment Fund ICAV (Head Office Service Charges) – see Finance Report Section 7.4			
	4.2	Kerry College Killarney Campus Building Project – see Capital and Buildings' Report Section 7.6			
	4.3	Head Office Accommodation, Business Case Moyderwell Building – see Capital and Buildings' Report Section 7.6			
	4.4	Scamps and Scholars Lease – see Capital and Buildings' Report Section 7.6			
	4.5	Over the Water Sports Centre Company Limited by Guarantee – see Chief Executive Officer's Report Section 7.7			
	4.6	Schools Voluntary Contributions/Fees (Section 50 of the ETB Act, 2013) – see Chief Executive Officer's Report Section 7.7			
		2013) – see Cnief Executive Officer's Report Section 7.7			

09/2023/6	GOVERNANCE RIALACHAS				
6.1	Board Members' Attendance Report, Mid-Year Review 2023 (as circulated) A priority identified under the Performance Delivery Agreement between the Department of Education (DE) and Kerry ETB is 'Attendance Rates at Board Meetings.' The DE has set out that ETBs should re-emphasise to individual boards the requirement for attendance at all board meetings, as per the Code of Practice for the Governance of ETBs (CL 0002/2019). Members of the Board were advised that the Executive had completed a mid-year (2023) review of attendance at Board meetings, with an overview of results included in the September Board pack. Members were invited to contact An Cathaoirleach or CEO in relation to any concerns they may have regarding their attendance at meetings. Members of the Board noted this update.				
6.2	Service Plan 2023, Mid-Year Priorities Review (as circulated) Board Members acknowledged the receipt of a presentation overview of the Mid-Year Priorities Review of Service Plan 2023, as circulated. It was noted that priority projects across the scheme are proceeding well. Members were encouraged to contact the Executive if they had any questions or comments.				

6.3 Risk Management Update

Ms Maria Brennan, Director of OS&D and Chief Risk Officer, provided the following update:

National Risk Assessment 2023 - Overview of Strategic Risks (as circulated) On August 3rd, 2023, the Government published the National Risk Assessment 2023 – Overview of Strategic Risks. This document outlines 25 strategic risks encompassing economic, geopolitical, social, environmental, and technological aspects that Ireland may face over the short, medium, and long term.

It was noted that a copy of this report had been included in the September Board pack for Members' reference.

The Board Members were advised that the Executive had reviewed the publication and updated its Corporate Risk Register on foot of this review. The updated Corporate Risk register (version 1.3, 2023) will be tabled at the October 2023 Board meeting.

Corporate Risk Register Version 1.3, 2023

It was noted that the Senior Executive Management (SEM) team is currently updating the Corporate Risk Register (1.3, 2023) on foot of the publication of Strategy Statement 2023-2027 and the National Risk Assessment 2023 (as addressed above). In this context, a thorough review of the register took place at the Senior Executive Management meeting on September 4th, 2023.

The Corporate Risk Register Version 1.3, 2023, which now includes 10 risks, will be tabled at the October 2023 Board meeting for Members to review and note actions/controls as relevant.

In addition to the above, Members were advised that the annual review of Kerry ETB's risk management documentation, including the risk management policy and appetite statement, is scheduled to commence the week ending October 20th, 2023.

An Cathaoirleach thanked the Chief Risk Officer for her update.

6.4 Governance and Policy Framework

The following policy, as circulated with the agenda, was presented for approval by Ms Maria Brennan, Director of OS&D:

• Customer Charter and Action Plan 2023-2025 (as circulated)

The Board approved the above-listed policy as presented.

Proposed: Cllr. Johnnie Wall Seconded: Cllr. Deirdre Ferris

6.5 Section 44 Committees: Minutes

The following Section 44 Committees' minutes, as circulated with the agenda, were presented for approval:

Section 44 Committee	Date of Meeting	Board Member in Attendance	
Two Mile Community National School	24.04.23	N/A	
Castleisland Community College	30.03.23	Cllr. Fionnán Fitzgerald, Tim Daly, Joan McCrohan	
Causeway Comprehensive School	24.04.23	Cllr. Aoife Thornton, Maria O'Gorman	
. 10.	27.02.23	Maria O'Gorman, Celia O'Shea	
Coláiste na Ríochta	08.05.23	Maria O'Gorman, Celia O'Shea	
C-14t-to Ctl	18.01.23	Cllr. Norma Moriarty	
Coláiste na Sceilge	07.06.23	Cllr. Norma Moriarty	
Gaelcholáiste Chiarraí	19.01.23	Niall Lucey	
Gaeicholaiste Chiarrai	23.03.23	Niall Lucey	
Youthreach	14.12.22 (Record of Discussion)	Cllr. Deirdre Ferris	
	18.01.23		
Kerry College of Further Education and Training	24.04.23	Cllr. Jim Finucane, Cllr. Norma Moriarty, Cllr. Terry O'Brien	
Further Education and Training Centres	29.03.23	Cllr. Niall O'Callaghan, Cllr Deirdre Ferris, Ms Marie O'Gorman, Cllr Norma Moriarty	
V	17.01.23	Cllr. Norma Moriarty, Cllr. Marie Moloney	
Youth Work	21.03.23	Cllr. Norma Moriarty, Cllr. Marie Moloney	
Maria Carranation Various	30.11.22	Cllr. Deirdre Ferris, Tara Donoghue	
Music Generation Kerry	08.03.23	Cllr. Deirdre Ferris, Tara Donoghue	

The Board approved the above-listed minutes.

Proposed: Cllr. Deirdre Ferris Seconded: Cllr. Terry O'Brien

6.6 Section 44 Committees: Appointments and Vacancies

Youth Work Committee

The following nomination to the Section 44 Committee for Youth, as circulated with the agenda, was presented for approval:

Section 44 Committee	Nomination
Youth Work	Bernie Smyth (KDYS Chief Executive Officer) - Community/Other Nominees

With respect to the nomination, Ms Ann O'Dwyer, Director of SY&M, advised members that it is national standard practice to include youth services on ETB Youth Work Committees as a means of promoting a coordinated approach among stakeholders. The Director of SY&M advised Members of the Board of advice received from ETBI supporting this position – clarifying that while the Kerry ETB Youth Work Committee addresses oversight and policy matters regarding the development and expansion of youth services in the county, the committee does not make decisions on the allocation of funding (this being the role of the executive's coordination team).

In an ensuing discussion, some concerns about the appointment of a grant recipient to a subcommittee of the ETB Board from which it receives significant funding were discussed. It was noted that such a situation could potentially lead to a perceived, potential or actual conflict of interest.

Members were advised that Mayson Hayes and Curran (MHC), Kerry ETB legal advisors, had provided advice regarding this matter. MHC had advised the appointment may appear to give the grant recipient a perceived bias or undue influence in decision-making, even if the nominee avoids finance-related matters through a conflict of interest process. The legal team also outlined that the appointment could result in the underutilisation of the seat on the committee, given the likelihood that the nominee will have to excuse herself from several agenda items/discussions.

To allow for sufficient consideration of the proposal as presented, it was deferred to the October 2023 Board meeting.

<u>Establishment of three new Boards of Management for Kerry ETB's Community National Schools (2023-2027)</u>

Kerry ETB currently operates three Community National Schools (CNS) (included below), Two Mile CNS, Tahilla CNS and Scoil an Ghleanna Scoil Náisiúnta Pobail. Each CNS has a Section 44 Committee (more commonly referred to as Board of Management or BOM) established in line with the provisions of Section 44(11) ETB Act 2013. The four-year term of office for these BOMs, along with all other primary schools in Ireland, is due to come

to an end on November 30th, 2023, and the changeover to new committees will take place from December 1st, 2023.

In preparation for the appointment of new Boards of Management from December 1st, 2023, the Department has published "The Governance Manual for Primary Schools 2023 – 2027" and the associated "Circular 0049/2023".

As per the published Department's Governance Manual, the following structure for the three CNS Section 44 Committees/BOMs was presented for approval:

Kerry ETB Patron	Teachers'	Parents'	Community	Total
Nominees	Nominees	Nominees	Nominees	
2	2	2	2	8

Proposed: Cllr. Terry O'Brien Seconded: Cllr. Johnnie Wall

It was clarified that the term of office for these committees will be from December 1st, 2023, to November 30th, 2027.

In line with the establishment of these three BOMs, the following Section 44 Committee nominations were presented for approval:

Section 44 Committee	Nominees	
Two Mile Community National School	Pádraig Ó Donnabháin - Patron nomination Stella Loughnane - Patron nomination	
Tahilla Community National School	Pádraig Ó Donnabháin - Patron nomination Dermot Healy - Patron nomination	
Scoil an Ghleanna, Scoil Náisiúnta Phobail	Pádraig Ó Donnabháin - Patron nomination Maurice Fitzgerald - Patron nomination	

Proposed: Mr Niall Lucey Seconded: Cllr. Terry O'Brien

In accordance with Governance Manual Section 10, "The chairperson shall be appointed by the patron, and their authority shall derive from such appointment." The following nominations for chairperson were being presented for approval:

	Section 44 Committee	Nominees	
	Two Mile Community National School	Pádraig Ó Donnabháin	
	Tahilla Community National School	Pádraig Ó Donnabháin	
	Scoil an Ghleanna, Scoil Náisiúnta Phobail	Pádraig Ó Donnabháin	
	Proposed: Mr Niall Lucey Seconded: Cllr. Johnnie Wall Members of the Board wished the BOMs well for their new terms.		
	Members of the board wished the bowls well for their new terms.		
6.7	Partnership Schools' Boards of Management: Minutes (as circulated) Nil at this time.		
6.8	Parliamentary Questions and Oireachtas Enquiries, Quarters 1 and 2, 2023 The Board acknowledged the receipt of a summary report on Parliamentary Questions (PQs) received by Kerry ETB year to date, as well as the process for responding to these questions. This summary report was included in the September 2023 board pack. Kerry ETB received a total of 11 PQS year-to-date. The Board Members noted this update.		
6.9	Interview Boards Membership The CEO referenced the current volume of interviews being scheduled and encouraged as many Board members as possible to make themselves available for interview Board membership. The composition of these interview boards is detailed in Circulars provided by the Department. In making this request, the CEO acknowledged and thanked all Board Members who have participated on the interview boards.		

6.10

Internal Audit Unit Review of Governance and Risk Management in Kerry ETB

Members of the Board were advised that the organisation is currently participating in an Internal Audit Unit (IAU) audit of its governance and risk management structures as conducted by KOSI on behalf of the IAU. The letter of engagement for this audit was included in the September 2023 board pack for Members' reference.

As part of this review, the audit team has requested that Board Members complete a self-assessment questionnaire. This questionnaire was distributed to Board Members on September 18th, 2023, for completion.

It was noted all instructions pertaining to the completion of the questionnaire were provided in the auditor's questionnaire. All completed questionnaires should be submitted directly to the auditor by the deadline of September 29th, 2023.

The Board noted same.

6.11

Self-Assessment Evaluation Process 2024 (Section 4, CL 0002/2019)

Members were advised, pursuant to the guidelines outlined in Section 4 of Circular 0002/2019 (Code of Governance), that the Board is required to undertake a self-assessment evaluation process. The questionnaire for the 2023 assessment was distributed to the Board on September 14th, 2023, and was included in the September 2023 board pack.

The deadline for the submission of this questionnaire is October 24th, 2023.

It was clarified for Members of the Board that this self-assessment process, as mandated by the Code of Governance, is distinct and separate from the questionnaire provided by KOSI/IAU-ETBs.

06/2023/7	EXECUTIVE UPDATES UASDÁTÚ ÓN BHFEIDHMEANNAS
7.1	Schools, Youth and Music Report The Schools, Youth and Music Report, as circulated in advance of the meeting, was noted by the Board, and taken as read. The report addressed the following:
	 Goal 1 Excellence in Education and Training Services Goal 2 Strong, Inclusive and Respectful Organisational Culture Wellbeing Priority Actions Ukrainian and International Protection Goal 3 Opportunities for Greater Organisational Synergies Advanced Manufacturing Pathways Project Schools Strategy Event Day of Learning Statistical Analysis Reports for Schools Traveller Education Developing Schools Enriching Learning Goal 4 A Leader in Education and Training Provision Youth Diversion with Kerry College Goal 5 Continued Expansion of Community National Schools in Kerry Correspondence
	In addition to the above, the Director of SY&M, Ms Ann O'Dwyer, provided an update on road safety concerns at Two Mile Community National School (CNS) and an overview of the Department's revised child protection guidelines.
	Road Safety Concern Two Mile Community National School In addressing the road safety concerns at Two Mile CNS, it was noted that correspondence has been sent to Kerry County Council requesting an emergency response to the increased traffic flow that has arisen at the school due to the current road traffic diversion at Farranfore.
	Ms Tara Donoghue, Board Member and local resident, expressed her appreciation for the measures implemented by the school's principal and Kerry ETB to date.
	Board Member and Councillor Maura Healy Rae stressed the need for further action, adding that she had requested an engineer attend to the site to explore the potential for creating a designated set-down area for the school.

The Director of SY&M took note to engage with Cllr. Healy Rae further to work towards a favourable resolution for the situation.

<u>Circular Letter 0036/2023 Child Protection Procedures for Primary and Post-Primary Schools</u>

The Director of SY&M provided an overview of the below-listed revisions to child protection guidelines as set out to ETBs in the Department's Circular 0036/2023 Child Protection Procedures for Primary and Post-Primary Schools. These updates included the following (non-exhaustive):

- Updated reporting procedures in sections 7 and 9.5, i.e. protecting the anonymity of the child and/or school personnel against whom an allegation is made.
- Reference to the Commencement of the Teaching Council (Information to be Furnished by Employer in Case of Dismissal or Resignation of Registered Teacher) Regulations 2023.
- Clarification that the Child Safeguarding Statement always includes a Risk Assessment.
- Reference to the recently published Child Protection and Safeguarding Procedures for Boarding Facilities associated with Recognised Schools 2023
- Reference to the Addendum to Children First (2019)
- Reference to General Data Protection Regulation.

The Director of SY&M advised that the Circular was effective from September 1st, 2023.

The Board noted this important policy update.

The Board thanked the Director of SY&M for her update.

7.2 Further Education and Training Report

The Further Education and Training Report, as circulated in advance of the meeting, was noted by the Board Members and taken as read. The report addressed the following:

- SOLAS (FET) Budget 2023 Year to Date
- FET Beneficiaries 2023 Year-to-Date
- September 2023 Enrolments:
- Kerry College
- Kerry College Tertiary Courses
- Kerry College Pathway Courses
- Youthreach Enrolments
- SOLAS Correspondence re Kerry College Pilot Initiative
- World Skills Ireland 2023
- Ploughing Championship 2023 (promotion of FET and Apprenticeships options)
- Quality Assurance Update

It was noted that the SOLAS (FET) Budget 2023 update would be addressed in further detail under the Finance Report - Section 7.4.

The Board Members thanked the Director of FET, Mr Owen O'Donnell, for his updates.

7.3 Organisation Support and Development Report

The Organisation Support and Development Report, as circulated in advance of the meeting, was noted by the Board Members and taken as read. The report addressed the following:

- Governance, Compliance and Risk System
- Internal Controls

In addition to her report, as circulated, the Director of OS&D, Ms Maria Brennan, provided an update on a High Court summons.

High Court Summons

The Director of OS&D presented an update to the Members of the Board concerning the receipt of a Statement of Claim for a High Court Case that names Kerry ETB as the second defendant of four, including the Minister for Education and the Minister for Further and Higher Education, Research, Innovation and Science. The claim specifically concerns staff who transferred, under a TUPE arrangement, to Kerry ETB from KDYS in 2018 and their pension entitlements.

In addressing this matter, Board Members were advised by the Director of OS&D of the advice from MHC, Kerry ETB's legal advisors, regarding the appointment of counsel. MHC has advised Kerry ETB to initially engage a junior counsel to prepare a draft defence, and this was noted. In the ensuing discussion, the Board agreed that Kerry ETB should, if the need arises, engage senior counsel to support the process.

The Director of OS&D advised that she would engage with MHC re the engagement of counsel, noting the recommendations of the Board.

A further update will be provided at the next meeting.

The Board Members thanked the Director of OS&D for her report.

7.4 Finance Report

The Finance Report, as circulated in advance of the meeting, was noted by the Board Members and taken as read. The report addressed the following:

- Finance Update
- Legal Summons by Valley Healthcare Infrastructure Investment Fund ICAV (Head Office Service Charges) – Matters Arising 5.1
- Agency Staff Costs 2023 and 2024
- Overdraft Proposal
- Prompt Payments 2023
- SOLAS Funding 2023

<u>Finance Update</u>

The Head of Finance, Mr Tommy Conroy, presented a summary of finances as of August 30th, 2023, as follows:

KERRY ETB CASH GRANTS AS AT 31st AUGUST 2023				
ITEM	Opening Grant Cash Balance *	Receipts	Payments	Closing Grant Cash Balance
Main Scheme				
Pay			(18,738,117)	
Non Pay			(1,795,972)	
Main Scheme Total	360,447	18,998,234	(20,534,088)	(1,175,407)
Associated Main Scheme	952,347	590,998	(663,636)	879,709
Capital	4,611,247	5,501,247	(8,233,755)	1,878,739
Further Education	1,938,910	28,991,447	(30,094,926)	835,431
Youth Affairs	92,933	1,015,290	(1,024,899)	83,323
Agency	445,171	584,976	(903,268)	126,879
Self-Financing	912,130	536,302	(648,060)	800,372
Total:	9,313,184.66	56,218,493.61	(62,102,631.96)	3,429,046.31

The Board Members noted this update.

<u>Legal Summons by Valley Healthcare Infrastructure Investment Fund ICAV</u> (<u>Head Office Service Charges</u>) – <u>Matters Arising 5.1</u>

On September 7th, 2023, Murphy, Ramsey, Walsh (MRW) Solicitors, legal representatives for Kerry ETB, received a Court Summons relating to the ongoing service charge matters.

The court summons, dated September 5th, 2023, addressed proceedings pertaining to the following:

- Service charges €106,913.33
- Oil consummation costs €52,373.12

The Head of Finance advised Members that communications regarding the service charges and oil consumption have been ongoing with the new landlord since June 2020.

In addressing these matters, the Board was advised:

Service Charges

The Head of Finance advised that the auditor's certificates from the landlord, as per the lease provisions, were received on June 20th, 2023. Some further clarifications regarding same were received in early July 2023.

The Head of Finance advised that, in accordance with the agreement made at the Board Meeting on April 26th, 2023, Kerry ETB had paid the insurance premium of €7,846.63 and a payment of €33,325 on account in respect of the service charges while matters pertaining to same were in dispute. The €33,325 payment, representing one year of service charges, was calculated at a rate of €2.50 per square foot. In making this decision, it was deemed prudent in terms of recognising the potential liability in respect of same. The balance presented as outstanding regarding the service charges is €89,034.25 (period from August 1st, 2020, to December 31st, 2022).

In addressing the summons, legal advice was received from MRW solicitors on September 11th, 2023, advising that Kerry ETB carefully consider and compare the auditor's certificates for the service charges and the provisions of Part 2 of the Third Schedule of the lease. The legal advice set out that if the organisation was satisfied that the auditor's certificates were in order with no 'manifest error' (when compared with Part 2 of the Third Schedule), then Kerry ETB should discharge the sums claimed.

By email dated September 13th, 2023, Kerry ETB advised MRW Solicitors of the following:

".... Having carefully considered and compared the Auditor's
Certificate and the provisions of Part 2 of the Third Schedule we can
find no evidence of any clear and obvious mistake that can be
disputed, this is our understanding of your use of the term 'manifest
error'.

Therefore, based on the above we can find no basis to disregard your legal advice that we should immediately discharge the sums claimed and avoid running the risk of incurring significant costs whilst still having to, at the end of the day, discharge the management/service charges.

We will provide an update to the Department of Education in relation to same...."

The CEO advised that he engaged with An Cathaoirleach at this time, providing an update on this matter and the proposed steps to be taken based on the legal advice received.

The Board noted and agreed with the steps taken to address this matter in line with the legal advice received.

The Head of Finance confirmed that the DE had been updated regarding this matter.

Oil Consumption

Regarding the oil consumption costs as included in the summons, the amount pertaining to same is €52,373.12.

The Board was advised that the landlord is levying charges to Kerry ETB based on an equalisation of oil charges across all units and tenants in the building. The organisation has asked for evidence of actual consumption based on a meter reading. To date, this has not been provided by the landlord.

Legal advice dated September 11th, 2023, advised that while oil has been consumed by Kerry ETB and the landlord is entitled to some payment for the oil consumed, the organisation is entitled, as per the lease provisions, to refer the matter to arbitration for a decision. The Board was advised that this matter has been referred to arbitration by Kerry ETB's legal advisers and that the arbitration process may lead to costs.

It was noted that the initial landlord for the Centrepoint building had not levied the organisation for separate service charges or charges for oil.

In concluding discussions pertaining to this matter, the CEO stated that the need for a permanent ETB Head Office is critical in terms of the increasing costs of the current building.

A further update will be provided at the next meeting.

Agency Staff Costs 2023 and 2024

The Head of Finance and the Director of OS&D addressed this matter. The Board was reminded that during the September 27th, 2022, Board meeting, a presentation on Agency Staff Expenditure was delivered. The presentation highlighted that agency costs had experienced a noticeable increase in recent years due to expanded service delivery necessitated by factors such as the COVID-19 pandemic, the Ukrainian response and additional delivery requirements for the organisation. Additionally, in September 2022, it was duly noted that Kerry ETB's reliance on agency staff had been formally recognised and documented on the Kerry ETB Corporate Risk Register. The overall Agency staff cost for 2022 was €1,649,673.

The projected agency staff expenditure of approximately c. €1,798,699 for the year 2023. Business cases for the approval of posts to regularise most positions have been submitted to the Department and SOLAS.

Kerry ETB's projections for 2024 indicate that starting from January 1st, agency staff costs of c. €1,479,715. This 2024 projected costs are broken down as follows:

FET c. €721,867 OS&D c. €520,599 SY&M c. € 31,244 International Protection c. €206,005

The Director of OS&D advised that discussions are ongoing nationally regarding Organisation Design II and the need for additional core staff for ETBs.

The Board noted the update regarding agency staff costs as presented.

Overdraft Proposal

The Director of OS&D and Head of Finance addressed the proposal to establish an overdraft of c. €2,000,000, referencing Section 49 of the ETB Act 2013 and DE Circular 0066/2014. It was noted that borrowing money is a reserved function of the Board.

Circular letter 0066/2014 sets out the following with respect to borrowing money:

- 1. The Chief Executive prepares and submits a proposal in writing to the Board that the Board should borrow for the purposes of carrying out the Board's functions.
- 2. The Board considers the proposal and then, if it is decided in principle that the proposal should be accepted, seeks the consent of the Minister for Education.
- 3. Once the consent of the Minister has been obtained, the Board may accept the Chief Executive's proposal and borrow it in order to carry out the functions of the Board.

In accordance with the provisions of Circular 0066/2014, the Head of Finance submitted a written proposal to the Board for the establishment of an overdraft of €2,000,000 for the purpose of fulfilling the Board's functions.

Members were advised that the rationale underpinning the proposal for the establishment of an overdraft was recent communications from SOLAS regarding the 2023 funding, i.e. the possible shortfall between the 2023

actual SOLAS allocation and the 2023 initial and mid-year funding submissions. It was deemed prudent for the Board to consider establishing an overdraft.

The Board was requested to consider the approval in principle of the establishment of a €2,000,000 overdraft and seek the consent of the Minister for Education.

The Board approved in principle the €2,000,000 overdraft proposal as per the provisions of Circular Letter 0066/2014.

Proposed: Cllr. Aoife Thornton Seconded: Cllr Johnnie Wall

It was noted that once the Minister's consent has been obtained, the Board will have an opportunity to formally "accept the Chief Executive Officer's proposal and proceed with borrowing to fulfil the functions of the Board", as per the provisions of Circular Letter 0066/2014.

Should the Minister's consent be confirmed, this matter will be tabled at the subsequent Board meeting as per the provisions of Circular Letter 0066/2014.

Prompt Payments 2023

The Head of Finance advised that prompt payment interest (PPI) of c. €31,579.48 has been incurred up to September 26th, 2023.

In addressing this matter, the Board was advised that the transition from the SAP financial system to the new financial system in January 2023 has contributed to this level of increased costs. The system's transition necessitated the recreation of open purchase orders as of December 31st, 2022, on the new system.

The Director of OS&D advised in addressing these challenges, several measures that have been implemented, including a comprehensive review of the "Accounts Payable" processes, workshops involving the Accounts Payable team, and the development of a detailed process manual.

Members were advised that this matter is being kept under constant review, and further updates would be provided at a later meeting.

SOLAS Funding 2023

The Head of Finance concluded his update by providing an overview of the SOLAS/FET funding for 2023, which addressed the following:

2023 Initial Funding submission to SOLAS was c. €42,752,665 (FAR 4 submission, Q1 2023)

- 2023 Initial Funding submission to SOLAS was c. €44,105,432 (FAR 4 submission, Q1 2023) [as amended at the December 5th, 2023 Board meeting]
- Mid-Year Review, Kerry ETB request €44,428,872 (Q3 2023)

The shortfall between the actual 2023 SOLAS allocation and the initial submission was noted.

During the subsequent discussion, the Director of FET advised that ETBs have been informed that there is unlikely to be an increase in any budget allocation for 2023 through this year's Mid-Year Funding Review processes. As a result, ETBs have been strongly advised to exercise fiscal restraint in their expenditures. Communications were received on September 21st, 2023, from SOLAS addressing this matter.

The Board was advised that measures have been taken to ensure that the focus of expenditure remains on front-line activities and the delivery of educational and training services to learners to year-end.

A further update will be provided at the next meeting.

The Board noted this update.

7.5 Corporate, Capital and Technology Report

As circulated in advance of the meeting, the Corporate, Capital and Technology Report was noted by the Board and taken as read. The report addressed the following:

- Sustainability/ Climate Action Update
- Health and Safety Update
- Cyber Security Update

An Cathaoirleach thanked the Head of CCT for her updates.

7.6 Capital and Buildings Report

As circulated with the agenda, the Buildings Officer, Mr Padraig O'Sullivan, was noted by the Board and taken as read. The report addressed the following:

- Kerry College Killarney Campus Building Project Matters Arising Section 5.2
- Head Office Accommodation, Business Case Moyderwell Building Matters Arising Section 5.3
- Meeting with the Department of Education Schools Capital Appraisal Section
- Scamps and Scholars Lease Matters Arising Section 5.4
- Gaelcholáiste Chiarraí Campus Nua Conciliation Process
- Coláiste na Sceilge Modular Framework Extension
- Killarney Community College Proposed Extension
- Major Devolved Project Summary
- Additional School Accommodation Projects Summary
- EWS/SWS Project Summary
- FET Projects Summary
- Land and Leases:
 - Licence Agreement between Kerry ETB and Kerry County Board – Pitch at TRSLC
 - o Proposed Purchase of House and Lands Listowel
 - Lease Approvals
 - Use of Seal
 - Applications awaiting Department Approval

<u>Kerry College Killarney Campus Building Project – Matters Arising Section</u> 5.2

At the July 2023 Board meeting, the Board Members were informed about the DFHERIS stakeholder meeting that took place on June 27th, 2023. During this meeting, ETBs received guidance on key aspects of their FET College of the Future applications, including site acquisition, space utilisation, and estate strategy, which are crucial for developing the preliminary business cases (PBCs).

A follow-up workshop was conducted by SOLAS on July 5th, 2023, in Limerick, with a specific emphasis on advancing the completion of the PBCs. Kerry ETB was represented at this workshop by the following staff:

- Mr Owen O'Donnell (Director of FET)
- Mr Con O'Sullivan (Kerry College Monavalley Campus Manager)
- Ms Aileen O'Connor (Head of CCT)
- Ms Elizabeth Conway (CCT Department)

It was noted that during the Limerick-based workshop, SOLAS confirmed their commitment to provide quantity surveying support to assist ETBs in completing the PBC, and an initial meeting for this collaborative effort was scheduled for the week commencing September 18th, 2023.

To conclude the update, the Buildings Officer provided an update to the Board regarding the submission deadline for the PBC and Estates Strategy. Originally set for September 29th, 2023, the deadline has been subject to changes following discussions with SOLAS. It is now anticipated that a nationwide extension will move the submission deadline to either October or November 2023. Formal communication regarding this revised deadline is forthcoming, and Kerry ETB awaits further details before proceeding.

A further update will be provided at the next meeting.

<u>Head Office Accommodation, Business Case Moyderwell Building – Matters Arising Section 5.3</u>

Following the submission of the Moyderwell Building business case and building condition report to the Department of Education (DE) on July 12th, 2023, a meeting was held with the Department's Schools Capital Appraisal Section (SCAS) on September 4th, 2023. This meeting addressed Kerry ETB's Moyderwell proposal within the wider context of the ETB's accommodation needs in Tralee. The business case is under consideration.

Relatedly at the September 4th Department meeting, the proposed extension for Colaiste Gleann Li was addressed in the context of the ETB's wider accommodation needs in Tralee.

A further update will be provided at the next meeting.

<u>Scamps and Scholars Lease – Matters Arising Section 5.4</u> As per the July 2023 Board meeting update, the lease has been in the possession of Scamps and Scholars' legal agents since April 2023.

Kerry ETB's legal agents, Murphy Ramsey Walsh (MRW) Solicitors, are actively engaged in communication with the tenant's legal agents to expedite the signing of this lease; correspondence related to this matter was issued as recently as September 18th, 2023.

Once MRW Solicitors receive the finalised lease from Scamps and Scholars' legal agents, Kerry ETB will move forward with arranging to co-sign.

A further update will be provided at the next meeting.

<u>Licence Agreement between Kerry ETB and Kerry County Board – Pitch at TRSLC</u>

Regarding this matter, which was addressed at the July 2023 Board meeting, members were advised that on August 21st, 2023, Kerry ETB received communication from Mr S C, a member of the Pitch Management Committee, indicating that the pursuit of a Sports Capital Programme application would no longer proceed at this time.

Accordingly, in light of this decision by the County Board, Kerry ETB has not submitted an application to the DE for approval of the revised agreement. Consequently, the proposed extension to the current licence agreement will not be progressed further at this time.

The Board noted this update.

Lease Approvals

Board Members noted the following lease approvals received, as circulated:

- On June 1st, 2023, Kerry ETB received approval for the lease with respect to Units 6 and 7 Keltic Business Park, Cliveragh Industrial Estate, Listowel (FET).
- On June 27th, 2023, Kerry ETB received approval for the lease with respect to 9/10 Denny Street, Tralee (FET).
- On September 21st, 2023, Kerry ETB received approval for the lease with respect to "Ansaldo" Advanced Factory Building Block F, Unit 2, Monavalley Business Park (FET).

Use of Seal

In accordance with, in accordance with Schedule 3, Paragraph (2) of the ETB Act 2013, Members of the Board noted the use of the Kerry ETB seal on June 28th, 2023, to execute the following document:

Lease with respect to 9/10 Denny Street, Tralee (FET).

The Board thanked the Buildings Officer for this comprehensive report.

7.7 Chief Executive Officer's Report

As circulated with the agenda, the Chief Executive Officer Report was noted by the Board and taken as read. The report addressed the following:

- Over the Water Sports Centre Company Limited by Guarantee Matters Arising Section 5.5
- Schools' Voluntary Contributions/Fees (Section 50 of the ETB Act, 2013) – Matters Arising Section 5.6
- Reconfiguration of Office Spaces
- Senior Management Meetings Structure
- Leadership Session August 21st, 2023
- Strategy Statement Implementation
- Irish Language Unit Update
- PR Update
- Finance Matters for Discussion
- Tralee Building Matters
- ETBI Conference: The ETB of the Future

<u>Over the Water Sports Centre Company Limited by Guarantee – Matters</u> Arising Section 5.5

As previously discussed in recent Board meetings over the past few months (*Ref: Board meeting minutes January – June 2023*), engagements have been ongoing between the Chief Executive Officers of Kerry County Council, South Kerry Development Partnership (SKDP) and Kerry ETB in relation to the Over the Water Sports Centre Company Limited by Guarantee.

As part of this arrangement, Kerry ETB is proposing three nominations to the Board of Over the Water Sports Centre Company Limited by Guarantee. The following Kerry ETB nominations for approval by the Board were presented:

- Ms Aodhnait Carroll (Kerry College Killorglin Campus Manager)
- Mr Colm McEvoy (Kerry ETB CEO)
- Mr Maurice Fitzgerald (Coláiste na Sceilge Principal)

The three above-listed nominations were approved.

Proposed: Cllr. Niall O'Callaghan Seconded: Cllr. Jim Finucane

It was noted that Kerry ETB would confirm in writing its nominations to the board/committee to the relevant stakeholders.

<u>Schools' Voluntary Contributions/Fees (Section 50 of the ETB Act, 2013) –</u>
Matters Arising Section 5.6

The agreed "schools' voluntary contributions" for the academic year 2023/2024 level were addressed at the July Board meeting and advised as follows:

Schools with more than 350 enrolled students would incur a monetary contribution of €160 per student.

Schools with a student population of less than 350 would contribute €120 per student.

Since this July Board meeting, advice was sought from the IAU-ETBs regarding the status of "voluntary contributions" and whether they should be classified as voluntary or if they should be considered fees in the context of Section 50 of the ETB Act 2013.

A further update will be provided at the next meeting.

The Board welcomed this update.

Thanks were shared with the Chief Executive Officer for his report.

09/2023/8	CORRESPONDENCE COMHFHREAGRAS
8.1	DE Correspondence: Noted as listed
8.2	DE Circular Letters: Noted as listed
8.3	DE Press Releases: Noted as listed
8.4	DFHERIS Correspondence: Noted as listed
8.5	DFHERIS Press Releases: Noted as listed
8.6	Department of Children, Equality, Disability, Integration and Youth Correspondence: Noted as listed
8.7	ETBI Correspondence Noted as listed
8.8	SOLAS Correspondence Noted as listed
8.9	Other Correspondence Noted as listed

09/2023/9	MEMBERS' BUSINESS GNÓ NA GCOMHALTAÍ			
9.1 and 9.2	Motions Presented By: Cllr Jim Finucane			
	Motion Text (1): All Kerry ETB students should receive swimming instruction before their completion of secondary school			
	Motion Text (2): Kerry ETB explores the possibility of providing a driving course for students with a particular focus on equipping them with practical driving skills and theoretical knowledge			
	These motions were supported unanimously by the Board:			
	In addressing same, the Director of SY&M thanked Cllr Finucane for his motions. She reassured Members of the Board that aquatics and water safety are integral components of the primary school curriculum and are also included as a module in the Junior Cycle Physical Education programme. Prior to the COVID-19 pandemic, all schools had been engaging in some level of swimming activities, noting some schools have not resumed these activities.			
	With respect to driving, the Director of SY&M highlighted the importance of equipping young people with these skills.			
	The Director of SY&M advised that she would follow up with schools and include an update in her October 2023 Board report.			
	The Board welcomed this update.			

09/2023/10	ANY OTHER BUSINESS WITH THE PERMISSION OF AN CATHAOIRLEACH AON GHNÓ EILE LE CEAD AN CHATHAOIRLIGH		
	Welcome Before concluding the meeting, and on behalf of all Members of the Board, An Cathaoirleach welcomed Ms Jennifer Drumm to the meeting, advising that Ms Drumm had joined the CEO's team early in the month. All wished Ms Drumm well in her new role. Next Kerry ETB Board Meeting: The date for the October 2023 Board meeting was noted as follows:		
	Date: Tuesday, October 24 th , 2023 Time: 04:15 pm Location: Kerry ETB Head Office Boardroom,		
	Centrepoint, John Joe Sheehy Road, Tralee, Co. Kerry		

Sínithe/Signed:	Dáta/Date:	
Jillitie/Jigneu.	Data/Date.	