

General Scheme of the Higher Education Authority Bill, 2021

Pre-legislative Scrutiny by Oireachtas Joint Committee on Education and Further and Higher Education, Research, Innovation and Science (20th July, 2021)

Quality and Qualifications Ireland (QQI) Opening Statement

Thank you for inviting QQI to assist the Oireachtas in shaping this important piece of legislation. Some members may recall the work of the last Oireachtas in amending the QQI legislation passed in 2019. That Bill was triggered in part because QQI learned the hard way, through being on the losing side of a judicial review, that it is vital that the functions of statutory bodies are made as current and explicit as possible by the Oireachtas in legislation. The fact that a body has previously undertaken certain activities, either on its own initiative or at the request of a minister, or that many stakeholders, including public representatives, might have reasonable expectations that certain actions fall within the broad remit of the body, does not necessarily give those actions legal effect. As the higher education system has grown in size, complexity and importance to Irish society and its economy over the half century since the HEA was established, it is vital that the statutory basis of its functions be brought up to date.

When QQI was established in 2012 with responsibilities including the external quality assurance of higher education, it was not long before some stakeholders, particularly the designated higher education institutions, began to question the relationship between this new body and the long-established HEA, and whether any overlap of their functions was giving rise to unnecessary regulatory and reporting burdens on the institutions themselves. In response QQI and the HEA put in place a voluntary memorandum of understanding. This set out for the benefit of all concerned our mutual understanding of our respective, distinct, roles and how we intended to cooperate in carrying them out. For example, we coordinate our schedules for visiting institutions, and we share certain information. Our memorandum has been implemented and reviewed several times. Head 19 proposes to put such an agreement between the agencies, and much of our cooperation, on a statutory footing. Broadly speaking, the Bill sets out how QQI's work in quality assurance and in regulating access to QQI awards by private higher education providers will be relied upon by the HEA in defined areas, whilst crucially respecting the independence of QQI. We welcome the clarity and legal certainty that this will bring.

The philosophy of co-regulation expressed in the Scheme mirrors, in respect of wider governance matters, the approach taken to the quality assurance of higher education both in Ireland and internationally. The quality assurance of the education, training, research and related activity of a higher education institution is in the first instance, the responsibility of the institution itself. QQI's approach to the exercise of its powers of monitoring, review, approval or authorisation reflects this model. In this model, mechanisms of transparency and engagement between the regulator and the regulated resolve any problems that the institution's internal processes have not been able to sort out. As a result, we have rarely if ever had to invoke the more intrusive powers of intervention given to us in law. For example, the QQI Act enables us to issue directions to an HEI following unsatisfactory findings in the statutory review of the effectiveness of its quality assurance procedures but to date we have never had to resort to issuing any such direction.

The proposed Bill represents a necessary, proportionate and timely updating of the law regulating higher education in Ireland.

Dr Bryan Maguire, Director of Quality Assurance, QQI