



Ms. Niamh Ward  
Joint Committee on Education  
and Further and Higher Education,  
Research, Innovation and Science  
Leinster House  
Dublin 2

1 June 2021

Re: Request for Submission [405] - PLS of the General Scheme of the HEA Bill  
2021

Dear Niamh

I refer to your e-mail of 26 May 2021 and wish to confirm that SUSI does not propose to make a submission on the General Scheme of the HEA Bill 2021.

SUSI is referenced incidentally in Head 49 in the context of the range of student data that the HEA may request from institutions, etc. for statistical purposes while Heads 111 (change of circumstances) and 112 (Regulations to Prescribe Additional Functions for an Awarding Authority) contain technical and enabling amendments to the Student Support Act under which SUSI operates.

I enclose a short note on current SUSI operations for your information.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Alan Murphy", is written over a horizontal line. Below the line, the name and title are printed in black.

Alan Murphy  
Head of SUSI



## Information Note for the Joint Committee on Education and Further and Higher Education, Research, Innovation and Science

*June 2021*

### Introduction

The forthcoming 2021-22 academic year marks SUSI's tenth year of operations as **Ireland's national awarding authority for further and higher education** grants. Since 2012, SUSI has processed over 878,000 applications, awarded over 661,000 grants to students and paid over **€2.6 billion** in grant funding.

As a modern, centralised government service, SUSI is committed to continuously improving its services for students. Over the last nine years, SUSI's student-focused developments have centred on providing a centralised online application system and supporting services to enable the efficient assessment of grant applications.

Data sharing agreements with government bodies such as the Department of Social Protection, Revenue Commissioners and CAO delivered a streamlined application process, and a very substantial decrease in the need for students to send documentation to SUSI.

Clear payment schedules are published for each academic year giving students certainty on when they will receive their maintenance grant payments. Online application and payment trackers allow students to see the progress of their applications and when their grant payments are due. Further efficiencies have been secured through the direct payment of maintenance grants to students' bank accounts.

The SUSI website has driven awareness of student funding by giving students easy access to the eligibility criteria, income thresholds, application guides and more. The online eligibility reckoner allows students to quickly check if they are eligible for funding.

The development of a responsive Support Desk has ensured that students and the public can connect with SUSI with any questions they may have about student funding and the application process.

SUSI recognises the importance of social media in communicating with students and operates a Facebook and Twitter page. These channels provide real time information and updates as well as giving students the opportunity to converse directly with SUSI.

### [Academic Year 2020-21 | A Look Back](#)

Like many organisations, SUSI quickly adapted to new ways of working to secure continued service for students while also ensuring the wellbeing of our team. SUSI has operated on a working from home basis throughout the pandemic.

Although SUSI saw a five per cent increase in grant applications compared to 2019-20, this increased volume was processed faster than in previous years. Almost 101,000 applications for student funding were received and more than 79,000 grants were awarded.

The mean time for the initial assessment of an application was just over four weeks with the time being just over two weeks for assessment of returned documentation. Process changes introduced for the next academic year are expected to further reduce these processing times.

The ninth and final scheduled instalment of the higher education maintenance grant was paid to more than 52,500 students on 14 May 2021 and the ninth instalment of the PLC maintenance grant will be paid to 5,500 students on 18 June 2021.

Total estimated grant expenditure for the 2020-21 academic year is €350 million. **Maintenance grants account for €160 million with a further €190 million on fees.**

### [Covid-19 Once Off Emergency Grant](#)

The Student Grant Scheme 2020 was updated in December with a provision for a **Covid-19 Once Off Emergency Grant of €250**. **Students awarded a SUSI grant and confirmed as registered and attending a course in 2020-21** are eligible for this payment.

As of April 2021, over 73,000 students had received this payment from SUSI with a total **value of €18.5** million.

### [Academic Year 2021-22 | A Look Ahead](#)

SUSI opened for grant renewal applications on 31 March 2021 and for new grant applications on 22 April 2021. More than 55,000 applications have been received to date and over 32,500 grants have been awarded.

The priority processing dates are 10 June 2021 for renewal applications and 8 July 2021 for new applications. Applicants who submit their applications on or before these dates will receive priority assessment. The online application system will remain open until the autumn, after which late applications fulfilling the necessary criteria will be accepted.

SUSI contacted all renewal students directly by email and SMS to inform them of the opening and priority closing dates and has shared information on how to make a renewal application. Over the coming weeks, SUSI will activate a public engagement campaign to communicate the priority closing date for new applicants to students and stakeholders.

### [Student Grant Scheme 2021](#)

The Student Grant Scheme and Student Support Regulations 2021 were published by the Minister for Further and Higher Education, Research, Innovation and Science on 25 March 2021 and are available on SUSI's website. Changes to the Scheme for the 2021-22 academic year include:

#### Postgraduate Fee Contribution

**The Postgraduate Fee Contribution has increased from €2,000 to €3,500** and the relevant income limits for the Postgraduate Fee Contribution have increased as follows:

Grant Type	Income Limit			Limit Increase per additional person in further/higher education
	Less than 4 Children	4-7 Children	8 or more Children	
Postgraduate Fee Contribution	€54,240	€59,595	€64,700	+€4,830

## Income Disregards

The following are now income disregards which means they will not be counted as reckonable income for grant assessment purposes in the 2021-22 academic year.

- Covid-19 Once Off Emergency Grant
- Dormant Account Funding for Traveller Participation in Higher Education
- Fuel Allowance
- Living Alone Allowance
- Pandemic Placement Grant for Student Nurses and Midwives

## Applicant Support

SUSI is committed to driving an awareness of student funding through open, transparent, accessible communication. This is delivered through targeted communications campaigns, **SUSI's highly responsive and dedicated** Stakeholder and Support Desks, susi.ie, social media channels and a strong outreach programme.

The Support Desk assists applicants and members of the public with any questions they may have. Students and their families can contact SUSI via phone, email and through social media on both Facebook and Twitter. For the 2020-21 academic year, the SUSI Support Desk handled almost 230,000 contacts across all platforms up to April 2021. SUSI provides weekly updates on application processing dates for students via automated messaging on our Support Desk phone line and through social media.

The introduction of a Stakeholder Helpdesk and stakeholder training has enabled SUSI to support students indirectly through stakeholders including Oireachtas members, HEI Access Officers and Students Union Representatives. SUSI also delivers training to key stakeholders annually including Citizens Information staff, HEI Access Officers and members of the Institute of Guidance Counsellors.

SUSI participates in a variety of outreach events throughout the year with the aim of meeting students and answering any questions they may have about the application process. These events now take place virtually.

## Conclusion

SUSI continues to improve its effectiveness and service delivery for students with a culture of continuous review and improvement embedded in the organisation.

SUSI remains fully committed to the continued fair and consistent administration of student grant funding in line with the Student Support Act 2011, the Student Grant Schemes and the Student Support Regulations.

*SUSI – Student Universal Support Ireland  
1 June 2021*

**From:** DCU President <president@dcu.ie>

**Sent:** Thursday 10 June 2021 09:59

**To:** Education and Further and Higher Education, Research, Innovation and Science <education@oireachtas.ie>

**Subject:** Re: Request for Submission [431] - PLS of the General Scheme of the HEA Bill 2021

Thank you for your email to the President.

We can confirm that DCU's response will be included as part of the IUA response.

Kind regards,  
President's Office

On Mon, 31 May 2021 at 15:58, Education and Further and Higher Education, Research, Innovation and Science <[education@oireachtas.ie](mailto:education@oireachtas.ie)> wrote:

Dear Professor Keogh,

Please find attached a request for submission from the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science as part of the Committee's Pre-legislative Scrutiny of the General Scheme of the Higher Education Authority Bill, 2021.

Also attached is a copy of the General Scheme of the HEA Bill 2021.

I would appreciate if you could confirm receipt of this request for Submission and also confirm if your organisation will be submitting a submission.

Thank you.

Regards,

Niamh Ward | Joint Committee on Education, Further and Higher Education, Research, Innovation & Science

Houses of the Oireachtas | Kildare House | Dublin 2 | D02 XR20

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An tOllamh Daire Keogh | Uachtarán | Ollscoil Chathair Bhaile Átha Cliath

Professor Daire Keogh | President | Dublin City University

Oifig an Uachtaráin | A101 | Foirgneamh Coláiste Albert | Ollscoil Chathair Bhaile Átha Cliath |  
Campas Ghlas Naíon | BÁC 9

President's Office | A101 | Albert College Building | Dublin City University | Glasnevin Campus |  
Dublin 9



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*Tá an ríomhphost seo agus aon chomhad a sheoltar leis faoi rún agus is lena úsáid ag an seolaí agus sin amháin é. [Is féidir tuilleadh a léamh anseo.](#)*

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**From:** Emer O'Driscoll <Emer.O'Driscoll@sfi.ie>  
**Sent:** Thursday 10 June 2021 15:29  
**To:** Tara Kelly <Tara.Kelly@oireachtas.ie>  
**Cc:** Education and Further and Higher Education, Research, Innovation and Science <education@oireachtas.ie>  
**Subject:** RE: Request for Submission [411] - PLS of the General Scheme of the HEA Bill 2021

Dear Tara

Thank you for your email below, dated 26<sup>th</sup> May and for the invitation to Professor Ferguson to provide a written submission as part of the Committee's Pre-legislative Scrutiny of the General Schemem of the Higher Education Authority Bill, 2021.

I wish to confirm that Science Foundation Ireland are liaising through the Department fo Further and Higher Education, Research Innovation and Science, and will not be submitting separately on this matter.

Thank you once again for the opportunity to provide a written submission and if you do have any queries, please do not hesitate to contact me.

Many thanks.

Regards  
Emer

**Emer O'Driscoll | Business Support Manager**  
**Office of the Director General and Chief Scientific Adviser to the Government of Ireland**

## Science Foundation Ireland

### For what's next

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Follow Science Foundation Ireland on Twitter: [@scienceirel](https://twitter.com/scienceirel)

**#BelieveInScience – a campaign to promote the potential that science and discovery offer Ireland, today and in tomorrow's world**

*Please note, in line with Government guidance, Science Foundation Ireland staff members are working remotely. Wherever possible, please send all correspondence by email. A member of our facilities staff has limited access to our building but receipt of written correspondence may be significantly delayed.*

**From:** Education and Further and Higher Education, Research, Innovation and Science  
<[education@oireachtas.ie](mailto:education@oireachtas.ie)>

**Sent:** Wednesday 26 May 2021 15:40

**To:** Emer O'Driscoll <Emer.O'Driscoll@sfi.ie>

**Cc:** Tara Kelly <[Tara.Kelly@oireachtas.ie](mailto:Tara.Kelly@oireachtas.ie)>

**Subject:** Request for Submission [411] - PLS of the General Scheme of the HEA Bill 2021

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Professor Ferguson,

Please find attached a request for submission from the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science as part of the Committee's Pre-legislative Scrutiny of the General Scheme of the Higher Education Authority Bill, 2021.

Also attached is a copy of the General Scheme of the HEA Bill 2021.

I would appreciate if you could confirm receipt of this request for Submission and also confirm if your organisation will be submitting a submission.

Thank you.

Regards,

Niamh Ward | Joint Committee on Education, Further and Higher Education, Research, Innovation & Science

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**From:** IFUT Administration <admin@ifut.ie>  
**Sent:** Friday 11 June 2021 09:44  
**To:** Tara Kelly <Tara.Kelly@oireachtas.ie>  
**Cc:** Education and Further and Higher Education, Research, Innovation and Science <education@oireachtas.ie>  
**Subject:** Ref: JCES-I-2021-[416] - INVITATION TO MAKE WRITTEN SUBMISSION - Pre-legislative Scrutiny of the General Scheme of the Higher Education Authority Bill, 2021.  
**Importance:** High

Ms Tara Kelly,  
Clerk of the Committee,  
Joint Committee on Education, Further & Higher Education,  
Research, Innovation and Science,  
Leinster House,  
Dublin 2.  
D02 XR20

Dear Ms. Kelly,

I refer to the invitation by the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science, to make a brief written submission, as part of the Committee's Pre-legislative Scrutiny of the General Scheme of the Higher Education Authority Bill, 2021.

I attach the IFUT submission for your attention and for circulation to the Committee Members.

Kind regards,



.....  
Joan Donegan,  
General Secretary.

c. IFUT Executive Committee  
Council

Irish Federation of University Teachers,  
11 Merrion Square,  
Dublin 2.  
D02 P962

## Irish Federation of University Teachers

Submission to the Joint Committee on Education, Further and Higher  
**Education, Research, Innovation and Science as part of the Committee's**  
 Pre-legislative Scrutiny of the General Scheme of the Higher Education  
 Authority Bill, 2021.

This Bill aims to replace the Higher Education Authority Act, 1971, which sets out the functions of the HEA and provides for its governance.

That Act provided for the funding and overall financial monitoring of designated institutions of Higher Education by the HEA. It established the HEA as the advisory body to the, then so titled, Minister for Education and Skills on the Higher Education sector.

Continual monitoring of the effectiveness of our Higher Education institutions is necessary and essential. The HEA has played a very important role in this respect over many decades and it is appropriate that, after half a century of operation, existing legislation should be reviewed and improved, where necessary

It is worth emphasising two very relevant current specific roles of the HEA as identified on their website:

***"The [HEA] is the statutory agency responsible for the allocation of exchequer funding to the universities, institutes of technology (IoTs) and other Higher Education institutions (HEIs)."***

and

***"The HEA has a statutory responsibility, at central government level, for the effective governance and regulation of Higher Education institutions and the Higher Education system."***

It is also worth noting a further, clearly stated, function:

***"In exercising our mandate the HEA works to ensure that ... we have due regard to institutional autonomy and academic freedom".*** (our emphasis in each case in bold).

In the view of IFUT, therefore, the HEA currently has three clearly specified functions, which must, as a minimum, be preserved and, if possible, enhanced:

- Funding.
- Governance.
- Academic freedom.

**It is central to IFUT's position that these three items should be at the core of the concerns of the Joint Committee throughout its deliberations.**

1: The current levels of Funding are at historically inadequate levels and, if not addressed, threaten the very future of Higher Education in Ireland.

2: Any careless or poorly thought-out tinkering with existing models of Governance risks undermining the essential levels of representation by stakeholders whose input is indispensable in any system of Higher Education which aspires to the continuation of the recognition of its integrity internationally.

3: **Nothing in the new Act should undermine Ireland's unique position**

internationally of having the maintenance of Academic Freedom enshrined in national legislation (The Universities Act 1997). Academic freedom is fundamental to the whole Third Level undertaking, since the responsible exercise thereof is the greatest service that scholarship can render to society. It is therefore a serious misconception to regard such freedom as some kind of additional privilege to be conceded (or withheld) by the State. It is startling that at a time when threats to Academic Freedom (for example in Hungary, China, Russia) are recognised as a downgrading of one of the essential components of a truly democratic society, we seem to be walking blind-folded into undermining this precious freedom in our own country.

1: Funding of Higher Education:

Although the Bill deals with structural issues and the proper legislative underpinning of Higher Education it is indisputable that the denial of adequate levels of funding by the state will inevitably lead either to the decline or demise of our system of Higher Education or its de facto privatisation.

**The new €300m Human Capital Initiative, announced in last year's Budget, involved** a process under which the state is stealthily increasing control on the allocation of funding. So, funding decisions and direction were already being increasingly removed from the existing HEA, even in advance of the publication of this legislation.

The 2017 *'Review of the Allocation Model for Funding Higher Education Institutions Final Report by the Independent Expert Panel for the HEA'* referred very specifically to funding issues as follows:

***"... having analysed system finances, operations, performance and outcomes, it is the clear view of the Expert Panel that Ireland cannot continue to increase student numbers without a commensurate increase in investment. ... We endorse the conclusion of the Cassells report that the current funding system is not fit for purpose and fails to recognise the current pressures facing Higher Education institutions and the scale of the coming demographic changes. Cassells recommended that additional annual funding of €600 million needs to be provided by 2021 and €1 billion by 2030 to deliver higher quality outcomes and provide for increased demand and identified three sources of potential additional funding: the state, the student and employers."***

Would a new Higher Education Authority, established under this Bill as currently drafted, have power to assess funding issues and make recommendations to government in such a forthright and direct manner?

Thus, it is appropriate that a suitable amendment be inserted into the Bill to provide the Oireachtas with the power to compel the government of the day to provide adequate levels of funding.

2: Governance:

**The Bill's insistence that external representation should constitute a majority in governance structures is a very negative development put forward without any coherent or sustainable justification.**

Higher Education is different in kind from the provision of, for example, health or other services. The university enterprise has to do with ideas and concepts. Any drift towards giving overarching control to individuals primarily motivated by other concerns, whether business, social, or economic, is entirely inappropriate. Externalising the governance of universities would not improve performance by any objective measure. It is hardly a coincidence that the two highest-ranking universities in the UK (Oxford and Cambridge), and Trinity College Dublin, are precisely those where governance by academics has not been diluted by external governance influence.

Indeed, in the '*Review of the Allocation Model for Funding Higher Education Institutions Final Report by the Independent Expert Panel for the HEA, (Dec 2017)*, the Report addressed existing governance issues clearly.

3: Academic Freedom:

As we have already said, the fact that the right to academic freedom is enshrined in Irish legislation has been, for decades, a source of great pride for those involved in Higher Education in our country. It has also been gratifying to hear very often Ireland being singled out for praise in this regard at multiple international forums and in multiple books and publications on this subject.

The downside of this good news story has been the lack of any specific policies or enactments to give substance to this very important legally-enshrined right. The fact that academic freedom is barely mentioned at all (and certainly not at all in any consequential way) in this Bill is worrying. Combined with the attack on the input into governance of serving academics and/or their union, this is worryingly significant.

The absence of reference to academic freedom and funding issues in the **consultation process prior to the tabling of this Bill exacerbated IFUT's fears and suspicions** that funding, course development, and academic freedom would be subject to increasingly greater direct government controls. Our worst fears appear, from the publication of this Bill, to have been very well founded.

\* \* \*

During the (disappointingly very limited) process of consultation prior to the publication of this Bill, IFUT, Congress and other education trade unions were invited to make submissions on its content. The most relevant of the issues raised in that process bear repeating:

Concerning the limitation on the numbers of members on Governing Bodies IFUT made the following points:

*"The UCD Governing Authority currently has 40 members. A reduction down to 12 would be quite drastic and questionable. This should be compared with the recommendation in the OECD Review of Higher Education in Ireland (September, 2004) which recommended a figure of almost twice that number (20). There are dangers in shrinking Governing Bodies so dramatically and the risks in terms of loss of expertise are significant.*

*"For organisations as complex as HEIs, particularly the larger ones, four (4) members of staff is a very small number of people to bring all the competencies required to the table of a Governing Body. IFUT does not believe that there is an appetite to return to small governance bodies where a lot of power was concentrated in the hands of a few.*

*"Diversity of knowledge and expertise is important, and HEI's need to ensure that this is developed within their governance."*

Congress expressed concern that the proposed reductions and changes to the composition of HEI Governing Councils and Boards could have a significantly detrimental impact on staff representation. Congress said;

*"It is our strong view that the level of staff representation must not be reduced, as part of this process. Equally, we believe that the creation of any competency-based process for the selection of governing authority or board membership has the capacity to fundamentally undermine and erode the very right of staff representation, across the sector. In our view, such a process could prove to be a profoundly undemocratic exercise and, as such, detrimental to the wider ethos of the entire sector."*

With regard to general issues of governance, the Congress Education Group wrote;

*"the overall focus of the consultation process on regulation and governance is misplaced as this implies that governance is the essential and overriding problem in the sector. This is clearly not the case. In that respect, the process appears to be a missed opportunity to address the deeper and more problematic structural issues relating to funding, representation and academic freedom/ independence.*

*"In addition, changes to both the size and composition of governing authorities within such institutions would require a change to the existing 2018 Act and would require consultation/ dialogue and agreement."*

Concerning Academic Freedom Congress declared;

*"The potential loss or erosion of academic freedom/ independence under the proposed changes is also a key concern for Congress."*

All of the above points were also endorsed in written submissions from the Teachers' Union of Ireland.

Finally, and in recognition of the (understandable) limitations on length as requested by the Joint Committee, we have space to make the following points only in the briefest of formats;

Complete absence of any reference to trade unions:

**Despite the fact that "Students or Student Unions" are referred to frequently** throughout the General Scheme there is never an equivalent reference to employees (of any grade or category) having a union. That is not just amazing, it is unacceptable.

**Even in the section on Interpretations/Definitions the words "trade unions" are not even mentioned.**

In the '*Planning for HE Provision*' and '*Plan for Access & Participation*' where there is an acknowledgement of the need to consult stakeholders there is no mention of the unions representing employees, yet it is explicit that students are to be consulted via **"Student Unions"**. **Indeed, there are many specific and different references to the need for engagement with "students and Students' Unions". Why is there no similar reference to engagement with employees' unions?**

Invisibility of Academic Freedom:

Throughout the entire C.180 pages of the document we noticed just one single reference to Academic Freedom. There are numerous areas in the document where an inclusion of this freedom (which is central to the very core of any university worthy of the title) would have been obviously appropriate (for just one example; in **"Guidelines, Codes and Policies"**).

Obsession with reductions in size of Governing Bodies has extraordinary (un-intended?) side effects:

**For decades now the Irish society has embraced the concepts of "stakeholder engagement", "industrial democracy", "worker directors" etc. Yet the drastic reductions proposed for the numbers of members of Governing Bodies will almost certainly mean that there will be zero representation or the most meagre representation of the workers in the institutions. Why should Higher Education be the locus for a reversal of a decades old progressive trend?**

Limitation of Numbers on Academic Councils is baffling:

Not even an attempt is made to provide any reason why Academic Council membership should be limited to the arbitrary number of 70. Did the writer have any knowledge of what the role of an Academic Council is? How could pan-institutional academic issues be fairly dealt with if the limitation on numbers inevitably meant that some faculties and disciplines would not even be present at the discussion?



**From:** Julian de Spáinn <julian@cnag.ie>  
**Sent:** Friday 11 June 2021 12:57  
**To:** Education and Further and Higher Education, Research, Innovation and Science <education@oireachtas.ie>  
**Cc:** Tara Kelly <Tara.Kelly@oireachtas.ie>  
**Subject:** Re: Request for Submission [422] - PLS of the General Scheme of the HEA Bill 2021

Niamh, a chara,

Tá súil agam go bhfuil tú go maith.

Our submission is attached for the General Scheme of the Higher Education Authority Bill. It would be great to get a chance to discuss with the committee at some stage.

Go raibh maith agaibh for providing us with the opportunity to make the submission.

Beir bua,

Julian



**Julian de Spáinn**

**Ardrúnaí**

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6 Sráid Fhearchair, BÁC2 | [julian@cnag.ie](mailto:julian@cnag.ie)





**Conradh  
na Gaeilge**

**Aighneacht maidir leis an  
Scéim Ghinearálta den  
Bhille an Údaráis um  
Ard-Oideachas**

**Submission in relation to the  
General Scheme of the  
Higher Education  
Authority Bill**

**don**

**to the**

**Chomhchoiste um Oideachas,  
Breisoideachas agus  
Ardoideachas, Taighde,  
Nuálaíocht agus Eolaíocht**

**Joint Committee on Education,  
Further and Higher Education,  
Research, Innovation and  
Science**

**ó**

**from**

**Chonradh na Gaeilge**

**Conradh na Gaeilge**

**Meitheamh 2021**

## CÚLRA

Is é Conradh na Gaeilge fóram daonlathach phobal na Gaeilge agus saothraíonn an eagraíocht ar son na teanga ar fud na hÉireann uile agus timpeall na cruinne.

Is í príomhaidhm na heagraíochta an Ghaeilge a athréimniú mar ghnáth-theanga na hÉireann. Ó bunaíodh é ar 31 Iúil 1893 tá baill an Chonartha gníomhach ag cur chun cinn na Gaeilge i ngach gné de shaol na tíre, ó chúrsaí dlí agus oideachais go forbairt meán cumarsáide agus seirbhísí Gaeilge.

Tá Conradh na Gaeilge roghnaithe ag Foras na Gaeilge, an foras uile oileánda ag feidhmiú ar son an dá Rialtas thuaidh agus theas leis an nGaeilge a chur chun cinn, mar cheann de na sé cheanneagraíocht atá maoinithe acu leis an nGaeilge a fhorbairt ar oileán na hÉireann. Go príomha, tá Conradh na Gaeilge ag tabhairt faoi chosaint teanga, ionadaíocht agus ardú feasachta ar an Ghaeilge.

Tá 180 craobh agus iomaí ball aonair ag Conradh na Gaeilge, agus bíonn baill uile an Chonartha ag saothrú go dian díograiseach chun úsáid na Gaeilge a chur chun cinn ina gceantair féin. Tá breis eolais faoi obair an Chonartha le fáil ag [www.cnag.ie](http://www.cnag.ie).

Conradh na Gaeilge is the democratic forum of the Irish language community and the organisation works to promote the language throughout Ireland and around the world.

The main aim of the organisation is to re-establish Irish as the ordinary language of Ireland. Since its establishment on 31 July 1893, the members of the Conradh have been active in promoting the Irish language in all aspects of life in the country, from legal and educational matters to the development of Irish language media and services.

Conradh na Gaeilge has been selected by Foras na Gaeilge, the all-island body representing both Governments north and south to promote the Irish language, as one of the six lead organisations they fund to develop the Irish language on the island of Ireland. Primarily, Conradh na Gaeilge looks after language protection, representation and awareness raising for the Irish language.

Conradh na Gaeilge has 180 branches and many individual members, and all members of the Conradh work hard and diligently to promote the use of Irish in their areas. Further info on the work of the Conradh is available at [www.cnag.ie](http://www.cnag.ie).

## INTREOIR

Cuireann Conradh na Gaeilge fáilte roimh an deis seo aighneacht a chur isteach maidir leis an Scéim Ghinearálta den Bhille um Ardoideachas 2021 chuig an gComhchoiste um Oideachas, Breisoideachas agus Ardoideachas, Taighde, Nuálaíocht agus Eolaíocht.

Conradh na Gaeilge welcomes this opportunity to make a submission on the General Scheme of the Higher Education Authority Bill 2021 to the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science.

## COMHTHÉACS

Tá cuid mhaith de na tagairtí den Ghaeilge sna hAchtanna oideachais ó 1971 le feiceáil thíos:

Many of the references to the Irish language in education Acts since 1971 can be seen below:

Acht an Údarás um Ard-Oideachas, 1971	Higher Education Authority Act, 1971
<b>Dualgas ginearálta maidir le haidhmeanna náisiúnta</b> 4. — Ag comhlíonadh a fheidhmeanna don Údarás coimeádfaidh sé i gcuimhne i gcónaí na haidhmeanna náisiúnta atá ann an Ghaeilge a aisiriú agus an tsaothair náisiúnta a chaomhnú agus a fhorbairt agus féachfaidh sé le cabhrú leis na haidhmeanna sin a chur i gcrích.	<b>General duty with respect to national aims.</b> 4. — In performing its functions, An tÚdarás shall bear constantly in mind the national aims of restoring the Irish language and preserving and developing the national culture and shall endeavour to promote the attainment of those aims.

<b>Acht na nOllscoileanna 1997</b>	<b>Universities Act 1997</b>
<p><b>Cuspóirí ollscoile.</b> 12. (e) teangacha oifigiúla an Stáit a chur chun cinn, ag féachaint go speisialta do chaomhnú, do chur chun cinn agus d'úsáid na teanga Gaeilge agus do chaomhnú agus do chur chun cinn chultúir shainiúla na hÉireann,</p>	<p><b>Objects of university.</b> 12. (e) to promote the official languages of the State, with special regard to the preservation, promotion and use of the Irish language and the preservation and promotion of the distinctive cultures of Ireland,</p>
<p><b>Feidhmeanna ollscoile.</b> 13. (2) (d) féadfaidh ollscoil comhoibriú le leasanna oideachasúla, gnó, gairmiúla, ceardchumainn, Gaeilge, cultúir, ealaíne, pobail agus leasanna eile, laistigh den Stáit agus lasmuigh de, chun cuspóirí na hollscoile a chur ar aghaidh,</p>	<p><b>Functions of university.</b> 13. (2) (d) may collaborate with educational, business, professional, trade union, Irish language, cultural, artistic, community and other interests, both inside and outside the State, to further the objects of the university,</p>
<p><b>Comhdhéanamh an údaráis ceannais.</b> 16. (3) (a) duine amháin ar a laghad ach líon nach mó ná ceithre dhuine, arna roghnú ag coiste den údarás ceannais ar a mbeidh an príomhoifigeach agus dhá chomhalta eile, as measc ainmniúchán a dhéanfaidh cibé eagraíochtaí a bheidh ionadaitheach d'fhostóirí, do cheardchumainn, do thalmhaíocht, d'iascaigh, d'eagraíochtaí pobail, d'eagraíochtaí Gaeilge agus Gaeltachta, do na gairmeacha, do ghnó agus do thionscal de réir mar is cuí leis an údarás ceannais, a ndéanfar duine amháin acu ar a laghad a roghnú as measc na ndaoine sin a ainmneoidh eagraíochtaí a bheidh ionadaitheach do ghnó nó do thionscal,</p>	<p><b>Composition of governing authority.</b> 16. (3) (a) at least one but not more than four persons, chosen by a committee of the governing authority comprising the chief officer and two other members, from among nominations made by such organisations as are representative of employers, trade unions, agriculture, fisheries, community organisations, Irish language and Gaeltacht organisations, the professions, business and industry as the governing authority considers appropriate, of whom at least one shall be chosen from those nominated by organisations representative of business or industry,</p>
<p><b>Feidhmeanna an údaráis ceannais.</b> 18. (6) (a) aird a thabhairt ar chur chun cinn agus úsáid na Gaeilge mar theanga ghnáthchumarsáide agus saothrú na Gaeilge agus a traidisiúin liteartha agus chultúir ghaolmhara a chur chun cinn;</p>	<p><b>Functions of governing authority.</b> 18. (6) (a) have regard to the promotion and use of the Irish language as a language of general communication and promote the cultivation of the Irish language and its associated literary and cultural traditions;</p>
<p><b>Cairteacha agus Cairteacha forlíontacha.</b> 31. (1) (b) na socruithe atá ag an ollscoil maidir le cur chun cinn agus úsáid na Gaeilge agus maidir le cultúir na hÉireann a chur chun cinn;</p>	<p><b>Charters and supplementary charters.</b> 31. (1) (b) the arrangements it has for the promotion and use of the Irish language and the promotion of Irish cultures;</p>

<b>Acht Oideachais 1998</b>	<b>Education Act 1998</b>
<p><b>Cuspóirí an Achta.</b> 6. (i) cuidiú le réadú beartas agus cuspóirí náisiúnta i ndáil le leathadh an dátheangachais i sochaí na hÉireann agus go háirithe go mbainfí úsáid níos mó as an nGaeilge ar scoil agus sa phobal;</p> <p>6. (j) cuidiú leis an nGaeilge a choinneáil mar phríomhtheanga an phobail i limistéir Gaeltachta;</p> <p>6. (k) riachtanais teanga agus chultúrtha mac léinn a chur chun cinn ag féachaint do roghanna a dtuismitheoirí;</p>	<p><b>Objects of Act.</b> 6. (i) to contribute to the realisation of national policy and objectives in relation to the extension of bi-lingualism in Irish society and in particular the achievement of a greater use of the Irish language at school and in the community;</p> <p>6. (j) to contribute to the maintenance of Irish as the primary community language in Gaeltacht areas;</p> <p>6. (k) to promote the language and cultural needs of students having regard to the choices of their parents;</p>
<p><b>Feidhmeanna an Aire.</b> 7. (2) (d) seirbhísí taca trí Ghaeilge a sholáthar do scoileanna aitheanta a chuireann teagasc trí Ghaeilge ar fáil agus d'aon scoil aitheanta eile a iarrann soláthar den sórt sin;</p>	<p><b>Functions of Minister.</b> 7. (2) (d) to provide support services through Irish to recognised schools which provide teaching through Irish and to any other recognised school which requests such provision;</p>
<p><b>Feidhmeanna scoile.</b> 9. (f) chun forbairt na Gaeilge agus thraidisiúin na hÉireann, litríocht na hÉireann, na healaíona agus nithe cultúrtha eile, a chur chun cinn,</p> <p>9. (h) i gcás scoileanna atá lonnaithe i limistéar Gaeltachta, chun cuidiú leis an nGaeilge a choinneáil mar phríomhtheanga an phobail,</p>	<p><b>Functions of a school.</b> 9. (f) promote the development of the Irish language and traditions, Irish literature, the arts and other cultural matters,</p> <p>9. (h) in the case of schools located in a Gaeltacht area, contribute to the maintenance of Irish as the primary community language,</p>
<p><b>An Chigireacht</b> 13. (3) (f) meastóireacht a dhéanamh ar éifeachtacht</p>	<p><b>The Inspectorate.</b> 13. (3) (f) to evaluate the effectiveness of the teaching,</p>

<p>mhúineadh, fhorbairt, chur chun cinn agus úsáid na Gaeilge i scoileanna agus i lárionaid oideachais agus tuarascáil a thabhairt don Aire maidir leis na nithe sin;</p>	<p>development, promotion and use of Irish in schools and centres for education and to report to the Minister on those matters;</p>
<p><b>Múineadh trí Ghaeilge.</b></p> <p>31. —(1) Bunóidh an tAire comhlacht daoine—</p> <p>(a) (i) chun soláthar téacsleabhar agus áiseanna d'fhoghlaim agus do mhúineadh trí Ghaeilge a phleanáil agus a chomheagrú,</p> <p>(ii) chun comhairle a thabhairt don Aire maidir le beartais a bhaineann le hoideachas trí mheán na Gaeilge a chur ar fáil agus a chur chun cinn i scoileanna aitheanta i gcoitinne agus i scoileanna atá suite i limistéar Gaeltachta,</p> <p>(iii) chun seirbhísí taca a chur ar fáil do na scoileanna sin trí mheán na Gaeilge, agus</p> <p>(iv) chun taighde a sheoladh ar aon ní nó ar gach ní lena mbaineann an mhír seo, agus</p> <p>(b) chun soláthar téacsleabhar agus áiseanna d'fhoghlaim agus do mhúineadh na Gaeilge a phleanáil agus a chomheagrú agus chun taighde a sheoladh, agus comhairle a thabhairt don Aire, maidir le straitéisí a bhfuil de chuspóir leo feabhas a chur ar éifeachtacht mhúineadh na Gaeilge i scoileanna aitheanta agus i lárionaid oideachais.</p> <p>(2) Féadfaidh an tAire, le hordú arna dhéanamh le toiliú an Aire Airgeadais, aon cheann dá fheidhmeanna nó dá feidhmeanna i leith na nithe dá dtagraítear i bhfo-alt (1) a tharmligean chuig an gcomhlacht a bhunófar de réir an fho-alt sin agus déanfaidh an comhlacht sin na feidhmeanna sin a chomhall faoi stiúradh agus faoi rialú an Aire.</p> <p>(3) Maidir leis an gcomhlacht a bhunófar de réir fho-alt (1)—</p> <p>(a) déanfaidh sé, le toiliú an Aire, coiste a bhunú chun cabhrú leis na feidhmeanna a thugtar dó faoi fho-alt (1)(b) a chomhlíonadh, agus</p> <p>(b) féadfaidh sé tráth ar bith, le toiliú an Aire, coiste a cheapfar faoin bhfo-alt seo a dhíscaoileadh nó comhaltas den sórt sin a bhaint de chomhalta coiste.</p> <p>(4) Déanfaidh an comhlacht a bhunófar de réir fho-alt (1), ó am go ham, de réir mar is cuí leis, comhairle a thabhairt don Chomhairle Náisiúnta Curaclaim agus Measúnachta maidir le nithe a bhaineann—</p> <p>(a) le múineadh na Gaeilge,</p> <p>(b) le hoideachas a chur ar fáil trí mheán na Gaeilge, lena n-áirítear nithe a bhaineann leis an gcuraclam do bhunscoileanna agus d'iar-bhunscoileanna a chuireann oideachas trí mheán na Gaeilge ar fáil agus le nósanna imeachta measúnachta a úsáidtear sna scoileanna sin, agus</p> <p>(c) le riachtanais oideachais daoine a chónaíonn i limistéar Gaeltachta,</p> <p>agus beidh aird ag an gComhairle Náisiúnta Curaclaim agus Measúnachta ar aon chomhairle den sórt sin le linn di a feidhmeanna a fheidhmiú.</p> <p>(5) Féadfaidh an tAire, le hordú, aon ordú arna dhéanamh faoin alt seo, lena n-áirítear ordú arna dhéanamh faoin bhfo-alt seo, a leasú nó a chúlghairm.</p>	<p><b>Teaching through Irish.</b></p> <p>31. —(1) The Minister shall establish a body of persons—</p> <p>(a)(i) to plan and co-ordinate the provision of textbooks and aids to learning and teaching through Irish,</p> <p>(ii) to advise the Minister on policies relating to the provision and promotion of education through the medium of Irish in recognised schools generally and in schools located in a Gaeltacht area,</p> <p>(iii) to provide support services to those schools through the medium of Irish, and</p> <p>(iv) to conduct research into any or all matters to which this paragraph applies,</p> <p>and</p> <p>(b) to plan and co-ordinate the provision of textbooks and aids to the learning and teaching of Irish and to conduct research into and to advise the Minister on strategies which have as their objective the enhancement of the effectiveness in the teaching of Irish in recognised schools and centres for education.</p> <p>(2) The Minister may by order, made with the consent of the Minister for Finance, delegate any of his or her functions in respect of the matters referred to in subsection (1) to the body established in accordance with that subsection which shall carry out those functions under the direction and control of the Minister.</p> <p>(3) The body established in accordance with subsection (1)—</p> <p>(a) shall, with the consent of the Minister, establish a committee to assist it in the performance of the functions conferred on it under subsection (1)(b), and</p> <p>(b) may, with the consent of the Minister, at any time dissolve a committee appointed under this subsection or remove a member of a committee from such membership.</p> <p>(4) The body established in accordance with subsection (1) shall, from time to time, as it considers appropriate, advise the National Council for Curriculum and Assessment on matters relating to—</p> <p>(a) the teaching of Irish,</p> <p>(b) the provision of education through the medium of Irish, including matters relating to the curriculum for primary and post-primary schools which provide education through the medium of Irish and assessment procedures employed in those schools, and</p> <p>(c) the educational needs of people living in a Gaeltacht area,</p> <p>and the National Council for Curriculum and Assessment shall have regard to any such advice in the exercise by it of its functions.</p> <p>(5) The Minister may by order amend or revoke any order made under this section, including an order made under this subsection.</p> <p>(6) In each financial year the Minister, with the concurrence of the Minister for Finance, out of monies</p>

<p>(6) I ngach bliain airgeadais, féadfaidh an tAire le comhthoiliú an Aire Airgeadais deontas nó deontais a thabhairt, as airgead a sholáthróidh an tOireachtas, don chomhlacht a cheapfar de réir fho-alt (1) chun críocha caiteachais ag an gcomhlacht sin i gcomhlíonadh a fheidhmeanna.</p> <p>(7) Féadfaidh an tAire cibé tacaíocht rúnaíochta agus riaracháin a mheasfaidh an tAire is gá a chur ar fáil do chomhlacht a bhunófar faoin alt seo.</p>	<p>provided by the Oireachtas, may make to the body appointed in accordance with subsection (1) a grant or grants for the purposes of expenditure by that body in the performance of its functions.</p> <p>(7) The Minister may provide such secretarial and administrative support to a body established under this section as the Minister considers necessary.</p>
<p><b>An Chomhairle Náisiúnta Curaclaim agus Measúnachta Comhdhéanamh agus ceapadh.</b> 40. (2) (b) (iii) atá ionadaitheach d'eagraíochtaí Gaeilge,</p>	<p><b>National Council for Curriculum and Assessment Composition and appointment.</b> 40. (2) (b) (iii) are representative of Irish language organisations,</p>
<p><b>Cuspóirí agus feidhmeanna.</b> 41. (2) (g) comhairle a thabhairt don Aire maidir le straitéisí a bhfuil de chuspóir leo feabhas a chur ar éifeachtacht mhúineadh agus úsáid na Gaeilge i scoileanna;</p>	<p><b>Objects and functions.</b> 41. (2) (g) to advise the Minister on strategies which have as their objective the enhancement of the effectiveness in the teaching and use of the Irish language in schools;</p>

<p><b>An Straitéis 20 Bliain don Ghaeilge 2010-30</b></p>	<p><b>20 Year Strategy for the Irish Language 2010-2030</b></p>
<p><b>Oideachas Ardleibhéil in Éirinn</b> Leanfar de bheith ag forbairt agus ag tacú le cláir i nGaeilge do dhaoine fásta ag leibhéal ollscoile agus ag leibhéal eile nach iad agus soláthrófar sainchláir ghairmiúla. Agus breis forbartha á déanamh ar oideachas tríú leibhéal trí Ghaeilge, cuirfidh an Rialtas na nithe seo a leanas san áireamh:</p> <ul style="list-style-type: none"> <li>Rinne an Roinn Gnóthaí Pobail, Comhionannais agus Gaeltachta agus Údarás na Gaeltachta infheistíocht shuntasach san earnáil seo le déanaí laistigh den Ghaeltacht agus lasmuigh di, lenar áiríodh ach go háirithe tacaíocht d'Acadamh na hOllscolaíochta Gaeilge in Ollscoil na hÉireann, Gaillimh agus Fiontar in Ollscoil Chathair Bhaile Átha Cliath; agus</li> <li>Tá creat oibre reachtúil ann faoi láthair d'oideachas tríú leibhéal i nGaeilge, lena n-áirítear an oibleagáid atá ar an Údarás um Ard-Oideachas faoi Acht an Údarás um Ard-Oideachas, 1971: "coimeádfaidh sé i gcuimhne i gcónaí na haidhmeanna náisiúnta atá ann an Ghaeilge a aisiriú agus an tsaíocht náisiúnta a chaomhnú agus a fhorbairt agus féachfaidh sé le cabhrú leis na haidhmeanna sin a chur i gcrích". Tá sé sin neartaithe tuilleadh in alt 12 d'Acht na nOllscoileanna 1997, lena bhforáiltear go bhfolóidh cuspóirí gach ollscoile "teangacha oifigiúla an Stáit [a chur chun cinn], ag féachaint go speisialta do chaomhnú, do chur chun cinn agus d'úsáid na Gaeilge agus do chaomhnú agus do chur chun cinn chultúir shainiúla na hÉireann". Aithnítear ról faoi leith Ollscoil na hÉireann, Gaillimh maidir le cláir tríú leibhéal trí mheán na Gaeilge a sholáthar in Acht an Choláiste Ollscoile, Gaillimh (Leasú) 2006. Caithfidh caighdeán ard a bheith ag baint le hoideachas tríú leibhéal trí mheán na Gaeilge agus caithfear é a sholáthar ar bhealach straitéiseach agus comhordaithe lena chinntiú:</li> <li>deiseanna do mhic léinn leas a bhaint as tréimhsí fada socrúcháin/staidéir sa Ghaeltacht le cur lena gcumas sa teanga i dtimpeallacht ina labhraítear an teanga go nádúrtha;</li> </ul>	<p><b>Higher-Level Education in Ireland</b> University level and non-university adult programmes in Irish will continue to be supported and developed and professional specialisations provided. In furthering the development of third-level education through Irish, the Government will take the following into account:</p> <ul style="list-style-type: none"> <li>There has been significant recent investment by the Department of Community, Equality and Gaeltacht Affairs and Údarás na Gaeltachta in this sector both inside and outside the Gaeltacht, including in particular support for Acadamh na hOllscolaíochta Gaeilge in NUI Galway and Fiontar in Dublin City University; and</li> <li>There is an existing statutory framework for third level education in Irish, including the obligation on the Higher Education Authority (HEA) under the Higher Education Act 1971 to: "bear constantly in mind the national aims of restoring the Irish language and preserving and developing the national culture and shall endeavour to promote the attainment of these aims". This is further strengthened in section 12 of the Universities Act 1997, which provides that the objectives of all universities include "[promotion of] the official languages of the State, with special regard to the preservation, promotion and use of the Irish language and the preservation and promotion of the distinctive cultures of Ireland". The special role of NUI Galway in the provision of third-level programmes through the medium of the Irish language is recognised in the University College Galway (Amendment) Act 2006. Third-level education through the medium of Irish needs to be of high quality and delivered in a strategic and coordinated way to ensure:</li> <li>opportunities for students to avail of significant periods of placements/study in the Gaeltacht to enrich their command of the language in an environment where it is the normal spoken language;</li> <li>diversification in the range of disciplines offered, with a particular focus on market requirements for</li> </ul>

<ul style="list-style-type: none"> <li>• go mbainfidh éagsúlacht leis an raon disciplíní a bheidh á dtairiscint agus go mbeidh fócas faoi leith ar riachtanais an mhargaidh do dhaoine a bheidh inniúil i nGaeilge;</li> <li>• cur amach céimithe a bheidh cáilithe go maith leis na scileanna sonracha is gá le freastal ar stádas náisiúnta agus stádas AE na Gaeilge;</li> <li>• forbairt a dhéanamh ar speisialtóireacht ar leith i ngach coláiste agus srian a chur le dúbailt soláthair go dtí suíomh amháin nó dhá shuíomh ar a mhéid;</li> <li>• luach ar airgead agus dearbhú cáilíochta sa taighde agus sa teagasc, agus dúbailt nó ilroinnt a sheachaint freisin; agus</li> <li>• cúrsaí agus creidiúnú i nGaeilge Ghairmiúil a fhorbairt don oiread gairmeacha agus is féidir.</li> </ul> <p>Cuirfear maoiniú ar fáil lena chur ar chumas an Údaráis um Ard-Oideachas clár sonracha a bhunú leis an earnáil seo a fhorbairt go straitéiseach.</p> <p>Tá sé tábhachtach ó thaobh normalú a dhéanamh ar úsáid na teanga go mbeadh teacht ar ranganna agus ar ghníomhaíochtaí Gaeilge agus go gcruthófaí atmaisféar ar champus a aithníonn gur cuid dhlúth den saol sóisialta chomh maith le cuid dhlúth den saol acadúil sa choláiste í an teanga. Tá ról tábhachtach ag institiúidí tríú leibhéal ó thaobh tionchar a imirt ar an teanga a labhróidh duine ar feadh a shaoil agus ó thaobh a húsáide i measc mic léinn agus maidir le tacú le tionscnaimh theanga áitiúla sa phobal trí chéile agus spreagfar iad leis sin a dhéanamh.</p>	<ul style="list-style-type: none"> <li>• people competent in Irish;</li> <li>• an output of highly qualified graduates with specific skills needed to serve the national and EU status of Irish;</li> <li>• development of particular specialisation in each college and restriction of duplication of provision to no more than one or two locations; value for money and quality assurance in research and teaching, also avoiding duplication or fragmentation; and</li> <li>• development of courses and accreditation in Professional Irish for as many professions as possible.</li> </ul> <p>Funding will be provided to enable the Higher Education Authority to put in place a specific programme to strategically develop this sector.</p> <p>The accessibility of Irish language classes and activities and the creation of an atmosphere on campus, which recognises that the language is an integral part of college social as well as academic life, is important to normalisation of its use. Third level institutions have an important role in influencing whole of life language choice and use among students and in supporting local language initiatives in the wider community and will be encouraged to do so.</p>
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<b>An tAcht Um Institiúidí Teicneolaíochta 2006</b>	<b>Institutes of Technology 2006</b>
<p><b>Leasú ar alt 7 d'Acht RTC.</b></p> <p>8. (6) (b) aird a thabhairt ar chur chun cinn agus ar úsáid na Gaeilge mar theanga gnáthchumarsáide agus saothrú na Gaeilge agus a traidisiún gaolmhar litríochta agus cultúir a chur chun cinn,</p>	<p><b>Amendment of section 7 of RTC Act.</b></p> <p>8. (6) (b) have regard to the promotion and use of the Irish language as a language of general communication and promote the cultivation of the Irish language and its associated literary and cultural traditions,</p>
<p><b>Leasú ar alt 7 d'Acht DIT.</b></p> <p>33. (6) (b) aird a thabhairt ar chur chun cinn agus ar úsáid na Gaeilge mar theanga gnáthchumarsáide agus saothrú na Gaeilge agus a traidisiún gaolmhar liteartha agus cultúrtha a chur chun cinn,</p>	<p><b>Amendment of section 7 of DIT Act.</b></p> <p>33. (6) (b) have regard to the promotion and use of the Irish language as a language of general communication and promote the cultivation of the Irish language and its associated literary and cultural traditions,</p>
<p><b>Leasú ar Acht an Údaráis um Ard-Oideachas 1971.</b></p> <p>52. 4.— Ag comhlíonadh a fheidhmeanna don Údarás, beidh aird aige ar na haidhmeanna náisiúnta atá ann rannchuidiú an ardoideachais le dul chun cinn sóisialach agus eacnamaíoch a uasmhéadú, an Ghaeilge a aisiriú agus an tsaocht náisiúnta a chaomhnú, agus féachfaidh sé le cabhrú leis na haidhmeanna sin a chur i gcrích.”,</p>	<p><b>Amendment of Higher Education Authority Act 1971.</b></p> <p>52. 4.— In performing its functions, An tÚdarás shall have regard to the national aims of maximising the contribution of higher education to social and economic progress, restoring the Irish language and preserving the national culture, and shall endeavour to promote the attainment of those aims.”,</p>

<b>An tAcht um Ollscoileanna Teicneolaíochta 2018</b>	<b>Technological Universities Act 2018</b>
Níl aon tagairt den Ghaeilge san Acht seo (seachas ainm an Achta fhéin)	No mention of the Irish language in this Act (apart from the name of the Act itself)

<b>Ráiteas Straitéiseach 2021–2023 den Roinn Breisoideachais agus Ardoideachais, Taighde, Nuálaíochta agus Eolaíochta</b>	<b>Statement of Strategy 2021–2023 of the Department of Further and Higher Education, Research, Innovation and Science</b>
Níl aon tagairt den Ghaeilge sa Straitéis seo	No mention of the Irish language in this Strategy

<b>Bille an Údaráis um Ard-Oideachas 2021</b>	<b>Higher Education Authority Bill 2021</b>
Níl aon tagairt den Ghaeilge sa Bhille seo	No mention of the Irish language in this Act

## Tá cúpla rud gur chóir a thógáil san áireamh as na hAchtanna, Billí agus Straitéisí seo:

- Is é an tAcht Oideachais 1998 a dhéanann **an soláthar is cuimsithí don Ghaeilge agus don Ghaeltacht** as na hachtanna oideachais seo ar fad
- Ó 2018, **níl aon tagairt déanta don Ghaeilge** sna hachtanna a bhaineann leis an tríú leibhéal idir an tAcht um Ollscoileanna Teicneolaíochta 2018 (seachas ainm an Achta fhéin) agus an bille nua seo Acht an Údaráis um Ard-Oideachas 2021
- Chomh maith leis sin, **níor luadh an Ghaeilge oiread is uair amháin** i Ráiteas Straitéiseach 2021–2023 na Roinne Breisoideachais agus Ardoideachais, Taighde, Nuálaíochta agus Eolaíochta
- Sa Straitéis 20 Bliain don Ghaeilge 2010-30 de chuid an Rialtas féin, déantar tagairt de na forálacha maidir leis an nGaeilge atá san áireamh in Acht an Údaráis um Ard-Oideachas, 1971 agus in Acht na nOllscoileanna 1997 ach **tá an bunús reachtaíochta sin le baint sa Bhille an Údaráis um Ard-Oideachas 2021 mar nach bhfuil aon tagairt don Ghaeilge sa Bhille**
- Ní amháin go bhfuil an Bille an Údaráis um Ard-Oideachas 2021 nua molta ag déanamh neamhaird iomlán ar an nGaeilge, tá sé **ag déanamh neamhaird ar mhian eile den Rialtas a bheidh an tríú leibhéal riachtanach, lárnach agus rithábhachtach ann** agus is é sin an sprioc ag an Rialtas reatha i mBille na dTeangacha Oifigiúla 2019 go mbeidh 20% do dhaoine a earcófar don earnáil phoiblí inniúil ar an nGaeilge faoi 2030. Seo mar a chuir an tAire Stáit Jack Chambers TD in iúl é i Dáil Éireann ar 8 Deireadh Fómhair 2020:
  - *‘Beidh sé mar chuspóir sa Bhille go mbeidh 20% (fiche faoin gcéad) de na daoine nua a earcaítear don tseirbhís phoiblí ina gcainteoirí Gaeilge, go mbeidh gach oifig phoiblí atá lonnaithe sa Ghaeltacht ag feidhmiú trí Ghaeilge agus go mbeidh na comhlachtaí in ann freastal ar an éileamh ón bpobal ar sheirbhísí trí Ghaeilge. Ar an mbealach seo tá sé i gceist againn tógáil, ar bhonn chéimiúil, ar líon na bhfostaithe le Gaeilge agus ag eascairt as sin, go mbeimid in ann feabhas a chur ar sholáthar seirbhísí trí Ghaeilge.’*

## There are a few things to consider from these Acts, Bills and Strategies:

- The Education Act 1998 **makes the most comprehensive provision for the Irish language and the Gaeltacht** of all these education acts
- From 2018, **no reference is made to the Irish language** in the third level acts including the Technological Universities Act 2018 (other than the name of the Act itself) and this new Higher Education Authority Bill 2021
- In addition, **the Irish language was not mentioned even once** in the Department of Further and Higher Education, Research, Innovation and Science's Statement of Strategy 2021–2023
- The Government's own 20 Year Strategy for the Irish Language 2010-30 refers to the provisions in relation to the Irish language contained in the Higher Education Authority Act, 1971 and the Universities Act 1997 but **this legislative basis is to be removed** in the Higher Education Authority Bill 2021 as there is **no reference to the Irish language in the Bill**
- Not only does the proposed new Higher Education Authority Bill 2021 completely ignore the Irish language, **it also ignores the necessary, central and vital role the third level will play in another Government objective** and that is the Government's target in the Official Languages Bill 2019 that 20% of people recruited to the public sector will be competent in Irish by 2030. Minister of State Jack Chambers TD stated in Dáil Éireann on 8<sup>th</sup> of October 2020:
  - *'It will be an objective of the Bill that 20% (twenty per cent) of new recruits to the public service will be Irish speakers, that all public offices located in the Gaeltacht will operate through Irish and that the bodies will be able to meet public demand for services through Irish. In this way we intend to build, on a phased basis, the number of employees with Irish and, as a result, to be able to improve the provision of services through Irish.'*

## MOLTAÍ

### Tá ár moltaí, mar sin, bunaithe ar trí rud go háirithe:

1. Mar atá luaite thuas, is é an tAcht Oideachais 1998 an reachtaíocht oideachais reatha is cuimsithí le soláthar cothrom agus sásúil don Ghaeilge a chur ar fáil. Ach, dar ndóigh, tá an tAcht sin dírithe ar oideachas sa chéad agus sa dara leibhéal.
2. Na spriocanna leagtha amach ag an Rialtas don Ghaeilge sa Straitéis 20 Bliain don Ghaeilge 2010-30, go háirithe an sprioc le 250,000 cainteoirí laethúil a bhaint amach
3. Na spriocanna a bheidh ann le seirbhísí Gaeilge a chur ar fáil de thoradh Bille na dTeangacha Oifigiúla 2019, go háirithe an sprioc go mbeidh 20% do dhaoine a earcófar don earnáil phoiblí inniúil ar an nGaeilge faoi 2030

### Our recommendations are, therefore, based on three factors in particular:

1. As mentioned above, the Education Act 1998 is currently the most comprehensive education legislation to provide a level of equitable and satisfactory provision for the Irish language. But, of course, that Act is aimed at first and second level education.
2. The targets set by the Government for the Irish Language in the 20 Year Strategy for the Irish Language 2010-30, in particular the target of 250,000 daily speakers
3. The targets for the provision of Irish language services as a result of the Official Languages Bill 2019, in particular the target of 20% of people recruited to the public sector being competent in Irish by 2030

### Is iad na moltaí atá againn don Scéim Ghinearálta den Bhille um Ardoideachas 2021 ná:

### Our proposals for the General Scheme of the Higher Education Bill 2021 are:

Ceann   Head	Forálacha breise le cur isteach:	Additional provisions to add to the Act:
8 (1)	(g) cuidiú le réadú beartas agus cuspóirí náisiúnta i ndáil le leathadh an dátheangachais i sochaí na hÉireann agus go háirithe go mbainfí úsáid níos mó as an nGaeilge ar an tríú leibhéal agus sa phobal; (h) cuidiú leis an nGaeilge a choinneáil mar phríomhtheanga an phobail i limistéir Ghaeltachta; (i) riachtanais teanga agus chultúrtha mac léinn a chur chun cinn	(g) to contribute to the realisation of national policy and objectives in relation to the extension of bilingualism in Irish society and in particular the achievement of a greater use of the Irish language at third level and in the community; and (h) to contribute to the maintenance of Irish as the primary community language in Gaeltacht areas; (i) to promote the language and cultural needs of students
17 (4)	(b) Agus ceapacháin á ndéanamh ag an Aire ar Bhord an Údaráis, beidh aird aige ar an gculpóir go mbeidh inniúlacht ag leibhéal B2 nó níos airde sa Ghaeilge labhartha ar an bhFráma Tagartha Comónta Eorpach (FTCE) ag ar a laghad 20% de na baill agus beidh an bord ionadaíoch ar shochaí na hÉireann ina iomláine	(b) The Minister when making appointments to the Board of An tÚdarás shall have regard to the objective that at least 20% of members shall have a level B2 or higher of competency in spoken Irish on the Common European Framework of Reference for Languages (CEFR) and the board shall be representative of Irish society as a whole
9. (1)	q) seirbhísí tacaíochta a sholáthar trí Ghaeilge d'institiúidí tríú leibhéal a sholáthraíonn teagasc trí Ghaeilge agus d'aon institiúidí tríú leibhéal eile a iarrann an soláthar sin (r) a chinntiú go bhfuil an oiread saoránach agus is féidir dátheangach i nGaeilge agus i mBéarla (s) líon na gcainteoirí laethúla Gaeilge a mhéadú go 250,000 thar thréimhse 20 bliain mar phríomhspríoc (t) líon na foirne de chomhlachtaí poiblí atá inniúil sa Ghaeilge a mhéadú ionas go mbeidh	(q) to provide support services through Irish to third level institutions which provide instruction through Irish and to any other third level institutions which requests such provision (r) to ensure that as many citizens as possible are bilingual in both Irish and English (s) to increase the number of daily speakers of Irish to 250,000 over a 20-year period as a headline goal (u) to increase the number of staff of public bodies who are competent in the Irish language

	20 faoin gcéad ar a laghad den fhoireann a earcaítear do chomhlachtaí poiblí inniúil sa Ghaeilge faoi 2030	so that by 2030 at least 20 per cent of staff recruited to public bodies are competent in the Irish language
<b>18 (2)</b>	(k) Conradh na Gaeilge	(k) Conradh na Gaeilge
<b>27</b>	(7) go mbeidh inniúlacht ag leibhéal B2 nó níos airde sa Ghaeilge labhartha ar an bhFráma Tagartha Comónta Eorpach (FTCE) ag an bPríomhfheidhmeannach	(7) The chief executive shall have a level B2 or higher of competency in spoken Irish on the Common European Framework of Reference for Languages (CEFR)
<b>31</b>	(8) Cinnteoidh an tÚdarás go bhfuil líon leordhóthanach foirne inniúil sa Ghaeilge agus 20% ar aon chuma ionas go mbeidh siad in ann seirbhís a sholáthar trí Ghaeilge agus Béarla	(8) The Údarás shall ensure that an adequate number of staff are competent in the Irish language and in any event 20% so as to be able to provide service through Irish and English
<b>37 (3) (d)</b>	(xi) líon na mac léinn dara leibhéal a fhaigheann oideachas trí Ghaeilge agus líon foriomlán na mac léinn dara leibhéal ar mian leo staidéar a dhéanamh trí Ghaeilge ag an tríú leibhéal (xii) an gá le líon leordhóthanach múinteoirí ag leibhéal bunscoile agus meánscoile atá inniúil sa Ghaeilge a bheith ar fáil (xiii) an sprioc go mbeidh 20 faoin gcéad den fhoireann a earcófar do chomhlachtaí poiblí faoi 2030 inniúil sa Ghaeilge	(xi) number of second level students receiving education through Irish and the overall number of students in second level who wish to study through Irish at third level (xii) the need for an adequate number of teachers at primary and secondary school level competent in the Irish language (xiii) the goal of 20 per cent of staff recruited to public bodies by 2030 being competent in the Irish language
<b>37 (4) (d)</b>	(o) líon na mac léinn dara leibhéal a fhaigheann oideachas trí Ghaeilge agus líon foriomlán na mac léinn dara leibhéal ar mian leo staidéar a dhéanamh trí Ghaeilge ag an tríú leibhéal (p) an gá le líon leordhóthanach múinteoirí ag leibhéal bunscoile agus meánscoile atá inniúil sa Ghaeilge a bheith ar fáil (q) an sprioc go mbeidh 20 faoin gcéad den fhoireann a earcófar do chomhlachtaí poiblí faoi 2030 inniúil sa Ghaeilge	(o) number of second level students receiving education through Irish and the overall number of students in second level who wish to study through Irish at third level (p) the need for an adequate number of teachers at primary and secondary school level competent in the Irish language (q) the goal of 20 per cent of staff recruited to public bodies by 2030 being competent in the Irish language
<b>39 (3)</b>	(m) go bhfuil an foras ag seachadadh clár a fhreagraíonn do sheachadadh polasaithe nó cuspóirí an Rialtais mar a bhaineann siad leis an nGaeilge agus leis an nGaeltacht	(m) that the body is delivering programmes that respond to the delivery of policies or objectives of the Government as they relate to the Irish language and the Gaeltacht
<b>43</b>	(d) cúrsaí agus seirbhísí a sholáthar trí Ghaeilge do mhic léinn	(d) provision of courses and services through Irish to students
<b>44 (4)</b>	(b) Cinnteoidh an tÚdarás go dtabharfaidh fóram na mac léinn aird ar an gcuspóir go mbeidh ar a laghad leibhéal B2 nó níos airde sa Ghaeilge labhartha ar an bhFráma Tagartha Comónta Eorpach (FTCE) ag 20% de na baill agus beidh an fóram ionadaíoch ar shochaí na hÉireann ina iomláine	(b) The Údarás shall ensure that the student forum shall have regard to the objective that at least 20% of members shall have a level B2 or higher of competency in spoken Irish on the Common European Framework of Reference for Languages (CEFR) and the forum shall be representative of Irish society as a whole
<b>45 (1)</b>	(f) faisnéis a sholáthar le soláthar de chúrsaí agus de sheirbhísí trí Ghaeilge a chinntiú do mhic léinn	(f) provide information to ensure the provision of courses and services through Irish to students
<b>45</b>	(4) Beidh Suirbhé na Mac Léinn go hiomlán dátheangach i nGaeilge agus i mBéarla. Beidh an rogha ag mic léinn é a líonadh i gceachtar den dá theanga agus cuirfear aon tuarascáil ón suirbhé ar fáil i nGaeilge agus i mBéarla	(4) The Student Survey shall be completely bilingual in Irish and in English. Students will have the option of filling it out in either languages and any report from the survey will be made available in Irish and in English
<b>47 (1)</b>	(h) freastal ar riachtanais chainteoirí dúchais Gaeilge agus cainteoirí eile den teanga	(h) meets the needs of native Irish speakers and other speakers of the language
<b>63 (4)</b>	(j) Conradh na Gaeilge	(j) Conradh na Gaeilge

<b>63 (5)</b>	(h) pleananna na n-institiúidí ardoideachais ainmnithe le cúrsaí agus seirbhísí trí Ghaeilge a sholáthar do mhic léinn	(h) the plans of the designated institution of higher education to provide courses and services through Irish to students
<b>77</b>	<ul style="list-style-type: none"> <li>• Aird ar an gcuspóir go mbeidh leibhéal B2 nó níos airde inniúlachta i nGaeilge labhartha ar an bhFráma Tagartha Comónta Eorpach (FTCE) ag ar a laghad 20% de na baill agus go mbeidh an tÚdarás ionadaíoch ar shochaí na hÉireann ina iomláine</li> </ul>	<ul style="list-style-type: none"> <li>• Regard to the objective that at least 20% of members shall have a level B2 or higher of competency in spoken Irish on the Common European Framework of Reference for Languages (CEFR) and the Authority shall be representative of Irish society as a whole</li> </ul>
<b>90</b>	<ul style="list-style-type: none"> <li>• Aird ar an gcuspóir go mbeidh leibhéal B2 nó níos airde inniúlachta i nGaeilge labhartha ar an bhFráma Tagartha Comónta Eorpach (FTCE) ag ar a laghad 20% de na baill agus go mbeidh an tÚdarás ionadaíoch ar shochaí na hÉireann ina iomláine</li> </ul>	<ul style="list-style-type: none"> <li>• Regard to the objective that at least 20% of members shall have a level B2 or higher of competency in spoken Irish on the Common European Framework of Reference for Languages (CEFR) and the Authority shall be representative of Irish society as a whole</li> </ul>
<b>98</b>	<ul style="list-style-type: none"> <li>• Aird ar an gcuspóir go mbeidh leibhéal B2 nó níos airde inniúlachta i nGaeilge labhartha ar an bhFráma Tagartha Comónta Eorpach (FTCE) ag ar a laghad 20% de na baill agus go mbeidh an tÚdarás ionadaíoch ar shochaí na hÉireann ina iomláine</li> </ul>	<ul style="list-style-type: none"> <li>• Regard to the objective that at least 20% of members shall have a level B2 or higher of competency in spoken Irish on the Common European Framework of Reference for Languages (CEFR) and the Authority shall be representative of Irish society as a whole</li> </ul>



Ms Tara Kelly  
Clerk to the Committee  
[education@oireachtas.ie](mailto:education@oireachtas.ie)

11 June 2021

To whom it may concern,

On behalf of Munster Technological University, please find attached our submissions on the General Scheme of the Higher Education Authority Bill 2021.

Yours faithfully

**Professor Maggie Cusack, FRSE.**  
**President**

## **MTU submissions on the General Scheme of the Higher Education Authority Bill 2021**

### **General**

Munster Technological University ('MTU') notes the stated aim of Government that while the HEA will have stronger powers under the new legislation, it will also safeguard the autonomy of Designated Institutions of Higher Education ('DIHE').

In this regard, while the Bill is clear in granting sweeping powers to the HEA, it is not clear in terms of the checks and balances that will be in place on the manner in which HEA exercises those powers.

MTU submits that appropriate checks and balances should be included in the legislation so to avoid the situation where HEA will effectively be in a position to micromanage all DIHEs.

Without same, it is submitted that the Bill is not consistent with the necessary independence and autonomy of a Technological University ('TU').

In addition to the general submissions above, MTU also makes the following submissions in relation to specific Heads of the Bill.

**Head 9** – This section of the Bill provides that one of the functions of the HEA is to:

*(j) measure and assess the performance of higher education providers with a view to strengthening the performance of the higher education system and the higher education providers and to ensure accountability,*

However, two explanatory notes later in the Bill (pgs 79 and 171) restate this function as follows (emphasis added):

*measure and assess with a view to strengthening the performance of the higher education system and the higher education providers and to ensure accountability while respecting institutional autonomy,*

This acknowledgement of the need to respect DIHE autonomy should be expressly provided in the context of the HEA's statutory function as set out in section 9(1)(j) of the Bill.

**Head 38** – The principle of 'respecting institutional autonomy' also needs to be expressly incorporated in the context of this section and performance frameworks. For example, it is a further element which any performance agreement should be obliged to take account of under section 38(8).

**Head 42** - It should be expressly stated that the imposition of remedial action by HEA where conditions of funding are breached is capable of appeal under section 74.

**Head 66** – Under this provision, the HEA may develop guidelines, codes and policies in relation to any matter under the Act or any other Ministerial or government policy or objective. The HEA is obliged to consult with DIHEs.

There should also be a stated obligation on the part of the HEA to have regard to submissions received from DIHEs.

**Head 67** – This provision enables the HEA to request the Governing Body of a DIHE to undertake a review if HEA has concerns about governance or performance of functions or responsibilities including in relation to requirements under any codes, guidelines or policies. However, there is no consideration given as to a minimum threshold before HEA might make this request. It is submitted, for example, that the HEA should have “serious or material” concerns in order to request such a review. Such thresholds are common in legislation of a regulatory nature. Consideration should also be given as to whether a request for a review should be capable of appeal under section 74.

It could be said that codes, guidelines or policies are essentially elevated to the status of legal provisions by this section. In the case of certain codes, guidelines or policies, there may be good reasons why a DIHE does not implement them. It is therefore submitted that the section should provide scope for a ‘comply or explain’ approach in relation to same.

**Head 68** – Additional language should be included in the Bill to the extent that the HEA is obliged to treat as confidential all information received by it pursuant to a review, and to use that information only for the purpose of determining whether or not action is required under section 68.

**Head 75** – In the context of determination of appeals, the decisions available to an Appeals Board are:-

- (a) affirm the decision of the HEA or the Minister; or
- (b) quash the decision of the HEA or the Minister or direct HEA or the Minister “for stated reasons” to reconsider its decision.

This provision is unsatisfactory. It should be open to an Appeal Board to quash the decision of HEA or the Minister simpliciter. The question of directing HEA or the Minister to reconsider the decision should only arise if the Appeals Board considers it appropriate.

**Head 90** – There should be a specific statement that the chief officer is an *ex officio* member of the Governing Body. This is not currently expressed, although it does appear to be the implication based on an overall reading of the section.

It is unclear as to how the section as presented will result in TU Governing Bodies that are “*significantly smaller than current provisions*”. In the case of MTU, the current provision is 14-22 once the Governing Body has been expanded. Accounting for internal members such as the chief officer, other staff and students, while ensuring that external members are in majority, it is anticipated that the overall minimum numbers would still remain at least 13.



Union of Students in Ireland  
12 Shamrock Villas  
Dublin 6W  
D6W XH75

14<sup>th</sup> June 2021

Deputy Paul Kehoe,  
Chair,  
Committee on Education, Further and Higher Education,  
Research, Innovation and Science.

Dear Deputy Kehoe,

Attached is the requested submission to the Committee on Education, Further and Higher Education, Research, Innovation and Science on behalf of the Union of Students in Ireland.

We welcome the opportunity to submit a response on the General Scheme. Students are a vital stakeholder in the education sector and provide a unique perspective on the future opportunities and challenges within the sector.

Generally, USI welcomes the General Scheme however, we are concerned about the lack of detail in certain areas, particularly relating to size HEI Governing Bodies. USI believes the General Scheme strikes a positive tone on the need for accountability within the tertiary education sector without impinging on autonomy. The detailed position of USI is contained within the 5-page submission.

USI would be happy to engage with the Committee further to discuss our submission.

Sincerely,



Lorna Fitzpatrick  
President



## Higher Education Authority Legislation

### General Scheme

### USI Submission

June 2021

#### Executive Summary

1. The Union of Students in Ireland (Aontas na Mac Léinn in Éirinn) is the national representative body for third-level students in Ireland. USI welcomes the published General Scheme and believes that, in general, it meets the needs of the sector. There is a clear theme outlined within the general scheme that recognises the importance of engaging with students and student representatives both locally and nationally. USI has some concerns about the lack of detail in particular areas, such as size of Governing Body. This general scheme allows for Higher Education Institutions to be accountability to An tÚdarás without impinging on autonomy.

#### General commentary on governance

2.1 The Bill does aim to improve governance across all designated higher education institutions. This note does not specifically refer to all elements of governance throughout the Bill but USI has no concerns with the elements of the Bill that pertain to improving institutional governance.

#### Head 8: Objects

3. The objects listed in this section are the basic principles that will apply to the Higher Education Sector in Ireland. USI welcomes the list outlined within the Bill. USI particularly welcomes the inclusion of students' needs as a primary consideration for decisions within Higher Education.

- (2) In furthering these objects, An tÚdarás shall provide that, as far as practicable and having regard to resources available, the needs of the student are a primary consideration.

## **Head 9: General Functions**

4.1 USI welcomes the reference to promoting the objects as outlined above but also the particular emphasis that is placed upon student engagement and student success. The inclusion of “promote, support, and fund excellent research” is important however, while the challenges facing researchers in terms of precarity would not be covered in this legislation, it is important to ensure clear commitments to improving conditions for postgraduate researchers and early career researchers at Governing Body/Authority.

4.2 The references to “value for money” are welcome but need to be carefully considered as this legislation is implemented to ensure that the search for ‘value’ is not used to reduce spending on services, particularly those that directly or indirectly support the overall student experience. USI believes this will need particular attention to ensure the conversation does not veer towards one of further marketisation of education.

4.3 USI welcomes the inclusion of strengthening performance and accountability within the sector.

4.4 The inclusion of promoting EDI including participation and success for under-represented groups within society is welcomed. We need to ensure this measure is implemented to impact greater diversity and inclusion for both staff and student groups.

## **Head 17: Membership of the Board of An tÚdarás**

5.1 USI welcomes the specific reference to a member of the Board who is a student or full-time officer of the national students’ union, nominated by the national students’ union. This will ensure that a student voice is a constant and a requirement for the Board, which has only been custom and practise to this point.

5.2 The general membership shall be appointed by the Minister who “have sufficient experience and expertise relating to matters connected with the functions of An tÚdarás to enable them to make a substantial contribution to the effective and efficient performance of those functions, or matters connected to education, teaching and learning, research, international perspectives, organisational or financial governance, management or public administration”. USI believes that staff representatives within the sector should be clearly outlined as members with the relevant experience to support the performance of the functions required.

## **Head 18: Cooperation with other bodies**

6. The Act allows for “An tÚdarás may co-operate, support and undertake joint programmes of work with other bodies in the performance of its functions”. The list of bodies outlines local and national students’ unions – again further recognition of the importance of working with students and student representatives.

## **Head 22: Corporate Plan and Head 23: Annual Plan**

7. USI welcomes this development as the Board (where students’ will be represented) will have a key role in the development of these plans.

## **Head 36: Strategy for Higher Education**

8. USI welcomes this element of the Bill as it will allow for a clear longer-term vision for higher education in Ireland. The strategy will last for a period between 5 and 7 years. The

Minister will have to take regard of “any relevant national policies, the tertiary education sector, the likely cost of implementing any such strategy and the availability of resources and shall consult with any bodies or persons the Minister considers appropriate.” USI will have to ensure strong presentations are made to the Minister about the contents of this strategy and while no specific bodies that the Minister should consult with are named, the emphasis placed upon student engagement throughout the Bill would lead you to believe engagement with student representatives would be facilitated in this process.

#### **Head 37: Planning for higher education provision**

9. This Head allows for An tÚdarás to plan for provision of higher education by continuously reviewing demand for the sector and making recommendations to the Minister on the overall provision of student places within the sector. There are multiple provisions to consider outlined within the Bill alongside relevant stakeholders, including the national student’ union, that should be consulted throughout this process.

#### **Head 38: Performance Framework**

10. USI welcomes the development of a clear governance framework between HEIs and the HEA to underpin the co-regulation model.

#### **Head 39 & 40: Grants by An tÚdarás and Conditions of Funding**

11. USI welcomes these provisions to ensure consistency in funding and the opportunity for a new funding framework to be developed.

#### **Head 43: Engagement with Students**

12. USI welcomes the commitment to promoting student engagement between the students’ unions and designated HEI’s within the Bill and provides a statutory footing for a piece of work that is currently ongoing between An tÚdarás, USI and QQI [NStEP]. The requirement for Institutions to report back to An tÚdarás on specific matters outlined below is also welcomed as they are specifically outlined within the USI submission on this legislation.

#### **Head 44: Student Forum**

13. USI welcomes this provision within the Bill. It also recognises that the operational detail for this Forum will not be outlined within the Bill however, it is important that this detail will be imperative to the success of this Forum and should be developed alongside the local and national student representative bodies.

#### **Head 45: Student Survey**

14. This Head provides for a student survey of students at both undergraduate and postgraduate level to be run with the national student representative body, HEI’s and their representatives and QQI. This is welcomed by USI as it provides a statutory footing for a very important piece of work currently ongoing.

#### **Head 46: Equity of Access and Participation**

15.1 USI welcomes the provision for An tÚdarás to develop an “equity of access and participation plan which is in accordance with any government policies on equity and

inclusion". There are multiple provisions that the plan may include and a number of groups that An tÚdarás may consult with when developing this plan, including students' unions.

15.2 Importantly, HEIs shall have regard to the plan when it is preparing its strategic development plan and its equality statement and shall report to An tÚdarás on the implementation of the plan providing details of the goals and targets met.

#### **Head 47: Lifelong Learning**

16. USI welcomes this provision as it outlines the need for flexibility in the delivery of higher education and focus upon wellbeing and active citizenship.

#### **Head 48: Supply of non-personal information and Head 49: Supply of Personal Information**

17. These provisions allow for An tÚdarás to collect information regarding to the HEI, the students attending the HEI or the staff of the HEI which An tÚdarás requires to perform its functions, which are outlined earlier in the Bill. USI welcomes this provision as many decisions taken in relation to the sector relies heavily on the data collected by An tÚdarás.

#### **Head 50: Sharing of non-personal information and Head 51: Sharing of personal information**

18. USI welcomes this provision as we believe there is the potential for a more connected and joined up approach to issues facing students between different government departments and agencies.

#### **Head 52: Research by An tÚdarás**

19. USI welcomes this provision as it will allow An tÚdarás complete research that will further support the student body.

#### **Head 53: Research**

20.1 USI welcomes this provision however this section should be expanded to provide more information about how An tÚdarás should complete this function and also who they should engage with to fulfil this duty.

20.2 USI further welcomes the addition of further arrangements for the IRC but again, this lacks detail on how this will be achieved.

#### **Head 63: Strategic Development Plan of Designated Institutions of Higher Education**

21. USI welcomes this provision for new Designated Institutions of Higher Education or Institutions including the reference to ensure engagement with the local students' union.

#### **Head 64: Equality Statement of Designated Institutions of Higher Education**

22. USI welcomes this provision for new Designated Institutions of Higher Education or Institutions including the reference to ensure engagement with the local students' union.

#### **Head 65: Accounts of designated institutions of higher education and funded higher education providers**

23. USI welcomes this provision to aid with enhanced governance and accountability within the sector.

#### **Head 66: Guidelines, Codes and Policies**

24. USI welcomes this provision as it allows for the flexibility required to develop guidelines, codes and policies and the need to engage with relevant stakeholders.

**Head 77: [Universities Act 1997] Amendment of Section 16 (Composition of Governing Authority)**

**Head 90: [TU Act 2018] Amendment of Section 12 (Membership of governing body of technological university)**

**Head 98: [IOT Acts 1992 – 2006] Amendment of Section 6 (Governing Bodies)**

25.1 These Heads provides for an updated framework for governing authorities of universities by reducing the size of governing authority membership and changing the composition of the governing authority to ensure best practices around HEI governance.

25.2 USI welcomes the amendment to reduce the sizes of Governing Bodies to support best practice in relation to Governance. However, we are concerned by the lack of detail in this section. There is recognition of the need for student representation on the Governing Body but there is no specific numbers of people outlined.

25.3 USI is also deeply concerned that no amendments to the NCAD Act, 1971 to resolve the challenges faced by NCADSU in being recognised as eligible to become student representatives on An Bord.

**Head 81: [Universities Act 1997] Amendment of Section 28 (Composition of academic council)**

26. USI does not have a particular position on the limiting of the size of Academic Councils however, we are concerned that there is no required minimum number of students on the Academic Council.

**Head 82: [Universities Act 1997] Amendment of Section 34 (Strategic Development Plan)**

**Head 91: [TU Act 2018] Amendment of Section 18 (Strategic Development Plan)**

**Head 101: [IOT Acts 1992 – 2006] Amendment of Section 21C (Strategic Development Plan)**

27. These Heads provide for consultation with relevant bodies, including students or local Students' Union by the governing authority on the preparation of the strategic development plan and is welcomed by USI.

**Head 83: [Universities Act 1997] Amendment of Section 36 (Equality Policy)**

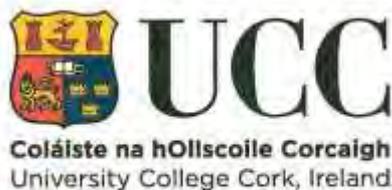
**Head 92: [TU Act 2018] Amendment of Section 19 (Equality Policy)**

**Head 102: [IOT Acts 1992 – 2006] Amendment of Section 21D (Equality Policy)**

28. This Head provides for consultation with relevant bodies, including students or local Students' Union by the governing authority on the preparation of the equality policy and is welcomed by USI.

**Head 112: Regulations to Prescribe Additional Functions for an Awarding Authority**

29. USI cautiously welcomes this provision as it may allow for a more accessible system for a student however, there are many operational challenges that would need to be fully considered.



**Roinn na Nua-Ghaeilge**  
Department of Modern Irish

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14 Meitheamh 2021

Tara Kelly  
An Comhchoiste um Oideachas &c.  
Tithe an Oireachtais  
Teach Chill Dara  
Baile Átha Cliath 2

Dear Ms Kelly,

Thank you for your invitation to make a submission to the Joint Committee on Education, Further and Higher Education, Research, Innovation & Science on the matter of the General Scheme of the Higher Education Authority Bill, 2021.

The submission is herewith attached.

Le gach deaghuí,

Pádraig Ó Macháin  
*Ollamh le Nua-Ghaeilge / Professor of Modern Irish*  
[p.omachain@ucc.ie](mailto:p.omachain@ucc.ie)

**Submission of  
Roinn na Nua-Ghaeilge, University College Cork,  
concerning the General Scheme of  
The Higher Education Authority Bill, 2021**

**0. *Executive Summary***

**0.1.** Roinn na Nua-Ghaeilge, University College Cork (UCC), is grateful to the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science for extending an invitation to An Roinn to make a submission as part of the Committee's Pre-legislative Scrutiny of the General Scheme of the Higher Education Authority Bill, 2021.

**0.2.** This brief submission is made without prejudice to a wider-ranging submission by University College Cork.

**0.3.** Roinn na Nua-Ghaeilge (UCC) wishes to make observations concerning two points: (1) articulation of support for the Irish language; and (2) articulation of support for the arts.

## **1.0. The role of An tÚdarás um Ard-Oideachas with regard to support for the Irish Language in third-level education.**

**1.1.** Historically, An tÚdarás has been generous in its recognition and support of a broad range of student-focused Irish language activities within the field of Higher Education.

**1.1.1.** For example, the support of An tÚdarás for the spoken language, for promoting educational links between HEIs and Gaeltacht communities, and for training for Irish-language involvement at European level (Parliament and Commission), has been generous, noteworthy and laudable.

**1.2.** Roinn na Nua-Ghaeilge (UCC) suggests that this historic commitment to the first official language in the context of higher education should now be consolidated by enshrining it in the Higher Education Authority Bill (2021).

**1.2.1.** Specifically, were a commitment to support for the Irish language in the context of higher education to be included among the Objects (Head 8, p. 19) of An tÚdarás, it would give legal expression to a *de facto* situation that has obtained for many years, and would be of great value going forward.

**1.2.2.** Roinn na Nua-Ghaeilge (UCC) proposes the inclusion of the following among the objects of An tÚdarás:

*(\*) to support the position and role of the Irish language within third-level education,*

## **2.0. The role of An tÚdarás um Ard-Oideachas with regard to support for the arts in third-level education**

**2.1.** The Irish-language in third-level education is increasingly finding expression through drama, music, and other creative media, both in classrooms and among extended student activities. In the context of the Higher Education Authority Bill (2021), this prompts a wider question that is worth addressing here.

**2.2.** Roinn na Nua-Ghaeilge (UCC) notes the repeated commitment in the Higher Education Authority Bill (2021) to promoting cultural development in the context of higher education. We find no reference to the arts, however.

**2.2.1.** The arts have a central role in any system of higher education that is holistic and student-centred.

**2.2.2.** The necessary emphasis on cost-effectiveness and on value for money throughout the Higher Education Authority Bill (2021) should not preclude expression of support for the arts.

**2.3.** Roinn na Nua-Ghaeilge (UCC) suggests that the inclusion of a reference to support for the arts in the Higher Education Authority Bill (2021) would be an important recognition of their place in third-level education.

**2.3.1.** Roinn na Nua-Ghaeilge (UCC) proposes that such a reference might be accommodated among the target-sectors of higher education and training – ‘business, enterprise, the professions, the community, local interests and other stakeholders’ – which are mentioned at multiple points (pp 20, 64, 75, 90, 100) in the Higher Education Authority Bill (2021). It would be a positive action to amend this recurring collocation of sectors to read:

business, enterprise, the professions, *the arts*, the community, or local interests and other stakeholders

# Submission

**To:** Joint Committee on Education, Further and Higher Education, Research, Innovation and Science  
**To email:** [tara.kelly@oireachtas.ie](mailto:tara.kelly@oireachtas.ie); [education@oireachtas.ie](mailto:education@oireachtas.ie)  
**From:** TU Dublin  
**From email:** [president@tudublin.ie](mailto:president@tudublin.ie)  
**Date:** 14.06.21  
**Re:** General Scheme of the Higher Education Authority Bill, 2021

This document is provided by TU Dublin in response to the invitation by the Joint Committee to make a submission on the General Scheme of the Higher Education Authority Bill, 2021. As a new member of the Irish Universities Association (IUA), TU Dublin is party to the submission provided by the IUA and fully supports the general comments made therein. This short document provides some additional points specifically from the TU Dublin perspective.

TU Dublin would like to acknowledge and thank the Department for the consultation undertaken in the earlier stage of this process, with many of the inputs provided by TU Dublin now reflected in the Heads of Bill.

## TU DUBLIN

In 2019, TU Dublin became the first Technological University in Ireland, bringing together the former HEIs of DIT, ITB and ITT.

In 2020, TU Dublin was the largest provider of third level education in the state, with over 29,000 students enrolled in a wide range of disciplines. A leader in STEM disciplines, TU Dublin also supports the largest cohorts of students of business, media, culinary arts, and the creative and performing arts. The University provides opportunities across all NFQ levels and for a diverse student base. Students learn in a practice-based environment; our impact-focused research aims to benefit communities, society and the economy; and innovation and enterprise are at the heart of everything we do. Annually, we celebrate 8,000+ graduates, awarding qualifications ranging from Level 6 to Level 10.

We are passionate about life-long learning and, as the largest provider of part-time education, we make an important contribution to the economic life of Ireland, enabling capacity building for the future.

Our distinguished researchers and innovators are pioneers in science and technology discovery; play active roles in informing policy and standards; and contribute to the creative life of Ireland. Our award-winning technology transfer and business incubation activity has delivered over 400 new sustainable businesses to date.

With an international outlook, we welcome students and staff from around the world while our strong international partnerships provide opportunities for student and staff exchange programmes, major cross collaboration research projects, and employment opportunities. We are immensely proud of our network of 100,000+ TU Dublin graduates who are making their careers here in Ireland and in 70 countries worldwide.

Deeply embedded in our region, TU Dublin has campuses in Dublin City Centre, in Blanchardstown and in Tallaght and, through our major infrastructural development plan, we are currently investing over €500 million in new, state-of-the-art, technology-enabled facilities to enhance our students' learning and discovery. Joining the ranks of exceptional technological universities around the world, TU Dublin offers a unique experience for a new generation of students.

The University's plans contained in its [Strategic Intent 2030](#) were developed through lens of the Sustainable Development Goals ([SDGs](#)) with 'Quality Education' at the core - the vision is to 'Create a Better World Together' through the 3 pillars of People, Planet & Partnership. The plans sets out objectives to create transformational educational opportunities through a new education model and innovative pathways.

With this background by way of context, TU Dublin is pleased to provide input on the '**General Scheme of the Higher Education Authority Bill, 2021**' and thanks the Joint Committee for this opportunity.

## TU DUBLIN ADDITIONAL POINTS

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TU Dublin welcomes the publication by the Minister for Further and Higher Education, Research, Innovation and Science of the **'General Scheme of the Higher Education Authority Bill, 2021'**. We are reminded of and commend the Minister's vision for the system and the purpose of the legislation, as set out in the original consultation document, i.e.-

*"Central to the vision for a higher education system are vibrant, innovative, adaptive and autonomous HEIs which are accountable to the learner and the State, and are supported by the HEA. This legislation is intended to assist in achieving this vision."*

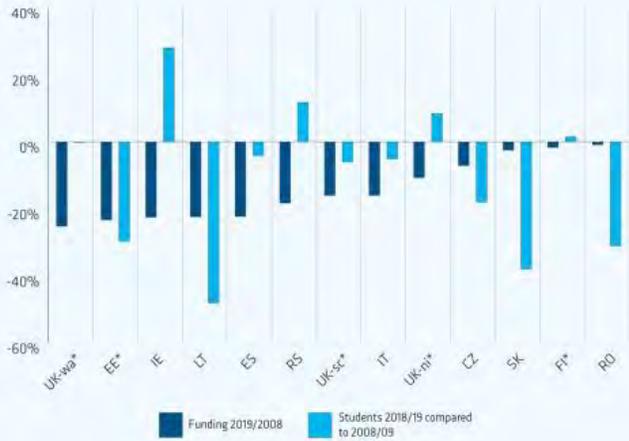
1. As with our IUA partners, we acknowledge the challenge of balancing autonomy and independence of institutions, with transparency and accountability to the State, whilst also recognising that this balance is absolutely critical in maintaining the appropriate oversight governance role of the HEA and ensuring innovative development and agile operation of the HE sector.
2. Within the functions of the HEA (Head 9) and under (Head 37), planning for higher education provision and overall student places is included. In this respect, the legislation should also provide for a clear and transparent planning process, done in consultation with the HEIs, and in the context of an appropriate planning and resourcing framework.
3. (Head 39) – Grants - This piece of the legislation is quite prescriptive on the operation of grant allocation by HEA. However, there is no mention of an overall financial framework for the sector and HEA's roles and responsibilities regarding same. This matter is also highlighted in the IUA submission. Given the recent publication from the EUA Public Funding Observatory<sup>1</sup> that once again highlights the stark reality of Ireland's continued deficit in HE funding (*see figure extracted from the report on the following page*), we would like to see some provision regarding an appropriate financial model and its operation within the legislation. This should aim to ensure stability and enable the ongoing innovation and capacity-building of the sector that is required.
4. (Head 91) -Amendment of Section 18 of the TU Act 2019 (Strategic Development Plan) – this makes provision for consultation with a wide range of stakeholders. TU Dublin had a comprehensive process for stakeholder engagement in the relatively recent development of its strategic plan, so it welcomes the general intent of this aspect in the legislation. However, the detailed list of stakeholders may be too prescriptive in primary legislation for what is essentially a developmental process. In addition, it may not reflect the important stakeholders that are most relevant to an individual HEI's diverse mission (in the case of TU Dublin for example, industry would be a key stakeholder - not specifically listed). Therefore, to accommodate all HEIs, we would suggest that the wording in this section should be along the lines of *'consultation with bodies or persons the governing body considers appropriate'*.
5. It must also be recognised more generally, that there are different legislative demands on the different HEIs and the HEA Act must take account of the autonomy required by HEIs to meet these demands.

Once again, we thank the Joint Committee for the opportunity to provide input at this time and look forward to the next stage of the Bill.

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<sup>1</sup> <https://www.eua.eu/downloads/publications/eua%20pfo%20part%202%20report.pdf>

## 1.4.2 Systems with declining funding



**\*How to read this graph:**

Shorter timeframes are used for EE (2008-2017); FI (2010-2016); UK-ni (2008-2018); UK-sc (2010-2018); UK-wa (2010-2019). For Wales (UK-wa) the student numbers value is -0.2%. Funding data for Northern Ireland and Wales covers total public funding.

The gravity of cuts in 13 systems varies with student enrolment numbers\*:

- Four systems decreased funding to universities across the period from 2008 to 2019, whilst student numbers increased.
- In nine systems, both funding to universities and student numbers decreased in 2019 compared to 2008, with variations regarding the relative pace of funding cuts and demographic decline.
- Extreme cases include Ireland, where universities were confronted with strong student growth while experiencing grave funding cuts.
- Over the same period, Lithuania, Romania and Slovakia lost close to or more than a third of their student populations.

From: *EUA Public Funding Observatory Report - 2020/2021- Part 2, April 2021*

//// ENDS ////

## National College of Ireland's (NCI's) response to General Scheme of the Higher Education Authority Bill 2021

National Collage of Ireland is pleased to submit its response to the General Scheme of the Higher Education Authority Bill. Please note that all NCI comments are in italics, and each comment follows the referenced and numbered section of the General Scheme of the Higher Education Authority Bill 2021.

### Part 1 – Preliminary and General

*NCI in agreement with this section with the following exceptions; it is suggested that the definitions of “funded Body” and of “funded education provider” be modified to include institutions that currently receive funding from the Department of Education/Department of Further and Higher Education and Research, Innovation and Science. The proposed rewording is detailed below and highlighted:*

“funded body” means a designated institution of higher education, other higher education provider, other education provider, other body or person which receives or received funding from An tÚdarás under section 39, **or directly from the Department of Education/Department of Further and Higher Education and Research, Innovation and Science;**

“funded higher education provider” means a higher education provider which receives or received funding from An tÚdarás, under section 39, **or directly from the Department of Education/Department of Further and Higher Education and Research, Innovation and Science.**

### Part 2 - The Higher Education Authority

Chapter 1 Continuation and Functions of An tÚdarás

Chapter 2 Ministerial powers and information

Chapter 3 Board and Committees

Chapter 4 Co-operation with other bodies

Chapter 5 Funding and Accountability of An tÚdarás

Chapter 6 Chief Executive Officer

Chapter 7 Staff and Superannuation

*NCI in agreement with Part 2 of the Scheme and particularly welcomes co-operation with the Qualifications and Quality Assurance Authority of Ireland and with An tSeirbhís Oideachais Leanúnaigh Agus Scileanna in the future role of An tÚdarás. NCI believes that close co-operation between HEs and Further Education, Skills and Training is essential to meet the contemporary needs of students and learners and to meet the needs of Ireland globalised economic development.*

## Part 3 Higher Education Sector

### Chapter 1 Strategic Planning

*NCI welcomes the continued development of strategy for HE and will continue to input to Strategy as requested by the Minister including projections for HE demand, widening access to disadvantaged learners and to the general objectives and performance framework of the HE sector.*

### Chapter 2 Provision of funding by An tÚdarás

*As a current recipient of direct funding from the DFHERIS and previously, DES, NCI would welcome the inclusion of its current and future funding allocations in the provision of monies to An tÚdarás under the conditions outlined in Chapter 2 of this document. NCI further requests that it become a named, designated higher institution of An tÚdarás, and be exempted from the requirement to have Protection of Enrolled learners bonding in place, as with other designated institutions, in the Higher Education Authority Bill 2021.*

## Part 4 Students

*NCI fully supports the Bill in respect of Part 4 dealing with the engagement with, and a forum, of Students. NCI has an active and engaged student body including Class Representative Council, Student Union (which is a fully participating Member of SUI) and Student Union/Student representation on NCI's Governing Body, Academic Council and in all Programme Development panels. NCI is a full participant in the National Student Survey (formerly ISSI) and in NStEP. NCI is an Athena SWAN Bronze Award Holder and an Autism Friendly Campus (designation achieved in 2021) and Hold a 4Star Q stars ranking. All of these accreditations require significant evidence of student engagement and, together with the above formal and informal student representations, demonstrate NCI's commitment to the importance of student engagement.*

## Part 5 Participation and Skills

*NCI is strongly committed to access in all aspects of the Institution and strongly supports this Part of the Scheme. NCI has a 70 year history of providing equity of access and participation and lifelong learning, and fully supports the objects of the Bill, providing clear evidence of achievement in this area. This can be seen in the following: NCI was a founding member of HEAR and DARE supports, is recently accredited as an Autism Friendly Campus, is one of the largest providers of part-time higher education to returning or later stage adult learners, and life-long learners, and provides education that is guided and interactive with the needs of individual learners, business, enterprise, the community and local and national interests.. NCI's commitment to equity of access is embedded in its mission to 'change lives through education'.*

*In the area of skills and reference to the skills requirement of the higher education institutions, NCI firmly supports the role of An tÚdarás in this regard. NCI's enterprise focus is best evidenced by its Award-winning Careers Service and consistent topping of the table of placement of graduates in employment, when compared to all HEs, Universities, Technological Universities and IOTs. NCI has a long tradition of close engagement with enterprise, calling on experts from enterprise to lecture on programmes, to input to programme design and to programme revalidation. With a School of Computing and a School of Business, NCI fully supports this role for An tÚdarás.*

## Part 6 Data and Research

*NCI has provided data on full-time students and programmes to the Department of Education & Science since 1996 when direct exchequer funding commenced. Since 2008 data on all students and programmes has been submitted to An tÚdarás similar to other designated HEs, and NCI continues to do so while complying with the GDPR legislation. NCI has cooperated and participated in all requests for research and studies conducted by An tÚdarás and fully supports the heads outlined in the Bill. NCI conducts research across its academic body in collaboration with National and International academic institutions and other relevant bodies.*

## Part 7 Designated Institutions of Higher Education

### Chapter 1 Designation of Institutions of Higher Education

*Under Head 55 (1) NCI requests that National College of Ireland is named in full as a designated institute of higher education, acknowledging DFHERIS 30 years direct exchequer funding of NCI students, and requests to use the title “Designated Institution of Higher Education” as outlined in Head 62.*

*Notwithstanding the above request, NCI requests, under head 56, that the Minister designate NCI as a designated institute of higher education and be exempted from the requirement to have Protection of Enrolled learners bonding in place, as with other designated institutions of An tÚdarás.*

*NCI believes that it complies with all conditions for making of a designation as an institute of higher education as outlines in Head 57 of the Bill and is in agreement with the review of compliance with designated conditions outlined in Head 59 of the Bill.*

### Chapter 2 Duties of Designated Institutions of Higher Education

*NCI fully complies and agrees with the duties of a designated Institution of higher education as outlined in the Bill.*

### Chapter 3 Oversight by An tÚdarás of Designated Institutions of Higher Education

*NCI fully agrees with the oversight by An tÚdarás of designated Institutions of higher education as outlined in the Bill.*

## Part 8 Appeals

*NCI fully agrees with the appeals process for consideration of designated Institution of higher education as outlined in the Bill.*

*Part 9-15 of the Head of Bill relate to specific Acts for Institutions and NCI does not have comment to make on these sections or on the First Schedule Superannuation or Second Schedule Board An tÚdarás.*

Part 9 Amendment to Universities Act, 1997

Part 10 Amendment to the Technological Universities Act

Part 11 Amendment to the Institutes of Technology Act, 1992-2006

Part 12 Amendment to the National College of Art and Design Act, 1971

Part 13 Amendment of Student Support Act 2011

Part 14 Amendment of Industrial Training Act 1967

Part 15 Amendment to the Social Welfare Consolidation Act 2005

First Schedule Superannuation

Second Schedule Board of An tÚdarás



HECA, Higher Education Colleges Association  
C/O Griffith College Dublin  
South Circular Rd, Dublin 8, DO8 VO4

Joint Committee on Education, Further and Higher Education,  
Research, Innovation and Science  
Leinster House  
Dublin 2  
D02 XR20

June 14<sup>th</sup>, 2021

Ref: JCES-I-2021-[413]

The Higher Education Colleges Association (HECA) welcomes the opportunity to make our submission to the Joint Committee of Education, Further and Higher Education, Research, Innovation and Science on the General Scheme of the Higher Education Authority Bill 2021, which presents a welcome scheme of legislative reform.

HECA would also be happy to present to the Joint Committee to explain further.

Kind regards,  
Patricia

A handwritten signature in black ink, appearing to read 'Patricia O'Sullivan', is written over a horizontal line. The signature is stylized and includes a long horizontal stroke extending to the right.

Patricia O'Sullivan  
Executive Director  
[HECA, Higher Education Colleges Association](#)

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# Higher Education Colleges Association

**Submission** to the

**Oireachtas Joint Committee Education, Further  
and Higher Education, Research, Innovation, &  
Science**

On

**The General Scheme of the Higher Education  
Authority Bill 2021**

June 2021

## Contents

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## 1. Introduction

1.1 The Higher Education Colleges Association (HECA) is the representative body for private higher education institutions in Ireland. This submission is based on the views of the members of HECA which is comprised of thirteen established, mature<sup>1</sup> and privately funded higher education institutions (HEIs)<sup>2</sup>, providing quality assured, flexible, cost effective and focused programmes at higher education levels (between Levels 6-9 on the National framework of Qualifications) which are both accredited and awarded by Quality & Qualifications Ireland (QQI). In the last academic year, HECA member HEIs had 27,000 enrolled students representing approximately 12% of the total higher education student population in Ireland. HECA member institutions have a positive track record of significantly contributing to capacity building, social inclusion and increasing access to higher education (HE). They have made and can continue to make valuable contributions to both provision and the development and implementation of Government policy responses to the challenges facing higher education and skills needs.

1.2 HECA welcomes the opportunity to make this submission to the Joint Committee of Education, Further and Higher Education, Research, Innovation and Science on the General Scheme of the Higher Education Authority Bill 2021, which presents a welcome scheme of legislative reform.

1.3 It is important that legislators are informed of what is happening in both the private and public Irish HE sectors and how the implementation of the Bill can support learner equality, diversity and inclusion across both private and public HEIs. In circumstances where the private education sector plays a significant role within the higher education landscape, it is submitted that The HEA Bill needs to reflect this accordingly by way of scope and jurisdiction.

Moreover, the private education sector plays a vital role:

- with their graduates meeting economic and societal needs,
- with private HEI's engendering a responsive approach to the scale and depth of changes in the higher education sector, including the ever-increasing share of the population participating in higher education.

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<sup>1</sup> Some HECA members have been in existence for 40 to 50 years with a well-established and credible tradition of responding to third-level educational needs of full and part time students over this period.

<sup>2</sup> HECA HEIs: CCT College Dublin, Dorset College, Dublin Business School, Galway Business School, Griffith College, Hibernia College, IICP Education and Training, Irish College of Humanities & Applied Sciences, SQT Training Ltd., National College of Ireland, Open Training College, Setanta College, St. Nicholas Montessori College Ireland.

## 2. Executive Summary

2.1 HECA has provided previous papers<sup>3</sup> by way of response to earlier HEA Reform consultations and in an effort to avoid duplication, it is deemed appropriate to focus on those areas where it can be of most assistance to the Committee in making recommendations on improvements and appropriate considerations in the drafting of this detailed legislation.

HECA has confined its observations to those relating to:

- Designation as an institution of higher education
- Equality, diversity and inclusion

## 3. Designation as an institution of higher education

3.1 As specified in section 57 (2) (3), it would appear that the General Scheme does provide conditions for a “*designation as an institution of higher education*” order to be made. It is not clear if a higher education provider (HEP) meets the conditions that they will then, accordingly, be incorporated in the annual list presented to the Minister by An tÚdarás, as referred to in section 56 (2). HECA would like the proposed legislation to include such clarity as to process, in addition to general indicators as to what entitles a HEI to such status.

3.2 In particular, the scope of the proposed legislation is limited, as it provides neither particularisation nor transparency as to how and on what basis An tÚdarás selects the list of higher education providers, which in the opinion of An tÚdarás meet the conditions specified in section 57 (1) subject to subsections (4), (5) and (6).

3.3 The lack of particularisation and transparency of criteria and related conditions is crucial to full sectoral engagement with any proposed legislation and hugely important as currently many HECA HEIs would meet the conditions of designation as an institution of higher education but without a clear application process, there is ambiguity on whether they will be included in future lists. In comparison to other higher education regulation, the QQI’s<sup>4</sup> validation processes which determine if a QQI award can be offered in respect of an HEP’s programme of education and training, is a transparent process, and open to all HEPs.

3.4 We recommend that this ambiguity be addressed providing transparency on what informs the ‘opinion’ of the An tÚdarás and that all HEP who meet the conditions can be put forward onto the annual list as specified in section 52 (2). To simplify, HECA proposes that a transparent application process for inclusion in the list of designated institutions of higher education is incorporated into the legislation and to this end any such application is by way of clear process of eligibility and application.

3.5 There are references to funding in the legislation i.e., Section 39 proposes that the Universities, IoT’s and designated HEIs are entitled to Section 39 funding. There is also reference in

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<sup>3</sup> <https://heca.ie/submission-from-heca-to-the-public-consultation-on-review-of-student-grant-scheme-susi/>, <https://heca.ie/heca-response-to-the-consultation-on-the-reform-of-the-higher-education-authority-legislation/>

<sup>4</sup> <https://www.qqi.ie/Articles/Pages/Programme-Validation07.aspx>

Head 2 Interpretation, to funded HEPs. Transparency on the different funding entitlements would be valuable and appropriate to the overall intention of this proposed legislation.

## 4. Equality, diversity and inclusion

4.1 According to section 64 (5) of the proposed legislation a designated institution of higher education which is not previously established will be required to provide an equality statement which will take account of the Strategic Development Plan (section 63) and the Performance Agreement (section 38). The equality statement shall specify the policy of the designated institution of higher education for enabling access to it, and the education it provides, by economically or socially disadvantaged persons, by persons who have a disability and by persons from sections of society significantly under-represented in the student body and the policy of the designated institution of higher education relating to equality, including gender equality, in all activities of the designated institution of higher education.

4.2 HECA supports this important provision for equality, diversity and inclusion but also proposes that this Bill assures that HEP's who obtain the title designated institution of higher education are also regarded as an approved institution under the SUSI Act 2011<sup>5</sup>. This will ensure that eligible learners will be able to access state student supports i.e., SUSI, Student Assistant Fund, Disability Fund when attending a higher education programme at a designated institution of higher education regardless of it being a public/not for profit/profit HEI.

4.3 Currently under the Student Supports Act 2011, students at approved institutions of higher education are eligible for state student support(s) subject to meeting certain criteria. While there is provision for the reformed HEA legislation to provide funding to a wider list of designated institutions, it is also noted that under this proposed HEA legislation, a designated institution will have no entitlement to funding. Transparency on this discretion and decision making needs to be public. In addition, does this caveat also imply that students at designated institutions may not necessarily be entitled to state student support? Clarity on the implications in relation to the Student Support Act is warranted.

4.4 One of core objectives of the HEA legislation is to advance equality, diversity and inclusion in higher education<sup>6</sup>. If this Bill is to address Ireland's underrepresented citizens in higher education, including economically or socially disadvantaged persons, persons who have a disability and persons from sections of society significantly under-represented in the student body, this Bill should also consider the following recommendations:

- Subject to a higher education programme being QQI approved, eligibility for a maintenance/SUSI grant/Student Assistant Fund, in accordance with the Joint Oireachtas Committee on Education and Skills recommendation of 2017<sup>7</sup>, should be based on the means of the student rather than on the choice of HEI and therefore be made available to all qualifying students regardless of HEI attended.

<sup>5</sup> <http://www.irishstatutebook.ie/eli/2011/act/4/section/7/enacted/en/html>

<sup>6</sup> <https://www.gov.ie/en/press-release/2857b-minister-harris-publishes-new-legislation-aimed-at-reforming-and-modernising-governance-of-the-higher-education-sector/>

<sup>7</sup> Joint Committee on Education and Skills Report on the eligibility of maintenance grants to students Houses of the Oireachtas, September 2017

- All HECA higher education institutions can be considered an approved institution for student grant funding purposes as outlined in section 7 of the Student Support Act (2011)<sup>8</sup>. Under the current criteria, HECA has one HEI listed as an approved institution and one HEI who has approved programmes in the Student Support Act (2011).

4.5 According to Minister Harris, this new legislation ensures that higher education institutions provide greater value for money for public funding<sup>9</sup>. In the past, concerns were expressed<sup>10</sup> about the cost to the Exchequer in increasing student support(s) to students in the private higher education sector. However, this evaluation gave no consideration to the fact that private HEIs provide third level places at no capital or pension costs to the State and can provide a much larger role in meeting government targets to widen the participation in higher education if student supports available to eligible students in public funded institutions were also available to students at QQI awarded private HEIs. The average cost for an undergraduate student in a public HEI (taking all disciplines into account) would be in the region of €9,000 - €10,000 per student per year<sup>11</sup> (not including SUSI costs). The average private undergraduate costs are significantly lower at €6,500 per student per year.

## 5. HECA Recommendation:

For the reasons and recommendations outlined above, HECA asks that the Joint Committee would review the draft General Scheme to ensure that it is compatible with legislative intentions namely; transparency of processes namely and the opportunity to propose the inclusion in the proposed legislation that a HEI, public or private, can apply for such status through an open and transparent process.

Further clarity and transparency on the implications of what 'designated institution of higher education' and a 'HEP' means for the private HEIs under the HEA regulatory reform is also warranted. Transparency concerning the implication of terminologies utilised in this reform is needed.

Moreover, HECA would welcome a legislative model with regards to funding and student support(s) which facilitates a widening of equality, diversity and inclusion for students attending QQI validated programmes of study in private HEI's. Students from economically or socially disadvantaged environments or students who have a disability are from sections of society which are significantly under-represented and should be able to avail of State Student supports if they attend a private HEP and/or a designated institution of higher education.

## 6. Conclusion

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<sup>8</sup> <http://www.irishstatutebook.ie/eli/2011/act/4/section/7/enacted/en/html>

<sup>9</sup> <https://hea.ie/2021/05/06/minister-harris-publishes-new-legislation-aimed-at-reforming-and-modernising-governance-of-the-higher-education-sector/>

<sup>10</sup> *Senad Debates 2017 Student Universal Supports* <https://www.kildarestreet.com/sendebates/?id=2017-11-23a.90>

<sup>11</sup> <https://www.oireachtas.ie/en/debates/question/2020-09-08/858/>

HECA is concerned that, at a time when the Dáil has recognised that Ireland is facing a demographic demand as well as high unemployment and a national need for upskilling', the introduction of the legislative proposals outlined in the Bill may not sufficiently address key inequalities in the Irish HE sector or enable citizens that may be disadvantaged to participate in the higher education programme of their choice. Considering the drafting of this legislation may have effects on the higher education landscape, equality, diversity and inclusion for another fifty years, the reform of the HEA legislation should not miss the opportunity of addressing key inequalities in the Irish HE sector including exclusion of state student support for students studying at private HEIs.

## **Contact**

Name: Patricia O Sullivan, HECA Executive Director

Address: HECA, Higher Education Colleges Association, Griffith College, South Circular Road, Dublin 8, Ireland.

Email Address: [patriciaosullivan@heca.ie](mailto:patriciaosullivan@heca.ie)



**Irish Humanities Alliance** Written Submission to the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science, with reference to the Committee's Pre-legislative Scrutiny of the General Scheme of the Higher Education Authority Bill, 2021.

Name and contact details: Dr Niamh NicGhabhann, [niamh.nicghabhann@ul.ie](mailto:niamh.nicghabhann@ul.ie)/ 087 7632008  
Organisation and position held: Irish Humanities Alliance, Chairperson

Rationale for submission: The Irish Humanities Alliance has been requested to make a submission to the Joint Committee, reflecting the position and role of the Alliance as a body representing humanities researchers on an all-island basis. Our submission includes general comments on key issues raised in the Bill, and some notes in response to specific Heads. We are very happy to be contacted for any follow-up questions or clarifications on the issues raised below.

## 1. Introduction

The Irish Humanities Alliance (IHA) is glad to have the opportunity to make a submission to the Joint Committee with reference to the pre-legislative scrutiny of the general scheme of the Higher Education Authority Bill, 2021.

The IHA was established in September 2013 as a joint initiative of humanities researchers within 11 higher education and research institutions including all the universities across the island of Ireland and the Royal Irish Academy (RIA) which hosts and supports the IHA. Since its creation the IHA has championed humanities research and scholarship in Ireland and Northern Ireland.

Humanities disciplines in both jurisdictions enjoy an excellent international reputation, and the IHA was formed to address the central place of the humanities in the context of a higher education policy landscape that is increasingly shaped by economic imperatives. The IHA provides a platform for all-island humanities collaboration and consultation. This has enabled the diverse range of humanities disciplines across the island to speak with a single voice. In the context of Brexit, the IHA remains committed to championing the social, cultural and economic value of humanities education and research in Ireland and Northern Ireland. In the context of the changing higher education landscape, we are actively working on ways to broaden our membership and increase the participation of higher education institutes (HEIs) in the IHA.

Links to key IHA documents:

Irish Humanities Alliance Strategy 'By Imagination We Live':  
<https://www.irishhumanities.com/strategy/>

Repository of Irish Humanities Alliance policy statements and documents, including those on open access, research impact, and research and policy development:

<https://www.irishhumanities.com/policy/>

## 2. Research

In relation to Head 53, the IHA commends the inclusion of ‘research in the higher education sector across all disciplines in accordance with national research policy and in partnership as appropriate with Departments of State, relevant Government agencies, and any other relevant body An tÚdarás considers appropriate. We would recommend the inclusion of a commitment to recognising the importance of investing in research across all disciplines as a core priority of An tÚdarás, further to its position in national policy.

As evidenced by the strong commitment and prioritisation of arts, humanities and social sciences research across the Horizon Europe funding programme, it is increasingly recognised that **a balanced and diverse research environment inclusive of all disciplines** is essential in order to provide the solutions to the many complex problems facing our society and environment. The key insights and methods provided by the arts, humanities and social sciences researchers are crucial to developing the ‘human-centric’ research approaches that we need in order to combat misinformation, hate crime and radicalisation, engage citizens in climate justice initiatives, and proactively and creatively engage with the changing nature of the workplace, to provide just three examples.

The IHA recommends the inclusion of **a commitment in the Bill to funding fundamental/ blue-sky as well as applied research**. It also recommends the inclusion of a clear commitment to funding and investment in interdisciplinary and transdisciplinary (IDR/ TDR) research, inclusive of all disciplines, reflecting the increasing evidence around the efficacy of IDR and TDR approaches.

The IHA recommends the inclusion of a commitment around **equality, diversity, and inclusion in research** as well as across student bodies, ensuring that there is equity of access and participation in relation to research career pipelines, from postgraduate through to postdoctoral, early career, to mid-career and professor.

The IHA recommends that an tÚdarás **benchmarks the financial support provided to the Irish Research Council against comparator national funding agencies**, in terms of both funding schemes available and the staffing of this essential body.

## 3. Social, economic, cultural and environmental development and sustainability

In response to Head 8, we welcome the inclusion of (b) that An tÚdarás shall support higher education providers in contributing to social, economic, cultural and environmental development and sustainability through leadership, innovation and agility.

In particular, we would like to commend the emphasis on **social and cultural development and sustainability** – arts and humanities departments across the island of Ireland are highly regarded internationally, with leading scholars across these disciplines. While arts and humanities research and teaching contributes greatly to economic and environmental development and sustainability through the development of intercultural awareness, creative problem solving, excellence in communication, and critical thinking in particular, they also contribute significantly to Ireland’s global reputation as a leader in the arts and are essential to the cultural and social life of the nation.

Arts and humanities departments contribute to the cultural life of the nation and their local communities through their research and teaching on our **histories**, issues of **national identities, critical understanding of social dynamics, power, and relationships**, and ongoing **engagement with the public and the sharing of research**. We need excellence and expertise in these core areas as part of a **sustainable, reflective, and creative national life**. To provide some recent examples, humanities departments contribute significantly to national engagement with the Irish language, to political and cultural engagements with Europe and the United Kingdom in the context of Brexit, and with the current Decade of Centenaries, providing citizens with opportunities to reflect on the past and reimagine the future of the nation and its identity. The recognition of this core value within the Bill should be reflected in **increased funding to arts and humanities research and teaching**, in line with the funding support offered to other areas of research, in order to ensure that this can be maintained and continued.

We also welcome the inclusion of (f) in relation to **academic freedom** of higher education providers and academic staff in higher education providers, as this is a core and central value within teaching, learning, and research.

#### 4. Equality, diversity and inclusion

Head 8 (1) (d) relates to the importance of advancing equality, diversity, and inclusion. We commend the important position given to these crucial issues. We recommend that an tÚdaras ensures appropriate investment in these areas through **engaging and growing a culture of research on these issues as well as developing mechanisms for increasing participation**. This could be included under Head 52 (1). In order to ensure that our higher education institutions are places of equality, diversity, and inclusion we must understand the **historic and contemporary social and cultural barriers** to participation and success.

#### 5. Measurement and performance indicators

The issues of measurement and performance frameworks are mentioned throughout the Bill. In relation to Head 38 in particular and the development of a performance framework, we would urge the Joint Committee and an tÚdaras to engage with the IHA on the development of an inclusive performance framework and inclusive KPIs around research. At present, research performance is largely measured through indicators such as books, articles and grant success. However, **research cultures are continually changing and developing, and internationally-recognised research outputs now include a broader range**

**of outputs, including creative works, community research partnerships, patents, media productions, and policy submissions.**

Therefore, in order to ensure that an tÚdarás is able to fully capture and report on the breadth and richness of the research being produced across Irish HEIs, we strongly recommend that a more inclusive reporting system around research performance is developed. In particular, focusing on policy engagement and submission in performance frameworks would support and encourage the development of greater research-policy partnerships.

#### 6. Financial supports for HEIs

Reflecting Head 39 of the Bill, and the issue of grants by An tÚdarás, we recommend that **funding provided to HEIs is benchmarked against similar national authorities in comparator countries**. The decreases in funding to the HEI sector following the 2008 financial crisis have not been reversed, and **demand for higher and further education continues to increase**. The quality of the education and research provided by our HEIs underpin several crucial national goods – including the development of excellent graduates for all sectors of our national society, culture and economy. Research and teaching across all discipline areas is essential in order to ensure economic sustainability, and therefore increased investment in the HEI sector is crucial. There is a strong body of international evidence supporting **the need for diverse disciplines in the HEI sectors supporting economic, social and cultural sustainability and resilience**, and the need for research and teaching across all discipline areas, from anthropology to zoology. Therefore, we would strongly recommend the need for benchmarking funding provision to the HEI sector to ensure that it can continue to deliver on these crucial national goods.

#### 7. Equity of access and participation

Part 5, Head 46 relates to equity of access and participation, and the IHA recommends the consideration of **quotas and targets** in relation to the inclusion of under-represented groups across the HEI sector.

In particular, the IHA recommends a focus on equality, diversity, and inclusion in relation to postgraduate and postdoctoral researchers, and in relation to HEI staff at all levels and grades. Reports such as the UK Royal Historical Society Race, Ethnicity, and Equality Report (<https://royalhistsoc.org/racereport/>) may be of interest to the Joint Committee, as it provides an example of research approaches on racial and ethnic inequalities in the teaching of certain academic disciplines. This could be included under Head 52 (1).

The IHA strongly recommends that the Joint Committee includes attention to **career pathways** within academia within the Bill and its consideration of equity of access and participation. Diversity within HEIs and education requires diversity in leadership at all levels, and attention needs to be paid to the career pipelines from undergraduate, postgraduate, postdoctoral, and professional academic positions. These structures urgently require attention in terms of ensuring and supporting diversity and equality through these key progression points – suggested actions include targeted recruitment and development schemes and accompanying investment. The IHA also recommends that attention is paid to

the **impact of precarious work on equality, diversity and inclusion** in relation to career progression and early career experiences in HEIs.

The IHA also recommends engagement with key groups such as the National Forum for Teaching and Learning and a commitment to **investing in key inclusive approaches** such as Universal Design for Learning as part of the Bill.

The IHA also recommends investing in digital teaching and learning capacity across HEIs to facilitate more flexible and accessible approaches, and the inclusion of digital capacity development in relation to equity of participation within the Bill itself.

The IHA also commends the inclusion of lifelong learning as a key priority, and recommends **appropriate investment in the infrastructure, staff, and supports** required to ensure that learners can best engage with higher and further education throughout their life. For example, recent research and best practice demonstrates the need for adapting campus facilities in order to provide autism-friendly spaces and environments for learners – this is just one area that will require investment in order to ensure a genuine inclusive HEI offering.

#### 8. Engagement with student perspectives and experiences

The IHA commends the emphasis given to student engagement across the Bill, and recommends engagement with HEI staff at all levels, as well as postgraduate and postdoctoral researcher perspectives as central to the ongoing activity and development of an tÚdarás.

#### 9. Governance

The IHA recommends close consultation with current governing authorities (GA) and HEI leadership around changes in structures to boards and governing authority structures, ensuring that changes **do not introduce risks** to the HEI through reducing the number of members on GA.

The IHA recommends that **issues of equality, diversity and inclusion** are taken into account in the composition of governing authority boards are included in the Bill.

In relation to the appointment of ‘a number’ of external members of GAs by the minister – the IHA asks that clarity on **how many members** can be appointed by the minister be included in the Bill.

In relation to Head 81 and the limitation of the membership of Academic Council – the IHA recommends consultation with stakeholders to ensure that **this limitation does not introduce risk** through the exclusion of key perspectives on Academic Councils of HEIs.

**Ends.**



Ms Tara Kelly,  
 Clerk to the Committee,  
 Joint Committee on Education, Further and Higher Education, Research, Innovation &  
 Science,  
 Houses of the Oireachtas,  
 Kildare House,  
 Dublin 2,  
 D02 XR20.

(tara.kelly@oireachtas.ie, education@oireachtas.ie)

14<sup>th</sup> June 2021

**RE: Submission to the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science as part of the Committee's Pre-legislative Scrutiny of the General Scheme of the Higher Education Authority Bill, 2021.  
 (Your reference: JCES-I-2021- [408])**

Dear Ms Kelly,

The Higher Education Authority (HEA) welcomes the opportunity to comment on the General Scheme of the Higher Education Authority Bill, 2021 and is happy to respond to the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science's request for a submission.

As the State agency with a statutory responsibility, at central government level, for the effective governance and regulation of higher education institutions and the higher education system, the HEA promotes the strategic development of the Irish higher education and research system with the objective of creating a coherent system of diverse institutions with distinct missions, which is responsive to the social, cultural and economic development of Ireland and its people and supports the achievement of national objectives.

We would like to offer the following suggestions and views in response to your invitation to input to the process of legislative scrutiny. In preparing this input we have been mindful of the Minister and Department's intended priorities in respect of Higher Education including innovation, inclusion, enterprise engagement, talent & skills as well as an international outlook.

The HEA considers the revision of the Higher Education Authority Act, 1971 is both necessary and timely given the rapid pace of development and change in Higher Education both nationally and internationally. Ireland's higher education system has been responsive to national needs, providing education and training, building the skills base, assisting people in their lives, and in conducting high quality research that attracts and retains both people and investment in Ireland.

In order to prepare for the next five decades of social and economic progress the HEA and higher education institutions need to be fit for purpose; appropriately governed but sufficiently free to act responsively and innovate where needed. The draft HEA Bill, 2021, protects the academic freedom of institutions, but also provides the HEA with additional powers to collect data, to assist institutions in their missions, and hold institutions to account should issues arise. We believe the balance in the draft legislation is appropriate and workable however we also have some suggestions that the Committee may wish to take under consideration. These observations are provided in an appendix below.

Yours sincerely,



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Dr Alan Wall

Chief Executive Officer, Higher Education Authority

**Submission to the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science - Pre-legislative Scrutiny of the General Scheme of the HEA Bill, 2021.**

**Part 2, Chapter 1 – Continuation and Functions of An tÚdarás - Head 8. Objects**

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*The HEA welcomes these objectives, they are a continuation of the work of the HEA since the 1971 Act, but in addition bring prominence to current and future challenges such as environmental sustainability.*

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**Part 2, Chapter 1 – Continuation and Functions of An tÚdarás - Head 9. General Functions**

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*The HEA welcomes these functions, they are a continuation of the work of the HEA since the 1971 Act, but in addition enhance the position of quality, the student experience, local regional and national skills provision and attainment. They further promote measurement and assessment of institutional and system performance, to underpin public confidence, and provide for revised and modern governance arrangements which will allow institutions to better balance autonomy with accountability. The addition of data collection powers, to support evidence-based policy, is particularly welcome.*

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**Part 2, Chapter 2 – Ministerial Powers and Information - Head 15. Advice to the Minister**

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*The HEA welcomes this provision which will allow an opportunity for the HEA to provide advice to the Minister and Government on the development and promotion of higher education. The HEA, at both Board and Executive level, is careful to ensure that the higher education system keeps pace with international developments so that our graduates are appropriately equipped for success in their lives and in the world around them.*

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**Part 2, Chapter 3 – Board and Committees - Head 17. Membership of the Board of An tÚdarás**

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*The HEA welcomes this provision which will form a modern fit for purpose governance structure with an appropriate representational balance underpinned by an appropriate mix of competences, skills and experience that will provide strategic direction to the HEA and its work. In respect of the Second Schedule, the ability of An tÚdarás to establish committees is welcome and may allow for greater parity between teaching and learning, research through such structures. This could also provide for Section 44 (Student Forum) in more flexible way.*

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**Part 2, Chapter 4 –Co-operation - Head 18. Co-operation with other bodies, (Heads 19, 20)**

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*The HEA welcomes this provision for cooperation and collaboration with other bodies. The influence and benefits of higher education and research do not accrue to students, researchers or institutions alone, they are deeply impactful across society and the economy. The HEA has a history and tradition of joint programmes of work, the formalisation of such relationships in this revised legislation, including formal agreements such as provided for in sections 19, 20, will allow for expanded relationships which will progress the interests of students, higher education and those bodies with which we will cooperate. Head 20 could benefit from the addition of a specific reference to the access agenda, internationalisation, research and teaching and learning.*

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**Part 2, Chapter 5 – Funding and Accountability of An tÚdarás - Head 22. Corporate Plan; Head 23. Annual Plan**

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*The HEA welcomes this provision for corporate and annual planning in conjunction with the Minister and his/her Department which also allows for appropriate wider consultation on the key objectives, outputs and related strategies of An tÚdarás. Development and delivery of these plans will be dependent on appropriate resources as well as timely notifications of financial allocations as any strategy or plan will be dependent on the resources available to deliver them. Section 22 and 23 could benefit from the inclusion of risk planning and an opportunity dialogue on any challenges which might emerge over the course of these plans.*

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**Part 2, Chapter 7 – Staff and Superannuation - Head 22. Staff**

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*In respect of staffing, the HEAs earlier comments on the resources available to deliver on strategy and plans are also linked to the HEAs ability to recruit the required skilled people to deliver on its agenda. Section 31 could benefit from a provision providing for the HEA to recruit as might be required, within agreed ceilings or budgets, rather than on a consent per individual post basis.*

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**Part 3 Higher Education Sector, Part 3, Chapter 1 – Strategic Planning, Head 36. Strategic Planning**

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*The HEA welcomes this provision for medium term strategic planning for the higher education sector. Section 36 could benefit from a reference to research and the significant national contribution the higher education makes to the national research and innovation agenda. Section 36 could benefit from a specific reference to consultation with the HEA in strategy development, so as to leverage the HEAs considerable knowledge and experience of the higher education and research sector.*

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### **Head 37. Planning for higher education provision**

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*The HEA welcomes this provision for planning for higher education provision. In respect of the requirements for measuring and review, such activities will be very much dependent on the data and evidence gathering provisions provided for elsewhere in the draft Bill. In respect of assessing demand and planning for provision (regionally and nationally and in each discipline) this is a difficult agenda to deliver on. Skills needs forecasting is an inexact science and influencing student choice is not always in the power of the HEA or higher education institutions.*

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### **Head 38. Performance Framework**

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*The HEA welcomes this provision for the development of a performance framework for the higher education sector. It would be important that this process aligns, both in content and timelines, with the provisions for medium term strategic planning for the higher education sector as set out in Section 36. The inclusion of consultation with An tÚdarás by the Minister in part 8 is welcome, the section could benefit from more formalised consultation with An tÚdarás in the overall development of the National Performance Framework. In setting out national policy and performance objectives, along with priorities for implementation, it will be important to identify a small number of specifics, measures and deliverables, given the four-year timescale envisaged.*

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### **Part 3, Chapter 2 – Provision of funding by An tÚdarás - Head 39. Grants by An tÚdarás**

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*The HEA welcomes this provision for a framework for the allocation of funding including a range of mechanisms for the provision of funding to education providers which will allow for flexible provision in response to skills and students' needs.*

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### **Part 3, Chapter 2 – Provision of funding by An tÚdarás - Head 40. Conditions of Funding**

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*The HEA welcomes this provision these conditions of funding, including the provision of financial and other data. The section could benefit from an addition to 40.1.(a) in respect of the provision of financial and other data, in a timely manner or in accordance with timelines as specified by An tÚdarás (this is partially addressed in 42.1., 41.2)*

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**Part 4 Students - Head 43. Engagement with Students; Head 44. Student Forum; Head 44. Student Survey**

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*The HEA welcomes this provision for engagement with students and has always had a focus on the student at the centre of the higher education mission. The inclusion of a formal provision for a national student survey is important. The added value of a student forum over and above the representative roles (HEA Board, HEI Boards, etc.) as already allowed for in the Bill, is less obvious.*

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**Part 5 Participation and Skills -Head 46. Equity of Access and Participation**

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*The HEA welcomes the continued prioritisation of the equity of access and participation agenda in the Bill. It would be important that this process aligns, both in content and timelines, with the provisions for medium term strategic planning for the higher education sector as set out in Section 36 and the prioritisation of national policy and performance objectives, along with priorities for implementation as set out in Section 38.*

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**Part 5 Participation and Skills - Head 47. Lifelong Learning**

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*The HEA welcomes this prioritisation of lifelong learning in this Bill and the opportunity for enhanced means of access, transfer and progression to be developed in conjunction with QQI.*

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**Part 6 Data and Research - Head 48, 49, 50, 51, 52 Supply of information; Head 52. Research by An tÚdarás**

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*The HEA welcomes this provision for the collection, analysis and sharing of data, in accordance with established legal frameworks. Such provisions, including research by An tÚdarás, underpin the evidence-based policy making requirements as set out elsewhere in the Bill. Section 48.3. strengthens the HEA's ability to collect institutional and system level data in a timely manner.*

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**Part 6 Data and Research - Head 53. Research; Head 54. Research Integrity**

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*The HEA welcomes the restatement on the role of An tÚdarás to promote, support and fund excellent research in the higher education sector across all disciplines and the formalisation of the position of the Irish Research Council (IRC) on the national funding landscape. The reference to “research... in the higher education sector across all disciplines” could be refined and improved to “research... across a balanced higher education research system encompassing all disciplines and research orientations from fundamental through to close-to-market”. This section could also benefit from further development to recognise the central role of the HEA and Department of Further and Higher Education, Research Innovation and Science in defining the national research agenda and the opportunity to clarify agency roles and boundaries. In respect of the role of An tÚdarás, the HEA is occasionally described as a research funder, through the HEA block grant, however this is only one of its research functions. The HEA’s role in research policy advice and its nascent role in research system oversight are arguably more significant. The HEA as an agency of State provides important ongoing research policy advice to the Department - critically on the overall development of the research system within the wider context of higher education and on system interdependencies rather than on one focused element (as is the remit of specific research funders). On research system oversight, for example, this has been successfully started with the HEA's Principles of Good Practice in Research in Irish HEIs which are now embedded in the Annual Governance Statements, and which provide a strong opening platform from which the HEA can build its system oversight role in relation to higher education research as part of its building of its system oversight role more generally. The explicit role of the HEA in respect of Research Integrity, as set out in the Bill, is an important and welcome step in this regard. In respect of the IRC, the Bill advises of further consideration and work needed around arrangements for the IRC. Given the present relationship between the HEA/IRC, the HEA would suggest that it must be centrally involved in these discussions.*

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**Part 7 Designated Institutions of Higher Education - Chapter 1, Head 55. Designated Institutions of Higher Education; Head 56. Designation as an institution of higher education; (Head 57, 59, 60, 61, 62, 63)**

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*The HEA welcomes the regularisation of 'designation'. These sections could be improved by further specificity on designation in respect of use of the title, funding, governance, and oversight by the HEA. The process of designation, and oversight of designated institutions, will also require the HEA to be resourced appropriately.*

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**Chapter 2, Head 64. Equality Statement of Designated Institutions of Higher Education**

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*The HEA welcomes this prioritisation of the principles of equality, diversity and inclusion.*

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**Chapter 2, Head 65. Accounts of designated institutions of higher education and funded higher education providers; Head 66. Guidelines, Codes and Policies**

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*The HEA welcomes this provision for the keeping of proper and usual accounts and records of all moneys received underpinned by appropriate guidelines, codes and policies.*

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**Chapter 3, Oversight by An tÚdarás of Designated Institutions of Higher Education - Head 67. Report to An tÚdarás; Head 68. Determination (Head 69, 70, 71, 72, 73, 74, 75, 76)**

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*The HEA welcomes the formalisation of reporting and review processes and the ability to determine action where appropriate, including assistance and / or remedial measures.*

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**Part 9, 10, 11 - Amendment to Universities Act, 1997 - Head 77. Amendment of Section 16 (Composition of Governing Authority); Amendment to the Technological Universities Act, 2018 - Head 89 - Amendment of Section 11 (Governing Body of technological university); Head 97 - Amendment to the Institutes of Technology Acts, 1992-2006; (Head 105, NCAD)**

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*The HEA welcomes this provision for modern, fit for purpose corporate and academic governance structures within higher education institutions, including an appropriate representational balance underpinned by an appropriate mix of competences, skills and experience that will provide strategic direction to the HEIs and their work.*

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AD/lc

14<sup>th</sup> June 2021

Ms. Tara Kelly  
Clerk to the Committee  
Joint Committee on Education, Further and Higher Education,  
Research, Innovation and Science.  
Leinster House  
Dublin 2  
D02 XR20

Dear Tara

Please find attached the submission on behalf of the Teachers' Union of Ireland for the attention of the Joint Oireachtas Committee on Education, Further and Higher Education, Research, Innovation and Science.

Please do not hesitate to contact me if you require additional information or clarification of any issues set out in the attached submission.

Yours sincerely

Annette Dolan  
Deputy General Secretary

Enc.



## **Submission by the Teachers' Union of Ireland to the Joint Oireachtas Committee on Education, Further and Higher Education, Research, Innovation and Science on the General Scheme of the Higher Education Authority Bill 2021.**

### **1. Introduction**

1.1 The Teachers' Union of Ireland (TUI) welcomes the opportunity to make a submission to the Joint Oireachtas Committee on Education, Further and Higher Education, Research Innovation and Science, as part of its pre legislative scrutiny of the General Scheme of the Higher Education Authority Bill 2021.

1.2 The TUI represents teachers, lecturers, researchers, education professionals and staff (19,000+) in Education and Training Boards (ETBs), voluntary secondary schools, Community and Comprehensive (C&C) schools, Youthreach, Institutes of Technology and Technological Universities and those working in school services. TUI is the only trade union representing academic and research staff in the Institutes of Technology, Technological Universities and St Angela's College Sligo.

1.3 TUI is concerned in relation to the proposed changes to the Technological Universities Act 2018, as many of the provisions in this Act were the subject of an Agreement between the Department of Education and Skills/ TUI and the Technological Higher Education Association (THEA). (*Please see [Appendix 1](#) and [Appendix 2](#) attached*). The Union is particularly concerned in respect of the provisions in the draft Heads of Bill to reduce the size of the Governing Bodies of Institutes of Technology and Technological Universities. This proposal is not alone contrary to an agreement with the union but it creates particular difficulties in providing for adequate staff representation where multiple locations and sites are utilised in a Technological University. In this context changes to the both the size and composition of governing authorities within such institutions, requiring change to the existing 2018 TU Act, would require consultation/dialogue and agreement with the TUI.

1.4 The potential loss or erosion of academic freedom under the draft Heads of Bill is also a concern for the Union. Academic freedom is crucial to facilitate academic staff

independent inquiry, innovation, and research activities. It also, allows for a critical perspective which can contribute to democracy and the public good. It is acknowledged that HEIs however, need to be transparent and accountable for their activities.

1.5 In addition, there are concerns about proposed performance-based funding models that, in our view, often serve to exacerbate and perpetuate social and educational division. Such models would also likely replicate the errors seen in the failed approach adopted in the UK.

1.6 What is required however is a clear and coherent public funding framework that is developed out of a process of consultation and dialogue with all key stakeholders, including trade unions.

## **2. Consultation and Agreement is required in respect of any changes to the Technological Universities Act 2018.**

2.1 Any proposed legislative changes to the Technological Universities Act (2018) must be carried out in consultation with TUI. The changes to the size and composition of Governing Authorities outlined in the Draft Bill are not acceptable to TUI.

2.2 The proposed functions/objects of the HEA, as outlined, expand greatly on those in the HEA Act 1971. These functions - if passed - would grant the HEA significant legislative and regulatory authority/power.

2.3 How would this overlap or align with the role and functions of the Department of Further and Higher Education? Who then would be the ultimate decision maker on higher education matters?

2.4 In addition, what are the implications of the proposed legislation for academic independence and intellectual freedom, a cornerstone of democracy? How does the amended legislation affect the independence of the HEI/IoT/University sector?

2.5 TUI would also welcome stronger regulation and oversight of Quality Assurance in the Higher Education sector.

## **3. Co-Regulation**

3.1 The proposed reforms place a huge emphasis on what is described as a 'co-regulation' governance model. It is crucial that any regulatory reform does not dissolve the independence of the university sector and make it subject to the regulation of a government-appointed body.

3.2 It is recognised that the university sector should remain independent to educate individuals who can think critically and independently and hold to account the institutions of democracy.

3.3 A significant regulatory framework for internal governance would be required to achieve a co-regulation model. To date, governance structures in Institutes of Technology and Technological Universities have been dominated by Executive management. In our view, the roles and functions of Academic Councils and Governing Bodies need to be strengthened.

#### **4. Competency Based Governance Models**

4.1 Competency and representation are essential on Governing Bodies. These two functions cannot and should not be separated. Academic staff must be central to Strategic Planning for HEIs. Strategic planning (primarily academic) cannot be relegated to a corporate Governing Body function in the absence of academic staff and student representatives. HEI Governing Bodies must have a sufficient and proportionate representation from both the academic and student communities. The voice of the academic community must be facilitated as part of any HEI Governing Body.

#### **5. Funding Model**

5.1 There is no reference in the Heads of Bill to a collaborative, non-competitive funding model. Instead, what is proposed is a very competitive, performance-based model. Such models are overly deterministic and restrictive, thereby, limiting innovation and growth. It is accepted that publicly funded higher education should serve the public good and be accountable, however, the funding criteria used needs to allow for the uniqueness of each HEI and their local and regional mission.

#### **6. System Performance Frameworks**

6.1 Compacts and Key Performance Indicators (KPIs) can be hugely problematic and detached from any material reality on the ground. Academics can be put under pressure to maintain quality assurance processes and procedures without being provided with the necessary resources to do this work.

## **7. Reform of Governing Authorities of HEI**

7.1 The proposed changes set out in the Heads of Bill would negatively impact on Governing Bodies in multi-campus Technological Universities and is contrary to the agreement reached with the TUI in 2017 concerning the TU Bill. There must be a balance between Governing Authorities that are competency based and representational.

7.2 It is possible that some campuses might not have any representation on a Governing Body of a TU. This could have a significantly negative affect on the local regions served by TU campuses. TUI does not support any changes to Governing Body composition and size as legislated for in the Technological Universities Act 2018.

7.3 Academic Councils in IoTs and Technological Universities are legislated for in the Technological University Act 2018. Any proposed reforms that would require an amendment to the Act would require consultation directly with TUI.

## **8. Chief Officer Role**

8.1 It is crucial that the Chief Officer does not interfere or exert undue influence on the Governing Authority and that there is a clear division between their respective roles and functions.

## **9. Stakeholder Involvement**

9.1 *“The governing authorities are the top level of institutional governance and accountability in a HEI and should not be regarded as internal representational structures.”*

The above statement contradicts the co-regulation/shared governance model outlined earlier, which states the need for internal shared governance between Academic Councils, Chief Officer/Executives and Governing Bodies.

## **10. Governance Framework between HEIs and the HEA**

10.1 TUI supports a Code of Practice for the Governance of HEIs. This must be agreed through consultation and negotiation.

## **11. Autonomy and Accountability**

11.1 TUI supports both autonomy and accountability within a strong regulatory framework but would have concerns around the metrics used for performance-based funding.

11.2 Performance-based funding should not lead to HEI league tables or enable a division between what might be considered top performers and low performers. This model has not worked elsewhere, in particular in the UK.

## **12. Engagement with Students**

12.1 Engagement with students is important. However, engagement must be appropriate and relevant to matters of concern to students. The setting up of a student panel should have clear terms of reference to ensure that it does not become a forum for specific political or lobbying agendas and/or interests.

## **13. Engagement with Trade Unions representing academic and research staff.**

13.1 Throughout the draft Heads of Bill there is reference to engaging with the union representing students, however there is an absence of reference to engaging with the trade union/s representing staff in key sections of the Heads of Bill including:

- Membership of the Board of An t-Údarás (Head 17)
- Co-operation with other bodies (Head 18)
- Planning for Higher Education Provision ( Head 37)
- Student Forum ( Head 44)
- Student Survey ( Head 45)
- Equality of Access and Participation (Head 46)
- Strategic Development Plan ( Head 63)
- Equality Statement ( Head 64)
- Head 90 change staff association to trade union representing staff.
- Amendment to Section 18 ( Head 91)
- Amendment to Section 19 (Head 92)
- Head 101
- Head 102

We request that reference to the trade union/s representing staff be inserted throughout the Bill.

## **14. Research**

14.1 It is proposed that the functions of the HEA will include the following function in relation to research:

*“to promote, support and evaluate excellent research in the higher education sector across all disciplines in accordance with national research policy and in partnership as appropriate with Departments of State, relevant Government agencies and any other body the HEA considers appropriate.”*

TUI would have concerns around how research would be evaluated. A workload model needs to be developed and agreed to allow adequate and equitable allocation of hours to cater for both teaching and research activities as required. Significant consultation is required around a HEA legislative role for research and what this would entail.

## **15. Equity of Participation**

15.1 TUI fully supports equity of participation, including access to Higher Education, but it must be demonstrable on a structural level and funding must be provided. Equity of participation should apply to both students and all staff in HEIs. There should be stronger provisions in the Heads of Bill concerning commitments to equality, diversity and inclusion.

15.2 KPIs should be set for the access of those from socially disadvantaged backgrounds, ethnic communities including Travellers and other minority ethnic communities.

## **16. Designation**

16.1 Clarification, consultation and agreement with TUI is required to ensure that designation as a HEI will not undermine existing legislation, specifically the Technological Universities Act (2018).

## **17. Funding**

17.1 TUI supports and advocates for a publicly funded Higher Education sector. Funding should not solely be competitive and performance-based. A collaborative/co-operative funding model should also be considered.

## **18. Serving the public interest**

18.1 Publicly funded HEIs must serve the public, this includes equality of access for all groups to higher education opportunities. And the provision of multi-level programmes from NFQ 6 to 10, traditional under and postgraduate programmes and short programmes for upskilling and reskilling. HEIs must have progression routes that are recognised across the systems to facilitate Lifelong Learning of citizens in Ireland and within the European Union and the UK. Our public funded higher education systems should enhance citizens opportunities, increase understanding and tolerance, support democracy and enable mobility. As a professional education trade union, we are committed to supporting quality public funded education and recognised the benefits of education for the individual and society. TUI is willing to engage in a consultation process exploring reform on behalf of our members and in consideration of the students, communities, enterprise, culture and sports, our members serve.

## **Appendix 1**

Joanne Irwin  
President  
Teachers' Union of Ireland  
73 Orwell Road  
Rathgar  
Dublin 6

12 May 2017

### **Re: Technological Universities**

Dear Joanne,

I refer to the detailed consultation process that has taken place between the TUI, THEA and the Department of Education and Skills regarding Technological Universities.

This letter and the enclosed Appendices should now be taken together and treated as the final document which has emerged from the conclusion of this consultation process. The Appendices detail:

- 1) Potential amendments to the Technological Universities Bill (Appendix A);
- 2) Terms of Reference for the national negotiation forum relating to Technological Universities (Appendix B).

A number of issues were also raised during the process which I will clarify as follows:

**1. A commitment that there will be no compulsory redundancies of TUI members arising from this process:**

The Department has already given commitments in relation to protection for conditions of service as outlined in the relevant section of this document. I should also point out that the Department of Education and Skills does not envisage any compulsory redundancies arising from the development of Technological Universities.

As you will be aware, under the terms of the Croke Park Agreement and its successors (Haddington Road Agreement and Lansdowne Road Agreement), the Government has given a commitment that compulsory redundancy will not apply to permanent staff within the public service, save where existing exit provisions apply. This commitment is subject to compliance with the terms of these Agreements.

Accordingly, the issue of compulsory redundancies is a central matter that is controlled by Government and as such the Department of Education and Skills will be bound by the terms of any future collective agreements that emerge in this regard.

**2. A commitment that TUI members will maintain their current location/place of work**

The Department of Education and Skills recognises the seriousness of this issue for your members. The Department guarantees that staff will not be re-assigned to one of the other constituent IOTs of a Technological University unless procedures for such re-assignments have been agreed with the Trade Union.

**3. A commitment to maintaining levels 6 to 10 programmes across the range of disciplines and programmes in all the regions of a Technological University**

The Department fully agrees that safeguarding and strengthening diversity in the HE system is an important policy objective that should be maintained and enhanced by having a coherent approach to implementation of existing policy, consistency in future policy development, system configuration and the steering and funding of the system over time.

This approach will ensure that the HE system continues to provide access across the full range of HE provision and is responsive to the diverse range of needs of all stakeholders: local, regional and national. It will strengthen overall system performance and support the enhancement of the international status of Irish higher education.

Technological Universities will provide programmes from levels 6 to 10 on the National Framework of Qualifications. A Technological University will also be expected to play a pivotal role in facilitating access and progression particularly through relationships with the further education and training sector.

**4. Provisions relating to proposed Head 55 of TU Bill:**

Provisions based on Heads 55 to 57 inclusive have not been included in the TU Bill. Those Heads reflected the content of the Universities (Amendment) Bill as it was drafted at the time of the preparation of the General Scheme of the TU Bill. It is now intended that once the Universities (Amendment) Bill is legislated for then that primary legislation will make the necessary amendments to the TU legislation to reflect the changes that will be brought about by the enactment of the Universities (Amendment) Bill.

**5. Implementation of Collective Agreements in Technological Universities:**

The current method of implementing collective agreements in the Institute of Technology sector will remain the method of implementing collective agreements in Technological Universities.

**6. Orders in respect of the Bill (Section 3 of TU Bill as currently constituted):**

The Department can confirm that Section 3 of the TU Bill will remain in the legislation. As section 18 of the TU Bill will no longer exist the revised provision will read (subject to obvious numbering changes to the revised Bill)

**“Orders**

3. Where an order under *section 18, 46 or 53* is proposed to be made, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.”

As outlined to you during our discussions, the Department will require Government approval to make significant changes to the legislation. Accordingly, it is our intention to seek Government approval in the coming weeks to make changes to the Technological Universities Bill. There will then follow a process of drafting amendments to the legislation prior to the re-introduction of the legislation to the Dáil at Committee stage. For clarification, I can confirm that the Department will consult with TUI in relation to this revised legislation.

Yours sincerely,

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Micheál Lenihan  
Higher Education – Research and Policy Division

cc. Dr. Joseph Ryan, THEA

## **Appendix A**

### **Potential amendments to the Technological Universities Bill:**

During our process of consultation the TUI have raised a number of concerns regarding the draft legislation. Amongst the main concerns raised were:

- 1) Protection for Conditions of Service;
- 2) Protection in respect of superannuation;
- 3) Protection of the regional mission of the IOTs;
- 4) Removal of the merger requirement for Technological Universities;
- 5) Governance Structures;
- 6) Funding and Resourcing of TUs;
- 7) Communication and Consultation.

I would now like to clarify the position in respect of each of these issues. I will also outline those aspects of the legislation which, subject to political approval, will be amended in the Technological Universities Bill prior to its re-introduction at Dáil Committee Stage, with a view to addressing the concerns expressed by TUI during our consultation process.

#### **1) Protection for Conditions of Service:**

TUI provided us with text from the Water Services (No. 2) Act 2013 which you believe would strengthen the text of the TU Bill. The Department have fully examined this text and have now determined that, subject to political approval, it will be possible to incorporate this text into the draft legislation.

The Department would point out for clarity here that the TUPE Regulations are not referenced in the Water Services (No. 2) Act 2013 and will not be referenced in the TU Bill.

Accordingly, the Department will commit to altering the draft legislation prior to the Bill's re-introduction at Committee Stage in the Dáil to make the necessary amendments to give effect to this proposal.

## **2) Protection in respect of superannuation:**

The text contained in the TU Bill 2015 in terms of Superannuation is standard text which has been utilised on a number of occasions in respect of the transfer of staff from one entity to another or for the merging of one or more entities e.g. Education and Training Boards Act 2013.

DES Pensions Unit advise that the wording in the draft legislation (TU Bill 2015 as passed Committee Stage) provides clearly at Section 83 (1) that a person will remain a member of the relevant superannuation scheme that a person was a member of on the day of the transfer, in accordance with the terms and conditions of the relevant superannuation scheme. Once the legislation has passed this will become primary legislation copper-fastening this position.

You also sought clarification on the following section of the legislation:

“s. 82(3) In *subsection (2)*, a reference to conditions of remuneration does not include conditions in relation to superannuation.”

This is standard legal wording to highlight that superannuation is not dealt with in section 82 of the Bill but is instead dealt with in section 83 of the Bill which follows directly after that.

For clarity, I should also point out that the TU Bill will need to be amended when it resumes its passage through the Oireachtas to reflect the fact that a new Statutory Instrument (Education Sector Superannuation Scheme 2015 - S.I. No. 290 of 2015) has been introduced since the legislation was introduced. These changes had been listed amongst the amendments to the legislation to be introduced by the Minister at the report Stage for the draft legislation but were not dealt with due to the dissolution of the last Dáil in February 2016.

At previous meetings you expressed a concern with the wording at Section 83 (3) of the TU Bill which stated *“Nothing in this section prevents the relevant superannuation scheme being varied in accordance with its terms and conditions”*.

The relevant superannuation scheme is defined at sub section 4 of Section 83 as being the Education Sector Superannuation Scheme (referenced in the TU Bill as ESSS Transfer Order 2001 but now ESSS SI 290 of 2015 as pointed out above). Your concern centred on whether this would allow the scheme to be changed at a later date to the detriment of their members. This is not the purpose of the clause as it generally a term used in pensions to give the flexibility required to the original schemes to make changes necessary to support policy amendments such as for example in 2005 part time workers were allowed access to pension schemes. Obviously, if you could not change earlier schemes to accommodate the part time workers then they would have denied pension rights. For that reason we are not in a position to change or remove this clause.

Finally, you expressed a concern that there were other pension schemes which TUI members might be in (apart from ESSS 2015 and the Single Scheme 2012). On this point we believe that ESSS 290 of 2015 has brought together all of the schemes which were previously in existence in the education part of the Local Government (such as Local Government Superannuation Consolidation Scheme 1988) and has provided for those terms and conditions within the ESSS 2015. (ESSS 2015 excludes certain provisions of a 1956 scheme but they are catered in Section 2 of ESSS 2015).

However, if you can identify any particular category of employee or individual employee who they think is not covered by the schemes referenced in ESSS 2015 or Single Scheme 2012, the Pensions Unit have agreed to investigate the matter further. As you know, our Pensions Unit meet every 6 weeks with the IOTs on Pension issues and no-one has ever raised a concern regarding categories of employees/individuals in schemes other than those we have referenced.

### **3) Protection of the regional mission of the IOTs:**

The Department fully agrees that technological universities also have a broader responsibility to their regions. We also recognise that higher education providers, particularly those outside the capital, play a vitally important role in their surrounding economies and have a key function to support and drive regional, social and community development. They provide the skills and talent required by a diverse range of employers in their regions and act as a hub for innovation and entrepreneurship. In that context, we see the development of Technological Universities has the potential to be a catalyst for creating new dynamic and vibrant regional development opportunities and for institutions to underpin a co-ordinated investment and development strategy to strengthen Ireland's 'next tier' cities and their associated regions.

For that reason the TU Bill already provides that a technological university will "provide programmes...that reflect the needs of citizens...and other stakeholders in the regions in which the campuses of the technological university are located". It also requires each technological university to "serve the community and public interest" and foster "close and effective relationships" with a wide range of regional stakeholders.

To further underpin this broader responsibility the previous Minister tabled a number of Report Stage amendments in the Dáil, the effect of which would be to insert an overarching requirement on technological universities to "serve the community and public interest by.....fostering close and effective relationships with....organisations representing social, cultural community and related interests in the regions in which the campuses of the technological university are located".

These amendments will be introduced into the functions (currently section 22 of the TU Bill) of a Technological University by the Minister when the Bill is returned to Committee Stage in the Dáil.

Furthermore, based on the concerns expressed by TUI and other stakeholders the Department is proposing, again subject to political approval, to make the following amendments to the segments of the TU Bill dealing with the Functions of a Technological University (currently S. 22),

the Strategic Development Plan (currently S. 30) and the eligibility criteria for a Technological University (currently S. 38).

**Functions of a Technological University:**

Amend S. 22 (1) (b) as follows:

**22. (1)** The functions of a technological university, having particular regard to the needs of the regions in which the campuses of the technological university are located, shall be

to—

(b) provide programmes of education and training that reflect the needs of citizens, business, enterprise, the professions, communities and other stakeholders in the regions in which the campuses of the technological university are located and facilitate learning by flexible means

Insert a new segment at S. 22 (1) (k) (i), as outlined below, which would essentially outline that:

(k) serve the community and public interest by-

(i) developing and promoting strong social, cultural, community and related links to the activities of the University in the regions in which the campuses of the technological university are located.

**Strategic Development Plan:**

Insert two new sections to the segment of the TU Bill dealing with the Strategic Development Plan (currently S. 30 of the TU Bill) of a Technological University which would essentially outline that:

(A strategic plan shall specify)

“(c) in particular how the Technological University will provide programmes of education and training that meet the needs of citizens, business, enterprise, the professions, communities, and other stakeholders in the regions in which the campuses of the technological university are located.

d) in particular how the Technological University will develop and promote strong social, cultural, community and related links to the activities of the University in the regions in which the campuses of the technological university are located.”

**Eligibility Criteria:**

Amend S. 38 (1) (k) (iv) and insert new section to go directly after that in the legislation as outlined below:

(iv) that it develops and has procedures in place for the development of programmes that respond to the needs of business, enterprise, the professions, communities, and other stakeholders in the regions in which the campuses of the proposed Technological University are located,

(v) that it develops and has procedures in place for how the Technological University will develop and promote strong social, cultural, community and related links to the activities of the University in the regions in which the campuses of the technological university are located.

**4) Removal of the merger requirement for Technological Universities:**

The Department have consistently articulated the Government position, arising from the National Strategy for Higher Education to 2030, that mergers between institutes of technology provide the opportunity to increase capacity to deliver greater institutional scale, which will increase their strategic coherence, enhance their capacity to provide high quality education and research, safeguard their diversity of mission and allow those institutions to deliver an exceptional service to their students and the regions in which they are situated, and to compete at an international level.

The TU Bill provides that applications for technological university designation can only be made by merged institutes of technology. The Department is committed to the policy that the

establishment of a Technological University is only possible via an application by a consortium consisting of two or more Institutes.

However, concerns have been raised by both the TUI and other stakeholders with regard to the possibility that institutes of technology could merge and subsequently fail to achieve technological university designation. While the TU Bill does not envisage this as a possibility, we have acknowledged that the concerns expressed in relation to this matter are genuine.

Subject to political approval, the Department will commit to altering the draft legislation at Committee Stage in the legislative process with a view to moving the merger requirement to the final stage of the process to ensure that there is no possibility that institutes of technology could merge and subsequently fail to achieve technological university designation.

Essentially, the methodology envisaged to ensure that this happens is that the process of merger and the process of designation as a Technological University occurs simultaneously.

The outline fall-on effects of this for the process and the legislation are as follows:

1. Applications are still only accepted from two or more colleges who are intending to merge and become a Technological University.
2. There is only one examination by an International Panel because the merger process occurs at the time of designation as a Technological University there is no requirement for an International Panel examination to determine whether two or more IOTs should merge.
3. Following the International Panel examination a recommendation will be made to the Minister on whether the consortium can meet the criteria to become a Technological University. Following receipt of the recommendation from the International Panel, the Minister will then make a determination as to whether or not the consortium have met the criteria to become a Technological University. This may include some recommendations as to the final preparatory work necessary to achieve Technological University designation. Once the Minister is satisfied that all is in order for a successful consortium then the Minister

makes an Order dissolving all of the Constituent Colleges and making a Technological University in their place on the same date which becomes establishment date.

As this is a substantial change, it will require significant amendments to be made to the draft legislation prior to the Bill being re-introduced at Committee Stage in the Dáil.

#### **5) Governance Structures:**

The National Strategy recommended that the governance structures of all higher education institutions should be reformed to ensure that they are fit for purpose and have the expertise relevant to the governance of a modern higher education institution. The TU Bill 2015 sets out a detailed and appropriate legislative framework for the reform of the institute of technology sector and for the establishment of a new type of higher education institution, technological universities.

A number of proposals have been made for the inclusion on the governing body of a technological university of more undergraduate representatives, more non-academic staff representatives, local authority representatives and union representatives.

Government policy, as set out in the National Strategy and in line with international practice, is for the governing authorities of higher education institutions to be smaller and more effective, and for a competency-based approach to be taken when appointing governing body members.

The proposals for increased representation from other groups as highlighted above would result in a larger governing body and dilute the use of specific competencies to appoint members and as such cannot be taken on board in the context of the draft legislation.

The Department have outlined that a single governing authority is a requirement in addition to a single Academic Council in order to ensure that a TU functions as a coherent single entity. The

Department highlighted that the draft legislative provisions for academic council already provide significant flexibility in terms of organisation and membership.

However, based on the concerns expressed by TUI and other stakeholders the Department is proposing, again subject to political approval, to make the following amendments to the segments of the TU Bill dealing with the Governing Body of a Technological University (currently S. 25 of TU Bill).

**Membership of Governing Body of a Technological University:**

The Department is now proposing that an element of the Governing Body membership will be determined based on the number of Institutes of Technology that are being merged to become a Technological University. Where 2 or 3 Institutes of Technology are merging to become a Technological University then the legislation will allow for the Governing Body to have not fewer than 13 and not more than 22 members. The additional members will be made up of:

- One additional member of the overall (academic and non-academic) staff of the technological university, to be elected by the overall staff of the technological university;
- One additional external member nominated by the Minister bringing the total from 2 to 3 external members.

Where 4 or more Institutes of Technology are merging to become a Technological University then the legislation will allow for the Governing Body to have not fewer than 14 and not more than 26 members. The additional members will be made up of:

- At least one but not more than 3 members of the overall staff of the technological university, to be elected by the overall staff of the technological university;
- Two additional external members nominated by the Minister bringing the total from 2 to 4 external members.
- An increase by one in the maximum amount of external members (currently S.25(1)(g) of the Bill) which would change that section of the legislation to read “at least 3 but not more than 9 external members.....”

Furthermore, the Department are willing to examine proposals to ensure that sub-structures of the Governing Bodies can have full regard to regional stakeholders to ensure that agile responses and flexibility can be maintained at campus level. These matters would not require specific legislative enabling powers but instead would be developed in the context of the Implementation plans for the establishment of each Technological University.

Finally, in respect of this matter the Department were asked to clarify the meaning of Section 25(1)(c) of the Technological Universities Bill as it currently stands. The Department will clarify who is responsible for determining whether there should be one, two or three staff members on the Governing Body of the Technological University as part of the process of drafting the revised legislation. However, the Department and THEA confirmed that it is not our intention to circumscribe the academic staff membership of the Governing Body to one by virtue of a narrow interpretation of this section of the legislation.

#### **6) Funding and Resourcing of Technological Universities:**

The TUI have expressed significant concern over the level of investment in Higher Education and specifically in Institutes of Technology over the past ten years both in terms of current spending and also in relation to capital investment.

The Department pointed out that the Report of the Expert Group on Future Funding for Higher Education (the Cassells Report), published in July 2016, outlined that the State needs to invest significantly more resources but that society also needs to demand that we get higher quality and better outcomes for that investment.

As committed to in the Programme for Government, the Minister has referred the report to the Oireachtas Education Committee and this engagement will form part of the process for formulating a plan for the future funding of the sector.

While Cassells deals with the medium and long term funding needs of higher education, the Minister has also sought to address immediate challenges and in that context it was important that a particular emphasis was placed on higher education in Budget 2017 with an additional €36.5 million secured for 2017 and an additional €160 million over the next three years.

Specifically in relation to Technological Universities, the HEA provided a ring-fenced sum of €4.7 Million in 2016 to the four consortiums that are involved in merger processes with the ultimate aim of becoming Technological Universities. Furthermore, additional funding of €4 Million has been provided to support the development of Technological Universities as part of Budget 2017 which will underpin the next phase of engagement for the four consortiums or to support the development of any future Technological University projects that emerge given their critical importance to the development of the sector. The HEA will ensure that the funding model for Technological Universities will take into account the constituent IOTs of a Technological University for a period of time following the establishment of a Technological University.

The Department have also highlighted the ongoing public consultation process on a proposed Exchequer-Employer investment mechanism for higher education and further education and training. The consultation on the design of an Employer-Exchequer Investment mechanism is being undertaken as part of the overall response to meeting the anticipated skills needs in the economy over the coming years. The consultation paper proposes an incremental annual increase of 0.1% in the National Training Fund levy to increase it from 0.7% to 1% in the three year period to 2020, delivering up to €200million in additional funding from employers.

Furthermore, a series of reviews are being carried out including:

- a review of the funding model in higher education, to ensure that funding mechanisms are aligned at delivery of key goals-including in areas of skills, research and disadvantage;
- a review of Further Education and Training programmes funded by the National Training Fund to ensure that spending is optimally targeted at enterprise objectives-including the balance

between “for employment” and “in employment” at a time of 6.6% unemployment and falling; and

- the Oireachtas Committee is considering the Cassells report, including the issue of possible additional funding from students.

In this context it is important that the IOT sector is in a position to demonstrate the willingness to embrace change which it has shown throughout the past number of years in dealing with increased student numbers and reduced resources.

The Department have outlined during our discussions that, if the TUI are in a position to suspend their industrial action in relation to Technological Universities, then the Department will be in a more favourable position to put forward a request for significant additional investment during the current Estimates process in the context of Budget 2018 with a view to ensuring that consortia can meet all of the eligibility criteria for designation as a TU as soon as practicable following the implementation of the legislation.

In relation to capital investment, a Mid-Term Review of the Capital Plan is currently underway with a final report and recommendations to be presented to Government in the third quarter of 2017. The Department provided a detailed submission in early March to the Department of Public Expenditure and Reform reflecting the on-going capital requirements of the education sector, including in the Institute of Technology sector.

The Department have made the point during discussions with the TUI that the ongoing Industrial Action in the sector makes it difficult for the Department to seek additional resources for the sector in general, and for the development of Technological Universities, given the continuous questions being raised as to the necessity and priorities for expenditure in all areas.

Accordingly, the Department believe that it is now incumbent upon all stakeholders to outline at all opportunities the willingness of all stakeholders to embrace change, the urgent necessity for

investment in Higher Education as a whole and the benefits that will be derived from increased investment.

#### **7) Communication and Consultation:**

The Department and respective Ministers have repeatedly stated that good communication between the leadership of any institute of technology entering into a merger and the staff and students of that IOT is vital, so that a shared vision and understanding of the new institution can be developed.

A significant amount of work has been done on both Union and Management sides as this process has evolved and it is vital that good open communications channels are maintained between Management and Unions as the process towards the development of Technological Universities advances.

We hope that recent engagements can be the pre-cursor to a renewed positive engagement in the process following the clarifications which have now been provided to TUI. The Department and THEA firmly believe that the formation of the national negotiation forum will assist in this regard.

The Department and THEA will also emphasise to local Management that all communications in respect of Technological Universities should operate, as much as practicable, on the basis of a “No Surprises” policy. Accordingly, where local management are preparing significant communication engagements with staff in respect of Technological Universities, then there will be consultation and engagement with local Trade Union representatives, in advance.

Furthermore, project management structures and related documentation for the development of Technological Universities will be subject to consultation and engagement with local Trade Union representatives, in advance of finalisation.

## **Appendix B**

The Department acknowledges that there will be a requirement for ongoing engagement to address issues arising from the development of Technological Universities. As part of our clarification process with TUI, and in subsequent correspondence, the Department has outlined that we are very much minded to agree to the establishment of the suggested national negotiation forum and we believe that issues of concern to TUI can be examined quickly upon the establishment of such a forum.

Accordingly, please find attached the finalised Terms of Reference for the proposed national negotiation forum relating to Technological Universities.

## **National Negotiation Forum in respect of Technological Universities**

### **DRAFT Terms of Reference – 03 May 2017**

#### **1. Parties to the Forum:**

The parties to the Forum will be:

- (i) TUI
- (ii) THEA
- (iii) Department of Education and Skills;

The parties listed at (i) above shall be known as the Staff side. The parties listed at (ii) and (iii) above shall be known as the Official Side.

#### **2. Scope:**

The Forum is available to provide means acceptable to both sides concerned for dealing with issues arising in the course of the development of Technological Universities. The Forum will only deal with matters relating to Academic staff. The purpose of the Forum is to provide an acceptable means for dealing with claims and proposals relating to the salaries and other emoluments and the conditions of service of these staff, and to secure the fullest co-operation between the parties in maintaining and improving the quality of the service provided by these staff.

It is recognised by all parties that there is merit in developing an Initial list of issues which will require a common sectoral approach to be taken. This Initial list of issues will be examined by this national negotiation forum rather than locally. To this end, both parties will provide their own list of issues that they believe will require a common sectoral approach to be taken to the chairperson of the forum. It will be a matter for the Chairperson to decide on the final make-up of the Initial list of issues to be examined by this national negotiation forum and which therefore will not be subject to local discussions.

Outside of this Initial list of issues, every effort will be made by the parties to resolve issues arising locally, however where agreement is not reached locally then one or other of the parties may refer the matter for consideration by this national forum, subject to the issue falling within the subjects for discussion of the forum as outlined in paragraph 9.

**3. Participation:**

Only the parties listed in paragraph 1 above will be eligible to take part in the operation of the Forum. The Staff side shall be entitled to a maximum representation of 8 people at each meeting of the Forum. The Official side shall be entitled to a maximum representation of 8 people at each meeting of the Forum.

**4. Forum Representation:**

Each side will determine their own representation at the Forum subject to the representational limits detailed in paragraph 3.

**5. Chairperson:**

It has been agreed between the parties that an approach will be made to the WRC to provide an independent chairperson. If the WRC are not in a position to provide or nominate an independent chairperson then the two sides shall agree on an independent chairperson.

**6. Secretarial Services:**

The Department of Education and Skills shall provide a Secretary to the Forum who will also be the official side secretary to the forum.

**7. Procedures:**

(i) Four meetings per annum.

(ii) The Chairperson shall, at the request of one of the sides, call further meetings to discuss

a matter / matters which s/he feels is/are urgent and relevant to the work of the Forum.

- (iii) The Staff Side will agree on a Staff Side secretary. The Staff Side secretary will act as the direct point of contact for the Official Side in respect of the operation of this Forum. It will be open to the Staff Side to request the placing of any matter which they believe to be within the province of the Forum on the agenda for the next meeting of the Forum. This should be done by the Staff Side secretary at least one week prior to each meeting of the forum. The Staff Side secretary will co-ordinate the Agenda Items for each meeting to be put forward by the Staff Side. The Staff Side secretary will then notify the Official Side secretary of the agreed Staff Side items to be put on the Agenda of the meeting.
- (iv) It will be open to the Official Side to request the placing of any matter which they believe to be within the province of the Forum on the agenda for the next meeting of the Forum. This should be furnished to the Official Side secretary before the meeting.
- (v) The question of whether items put forward are appropriate for discussion by the Forum will be a matter for the Chairperson to decide, but before any such item is excluded, the Forum will be given an opportunity of expressing its views as to whether it should be included or excluded.
- (vi) An agenda will be circulated 5 working days in advance of each meeting.
- (vii) Where discussions have been completed, agreed reports will be prepared where appropriate, which may record agreement or disagreement on issues raised. Where any doubt has arisen as to the interpretation of a recommendation or an agreement of the Forum, the matter may be re-submitted to the Forum for clarification. A sub-committee of the Forum may be established to deal with such matters.
- (viii) The Forum will endeavour to resolve the issues before it and conclude an agreement.

However, at the request of one or more of the sides, disagreement may be recorded.

- (ix) The parties agree to operate these procedures in as efficient and timely manner as possible.

#### **8. Sub-committees:**

The Forum may establish sub-committees to consider and report to it on any subject which is appropriate for discussion by the Forum. Such sub-committees will be chaired by the Chairperson or by another official of the Department of Education and Skills agreed by the sides. Sub-committee membership will reflect the membership of the Forum. The sides will select their own nominees to such sub-committees.

#### **9. Subjects for Discussion:**

The subjects appropriate for discussion at the Forum will be:-

- a) Transitional Issues of an Industrial Relations nature arising from the development of Technological Universities;
- b) Issues relating to the development of Governance structures for Technological Universities, which are not required to be laid out in legislation;
- c) Industrial relations matters relating to Technological Universities and the resolution of interpretation and implementation difficulties arising from the development of Technological Universities;
- d) Geographical / Locational issues relating to existing and future members of academic staff<sup>1</sup> in the context of the development of Technological Universities;
- e) principles governing and claims relating to salaries, allowances, expenses and other emoluments of existing and future members of academic staff in Technological

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<sup>1</sup> Existing and Future members of academic staff wherever listed in these terms of reference excludes any retired or former academic staff of Technological Universities.

Universities, where they are not being dealt with, or have not been dealt with, in another Forum or fashion i.e. no duplication of work;

- f) principles governing and claims relating to the express terms and conditions of employment of existing and future members of academic staff in Technological Universities, where they are not being dealt with, or have not been dealt with, in another Forum or fashion;
- g) Superannuation issues relating to existing and future members of academic staff in Technological Universities, where they are not being dealt with, or have not been dealt with, in another Forum or fashion i.e. no duplication of work;
- h) principles governing and claims related to the recruitment, promotion and grading of existing and future members of academic staff in Technological Universities, where they are not being dealt with, in another Forum or fashion;
- i) Staff development including resources for upskilling and time allowances for staff;
- j) Future appointees to Technological Universities;
- k) Clarification of where (location) the Governing Body and Academic Council will meet in a Technological University and clarification on travel and subsistence payments for members of the Governing Body;
- l) Appointment policies in Technological Universities;
- m) Transfer Policy in Technological Universities;
- n) any subject, which both sides agree, is appropriate for discussion at the Forum.

#### **10. Individual cases:**

Claims by or on behalf of individuals are excluded from the scope of the Forum. An individual serving in a grade covered by the Forum will continue to have the right to submit in writing through the normal channels, any statement s/he may wish to make to his or her employer on any matter affecting his/her official position, or, if appropriate to have the matter pursued through appropriate grievance, appeal or disciplinary procedures.

#### **11. Mechanism to resolve disagreements:**

Both sides agree that they will seek to resolve disagreements where they arise promptly. Where the sides involved cannot reach agreement in discussions on any matter under the terms of this Forum the matter will be referred on an ad hoc basis by either side to the WRC and if necessary to the Labour Court.

**12. Industrial Relations:**

Both sides recognise the importance of stable industrial relations and are committed to maintaining a well-managed industrial relations environment to minimise disputes affecting the level of service to the public. A stable industrial relations climate has important benefits for the general public and the public service itself. Accordingly, the Trade Union shall not sponsor, support or resort to strike, industrial action, including work to rule or other restrictive practices as a means of furthering claims in relation to matters which are appropriate for processing through this industrial relations Forum where all provisions of this Forum have not been exhausted.

**13. Resolution:**

Both sides are committed to the effective functioning of the Forum, to promoting industrial harmony and to using the Forum to successfully resolve issues arising in Technological Universities.

**14. Confidentiality:**

The proceedings of the Forum and its sub-committees will be confidential and no statements concerning them will be issued except with the permission of the Forum.

**15. Alterations**

These Terms of Reference may be altered by agreement of both sides. In this regard, it is noted that the intention is for the pre-existing IOT Academic Staff Forum to merge with this National Negotiation forum for Technological Universities, following the enactment of the Technological Universities Bill. The precise modalities of how this will occur will be worked out and agreed between the parties at the appropriate juncture.

## Appendix 2

**From:** Lenihan, Micheal  
**Sent:** 23 May 2017 18:20  
**To:** Annette Dolan  
**Cc:**  
**Subject:** RE: Issues for clarification as discussed

Annette,

I refer to your request for clarification on a number of matters that have arisen following the issuance of our document on 12 May 2017. This document detailed the final outcome from the conclusion of our consultation process.

We are happy to provide the following clarifications (in red text) in respect of the matters requested however, for the sake of clarity, I wish to outline that the process of consultation has been finalised and, as such, we will not be in a position to engage in a continuous further process of clarification on the final document.

Kind regards,

Micheál

1. In relation to the proposed governance structure in the TU Bill, we are seeking confirmation that in respect of:
  - Section 25 (1) (c) where it states: *“at least one but not more than 3 members of the academic staff of the technological university, elected by the academic staff of the technological university.”* That there will be no less than 3 members of academic staff of the technological university, to be elected by the academic staff of the technological university.
  - Section 109(3) (c) where it states that: *“at least one but not more than 3 members of the academic staff of the college, elected by the academic staff in the*

*college.” That there will be no less than 3 members of academic staff of the college, to be elected by the academic staff of the college.’*

*In the final document it is outlined on page 13 that: “Finally, in respect of this matter the Department were asked to clarify the meaning of Section 25(1)(c) of the Technological Universities Bill as it currently stands. The Department will clarify who is responsible for determining whether there should be one, two or three staff members on the Governing Body of the Technological University as part of the process of drafting the revised legislation. However, the Department and THEA confirmed that it is not our intention to circumscribe the academic staff membership of the Governing Body to one by virtue of a narrow interpretation of this section of the legislation.”*

I can clarify that it is the intention of the Department to ensure, as part of the legislative process, that this issue is clarified and that ultimate responsibility for selection of the academic staff for the Governing Body of the Technological University will reside with the academic staff of the Technological University. I can further clarify that a similar provision will apply in respect of remaining stand-alone Institutes of Technology (currently covered by S. 109 of the TU Bill 2015 as passed Committee Stage)

2. We are seeking confirmation that, as discussed at the recent talks, representatives for the staff will be co-opted to the governing body at the first meeting of the governing body, pending the formal early election of staff representatives.

As discussed during our consultation process the co-option that was referred to was determined by the Governing Body of the Institute, and was not a function of the legislation. We had outlined that this was an administrative solution that had been utilised in the past in the sector. For the sake of clarity, I can outline that the Department and THEA will ensure that at least one academic staff member, or a representative of the academic staff body selected by the academic staff body, will be co-opted on to the initial Governing Body of each Technological University at the first meeting of the Governing Body of each Technological University.

3. We are seeking confirmation that new staff appointed to a Technological University (TU) will be assigned a campus headquarters in that TU on their appointment to the TU.

On point 3, Future Appointees has been added, at the behest of the TUI, to the list of subjects for discussion at the national negotiation forum. Accordingly, issues that are relevant to Future Appointees, including a determination in relation to a place of assignment, can be raised for discussion at the first or subsequent meetings of the national negotiation forum. It is the Department's view that this is the appropriate place for discussions to take place in relation to this matter.

4. We would ask the Department to set out briefly its understanding of how a merger between Institutes of Technology will *"provide the opportunity to increase capacity to deliver greater institutional scale"*, as set out in the first paragraph of Section 4 of the document on page 10?

The policy objectives set out in the Higher Education Strategy 2030 underline the need to ensure that organisational change within the system is directed towards the creation of institutions of more significant scale, with diverse and clearly defined missions, organised to collaborate as part of a coherent system of institutions that can deliver collective national and regional policy objectives. This diversity of mission will also enhance their capacity to compete internationally, to attract international students, staff and funding, and thereby further enhance the quality of the Irish HE system.

In that context, proposals for Technological Universities should be informed by recognition of the potential for increased institutional scale as well as building stronger institutional brand profiles that can enhance Ireland's international higher education reputation. Any proposals for Technological Universities should demonstrate clear "added value" in the form of capacity to deliver identifiable improvements from a system perspective.

The value in providing for merger is that the merged institutions can achieve the scale and strength required to deliver a broad range of high quality learning opportunities and other services to stakeholders across their region through their multi-campus facilities.

**From:** Annette Dolan [<mailto:adolan@tui.ie>]  
**Sent:** 22 May 2017 22:27  
**To:** Lenihan, Micheal <[Micheal\\_Lenihan@education.gov.ie](mailto:Micheal_Lenihan@education.gov.ie)>  
**Cc:**  
**Subject:** Issues for clarification as discussed

Hello Michéal

As discussed today, we would appreciate confirmation in relation to the following issues, set out in the document forwarded to us on the 12<sup>th</sup> May 2017:

1. In relation to the proposed governance structure in the TU Bill , we are seeking confirmation that in respect of:

- Section 25 (1) (c) where it states: *“at least one but not more than 3 members of the academic staff of the technological university, elected by the academic staff of the technological university.”*

That there will be no less than 3 members of academic staff of the technological university, to be elected by the academic staff of the technological university.

- Section 109(3) (c) where it states that: *“at least one but not more than 3 members of the academic staff of the college, elected by the academic staff in the college.”*

That there will be no less than 3 members of academic staff of the college, to be elected by the academic staff of the college.’

2. We are seeking confirmation that, as discussed at the recent talks, representatives for the staff will be co-opted to the governing body at the first meeting of the governing body, pending the formal early election of staff representatives.
3. We are seeking confirmation that new staff appointed to a Technological University (TU) will be assigned a campus headquarters in that TU on their appointment to the TU.
4. We would ask the Department to set out briefly its understanding of how a merger between Institutes of Technology will *“provide the opportunity to increase capacity to deliver greater institutional scale”*, as set out in the first paragraph of Section 4 of the document on page 10?

Please do not hesitate to contact me if you require clarification on any of the above issues.

Kind regards  
Annette

Annette Dolan

Deputy General Secretary

Teachers' Union of Ireland

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***Submission to the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science as part of its pre-legislative scrutiny of the General Scheme of the Higher Education Authority Bill, 2021***

30 May 2021

This document has been prepared by the Secretariat to Universities Ireland, on behalf of the Universities Ireland Council.<sup>1</sup>

**About Universities Ireland**

1. Universities Ireland (UI) was founded in 2003 to promote and develop cooperation between universities on the island of Ireland, acting together to effect change in support of peace and reconciliation, and increased socioeconomic development for the benefit of all communities across this island.
2. UI is managed by a Council comprised of the Presidents/Vice Chancellors of eleven universities on the island of Ireland (with TU Dublin having become the newest member in June 2020). The Centre for Cross Border Studies provides the Secretariat.
3. As a network of the universities on the island of Ireland, UI provides a unique structure within which HEIs can liaise at the highest level and through which there can be North-South cooperation that adds value to the education systems and research and innovation ecosystems in both jurisdictions. Through UI, the institutions cooperate on a wide range of issues related to higher education policy as well as to act jointly, for instance to discuss approaches to the impact of the Coronavirus pandemic on the HE sector across the island, and how the sector may collaborate on a North-South basis to contribute to the socioeconomic recovery, and to consider mitigations and potential opportunities derived from the UK's departure from the EU
4. UI also encourages cross-border mobility for post-graduate level study through the provision of North-South Postgraduate Scholarships, and provides support to the Scholars at Risk programme. In addition, the activities of the UI Historians Group have made a significant impact in recent years through the all-island conferences on the theme of Reflecting on a

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<sup>1</sup> This document was authored by Dr Anthony Soares, Secretary to Universities Ireland (a.soares@qub.ac.uk).

Decade of War and Revolution in Ireland 1912-1923, a History PhD bursary programme, and support for the digitalisation and 'repatriation' of military records to PRONI and the National Archives.

### **About this response**

5. The response that follows is closely informed by Universities Ireland's particular knowledge and experience of North-South and all-island cooperation among HEIs, and therefore will only focus on aspects of the Bill with relevance to UI's central purposes.

6. This response is supportive and should be seen in the context of the more detailed submissions made or to be made by the Irish Universities Association and its individual member universities.

### **Updating legislation for the changing context**

7. Universities Ireland welcomes the introduction of proposed legislation to replace the Higher Education Authority Act 1971. As the Irish Universities Association noted in its previous submission, the existing legislation "requires updating to provide for the significant changes in the profile of the sector over the last five decades, changes in governance arrangements to bring them into line with current best practice and to provide a legislative base that will enable the sector to grow and develop in the years ahead".<sup>2</sup>

8. Universities Ireland would note that the context in which the new legislation will operate is one where many of the challenges and opportunities facing the Higher Education Authority and the wider higher education sector in Ireland can increasingly only be properly addressed through meaningful collaboration, including cross and multi-jurisdictional collaboration.

### **The functions of An tÚdarás**

9. Among the objects listed in Part 2, Chapter 1, Head 8 of the Bill that An tÚdarás shall have regard to in undertaking its functions are: the promotion of excellence in teaching, learning and research; and supporting higher education providers in contributing to social, economic, cultural and environmental development and sustainability. Universities Ireland would suggest that due regard be given to how An tÚdarás can ensure its support for higher education providers in the pursuit of these and other objectives extends to and is encouraging of cross and multi-jurisdictional collaboration initiatives.

10. In light of the above, Universities Ireland would recommend consideration be given to ensuring the general functions of An tÚdarás (as set out in Part 2, Chapter 1, Head 9) include not only to "facilitate cooperation at national, regional and local level between higher education providers and other education providers", but also the facilitation of cross and multi-jurisdictional collaboration.

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<sup>2</sup> Irish Universities Association, "Submission on Reform of HEA Act 1971 & Related Legislation" (March 2021).

11. It may be that the ability of An tÚdarás to facilitate cross and multi-jurisdictional collaboration between higher and other education providers is implicit in the references to “other bodies as appropriate” (9 (1) (g)) and “any other body An tÚdarás considers appropriate” (9 (1) (h)). However, the Joint Committee may wish to seek clarification from the Minister on whether this is the case.

12. If the objects and functions of An tÚdarás become inclusive of the facilitation of the participation of Irish higher education providers in cross and multi-jurisdictional cooperation initiatives, then this must be implicitly reflected in the functions of the Board of An tÚdarás, as set out in Part 2, Chapter 1, Head 16. In other words, where the Board must satisfy itself that appropriate systems, procedures and practices are in place to achieve the objects of An tÚdarás and in its fulfilment of its functions, these must be seen by the Board to include the facilitation of participation in cross and multi-jurisdictional cooperation initiatives.

### **Cooperation with other bodies – beyond the State**

13. Although Universities Ireland would wish to emphasise the role of An tÚdarás in supporting initiatives by Irish higher education providers to undertake cross and multi-jurisdictional collaboration initiatives, it would be legitimate for Head 18 (Cooperation with other bodies) to be encouraging of An tÚdarás itself to undertake similar cross-border cooperation initiatives where these are considered appropriate.

14. In order to ensure the necessary legislative comfort is offered to An tÚdarás to undertake such cross and multi-jurisdictional cooperation initiatives if these are considered appropriate, the Joint Committee may wish to seek clarification as to whether the reference to “other bodies which An tÚdarás considers appropriate” implicitly includes bodies outside the State.

### **Conclusion**

15. The above comments on behalf of Universities Ireland are made in light of its members’ shared belief that acting together HEIs on the island of Ireland can effect change in support of peace and reconciliation, and increased socioeconomic development for the benefit of all communities across this island. It is hoped, therefore, that the proposed legislation is supportive and encouraging of efforts made by HEIs in the Republic of Ireland to these ends.



## Submission on behalf of the Technological Higher Education Association on the reform of the Higher Education Authority legislation

June 2021

The Minister for Further & Higher Education, Research, Innovation, and Science, Simon Harris TD, launched a stakeholder consultation on the reform of the Higher Education Authority legislation. This further paper is in response to the request for a submission from the Joint Committee on Education, Further & Higher Education, Research, Innovation, and Science as part of the Committee's Pre-legislative Scrutiny of the General Scheme of the Higher Education Authority Bill, 2021.

THEA is pleased to support this work and agrees with the minister's contention that *it is important that robust and refreshed legislation for the higher education sector is in place.*

### Submission on behalf of the Technological Higher Education Association

**Contact Detail: Dr Joseph Ryan, [joseph.ryan@thea.ie](mailto:joseph.ryan@thea.ie)**

### Consultation to date

The then minister, Mary Mitchell O'Connor TD, initiated a consultation process on the updating of the HEA Act in July 2018 and hosted a consultation forum in November 2018. The Consultation Report is a report on this process together with the response of the Department of Education and Skills to the issues raised and the proposed framework for the new legislation. All the relevant papers including the previous submissions from THEA in 2018 and to the second call in 2019 can be found through the following link:

<https://www.education.ie/en/The-Education-System/Higher-Education/update-of-the-higher-education-authority-act-1971-public-consultation.html>

This submission complements the earlier ones and will not labour points recorded previously.

## Dynamic nature of the call

The nature of the call has shifted over the recent years. The original proposal in 2018 recognized that the Higher Education Authority Act, 1971 which established the Higher Education Authority (HEA), set out the functions of the Authority and provided for the governance of the HEA, is no longer aligned with the current role and responsibilities of the HEA. That purpose remains but it has become broader with a focus on the enhancement of governance in higher education in general and thus the views of the higher education institutions become even more important in this consideration. In addition, the recent passing of the Technological Universities Act (2018) has brought with it governance changes which are only now being assimilated. Given that the second Technological University, MTU, has come into being only at the start of this year, it is early to pass judgement on the efficacy of those changes. It is also important to ensure that enhancement in one area does not destabilize other work that is bedding down.

## A collaborative approach

A key characteristic in the most recent consultative documentation is the adoption of a collaborative approach as seen in the internal shared governance model and in the coregulation model between the HEA and the institution. This is welcome as it recognizes the maturity and the critical responsibility that must lie with an institution while affording the HEA the wherewithal to manage its oversight role in respect of the risk-based regulatory approach as outlined in the document. The recent establishment of a Governance Forum by the HEA and including IUA and THEA is regarded as a positive manifestation of this shared approach.

The coregulation advocated in the document is warmly welcomed. So too is the risk-based regulatory approach. The new approach does suggest that a change in the system performance framework will have to follow.

The HEA has a role in defending the valued diversity of our higher education system. Moves that lead to the homogenizing of the system, consciously or otherwise, should proactively be resisted as they will ultimately undermine the clear policy direction set out in recent legislation.

## The shared governance model

The updated paper sets out a concept of a shared governance model that separates the corporate, executive, and academic strands. While the architecture and the roles of the three strands are generally understood, there can be questions on the margins of what lies within the competence of any given strand. As example, the role of the governing authority in the academic oversight of an institution – and thus the nature of its relationship with the academic council – deserves particular attention.

The role of the Chief Officer is understated in the draft to date. The leader of the institution and supporting executive are key to the character and success of an institution and s/he acts as the pivot that links the tripartite construct.

## Governing Authority composition

There has been a drive for some time now to effect a reduction in the size of governing authorities. The desire to achieve this in the Technological Universities Act (2018) was not fully realized as an element of compromise was introduced to facilitate calls for representation of particular stakeholders. It pointed again the cultural challenge of moving from a representative to a

competency-based structure. THEA is in favour of the proposal that states governing authorities are more effective when the number of members is limited; however this comes with the following caveats:

1. Twelve members is too small. In the recent discussion with the D/FHERIS on this topic, the voices of our chairs were particularly telling. Given the increasing complexity and responsibilities of these organizations, a cap of 12 members results in practical housekeeping difficulties: it can be hard to achieve a quorum, to comprehend the range of skill sets that are essential, and to lead and people the principal subcommittees. While there is recourse to external input, the link to the governing authority proper is important and a somewhat larger number facilitates this.
2. We have just passed the Technological Universities Act. It is bedding down at this stage and it sets out in Section 12 that a governing body, where the technological university concerned was established... by not more than 3 applicant institutes, shall have not fewer than 14 and not more than 22 members. There would be a logic in the technological sector in settling on a figure that is within that frame for consistency.
3. Essential to this is a shared willingness to embrace a competency-based model of governance. This is not to deprive anyone or any group of a voice, but given the shared governance model that is proposed here we would be advised to move to a conception of governance, and especially at the apex, that is grounded in a diverse and informed view of what is best for the institution and those it serves rather than what can become a compromise between differing stakeholder perceptions. While it may take some time to shift culture sufficiently to achieve this end, the proposal here is that an objective competency-based construct is best placed to win the support of all parties.

Concerning the external element in the current construct, it is noted that the desired balance is achieved through the classification of student members as external. Given the student-centred nature of modern legislation, this may not be advisable. Effectively that centres the objective responsibility in the chair and four members. Given the connected nature of the technological sector, there would be merit in looking again at this to afford a stronger external voice. A competency-based construct will assist in this.

One comment that emerged in the recent verbal feedback that might be noted is the geographical extent of the regions covered by the Technological Universities. Being consistent with the argument in favour of a competency focus, the question of ensuring that all of a given region can identify, and feel an affinity, with the university is itself an argument for a slightly larger governing authority than proposed in the paper.

The terms of office and the staggered appointment to boards are considered good practice.

## Role of D/FHERIS

In the verbal feedback to date what was not considered so clear was the relationship between the new D/FHERIS and the HEA. It would be advisable to have that relationship documented within the scheme and this may be current given the department's current work on its own strategic plan.

One of the central considerations in the initial discussion around this renewed legislation centred on the independence of the HEA. Based on the nature of the relationship mentioned above, it is the THEA view that the system is best served by a strong and independent Authority.

## Research & Innovation

One of the stated core objectives of the HEA legislation is *“Promote and support HEIs in achieving excellence in teaching, learning and research in higher education.”* The HEA should have a role in the development of the overall higher education research and innovation (R&I) system. This includes providing funding for R&I through the core grant to higher education institutions, and dedicated funding to support R&I capacity building in technological universities, in accordance with the TURN Report. The HEA can also have a strong role in relation to oversight and regulation of the higher education research ecosystem, building on the work begun in 2020 with the publication of the ‘HEA Principles of Good Practice in Research within Higher Education Institutions’.<sup>1</sup> It would be helpful if the legislation were to refer specifically to the HEA’s role in supporting higher education institutions to reinforce good practice in research conduct. This would fill a current gap in our national research ecosystem which has led to confusion over where oversight of good research practice (as defined in the HEA Principles) lies, and which has led to research funders taking steps to fill the gap themselves, and perhaps overstepping the bounds of their own statutes.

Section 6.5 of the update paper outlines that the new legislation will potentially include the following function in relation to research – *“to promote, support and evaluate excellent research in the higher education sector across all disciplines in accordance with national research policy and in partnership as appropriate with Departments of State, relevant Government agencies and any other body the HEA considers appropriate”*. This function of the HEA needs to be carefully considered in light of the establishment of D/FHERIS and its role in research policy. It will be important that each agency under the aegis of the department has a clear mission and effective boundaries with respect to its role in the national R&I system, and that clear lines of responsibility are set between the department and its agencies. The Higher Education Research Group (HERG), of which the HEA was a founding member, has been an important vehicle for dialogue on R&I in the higher education sector and to develop collective positions to feed into the work of the Innovation 2020 Implementation Group. As the structures to support the implementation of the forthcoming revised national R&I strategy are developed, the HERG (perhaps with a revised membership) should continue to have a place within those structures.

In relation to the Irish Research Council, it would be beneficial for the Council to have its own statutory footing separate to the HEA; we have supported this in previous submissions. This would bring it in line with the other research funding agency under the aegis of D/FHERIS (Science Foundation Ireland), would allow the Council to align better its resources and systems with its mandate, and would put arts, humanities, and social sciences research on an equal statutory footing with science, technology, engineering, and mathematics research.

Looking specifically at the Heads of Bill, THEA makes the following points in relation to the research aspect. Head 53 Research provides that:

(1) This Head will provide for arrangements to ensure An tÚdarás discharges its function in relation to research to promote, support and fund excellent research in the higher education sector across all disciplines in accordance with national research policy and in partnership as appropriate with Departments of State, relevant Government agencies, and any other relevant body An tÚdarás considers appropriate.

This function of the HEA needs to be carefully considered in light of the establishment of D/FHERIS and its role in research policy. It will be important that each agency under the aegis of the

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<sup>1</sup> <https://hea.ie/assets/uploads/2017/04/HEA-Principles-of-Good-Practice-in-Research-in-Irish-HEIs-2020.pdf>

department has a clear mission and effective boundaries with respect to its role in the national R&I system, and that clear lines of responsibility are set between the department and its agencies.

(2) This Head may also provide for arrangements regarding the Irish Research Council following further consultation and consideration.

It would be beneficial for the Irish Research Council to have its own statutory footing separate to the HEA; we have supported this in previous submissions. This would bring it in line with the other research funding agency under the aegis of D/FHERIS (Science Foundation Ireland), would allow the Council to align better its resources and systems with its mandate, and would put arts, humanities, and social sciences research on an equal statutory footing with science, technology, engineering, and mathematics research.

Head 54 Research Integrity provides that:

(1) This Head will provide for arrangement for promoting and seeking to ensure the highest levels of research integrity are implemented in designated institutions of higher education.

This clause should clearly articulate the central role of the HEA in relation to support, oversight and regulation of the higher education research ecosystem, building on the work begun in 2020 with the publication of the ‘HEA Principles of Good Practice in Research within Higher Education Institutions’ and other related national policies. The clause should affirm the provision of support by the HEA to the higher education system so that it can align with the requirements of national policy in relation to good practice in research conduct, including the HEA Principles and the ‘Policy Statement on Ensuring Research Integrity in Ireland’. It should also clearly state the responsibility of the HEA for governance of research integrity, including monitoring (in accordance with Heads 67-70, and 72-76) whether individual higher education institutions have met their requirements in this area.

## Academic Council and Governing Authority/Body Composition with respect to research

The updated paper states “*Academic Councils should review their operation to ensure that students have an effective voice on the Council and appropriate amendments should be made to the regulations/statutes governing the membership of the Academic Council if necessary*”. It is important that in doing so, the voice of students encompasses postgraduate research students in addition to taught students. The need to improve participation of postgraduate students in decision-making across Irish higher education has recently been a focus for the National Student Engagement Programme.<sup>2</sup> Similarly, the paper recommends that there are two student members of Governing Authority/Body. It would be advantageous if postgraduate representation could be mandatory. In addition, Governing Authorities/Bodies should be inclusive of the voice of research staff.

## Equality, Diversity, and Inclusion

Concerning equality, diversity, and inclusion (EDI), the updated paper seems to focus on supporting equality/equity of participation at student level. The work commenced by the HEA Centre of Excellence for Gender Equality (currently being broadened to a wider EDI remit) needs to be reflected in the legislation.

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<sup>2</sup> <https://studentengagement.ie/2020/08/28/student-associate-interns-join-nstep/>

## Borrowing Framework

Under Section 21 of the Technological Universities Act (2018) it is stated that *an tÚdarás shall, from time to time with the approval of the Minister, given with the consent of the Minister for Public Expenditure and Reform and the Minister for Finance, make rules to be complied with by a technological university in relation to any borrowing, guaranteeing, or underwriting.* Realizing that the full potential of the system will necessitate access to the borrowing framework, THEA trusts that the new legislation will not inhibit the ambition to have Eurostat agree that such borrowings are not carried on the State Balance Sheet.

## Data sharing

There is a shared desire to see evidence-informed policy creation. As a system, we have access to a significant volume of data and it is not an unfair observation to state that as a connected system we may not mine this efficiently. Equipping all relevant actors with the access to relevant data consistent with reasonable data protection regulation would make for enhanced decision making and for more targeted supports, where required. There would be merit in the alignment of data sets between defined entities under appropriate controls. Formal recognition of representative bodies would assist in managing this in an aggregated fashion at sectoral level.

2021/279

**From:** Peter Brown <pbrown@research.ie>

**Sent:** Monday 14 June 2021 20:53

**To:** Education and Further and Higher Education, Research, Innovation and Science  
<education@oireachtas.ie>

**Cc:** Tara Kelly <Tara.Kelly@oireachtas.ie>

**Subject:** RE: Request for Submission [410] - PLS of the General Scheme of the HEA Bill 2021

Dear Niamh,

I am writing to update you on the above.

The Irish Research Council will not be making a submission at this time pending further consultation to be undertaken by the Department of Further & Higher Education, Research, Innovation and Science on arrangements for the Council, as indicated (Part 6 Head 53)

Kind regards

Peter Brown  
Director  
Irish Research Council



Ms Tara Kelly  
Clerk to the Joint Committee on Education,  
Further and Higher Education, Research, Innovation and Science.  
Leinster House  
Dublin 2  
D02 XR20

15<sup>th</sup> June 2021

Dear Ms Kelly,

**Invitation to make a written submission on the General Scheme of the Higher Education Authority Bill, 2021.**

Thank you for the opportunity to make this submission to the Committee on the Higher Education Authority Bill.

Fórsa represents a range of administrative, library, specialist and management staff working throughout the Institutes of Technology, Technological Universities and Mary Immaculate College.

We would like the Committee to consider the following points in relation to specific sections of the draft legislation.

***Student Forum - Section 44 Page 40***

The legislation should provide for representation from professional staff on the student form to ensure that staff engaged in the provision of a range of student services are able to contribute to the enhancement of the student experience.

***Guidelines, codes and policies – Consultation process Section 66 Page 104***

The Students Union is specifically referred to along with HEI's or representatives, relevant departments. There is no reference to Union engagement as part of the consultation process with regard to the development of guidelines, codes and policies which would be essential if we are to continue a positive collaborative process for all. There are many such policies and procedures that require negotiation, consultation and agreement with Unions representing staff.

***Governing Body – Internal members Section 77 Page 125***

When referring to internal members, the draft legislation states that these individuals will be 'elected/selected'. We believe that internal members of a Governing Body should be elected by staff with the details to be agreed at local level. The arbitrary selection of internal members for Governing Bodies would weaken the governance framework and would fail to provide adequate and impartial oversight as the selection of internal members may call into question their independence.

The draft legislation states that the number of external members must exceed the number of internal members. We believe that a ratio should be included which would give some guidance as to the overall proportion of internal and external members.

In addition to this there is no ratio with regard to internal members of the Governing Body. The internal membership should represent a proportional representation of staff (academic v PMSS), equity among the cohorts of staff, and regional representation.

Yours Sincerely,

**Andy Pike**

**Head of Education**

**Fórsa Trade Union**

Nerney's Court, Dublin D01- R2C5

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June 2021

Submission to the  
Oireachtas Education Committee  
On the  
General Scheme of the Higher Education Bill 2021

# General Scheme of the Higher Education Authority Bill 2021

## Response by the Irish Universities Association (IUA)

### A Shared Approach

The IUA welcomes the publication by the Minister for Further, Higher Education, Research, Innovation & Science of the '*General Scheme of the Higher Education Authority Bill 2021*' (the 'Scheme').

The legislation governing the sector is now half a century old and requires updating to provide for the significant changes since then and to provide a legislative base that will enable the sector to grow and develop in the years ahead.

The higher education landscape is extremely varied and the question of what makes a university education different from other tertiary education a complex one. Universities are critical partners in the development of an innovative, adaptive, inclusive, high quality higher education system aligned with the needs of the learner and supporting economic growth and societal development. The role of universities has been transformed by the research and innovation agenda over the last two decades.

Universities now play a vital role in the national innovation and research ecosystem and are central to the economic prosperity and social wellbeing of the nation. They can and do support the achievement of government policy objectives, and to enable them further to contribute to the public good by securing the talent and innovation needs of the country, it is essential that they retain their autonomy and agility. The role of universities in attracting and securing Foreign Direct Investment is likely to become even more important as the focus of FDI moves "From Tax to Talent".

It is also essential that the legislative reform is accompanied by decisive action from government on a sustainable funding model for the sector with appropriate levels of multi-annual budgets for current and capital spending. We believe that adherence to principles of 'co-regulation' and 'shared governance' must be central tenets of the legislation which must be underpinned by mutual trust and that the balance of accountability and agility is appropriately maintained. More stringent controls will not enable a poorly funded system to perform better. Adequate resourcing for the sector must be the priority for government.

The HEA has been provided in the Scheme with the necessary statutory basis for its functions, including working with the HEIs to implement government policy. However, it is critical, in terms of both institutional autonomy and the ability of the institution to respond in an agile manner to the needs of the country and society, to ensure that there are limits to prescriptive central policy direction and that each university has genuine autonomy. If policy parameters are too narrowly defined, then the opportunity for any university to differentiate its mission would be severely limited, unnecessarily curbing innovation and ambition, to the detriment of the international standing of both Ireland and Irish universities.

### Specific Proposals

We have outlined below our observations on the Scheme and our recommendations for amendments and additions in key areas.

1. [Overall legislative framework](#): The provisions for a dual framework whereby responsibility for strong internal governance of HEIs rests with the Governing Authority (GA) with oversight provided by the HEA is a sound one. The high-level provisions of the respective roles of the Governing Authority and the HEA as outlined in the Scheme are generally welcome. However, it is essential that the detailed provisions of the new Act reflect the appropriate balance in those provisions and ensure that the GA retains the authority and decision-making capacity over the HEI in order to fulfil its obligations to all

stakeholders including students, staff, alumni, philanthropic donors, funders, enterprise partners, local communities, government and society.

2. [Accountability and Agility](#): The IUA proposes that the principle of autonomy within a robust accountability framework is enshrined in the detailed provisions of the Scheme. It is essential that the new Act does not result in a centralisation of control in higher education.

It is critically important to ensure that the co-regulation framework enables universities to maintain the maximum level of agility in order to respond nimbly to the needs of students and other stakeholders, including the State. It is essential, therefore, that all detailed provisions of the new Act are rigorously tested against the accountability-agility principle.

The IUA fully supports the proposal that rigorous accountability procedures should be provided for under the proposed legislation. It is essential that such procedures be appropriate to the status of universities as autonomous institutions. The best performing universities in Europe and globally are those that have the maximum possible level of flexibility. In Ireland, the autonomy of universities has been severely eroded in recent years at a time when the level of State funding in real terms has fallen by more than one-third over the last decade.

The legislation should not constrain universities in their role or the scope of their functions given the diverse range of disciplines and interests that apply in universities and their multiple sources of funding. The majority of universities now receive less than 50% core funding from the State.

3. [HEA role in Promoting and Supporting Higher Education: \(Heads 7 – 11\)](#) It is essential that the role of the HEA in advocating, promoting and supporting higher education is clearly provided for in the legislation. It is essential that the HEA is given the appropriate powers and responsibilities to promote and support the sector.

The HEA should also have a role in ensuring that the sector is adequately financially supported, especially in areas which are stipulated in the legislation. The HEA, as part of its core remit, must retain a key role of advising the Minister on the level of public funding required to enable universities to fulfil their responsibilities under the legislation and their performance goals agreed with the HEA. Legislative reform has no value unless it is accompanied by a sustainable funding model. The list of additional obligations on HEI's and GA's will require sustained additional resources. It is critical that provision is made for such resources.

4. [Codes, Guidelines and Policies: Heads 13, 40, 42, 66 and related Heads](#)

**4.1** The combination of powers arising from these Heads will enable the Minister to direct the HEA to implement a broad range of guidelines and codes and, in turn, enable the HEA to enforce such codes and guidelines. This, in effect, means that the 'guidelines' are not in fact such, but rather amount to directives with the HEA having the powers to implement a wide range of sanctions if the 'guidelines' are not implemented. This, de facto, undermines the principle of autonomous higher education institutions.

In relation to Head 42 and, in particular, the remedial measures contemplated in section 42(3), what safeguards or constraints are established or to be established in relation to the exercise of those powers? A right of appeal is not provided for. The basis upon which and the process under which the HEA will decide to impose a remedial measure must be set out in considerable detail. It should not be the case that universities' only remedy is judicial review.

**4.2 Head 66** provides the HEA with very broad powers to develop codes, guidelines, or policies “for any purpose relating to the Act and concerning (a) any matter or thing referred to in this Act or any other enactment, and (b) the implementation of any policy or objective of the Minister or the Government”. The IUA proposes that a number of issues are addressed in relation to this aspect of the Scheme:

- The proposal that the HEA shall only “consult with relevant stakeholders” in the preparation of such guidelines, codes or policies signifies a move from a partnership to a unilateral regulatory approach. There is already in place a comprehensive Code of Governance for Universities, aligned with the State Bodies Code, which was agreed by the University sector in partnership with the HEA. This is in keeping with the ‘comply or explain’ principle which is a standard feature of governance code regimes across all sectors and internationally.
- The IUA proposes that this continues to be the basis on which future codes and guidelines are derived. Due cognisance of the resource requirements arising from any additional functions imposed on universities by way of codes, guidelines and policies must be reflected in the adequate financial resourcing of the sector. In summary, we propose that the legislation should make provision for the establishment of codes but that the codes themselves must continue to be developed in partnership with the sector.
- **Head 66** is also explicitly linked to the powers the new legislation gives to the HEA to request a governing authority to undertake a review under **Head 67**, if the HEA has concerns regarding the governance or performance of an institution, which may be followed by a determination for action where it has concerns about the governance or performance of a designated institution of higher education of its functions or responsibilities including in relation to requirements under any Codes, Guidelines or Policies. There should be a right of appeal in relation to a request/specification made by the HEA. Again, the process and procedures by which the HEA makes a decision to request/specify needs to be set out. Most importantly, the process and procedure whereby the HEA may make a determination for action as per section 68 will need to be specified and again the question of a right of appeal arises.

## 5. Government Control of Performance Framework:

**5.1 Head 38** proposes that the Minister shall develop ‘at least every four years’ a Performance Framework for the higher education sector and shall advise HEA of this Performance Framework. It is the view of the IUA that the development of the Performance Frameworks should remain the responsibility of the HEA and that the existing consultative process on agreeing such Frameworks is continued.

**5.2** The mechanism for the development and implementation of Codes and Frameworks is taken into account by Eurostat when considering the degree of public control over HEI’s which, in turn, determines whether or not university loans are carried on the State Balance Sheet. The universities governed by the Universities Act, 1997 share the common feature of receiving less than 50% of their core funding from the State. This has enabled them to borrow independently and to be classified as ‘market producers’ by Eurostat. Consequently, their borrowings, now approaching €1 billion, are not carried on the State Balance Sheet. Legislation which provides for greater State control will likely result in those loans being transferred to the State Balance Sheet.

6. Research: **Head 53** provide for arrangements to ensure HEA discharges its function in relation to research to promote, support and fund excellent research in the higher education sector across all disciplines. This Head may also provide for arrangements regarding the Irish Research Council following further consultation and consideration. However, the detailed provisions in this regard have not yet been outlined. In anticipation of such provisions, the IUA proposes the following:

**6.1** The HEA should have a designated role in the promotion and support of research, the development of research policy and the provision of a key component of research funding.

**6.2** As the agency nominated to oversee the sector including universities as research-intensive institutions, the HEA should have a central role with regard to research policy and functions. This would be consistent with the principles of shared governance envisaged for the whole sector.

**6.3** The HEA, including the revised structure or statutory basis for the IRC, must have a pivotal role in supporting and funding basic /discovery research across all disciplines, not limited by “prioritisation” and that values impact in all its forms including knowledge creation, human capital development, enhancement of teaching and learning and broader impacts for the benefit of society.

**6.4** The HEA role should also encompass key support elements for the higher education research function including those covered by the Higher Education Good Research Practice Framework e.g., research integrity, open science etc.

**6.5** The HEA plays a pivotal role in funding the foundations of the higher education research system through the recurrent grant, approx. €300m of which is spent on research activity annually. The new legislation needs to fully recognise and strengthen this support on which all competitive national and international investment, including from third parties such as industry and European Union agencies, is secured.

**6.6** The research / scientific advisory role to government should be separated from the research funding role. We propose that a Research Advisory Council, as exists in the majority of EU Member States and international competitors, is established so that government can avail of a broader range of expertise on research matters including research strategy and policy.

The principles of governance need to be supplemented with a recognition of the principle of research freedom and the special duty of the HEIs to protect the research independence of their members. Likewise, the provisions for academic freedom must be extended to recognise institutional research autonomy. This should be clearly laid down in the legislation with regard to the powers and responsibilities of the HEA in respect of research.

- 7.** [Review of compliance with designation conditions](#): As currently drafted **Head 59** provides that HEA shall review at least once every 7 years the activities of a higher education provider in receipt of a designation as an institution of higher education. Clarification on whether established universities will have to undergo the seven-year cycle of re-accreditation is sought. This would seem to be an unnecessary validation exercise given the ongoing role of QQI in the accreditation of university qualifications and degree programmes.
- 8.** [Oversight by HEA](#): **Heads 67-76** provide for an interlinked set of provisions on oversight giving the HEA a ‘stepped’ range of powers of intervention to address concerns regarding the governance or performance of the institution. It is proposed that the HEA may request the governing body of a designated institution of higher education to undertake a review where HEA has concerns about the governance or performance of a designated institution of higher education or its functions or responsibilities including in relation to requirements under any Codes, Guidelines or Policies. A review may be followed by a determination for action which can include:
- |                                      |                                      |
|--------------------------------------|--------------------------------------|
| (a) provision of assistance;         | (b) imposition of remedial measures; |
| (c) provision of information to QQI; | (d) appointment of an observer;      |

(e) HEA undertake a review.

**8.1** Clarity is required on the criteria or thresholds that will apply in choosing one or other type of intervention by the HEA. For example, what circumstances might lead to a decision to provide assistance versus a decision to impose remedial measures? Without such clarity on the parameters within which that choice would be made, there is a serious risk of confusion as between the powers and responsibilities of the Governing Authority and that of the HEA. The absence of clarity here would also impact negatively on the transparency and effectiveness of the proposed appeals process. It is essential that the trigger mechanism for intervention by the HEA differentiates clearly between minor governance issues and those of a more substantive nature and that the universities, as autonomous institutions, have the appropriate mechanisms to engage meaningfully with the HEA prior to the initiation of any such intervention.

**8.2** The provision for an appeal by the designated institution of higher education against any determination for action is welcomed. However, it is noteworthy that the only provision for a right of appeal arises in respect of head 68 in respect of the making of a “determination for action”. Again, the process/procedure relating to the making of such a decision needs to be set out in some detail. The right of appeal should also apply to head 69 (provision of assistance) and head 70 (remedial measures) and again the process or procedure leading up to a decision to “impose remedial measures” needs to be set out. The same applies to a decision to appoint an observer as per head 72 and decision to appoint the person to undertake a review as per head 73.

**8.3** **Head 74** provides for the establishment of an Appeals Board by the Minister on receipt of such an appeal. The process of agreeing the membership of an appeals panel and board should be set out in the legislation and should provide that the appeals panel and the appeals board be comprised of experts independent of the HEA / DFHERIS / Government / affected HEI with an international expert dimension with relevant experience of higher education.

**8.4** As is currently the case under the Universities Act, 1997, the appointment of an observer to report to the HEA or undertake a review should be a person of standing, independent of the HEA and DFHERIS / government, such as a retired Judge of the High Court / Supreme Court.

**8.5** It is proposed that a provision for appeal, similar to that provided for in **Head 74**, is provided for in relation to a request by the HEA that the governing body of a HEI/university undertake a review as set out in d 67. This would underscore the autonomy of the university and the independence of the governing body as provided for under the Universities Act.

**9.** [Size and make-up of Governing Authorities: \(Head 77\)](#) IUA broadly welcomes the proposed move to a competency-based approach to the appointment of members to the GA. The mechanisms for appointment of GA members needs careful consideration in order to ensure that the appropriate balance of expertise and experience is available and that the GA as a whole can fulfil its fiduciary duty. It is not clear from the Scheme how the proposed number and mix of members will achieve the desired ‘credibility in the accountability role’. We make the following proposals:

**9.1** The provision for a range in the size of GA would facilitate the accommodation of the individual circumstances and needs of each university which may vary. We propose a size range of not less than 11 and not more than 17.

**9.2** The selection of student nominees in accordance with procedures agreed by the student union body is welcomed. It is important that clarity is provided to allow for alignment of the term students serve on the GA with the term of their elected office within their students’ union. This would retain

the current practice of appointing elected officers of the students' unions to the Governing Body for the duration of their elected terms of office with the students' unions.

**9.3** We strongly support the need for gender balance on GAs. In addition, the membership of GAs should seek to reflect the diversity of Irish society and be inclusive in the broadest sense.

**9.4** The IUA supports the proposal that a number of external members are to be appointed by the governing authority in accordance with an appointments process which is developed by the governing authority and approved by the Minister. Clarification is required on the overall number of external appointees and the proportion to be appointed under this collaborative process. It is essential that all external nominees are appointed in accordance with the competency requirements of the GA.

**9.5** Transitional provisions to allow a governing authority to reconstitute itself to come within the revised overall composition and sub-categories of membership to avoid a major hiatus and loss of corporate knowledge is welcomed. A clear timeline for this should be set out.

**10.** [Role of Governing Authority, Chief Officer and Academic Council: \(Heads 79 – 88\)](#) The proposed roles for Governing Authorities, Academic Councils and Chief Officers in the new Act are broadly supported as are the proposals to underpin academic freedom in the new Act by retaining the key provisions of the Universities Act 1997. Confirmation that the development, approval and oversight of Strategic Plans for the HEI rests with the Governing Authority is welcome.

**10.1** **Head 82** requires consultation on a university's strategic plan with a broad range of stakeholders including the Minister and HEA. It is important that this provision does not impair the autonomy of the university and the independence of the Governing Authority. Universities already consult widely in the preparation of their strategic plans and will continue to do so but ultimate responsibility for the strategic plan rests with the GA.

**10.2** **Head 81** provides for a limit of 70 on Academic Councils. We propose that this limit should be removed. Academic Councils are essentially the 'parliaments' of universities. They include a diverse range of interests from across the university community. There is no evidence to suggest that limiting the size of Academic Councils to 70 will bring any tangible benefits to universities. Conversely, such a limitation could diminish the quality of debate and discourse in such Academic Councils.

## **11. Other Issues:**

**11.1** [Supply and Sharing of Personal and Non-Personal Data: \(Heads 48-51\)](#) As currently drafted, the Scheme provides a clear legislative base for supplying and sharing a very broad range of personal data particularly in respect of students and staff. Whilst the case for the HEA having access to detailed personal and sensitive data on ethnicity, gender, disability etc. is understood, what is less clear is why data of this nature is needed at the level of identifiable individuals, notwithstanding the acknowledgement in the Scheme that any data so collected must be required by HEA for the purpose of fulfilling its statutory functions and will be subject to GDPR.

**11.2** Powers of the Higher Education Authority and its officers and officials: A clear distinction needs to be made between the authority and powers to be exercised by the Higher Education Authority itself (An tÚdarás) and the authority and powers to be exercised by its officers and officials.



Ms. Tara Kelly,  
Clerk to the Committee,  
Joint Committee on Education,  
Further and Higher Education,  
Research, Innovation and Science.

17<sup>th</sup> June 2021

Ref: JCES-I-2021-[440]

Dear Ms. Kelly,

We welcome the invitation by the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science, to make a submission as part of the Committee's Pre-legislative Scrutiny of the General Scheme of the Higher Education Authority Bill, 2021.

On behalf of our Chief Executive, Paul Healy, I attach the Skillnet Ireland written submission. Please contact me if you require any additional information relating to this submission.

Yours sincerely,

A handwritten signature in black ink that reads "Tracey Donnery".

Tracey Donnery,  
Executive Director, Policy & Communications

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Skillnet Ireland is funded from the National Training Fund through the Department of Further and Higher Education, Research, Innovation and Science.



# General Scheme of the Higher Education Authority Bill, 2021

Skillnet Ireland Submission

17<sup>th</sup> June 2021

## **1. Executive Summary**

1.1 In response to an invitation by the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science, Skillnet Ireland has prepared a submission relating to the *General Scheme of the Higher Education Authority Bill, 2021*. The General Scheme outlines the role of An tÚdarás in supporting provision that addresses the needs of identified stakeholders. Higher education plays an important role in economic development in Ireland, by strengthening key industry sectors and clusters. On that basis, the Committee may wish to consider the inclusion of “industry sectors” to the list of named stakeholders.

1.2 Given the shared focus on provision that meets the needs of business and individuals, there is an opportunity to increase collaboration between Skillnet Ireland and An tÚdarás. As Ireland faces a period of significant disruption, collaborations will play a key role in driving business innovation and productivity, in providing strong safety nets for displaced workers, and in ensuring value for public-private investment in the skills and jobs of tomorrow.

## **2. Skillnet Ireland**

2.1 Skillnet Ireland is a business support agency of the Government of Ireland, with a mandate to advance the competitiveness, productivity, and innovation of Irish businesses through enterprise-led workforce development. Skillnet Ireland partners with 60 industry bodies and enterprise clusters, supporting over 18,000 businesses and 70,000 trainees annually, through its 73 Skillnet Business Networks. We partner with industry bodies that are either sectoral or geographically based and foster a networked and partnership-based approach that leverages Ireland’s open culture of collaboration. Through our partnerships with key industry representative groups, we drive excellence in learning for the workplace of today and the future. Skillnet Ireland is funded from the National Training Fund through the Department of Further and Higher Education, Research, Innovation and Science.

## **3. Role of Higher Education in Labour Force and Economic Development**

3.1 “One of the main objectives of higher education is to provide its graduates with the skills needed to succeed in the labour market. This mission is especially important in the context of today’s innovation-driven, skills-based, globalised economies” (OECD, 2017). The effective advancement of knowledge and use of skills are central to economic development in Ireland and to the present and future needs of our labour market. Higher education generates new knowledge and innovation. It is well placed to serve the needs of an economy that increasingly values advanced skills and in up-skilling and re-skilling individuals throughout their lives to enhance employability (OECD, 2017). However, Ireland faces a challenge to create closer alignment between education schemes and the needs of expanding sectors, (OECD, 2020).

3.2 Higher education plays a key role in industrial development. Ireland’s higher education system for example is integral to the presence of internationally renowned technology, biopharmachem and medtech clusters in this jurisdiction. Specialised programmes developed by higher education institutions build the capacity of existing industries and clusters, and the potential to attract additional foreign direct investment. This key role in development is further enhanced through the creation of Technological Universities, and the reflection within their offering of their regional industry base.

3.3 Higher education systems and institutions respond to the needs of multiple stakeholders and must balance labour market requirements with other priorities. The General Scheme recognises the diversity of stakeholders and the need to support individuals, the community, local interests, and business. The inclusion of ‘industry sectors’ within Head 9 would acknowledge the existing, important role of higher education in industrial development, while creating a focus within planning and strategy formation that is likely to provide a strong platform for future development.

#### **4. Navigating Transformation Through Collaboration**

4.1. According to the World Economic Forum, the COVID-19 pandemic has “laid bare the lack of mechanisms to support workers through mid-career transitions and to ensure worker livelihoods amidst disruptions” and what is needed is “a revolution in the way education and training systems operate, and in how they interact with labour market policies and business approaches to training workers with new skills” (WEF, 2020). Over the next decade, Skillnet Ireland anticipates that businesses will increasingly collaborate within their communities, through engagement with other businesses and consumers, along with Ireland’s education and training system. For example, collaboration is an important step for companies planning to leverage technological innovation and preparing for environmental and other transformative changes.

4.2 Supporting cutting edge collaborations between business, industry bodies and the education ecosystem is a strategic priority of Skillnet Ireland, as we recognise their effectiveness in anticipating and addressing dynamic, labour market needs. We have a strong record of delivering collaborative initiatives with the Higher Education Sector that meet the needs of employers and that have significant capacity to scale.

4.3 Collaborations will play a key role in driving future business innovation and productivity, providing strong safety nets for displaced workers, supporting the movement of talent towards growth areas, and ensuring value for public investment in the skills and jobs of tomorrow. With a shared focus on higher education and training aimed at the needs of business (HEA, 2018; Skillnet Ireland, 2020), there is an opportunity to further increase collaboration between Skillnet Ireland, the Higher Education Institutes (HEIs) and An tÚdarás. Through further co-operation, we believe that Skillnet Ireland, the HEIs and An tÚdarás can help business and individuals to better navigate the shift towards a digital and green economy, along with the other significant disruptions that will arise in future.



## 5. References

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World Economic Forum (2020), The Future of Jobs Report 2020.

18 June 2021

Ms Tara Kelly  
Clerk to the Committee  
Joint Committee on Education, Further and Higher Education, Research, Innovation and Science  
Leinster House  
Dublin 2

Reference: JCES-I-2021-[428]

Email: [tara.kelly@oireachtas.ie](mailto:tara.kelly@oireachtas.ie); [education@oireachtas.ie](mailto:education@oireachtas.ie);

Re: ETBI submission on “the General Scheme of the Higher Education Authority Bill, 2021”

A Chara

Further to your correspondence dated 31 May 2021 inviting ETBI to make a submission to the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science on “the General Scheme of the Higher Education Authority Bill, 2021”, please find attached a copy of ETBI’s submission.

Please do not hesitate to contact me if you require any further explanation or material.

Yours sincerely



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**Paddy Lavelle**  
General Secretary



# The General Scheme of the Higher Education Authority Bill, 2021

Submission to the Joint Committee on Education,  
Further and Higher Education, Research,  
Innovation and Science

# Education and Training Boards Ireland (ETBI) submission to the to the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science on the General Scheme of the Higher Education Authority Bill, 2021

June 2021

## 1. Introduction

Education and Training Boards Ireland (ETBI) welcomes the invitation by the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science to contribute to the Committee's pre-legislative scrutiny of the General Scheme of the Higher Education Authority Bill, 2021.

Education and Training Boards (ETBs), statutorily established on 1 July 2013, have responsibility for education and training, youth work and a range of other statutory functions. ETBs manage and operate community national schools, second-level schools, further education colleges, and a range of adult and further education centres delivering education and training programmes.

## 2. Background and context

ETBI is the representative association of the 16 ETBs consisting of the Chief Executives Forum, Directors of Further Education and Training Forum, Directors of Schools Forum, Director of Organisation, Support and Development Forum and their respective networks and groups. As a sector we have over 32,000 staff, are responsible for 27 Community National Schools, 246 Post-Primary Schools with over 110,000 students. ETB Post-Primary Schools are the largest provider of education through the medium of Irish with 47 schools (Scoileanna Gaeltachta, Gaelcholáistí, Aonaid Ián-Ghaeilge). ETBs deliver Further Education and Training to 200,000+ unique FET learners each year across over 200 FET colleges/Training Centres and play a central role in the delivery of apprenticeships and traineeships in partnership with employers.

The establishment of the Department of Further and Higher Education, Research, Innovation and Science brings together the further and higher and further education sectors. Education and Training Boards play a central role in the planning and delivery of further education and training, and in developing pathways between further and higher education.

The ETBI General Secretary wrote to the Minister on behalf of the ETBI Board on the 12<sup>th</sup> of October 2020, requesting an amendment to Section 12(j) Technological Universities Act 2018 to increase the number of ETB nominees onto each Technological University's Governing Body from one to three.

### 3. Current issues

#### **Head 20 Co-operation with An tSeirbhís Oideachais Leanúnaigh Agus Scileanna**

Section (2) (e) refers to national-level development, monitoring, review and management of the apprenticeship system. ETBs currently carry out this function on behalf of SOLAS for apprenticeship monitoring, review and management. There has been no consultation with ETBI/ETBs on the proposed legislative changes or on the proposed changes to these functions. ETBs are a key strategic partner with SOLAS in supporting the apprenticeship system, working closely with employers, industry bodies, apprentices, consortia and education and training providers.

#### **Head 90 Amendment of Section 12 (Membership of governing body of technological university)**

The explanatory note states that this head provides for an updated framework for governing bodies of Technological Universities by reducing the size of governing body membership and changing the composition of the governing body to ensure best practices around technological university governance. The amendment to Section 12 applies membership principles rather than being prescriptive as to the makeup of the governing body. The reduction in size of the governing bodies had already been catered for in Section 12 of the Technological Universities Act 2018.

The amendment allowing for the appointment of all external members using a skills-based competency framework while progressive and welcomed, is less clear about the makeup of external membership. In the proposed amendment the number of members that may be appointed by the Minister and the governing body is not defined. This is a concern for our members as in the previous legalisation, ETBs had one nominee which was felt to be inadequate due to the geographical reach of the Technological Universities, potentially spanning several ETB regions. While the membership principles do not preclude the nomination of one or more ETB members, there is no requirement to have an ETB nominee either.

#### 4. Recommendations

##### **Head 20 Co-operation with An tSeirbhís Oideachais Leanúnaigh Agus Scileanna**

ETBI would welcome engagement and consultation on any proposed changes to the monitoring, review and management of the apprenticeship system. Drafts of these agreements should be provided to ETBI for dissemination to ETBs to review therefore ensuring involvement of all central stakeholders in meeting the future needs of apprenticeship within the functions of the bodies. This will also provide clarity to all stakeholders on their roles.

##### **Head 90 Amendment of Section 12 (Membership of governing body of technological university)**

The amendment to Section 12 should be reconsidered to ensure appropriate ETB membership on the governing body of Technical Universities. This would provide greater clarity on the future of the tertiary education system with appropriate representation and contributions for the ETB sector.

#### 5. Conclusion

Education and Training Boards Ireland would like to thank the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science for considering this contribution to the Committee's pre-legislative scrutiny of the General Scheme of the Higher Education Authority Bill, 2021.



**etbi**

Education and Training  
Boards Ireland  
*Boird Oideachais agus  
Oiliúnaí Éireann*



18<sup>th</sup> June 2021

Tara Kelly

The Joint Committee on Education, Further and Higher Education, Research, Innovation and Science

Leinster House

Dublin 2

**Dear Tara**

Please find attached the Irish Traveller Movement submission to the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science, on matters related to Travellers and Pre-legislative Scrutiny of the General Scheme of the Higher Education Authority Bill, 2021.

Should you have any further queries please do not hesitate to contact me.

Yours sincerely

Jacinta Brack

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## Submission to the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science.

Re: Committee Pre-legislative Scrutiny of the General Scheme of the Higher Education Authority Bill. June 2021.

### Background

Founded in 1990, the Irish Traveller Movement is the national advocacy and membership platform which brings together Travellers and representative organisations to develop collective solutions on issues faced by the community to achieve greater equality for Travellers. We represent Traveller interests in national governmental, international and human rights settings. We challenge racism- individual, cultural and structural which Travellers face and promote integration and equality. We are led by our grass roots community membership, deliver expertise in shaping organisations locally and promote community leadership ensuring Traveller's voices are to the forefront of all discussions.

The Irish Traveller Movement is mandated by our membership of over 40 local Traveller groups to bring forward policy and related matters to national structures and represented on the national NTRIS Education Working Group Sub-committee coordinated under the Department of Education (DE). We are also the innovator of the Yellow Flag Programme -the school based intercultural programme.

Ongoing consultation between the Higher Education Authority (HEA), the DE, the Irish Traveller Movement and other Traveller representative groups is essential to Traveller education progression and we welcome The Action Plan for Increasing Traveller Participation in Higher Education 2019-2021 and the opportunity to submit to this consultation on the National Plan for Equity of Access to Higher Education ('National Access Plan' 2022-2026).

In a related context we endorse the recommendation contained within the May 2020 Report "*The Implications of COVID-19 for Traveller and Roma transfer to and progression within Higher Education*" and seek your attention to those also.

### Summary recommendations

#### Integrating Policy and Ensuring Traveller Priority

- Develop and implement a National Traveller Education Strategy incorporating the third level Action Plan and the NTRIS (National Traveller and Roma Integration Strategy) education actions with targets, timelines and appropriate monitoring processes. This must be supported with a ring fenced and dedicated budget.
- Name Travellers as a priority target in the next National Access Plan, continue emphasis on the implementation of the National Action Plan for Travellers with a safeguarded budget.
- Ensure the Third Level Action Plan is widely consulted on in the Traveller sector and informed by an Advisory Group comprising all relevant national Traveller organisations, and former and current Traveller students in its design and application.
- Establish a lead within the HEA, by appointment of a National Traveller third level officer.
- Implement reduced timetable guidelines with a view to renewal and evaluation at the end of year one, with a report disaggregated by school and inclusive of an ethnic identifier. Ensure TUSLA have a role in the oversight.

#### Access to Supports

- Review the income threshold associated with both the SUSI (Student Universal Support Ireland) grant and the 1916 Bursaries for Travellers, in view of the intergenerational and historic context of unemployment, and socio economy disadvantage, extend for part-time and mature students and for all registration and associated costs
- Increase financial supports specifically for mature and part-time students

- Ensure digital disadvantage is not barrier and allow for IT supports across HEIs and access for students to study areas/ and or additional needs-based supports.

### **Mature and Part-time Students**

- Incorporate the recommendations of the Study of Mature Student Participation in Higher Education in relation to Travellers in the new National Access Plan.

### **Resourcing Local community engagement and pre-development post primary**

- Allocate funding for local Traveller organisations to support the development of Traveller educational progression and pre-development work to support Traveller students to be college-ready.
- A priority in the DE action plan should now be a targeted, time lined and actioned focus on over 3,000 Travellers enrolled in post primary and on direct engagement in every school setting.
- Expand resources beyond the 50% of Travellers in DEIS schools in a targeted approach across other schools.
- Establish an advisory group of Post Primary Guidance Counsellors established with the DE and HEA as a partner, and HEIs to inform an action plan to create pathways to college form second level.
- For the HEA to create Traveller third level advisory committees in each county comprising Travellers and Traveller representative groups, third level representatives including access officers, and post primary teachers and ensure engagement of colleges located in those territories.
- Engagement with the Employers Sector, HEI's and led by the DE and Department of Children, Equality, Disability, Integration and Youth to implement a communications programme for Traveller parents on the benefits of third level, and for employers on equal access for Travellers, including the State Employment Services and the Public Service Employer.

### **Data collection**

- Introduce a universal ethnic identifier across all education bodies and institutions to collate data on Travellers in further and higher education, to track their progression and ensure allocation of resources follows the Traveller student.
- Expand the POP and PPOD to collect data on attainment and retention.
- Ensure data connection across associated education points and cooperation between the DE and the HEA towards a targeted action plan, targeting Traveller pupils post primary and from TY to Leaving Cert.
- Fully Implement the HEA's Data Plan for Equity of Access to Higher Education published in 2017

### **Higher Education Institutions (HEI'S)**

- All HEI institutions in partnership with Traveller and Roma organisations, should develop, implement and monitor a Traveller Action Plan for their institutions with specific targets, timeframes and resources.
- A communications plan could be initiated to improve Traveller awareness and accessing college grants/ schemes and courses.
- Include Travellers as role models in higher education via mentoring programmes for students in second-level and further education.
- Ensure staff of HEIs SUSI receive anti-racism and Traveller cultural competency training.
- The student assistance fund, Access Office / Officer should be visible and available for Traveller learners, and any learning support needs where required.
- Ensure Traveller identify is positively visible and part of school infrastructure and within narrative learning modules.
- Support a Traveller Graduate Network that can increase visibility and provide role models within the Traveller community and Higher Education Institutions.
- HEI's should commit to ensuring their application and administrative processes are fully accessible, culturally appropriate, and do not act as a barrier to students who may have literacy issues.

### **Context**

Travellers are an indigenous ethnic minority confirmed by historical sources to be part of Irish society for centuries. Travellers' long shared history, cultural values, language, customs and traditions make them a self-defined group and one which is recognisable and distinct. Traveller culture and way of life, of which nomadism is an essential factor, is distinct from the settled population.

Census 2016 showed 30,987 Travellers self-identified, but a closer estimation of population is found in the Department of Housing, Local Government and Heritage, (DHLGH) last available data 2019, where 10,809 families were enumerated (between 45,397 and 57,287 people) throughout the 31 local authority areas.

Travellers are among the most marginalised communities in Ireland. Long term exclusion, and experience of discrimination has had a detrimental effect on Traveller's life chances and outcomes across the various social indicators such as health, education, employment,

and socio-economic status. Gaps in participation, progression and achievement between Travellers and their settled counterparts in education are significantly lower and show;

- ❑ In 2016 only 13% of Travellers versus 92% non-Travellers **completed senior cycle at second level**<sup>i</sup>
- ❑ 2019 enrolment shows **a total nationally in primary and post primary education of 11,397 pupils**, 4,136 girls and 4,169 boys in primary and 1,610 girls and 1,482 boys in post-primary<sup>ii</sup>
- ❑ In 2017 only **8% of working-age Travellers** compared to 73% of non-Travellers **had reached leaving certificate** at second level.<sup>iii</sup>
- ❑ **57% of Traveller boys had only primary-education** compared to 13% nationally<sup>iv</sup>
- ❑ **13% of female Traveller females were educated to upper secondary** or above compared with 69.1% of the general population<sup>v</sup>
- ❑ Half of Traveller children do not live in DEIS school catchment areas.
- ❑ Of those who left second level education early, 55% left by the age of 15.<sup>vi</sup>
- ❑ 4 out of 10 Travellers said they or their children had been bullied in school because of their identity as Travellers<sup>vii</sup>

### Challenges to progression in Post Primary Education - the gateway to third level

1. Commitments to resources in Further and Higher education for Travellers' transfer to, and progression within higher education, and recent increased funding given the lower than expected uptake under schemes in the previous 3 years, are welcome. However, retention in post primary must also be given a priority focus, and additional resources allocated to defeat early school leaving. The long called for Traveller Education Strategy across primary, post primary and higher/further education, is still anticipated, and critical to advancing those aims.
2. To target retention and progression of Traveller and Roma students, a two-year education programme was piloted in four areas as an action in the National Traveller and Roma Inclusion Strategy (2017-21). It was estimated to have reached less than 8% of Traveller school going children. There is no indication of the continuation or further roll of these programmes beyond 2021.
3. There has been no restoration of cuts to the Traveller-specific education supports (86-100%) in 2011, despite recommendations by the UN Committee on the Rights of the Child to address Ireland's obligations under the UN Convention of the Rights of the Child (UNCRC)<sup>viii</sup>. Impacts from these cuts have taken more than a decade to erase, and little evidence of improvements in completion rates since then, or equivalent supports in the system towards retention.
4. State assistance to schools for Travellers in the form of enhanced capitation grants, in 2020 was €75 per Primary pupil and €103 per pupil in Post-Primary<sup>ix</sup>, in addition to the mainstream rate. However, additional support for other "in need" learners ranges from approximately €250-750 per pupil. There is no monitoring by the Department of Education of how this grant is spent by schools nor the extent to which it meets the needs of the Traveller pupil.

Other challenges include:

- a) **Department of Education policy**, the Traveller Education Strategy 2006, had no associated action plan or budget and remained dormant until the actions of the NTRIS 2017 reasserted some of the aims of that plan, but progress has been slower than anticipated.
- b) **During 2020 and due to Covid-19, the NTRIS Education subcommittee** convened by the DE met only twice due to the Department's demands across mainstream education. This along with digital inequities for Traveller pupils caused concern. Impacts on Travellers pupils in leaving certificate year 2020 and 2021 is unknown.
- c) **In 2018/2019 there were 2,916 Traveller pupils** in receipt of educational support. €16.2 million was allocated to DEIS grant for schools 2020/21, only half of all Traveller pupils are in DEIS schools.
- d) **No emphasis on targeted supports or a national oversight plan** in second level with the capacity to ensure the Traveller student is supported across the lifetime of their education to enhance the possibility of improving retention and attainment.
- e) **Parental experience of the education system**, low literacy, education levels and lack of confidence in the system.
- f) **Lack of visibility** of Traveller culture in the curriculum and in teaching practice.
- g) **Identity based bullying**, and low-level expectation of schools of Traveller pupils.
- h) Application of a **Reduced Timetable** for Travellers, DE guidelines have been delayed due to Covid 2020/21 priorities. Given the change in how allocations were made in Traveller education supports in 2008, there is

- No defined budget allocated to the area on an annual basis across the early years, pre and post primary and third level settings
- No disaggregation of the funding to assess the total level of supports to Traveller education based on ethnic equality collection.

### Third level

Significant challenges remain without adequate measures or a targeted strategy to enhance the potential for Traveller progression to third level, and address obstacles in education. In its progress review in 2018, the HEA highlighted the ability of the NAP to achieve its targets *“these factors often lie beyond the control of the higher education sector, and so interventions to react to these factors may be required at an earlier phase of the education cycle.”*<sup>x</sup>

According to Census 2016, 1% of Travellers progressed to third level education with 167 qualified. However as previously mentioned, census data is an underestimate of the population and currently over 3,000 Travellers are enrolled in post primary, where an emphasis should now be placed on direct engagement in every school setting.

### Traveller enrolment in third level show <sup>xi xii</sup>

- 2019/20: 40 new entrants and 110 total enrolments
- 2017/18: 118 total enrolments, accounting for highest ever with 75 in Universities and colleges and 43 in Institutes of Technology
- There was an increase of 27 individuals entering higher education from 2011 to 2017
- 41 Travellers were participating across all programmes in all years of study in higher education over seven years.
- However, while overall enrolments in higher education continue to increase to their highest levels in 2019/20, Traveller participation continues to be relatively stagnant and recognised by NAP<sup>xiii</sup>. In 2019, the total number of Traveller enrolments reported in further education and training was 1,527<sup>xiv</sup>. However, there is no data on the progression of those in FET to higher education.

### Challenges in higher education uptake

Traveller progression to third level should encompass an inspection of the wider impacting ramifications and demographics which impose additional challenges for students, including mature ones and the requirement for pre-entry work underway to support Traveller participation.

These should take account of

- gender
- intersectional consequences and socio and cultural expectations
- identity consciousnesses and potential for discriminatory experience
- lack of equivalent early education with college peers
- costs associated with attending third level to the whole family and the obstacles for mature students
- the intergenerational experience of unemployment and socio-economic disadvantage, which might further deter children and parents to pursue the costs of third level, which are more than what a direct bursary scheme can offer.

### Data collection: a tool in retention and remedy

The priority for data collection in education and across all state agencies and departments has been long called for by Traveller organisations and international human rights monitoring bodies.

It is noted, that the National Plan for Equity of Access to Higher Education 2015-2019, and the HEA Data Plan have committed to improving data collection, and that the HEA Executive work with Traveller organisations and HEIs to consider interventions that would support all Travellers entering higher education to answer the ethnicity question in the Equal Access Survey

- However, Traveller data collection should be broadened to incorporate models to follow the progress of Traveller learners, across all related education points, primary, post primary and third level. This should be published, and solutions activated to address where gaps are identified.
- The ethnicity question introduced under the Department of Education POD and PPOD should be enhanced for purposes of identifying and segmenting data specific to attendance and attainment. Currently retention and enrolment data are essential

but are too limited to alert and remedy essential obstacles, and there continues to be reluctance in making the information available to Traveller organisations by the DE.

It is essential that such infrastructure is urgently put in place to ensure that polices such as NAP can be properly monitored and evaluated and resources/supports allocated.

It is also important to further examine the current routes of transition for Travellers to third level, and for a further analysis by the HEA in the Data Plan for Equity of Access to Higher Education, of these routes, looking at Leaving Cert entry, mature student and previous schools / locations of education.

### **Infrastructure and resources at local level**

Local community-based organisations play a significant and key role in support, outreach, development, and representation of local Traveller communities. Except for four pilot projects funded under NTRIS from 2019-2022, local Traveller organisations have not been considered for any additional resources to address progression and retention.

The NTRIS education actions have not been protected and underlined with an associated budget and National and local Traveller organisations have not been funded to advance the community development and community engagement related work, a central function to success.

#### **Case Study: Illustrates how *PATH Stand 3* funding fails to provide resources at local level to support Traveller participation in higher education:**

In 2019, a Cork based Traveller Group supported 19 local Traveller women to undertake a two-year part-time level 6/7 course in Leadership, at University College Cork. The partnership between the local organisation, the university's faculty and access office was crucial throughout the programme. However, it required significant time and resource commitments by the Group in the development and support attached, and essential to the participants engagement and success in this programme, which was without dedicated resources.

- 
- Community-based Traveller groups with long standing trust, cultural competency and expertise, are without dedicated resources in the area and forced to address the unmet need arising from closure of the former Traveller Visiting Teacher Service 2011 and additional demands within after schools supports, following the cuts leveraged in schools supports in 2008. A specific and dedicated plan and resources toward retention in post primary in conjunction with Groups is needed.

### **Mature, part-time and post-graduate access**

There are many Travellers who wish to return to higher education as mature students and are more likely to attend on a part-time basis due to life circumstances. A study of those in higher education 2021 showed almost two thirds cited financial cost as a major barrier, with job commitments and family responsibilities seen as a major barrier by half of respondents<sup>xv</sup>.

- Measures are needed to address financial barriers for mature and part-time students by reviewing the adequacy and eligibility of the SUSI grants scheme, PATH funding initiatives and other mechanisms to omit those obstacles for prospective students and consider indirect costs such as childcare.
- While efforts to improve access to third level undergraduate study has improved, there are far less grant options to encourage graduates to complete post-graduate or masters level courses. These avenues should also be explored in terms of removing cost barriers.

### **An accessible system**

The administrative process required to access higher and further education can present a substantial barrier for some Travellers. Completing multiple forms, and provision of documentation can be a daunting and it is important that these processes are made as user-friendly, uncomplicated, and flexible as possible.

- A commitment to using plain English, a consideration of cultural sensitivities, and avoidance of unnecessary bureaucracy should be factored into entry processes.
- In recognition of the higher numbers of Travellers accessing third level as mature students, adapting processes to cater for varying literacy levels should also be considered, and the availability of access officers, digital supports and study environments.

## Appendix

### Statistics / References

- i. CSO, Available: <https://www.cso.ie/en/csolatestnews/presspages/2017/census2016profile8-irishtravellersethnicityandreligion/>
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- vii. Ibid
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- x. Higher Education Authority (2018), *Progress Review of the National Access Plan and Priorities to 2021*
- xi. Higher Education Authority (2020), *Irish Travellers in Higher Education: Review of Data*
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- xiv. SOLAS (2020), *FET in Numbers 2019: Traveller Community*. Available at: [https://www.solas.ie/f/70398/x/7889a5e9cc/15429\\_traveller\\_fet\\_report\\_2019\\_web.pdf](https://www.solas.ie/f/70398/x/7889a5e9cc/15429_traveller_fet_report_2019_web.pdf)
- xv. Higher Education Authority (2021), Study of Mature Student Participation in Higher Education. Available at: <https://hea.ie/resources/publications/>

### For further information please contact

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**To: Joint Committee on  
Education, Further and Higher  
Education, Research,  
Innovation and Science**

**C/O Tara Kelly, Clerk to the Committee**

Dear Committee Members,

My name is Dara Ryder and I am the Chief Executive Officer of AHEAD. AHEAD is an independent NGO more than 30 years in existence, whose mission is to Create Inclusive Environments in Education and Employment for People with Disabilities. We work directly with students, with staff in FET and HEIs, with employers and with policy makers in order to achieve our aims. With regards to graduate employment, we work directly with a network of Irish employers to provide paid mentored work placements for graduates with disabilities.

Many thanks to the Committee for inviting a submission from AHEAD on the Higher Education Authority Bill, 2021.

In order to help create a Higher Education environment that is accessible, equal and diverse we have developed this submission to the Pre-Legislative Scrutiny of The General Scheme of the Higher Education Authority Bill, 2021. As advocates of Universal Design and Universal Design for Learning (UDL), we believe these internationally recognised, evidence-based frameworks, can support the sector to transform higher education for all students, but particularly for disadvantaged cohorts. That is why the core of this submission is to embed the language of universal design and UDL into the governance and oversight structures of higher education.



Chief Executive Officer: Dara Ryder  
Board: Chairperson: Professor Michael Shevlin, Secretary: Julie Tonge,  
Treasurer: Andrew Blair, Blake Hodkinson, Marie Lyons, Valerie Moore, Courtney McGrath,  
Larry McNutt, Bernie O'Connor, Rory O'Sullivan

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Registered Charities No: 20025182



creating inclusive environments in education  
and employment for people with disabilities

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Finally, I would like to offer to participate in any public session, consultation or discussion regarding the Bill should it be required, and can be contacted on the above email or phone number.

I look forward to hearing from you,

Yours,

A handwritten signature in black ink that reads 'Dara Ryder'.

Dara Ryder,

CEO, AHEAD

[dara.ryder@ahead.ie](mailto:dara.ryder@ahead.ie)



Chief Executive Officer: Dara Ryder  
Board: Chairperson: Professor Michael Shevlin, Secretary: Julie Tonge,  
Treasurer: Andrew Blair, Blake Hodkinson, Marie Lyons, Valerie Moore, Courtney McGrath,  
Larry McNutt, Bernie O'Connor, Rory O'Sullivan

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Registered Charities No: 20025182

# Submission to Inform Pre-legislative Scrutiny of the General Scheme of the Higher Education Authority Bill 2021

## About Ahead

AHEAD is an independent non-profit organisation established in 1988 working to create inclusive environments in education and employment for people with disabilities. The main focus of AHEAD's work is access to and full participation in further education and training, higher education and graduate employment.

The Higher Education Authority has provided a core grant to support our activities promoting inclusion in higher education since the mid-1990s.

We work directly with students, with staff in FET and HEIs, and with policy makers in order to achieve our aims. With regards to graduate employment, we work directly with a network of Irish employers to provide paid mentored work placements for graduates with disabilities. If you are interested in finding out more about our work and how we build towards our mission, [please view this 4 minute animated summary video](#).

## About this Submission

This Submission was developed by AHEAD in response to an invitation by the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science, to make a brief written submission, as part of the Committee's Pre-Legislative Scrutiny of the General Scheme of the Higher Education Authority Bill, 2021.

It is underpinned by AHEAD's capacity as advocates for students and graduates with disabilities and is informed by research of the literature of the social context of disability and its links to equality of educational provision, AHEAD's continuous monitoring of the participation, experiences and the narratives of students with disabilities in Higher Education and engagement with key actors in the teaching and learning, disability and access departments of HEIs, as well as key national stakeholder bodies and steering groups.

## Introduction

Given the enormous changes in the nature of higher education provision and the diversifying demographics of Higher Education in recent decades, AHEAD welcome the updating of the General Scheme of the Higher Education Authority Bill, 2021. In regards to this, the stated objective of the above mentioned, up-dated Act, (2021), is to enhance equality, diversity and inclusion at Higher Education Institutions (HEIs), while ensuring accountability and transparency, as well as value-for-money for public funding.

Huge strides have been made regarding access of people with disabilities to higher education in recent decades, due in no small part to the creation and monitoring of the National Access Plan, and the commitment of on-the-ground practitioners in implementing its vision.

The last 10 years alone has seen a more than 220% increase in engagement with HEI disability support services (AHEAD, 2020). And yet people with disabilities remain significantly less likely to be in employment than their non-disabled counterparts. The recent European Commission Country Report for Ireland 2019 found that Ireland has one of the lowest employment rates for people with disabilities in the EU (26.2% compared to 48.1% in the EU as a whole in 2017) and one of the highest gaps between people with and without disabilities in employment (45.1 percentage points). Higher education is a vehicle that can transform the lives of people with disabilities by enhancing employment opportunities, enabling them to become valued, promoting well-being and informing a greater standard of living with autonomy, choice and agency.

But this can only be achieved if the whole system is intentionally designed to enable people with disabilities and other diverse student groups to engage fully in all aspects of the higher education experience and benefit from the positive graduate outcomes which follow. 'Access' to higher education is not enough to realise the constitutional right to equality for people with disabilities and the state's responsibilities on access to employment under the United National Convention on the Rights of People with Disabilities (UNCRPD). The next decades require a shift in approach to address more broadly the transitions to and from higher education, the state supports that underpin student engagement in higher education, and the experience of our diverse students of teaching and learning, social engagement, extra-curricular activities and academic progression.

Traditionally, access to and participation in higher education of diverse students has been facilitated predominantly by specialised HEI services providing targeted outreach and individualised 'retro-fit' support which often helps learners to navigate barriers which exist in the environment and systems. Continued support for these overstretched support services (AHEAD, 2020) is vital to facilitate inclusion, but the changing demographics inherent in the success of recent National Access Plans means that a stronger focus needs to be placed on removing those barriers and making inclusion everyone's business. In the case of students with disabilities for example, and the increasing number of individual accommodations required to support them, this is both a moral and financial imperative for the system.

Additionally, soon to be published AHEAD research on the 2019/20 academic year shows that a minimum of 4.8% of new entrant students have a disability but choose not to disclose it and register with support services. And so, in order to ensure every student can succeed, a much greater focus needs to be placed on removing barriers for all and building in more flexibility, accessibility and choice to higher education design and delivery, so that the huge variability of learners in higher education can benefit from a system that bends to their needs.

Building such a student-centric, sustainable system infused with inclusivity, flexibility, accessibility and choice which can cater for the broad variability of learners in our higher education population is a challenge, but thankfully, Universal Design (UD - systems and environments) and Universal Design for Learning (UDL - teaching and learning) offer us evidence-based, internationally recognised principles, guidelines and practices which can help us to mainstream access for all and make inclusion everyone's business. AHEAD is heartened by Minister Harris' support for UDL, as evidenced by his comments about UDL being the embodiment of 'human rights in the classroom' at the recent Climbing the UDL Ladder conference hosted by IT Sligo.

Universal Design (UD) is defined as "the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialised design" (UN, 2017). The principles of UD are evidence-based and internationally recognised, and can guide us in building more inclusive and accessible higher education physical and digital environments which are student friendly and easy to navigate, as well as helping us to offer more flexible modes of engaging with higher education.

Universal Design for Learning (UDL), a more specific framework focussed on addressing the variability of our learners' strengths and needs in teaching and learning practice, offers a more focussed, internationally recognised framework for educators to design academic experiences with more flexibility, accessibility, student voice and choice built in at the point of delivery.

Its vital that the revised governance legislation recognises the importance of these approaches and embeds them in the oversight and governance structures.

## Recommendations

AHEAD submits the following recommendations as part of the Committee's Pre-Legislative Scrutiny of the General Scheme of the Higher Education Authority Bill, 2021.

1. AHEAD recommends that an addition is made to the objects/general functions of An tÚdarás, to include in its primary objects/functions (Head 8 (1) & 9 (1)).
  - "to promote the universal design of higher education."

**Rationale:** With its emphasis on diversity, inclusion, multi modal learning, and technology, Universal Design for Learning (UDL) holds the potential to ameliorate some of higher education's most pressing issues, including the intractably low rates of persistence, retention, and degree completion evident at most colleges and universities today, (Davies et al. 2012) It has been shown over decades of research that UDL application in higher education can promote improved learner experience in terms of performance, engagement, satisfaction, social presence, learning stress, and learning flexibility (Davies et al., 2012; Hall, Cohen, Vue, & Ganley, 2015; He, 2014; Kumar & Wideman, 2014). UDL is shown to tackle accessibility issues, promote learner inclusion and independence, and keep students together without segregation based

on their diverse abilities. In other words, UDL seeks to address learning barriers from a wider perspective (Ahmed, Serenelli & Lundqvist, 2016).

2. In relation to Head 17- “The Board of An tÚdarás shall consist of the following members....”, AHEAD recommend that it is mandated that there should be representation of a disabled person on the board who is knowledgeable about barriers to access for people with disabilities.

In the same context, Head 38 (6) concerning who An tÚdarás will consult with in the review and update of the Performance Framework, ‘bodies with expertise in including disadvantaged students such as students with disabilities’ should be listed as key consultative partners in the approach.

**Rationale:** (a). In order to represent the diversity of Irish society and underpin decision-making with knowledge of barriers for diverse students, Institution/Authority governance should always be buttressed by the diverse voices and the input of students. In the interest of equality, inclusion and a diversity of input, there should be a disabled representative on this board to protect the interests of this group.

(b). All expertise, knowledge of discourse and life experience pertinent to this issue should bring ‘real life testimony’ and research to the Board/ An tÚdarás to promote the core values of the Legislative Bill concerning equity and diversity.

3. Head 38(2) –AHEAD recommends that ‘The performance framework at subsection 28 (1) shall take account of – the Equity and Access plan under section 46’. Similarly, in Head 36 (4) the development of the overarching higher education strategy should make specific regard to ‘the Equity and Access plan under section 46’.

**Rationale:** The National Access Plan should be central to Minister’s thinking while preparing an overarching strategy predicated on inclusiveness, equality and diversity, considering that these are core objectives of the Plan. It is important that the objectives of the state concerning Equity of Access to Higher Education are not siloed and left without force, but rather reflected and strengthened by the core HE strategy and the oversight provided by the performance framework.

4. Head 39 (3). AHEAD recommend that the provision of funding by An tÚdarás should be determined, in part, by the institution’s commitment to Universal Design and the implementation of UDL. The criteria, terms and conditions of the framework for the provision of funding in relation to specific funding schemes and programmes under subsection (2) should include ‘that the body promotes the universal design of its environments, services and programmes’.

5. In relation to Head 46 (6), AHEAD recommend that the Equity of Access and Participation plan may specify:
  - The goals, objectives, actions and targets for embedding universal design and universal design for learning in higher education

**Rationale:** the evidence-based core principals of UDL are centred around the three core principles of providing flexibility in engagement, representation of teaching material and techniques, and the variety of ways in which the student can express their learning – which support implementation of equity of access.

6. In relation to Head 64 (5), AHEAD recommends the institutional Equality Statement shall specify: ‘The policy of the designated institution of higher education relating to the implementation of accessibility and universal design’.

**Rationale:** The benefits of an annual Equality Statement are that they promote accountability, allow students to make informed decisions regarding where they study and advance practices of equality and the realisation of social and cultural rights, enshrined in a variety of human rights instruments (ESCR 1976, UNCRPD, Disability Act 2005). Universal Design as a vehicle for the realisation these human rights is explicitly mentioned in two of these rights-based instruments.

7. Head 83 and 102 Amendments to the Universities Act and Institutes of Technology Act – add necessity to consult with ‘Appropriate bodies with expertise in including disadvantaged students such as students with disabilities’

## Conclusion

AHEAD’s submission is firmly framed around one of our core organisational objectives, the embedding of Universal Design (UD) and Universal Design of Learning (UDL) in all learning environments to give all learners equal opportunities to succeed. [The basic underpinnings of UDL can be viewed here.](#)

Upon an in-depth analysis of General Scheme of the Higher Education Authority Bill, 2021, our submission is underpinned by the objective of embedding UD and UDL in Higher Education through legislation. Our recommendations are informed by this objective as our vast experience and expertise allows us to situate UD and UDL as the evidence based, international frameworks that would facilitate a more rights-based higher education system, which bends to the needs of all of Ireland’s population.

**Contact:** Dara Ryder, CEO, AHEAD – [dara.ryder@ahead.ie](mailto:dara.ryder@ahead.ie) ; [www.ahead.ie](http://www.ahead.ie).



21 June 2021

**Joint Committee on Education,  
Further and Higher Education,  
Research, Innovation and Science.**

Leinster House

Dublin 2

D02 XR20

Email: [education@oireachtas.ie](mailto:education@oireachtas.ie)

Ref: JCES-I-2021-[448]

Attention: Tara Kelly Clerk to the Committee [tara.kelly@oireachtas.ie](mailto:tara.kelly@oireachtas.ie)

**INVITATION TO MAKE WRITTEN SUBMISSION**

Dear Ms Kelly

Thank you for the invitation to Women in Technology and Science (WITS) to make a brief written submission, to the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science, as part of the Committee's Pre-legislative Scrutiny of the General Scheme of the Higher Education Authority Bill, 2021.

In our brief submission (separate document) WITS commends much of the bill, identifies key issues in higher education for STEM (science, technology, engineering and mathematics) and suggests some strategies to assist in that process. One of the key issues is that there are few effective strategies to ensure diversity, access and inclusion in STEM at all levels of education.

We wish the Committee all the best in its pre-legislative scrutiny and hope that our submission contributes to the debate.

Yours sincerely

*Andrea C. Johnson*

Dr Andrea C Johnson

Chair,

Women in Technology and Science Ireland

Email: [info@witsireland.com](mailto:info@witsireland.com)



## Women in Technology & Science (WITS)

Submission to the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science as part of the Committee's Pre-legislative Scrutiny of the General Scheme of the Higher Education Authority Bill, 2021.

### 1. About WITS

WITS Ireland is an independent, voluntary organisation advocating, connecting and promoting women in science, technology, engineering and mathematics (STEM) across Ireland. At our 2020 AGM we adopted an [ambitious strategic vision for 2021 – 2025](#). The goal of our strategy is to

*“Advance the retention of women throughout their careers in STEM by researching, developing and sharing insights and best practice”*

1.1 Members come from STEM, from across the public and private sectors and are all ages from students to retirees. This is a unique mix.

1.1.1 We have [free membership for STEM higher education students](#) and we support student members from 1<sup>st</sup> year undergraduate to the completion of PhDs.

1.2.1 We also support women returners, in programmes such as [Women Reboot](#), with free membership.

1.2 [Women are significantly under-represented in most areas of STEM](#) in Ireland and internationally and this needs to be addressed for many reasons including the following:

1.2.1 The importance of diversity, including gender, in developing creative and innovative solutions for the benefit of society as a whole

1.2.2 There is a global shortage of professionals in critical STEM areas such as Engineering and IT; the greatest untapped pool of talent is to be found among young women

1.2.3 All careers should be equally open to men and women.

1.3 Careers in STEM start in higher education. WITS [2016 Action Manifesto](#) and the [WITS Policy Calls 2020](#) argue for equality of opportunity in vocational and third level education.

### 2. Commendations

WITS welcomes many aspects of the HEA Bill including:

2.1 Part 2, Chapter 1, Head 8. That the objects of the HEA include to advance equality, diversity and inclusion in higher education, and to strengthen engagement with the wider education system and wider society.

2.2 Part 2, Chapter 1, Head 9. The functions that include to support the provision of a range of programmes of higher education and training aimed at meeting a wide range of educational and skills locally, regionally and nationally (e) and function (l) to support equality, diversity and inclusion in higher education.

- 2.3 Part 2 Chapter 3, Head 17(4). the gender composition of the Board of An tÚdarás.
- 2.4 Part 2, Chapter 4, Head 20. The co-operation with SOLAS especially in terms of apprenticeship, transfer pathways etc. This is an important pathway that is woefully underutilised, particularly in STEM.
- 2.5 Part 3, Chapter 2, Head 39 (g). WITS welcomes that An tÚdarás may provide a funding scheme to target students underrepresented in higher education.

### 3. Key issues in higher education for STEM

#### 3.1 Lack of diversity in STEM higher education.

There is considerable lack of diversity in STEM in higher education. Gendered participation, with the exception of health and welfare courses, is evident with fewer women in ICT, engineering etc., (HEA, 2018). Recent [HEA data](#) shows the socio-economic profile of Irish higher education with fewer disadvantaged students across the system.

3.1.1 Retention is a key issue; students start STEM programmes but do not always complete them. Computing has the lowest rates of completion (HEA, 2021) with engineering among the other disciplines with low completion rates.

3.1.2 Internationally, only about 30% of female students select STEM related fields in higher education, (UNESCO, 2017, p. 20) with differences observed by disciplines. Female enrolment is lowest in engineering, manufacturing and construction, mathematics and ICT fields. (UNESCO, 2017, pp. 21-23). Attrition rates are high for women (UNESCO, 2017, p. 22) as they leave STEM disciplines during their studies.

#### 3.2 Requirement for STEM data

A STEM qualification is the first step on a career path. Appropriate STEM data would identify any under-representation of groups of society in terms of both students and staff and enable the development of appropriate schemes to target this underrepresentation.

3.2.1 Part 6, Head 48. WITS suggests that data on disciplines of students and staff be part of the non-personal information requested by An tÚdarás to enable the development an overview of the different disciplines in higher education.

3.2.2 Following a meeting with Minister Harris March 2021, WITS discussed the requirement for national research, which would benchmark and measure any progress in increasing gender diversity across STEM. WITS is about to submit a research proposal for the establishment of a state-of-the-nation data set across STEM in Ireland as suggested by the RIA (2017).

#### 3.3 Retention of STEM graduates in STEM careers

Many women with STEM qualifications do not pursue careers in STEM and this loss of talent represents only a lost opportunity for the women themselves, but also a serious loss across the whole economy. This is the “leaky pipeline”. Most STEM graduates work in industry and data on their retention and progression after higher education is lacking. WITS identifies an urgent requirement for data about the destination of STEM graduates five or ten years after graduation.

### 3.4 Diversity, access and inclusion

The equality, diversity and inclusion agendas are essential. WITS welcomes Part 5 of the bill Participation and Access.

3.4.1 Part 5, Head 46, 5 (h). Development of an equity of access and participation plan. WITS suggests that civil society and industry be among the other bodies consulted. WITS would contribute to the development of such a plan for STEM higher education.

3.4.2 This sits well with Part 3, Chapter 2, Head 39 (g) and the possibility that An tÚdarás may provide a funding scheme to target students underrepresented in higher education. However, such a funding scheme would need to be in the context of an equity of access and participation plan and provide support for students throughout their studies to completion.

3.4.3 WITS, in particular, argues for programmes to support women returners and identifies their key role in improving diversity in STEM.

## 4. The development of higher education

### 4.1 Need for wide consultation

Higher education has to respond to many changing social, economic and cultural requirements; consultation with civil society e.g., WITS, NWCI and industry bodies such as IBEC would be essential. WITS welcomes this continuous review of the demand for higher education.

4.1.1 In planning for higher education provision Part 3, Head 37, it would be important to consider relevant emerging needs 4(l), the social, economic and cultural requirements 4(m), and 4(n) other relevant issues. It is suggested that staff profile in higher education be reviewed to see that it reflects Irish society.

4.1.2 Part 2, Chapter 4, Head 18-20. WITS suggests that a section be included that enables co-operation, collaboration and consultation with industry, and wider society.

### 4.2 Importance of strategic plans at national and institutional level and the need for wide consultation

Strategic planning is an essential tool. Higher education has to respond to an evolving ecosystem. Overall, the bill seems to be missing the potential of industry engagement.

4.2.1 Part 3, Chapter 1, Head 36. WITS notes that the Minister creates a 5-7 strategy for higher education. This is too long for STEM given the pace of change and innovation. The current pandemic is an example of such a change.

4.2.2 Part 3, Chapter 1, Head 36 (6). WITS recommends wide consultation with civil society and industry and that such a statement be included in the bill.

4.2.3 Part 3, Chapter 1, Head 36 (8). A review of strategy after 4 years is potentially insufficient due to the evolving ecosystem and pace of innovation. It needs to be shorter to enable & encompass opportunities.

4.2.4 Part 3, Chapter 1, Head 38. WITS welcomes the development of a performance framework for higher education. Consultation with wider society and industry would be useful in the development of the performance framework.

## 5. Strategies to ensure diversity, access and inclusion in STEM higher education

There are few effective strategies to ensure diversity, access and inclusion in STEM at all levels of education (Department of Education, 2020, p. 63).

### 5.1 The STEM ecosystem

The STEM ecosystem (DE, 2020, p. 14) uses an ecological approach to acknowledge the multiple, overlapping influences on STEM participation and achievement. It draws on the UNESCO framework of four levels – the individual/learner, the family, school and society that operate in complex and multiple ways (UNESCO, 2017, p40). WITS argues that consideration of the STEM ecosystem is essential in higher education.

5.1.1 As an example, ICT/ computing has the lowest completions rates of fields of study (HEA, 2021) yet computing graduates have the higher earnings on entering the workforce (HEA, 2018, p.120). What are the individual, family, institutional and societal factors leading to this paradox, given that graduates wish to have well-paying jobs on completion of their studies?

5.1.2 The HEA operates at the level of society and has an impact on the STEM ecosystem through social and cultural norms related to gender equality, and gender stereotypes in the media (UNESCO, 2017, p. 40). This means that gender equality, gender equality policies, social and cultural norms as embodied in the bill play a role in developing inclusive social norms (UNESCO, 2017, p. 40). Sex-aggregated data is identified by UNESCO (2017, p, 40) as one of the key elements here.

5.1.3 The HEA also operates at the interface between higher education institutions and Irish society. This means it has a role in reviewing staff profiles in higher education. HEA (2020) data shows that in the universities 57% of staff in STEM are male and 43 are female with more males in senior levels or management (pp.6-7). There is little data about social class or ethnicity.

5.1.4 The support of learning, teaching and assessment in higher education by the [National Forum for the Enhancement of Teaching and Learning in Higher Education](#) is welcome and is an essential element of developing an appropriate STEM ecosystem in higher education.

### 5.2 Proposal to Minister Harris for National Advisory Board for Diversity in STEM.

WITS has proposed to Minister Harris the establishment of a national advisory body for diversity in STEM as part of the DFHERIS Strategic Vision 2021-2023. This would be in the spirit of the DFHERIS mission to ensure opportunities are made widely available to everyone in our society through championing equality, focusing on the future of work and bringing together pockets of activity.

5.2.1 The creation of the Advisory Board under the guidance of the Minister could provide a national consolidation of thought leadership, strategic initiatives and

support real disruption and progress for diversity and gender equality in STEM and support the work of the HEA in diversity and inclusion in STEM.

## 6. Conclusion

One of the key themes for WITS is the requirement for “joined-up” thinking in higher education and the importance of leadership, vision and strategic direction in STEM higher education. This has inspired this submission. We are leaning into our 30-year experience, as a national voluntary organisation in STEM to re-imagine the STEM landscape and to optimise any opportunity to drive towards gender equality. Overall WITS wants the HEA to implement the equality and diversity agenda and for Irish society to see STEM as an opportunity for all.

Dr Andrea C Johnson  
Chair, Women in Technology and Science Ireland  
Email: [info@witsireland.com](mailto:info@witsireland.com)

## References / Links

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Niamh Ward  
**Joint Committee on Education,  
Further and Higher Education, Research, Innovation & Science**  
Houses of the Oireachtas  
Kildare House  
Dublin 2 , D02 XR20

**Ref: Request for Submission [444] - PLS of the General Scheme of the HEA Bill 2021**

To: education@oireachtas.ie

21st June 2021  
[by email only]

Dear Niamh,

Further to your request for a submission to the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science as part of the Committee's Pre-legislative Scrutiny of the *General Scheme of the Higher Education Authority Bill, 2021*. I am pleased to include here a brief Executive response from IADT to the heads of the Bill.

In general terms, we very much welcome the review of the legislation and the proposed reform of the *Higher Education Authority Act, 1971*. It is clear that the Act no longer meets the needs of a rapidly evolving and dynamic Higher Education sector. We support the Department of FHERIS's wider commitment to implement revised and appropriate legislation for the Higher Education Sector.

As a "small" specialist Institution, we fully support the revised legislation and the commitment to implement a more coherent and transparent legislative and compliance framework for all HEIs.

IADT has an impeccable record of compliance, governance and financial prudence. Yet we continue to operate within sectoral constraints unique to the Technological Higher Education sector. Operating competing with other HEIs without the increased autonomy or the financial resources necessary to achieve our strategic ambitions.

We are hopeful that this refreshed legislation will ensure that accountability and autonomy will be managed and assessed on an Institutional basis. Allowing "best in class" performers to evolve and achieve their strategic priorities unencumbered by sectoral-wide constraints imposed under any legislation.

Yours Sincerely

**David Smith**  
President

## **IADT Response to the Oireachtas Joint Committee on the General Scheme of the HEA Bill, 2021**

### **Head 22 (3)**

We suggest that it would be useful if there was a requirement for the HEA to *consult with* HEIs in the development of their Corporate Plan, not simply a requirement for consultation generally. This would then engage both the HEA and the HEIs collectively in the development of a national strategy for higher and further education and research.

### **Heads 27 & 28**

We recommend that the functions of the Chief Officer of the HEA should be set out in an Appendix to the Act, in addition to *Head 28*, this would then be consistent with the provisions of other Acts relating to the Chief Officers of HEIs. The Term of Office should be as determined by the Minister, but in any case not exceed 10 years, again this would be consistent with the provisions for HEIs.

### **Head 34**

Some clarification sought as this would appear to remove from staff of the HEA, their protections under Protected Disclosures legislation and their capacity to operate within FOI legislation

### **Head 36**

We suggest that it would be useful if there was a requirement for the Minister to consult directly with HEIs in the development of the National Strategy, not simply a requirement for consultation generally. This would then engage both the Government and the HEIs collectively in the development of a national strategy for higher and further education and research.

### **Head 39 (4)**

We are of the view that provision must be made in legislation for HEIs to implement redundancy schemes in the event that funding is not secured from the HEA or other exchequer means.

### **Head 74**

We are of the view that the provisions of *Head 31 (5) and (6)* should be replicated in respect of the membership of the HEA, this would be consistent with the provisions applying to HEIs.

### **Head 74 to 76 incl.**

Some clarification needed. It should be clear as to what Sections or decisions of either the HEA or the Minister could be the subject of an appeal to the Appeals Board.

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### ***Proposed issues that are not included in the proposed Bill***

**Academic Freedom** — It would be useful for the principles of Academic Freedom to be encapsulated within this legislation and for a clear definition of Academic Freedom to be included.

**Reform of Seanad Eireann** — IADT is of the view that this would be an appropriate time to enact the provisions of the *7th Amendment to the Constitution* (extension of Seanad Franchise to graduates other than NUI and Trinity).



## **Response to Public Consultation on Reform of Higher Education Authority Bill 2021**

### **Submission from Women in Research Ireland (RCN:20200957)**

Women in Research Ireland (WIRI) is a registered charity based in Dublin and a group member of the National Women’s Council of Ireland. WIRI’s vision is to achieve equitable representation for women and minority groups in Irish higher education. WIRI’s mission is to unite and build an empowering diverse and inclusive community of underrepresented groups where all voices are heard in academic spaces. The WIRI committee welcomes the opportunity to provide a submission on the pre-legislative scrutiny of the General Scheme of the Higher Education Authority Bill, 2021.

#### **1. Addressing the needs of staff in Higher Education**

It is essential that the legislation directly addresses the importance of the needs of all staff in higher education in particular women and minority groups. The detrimental and disproportionate effects of the COVID-19 pandemic on the academic careers of women and minorities across the world are widely reported particularly for those with caring responsibilities (Deryugina et al. 2021). There is an urgent need to mitigate this damaging effect on the career progression of women and others who have been most adversely effected.

In Irish Higher Education Institutions, those on part-time temporary contracts are predominantly women. The Higher Education Authority Higher Education Institutional Staff by Gender Report highlights that in 2019, 26% of professor posts were filled by women as compared to 74% held by men. 52% of academics on full-time temporary contracts were female, while 71% of those on part-time temporary contracts were female. There is an urgent need for better career training and supports for staff on precarious temporary contracts (postdoctoral researchers, research fellows, teaching fellows). While the focus on student success is correctly a central focus of the General Scheme, we recommend that supports for staff success feature more strongly in the General Scheme (in *Objects and General Functions of An tÚdarás*).



## Response to Public Consultation on Reform of Higher Education Authority Bill 2021

### 2. Equality, diversity and inclusion for staff in Higher Education

The ethos of Women in Research Ireland is that equity and diversity creates a positive impact in Higher Education and furthers the enhancement of science, health-care and the wider society. To advance equality, diversity and inclusion in Irish Higher Education, issues such as workplace bullying, harassment, unfair management and an inadequate complaints system need to be explicitly addressed. There is a need for suitable mechanisms for gathering feedback on staff issues relating to the theme of equality, diversity and inclusion. We strongly recommended that a focus on equality, diversity and inclusion supports for staff in Higher Education features prominently within the upcoming General Scheme.

We would be happy to engage further on any aspect of this submission. Further detail on Women in Research Ireland can be accessed at [www.womeninresearch.ie](http://www.womeninresearch.ie).

#### References

Deryugina, T., Shurchkov, O., & Stearns, J. E. (2021). *COVID-19 Disruptions Disproportionately Affect Female Academics* (Working Paper No. 28360; Working Paper Series). National Bureau of Economic Research. <https://doi.org/10.3386/w28360>

Higher Education Institutional Staff Profiles by Gender (2020). Available online: <https://hea.ie/assets/uploads/2019/07/Higher-Education-Institutional-Staff-Profiles-by-Gender-2020.pdf>



Waterford Institute of Technology  
 INSTITIÚID TEICNEOLAÍOCHTA PHORT LAIRGE

Submission from

**Waterford Institute of Technology**

to the

Joint Committee on Education, Further and Higher Education, Research,  
 Innovation and Science as part of the Committee's  
 Pre-legislative Scrutiny of the

**General Scheme of the Higher Education Authority Bill, 2021**

June 2021

1. Waterford Institute of Technology (WIT) is pleased to make the following comments on the General Scheme. We note also contributions by sectoral representatives, specifically from the Technological Higher Education Association (THEA) to which WIT's remarks may be considered supplementary.

*Head 2: Interpretation*

2. There is some overlap in the definitions provided for here and those offered by, for instance, Quality and Qualifications Ireland (QQI). With regard to a "higher education provider", it is unclear how an individual person can be a higher education provider. It would be appropriate in our view to align definitions in this proposed legislation with those set out in the Qualifications and Quality Assurance (Education and Training) Act 2012 and elsewhere with regard to higher education provision and higher education award-making institutions.
3. We note that the definition of an "higher education provider" specifies that such an entity "provides at least one programme of education and training leading to the award of a degree or other qualifications which are to at least bachelor degree level". This seems to exclude programmes at level 6 on the National Framework of Qualification from being considered "higher education". However, based on 2019-20 enrolment data, there were 20,094 enrolled on certificates, foundation and access programmes, and Higher Certificates (the bulk of these three categories are outside level 7-10 on the Framework) from a total of 235,697. This represents 8.5% of the national total. These enrolments, mostly at level 6 on the National Framework, are largely but not exclusively in the Institute of Technology sector. These qualifications are valuable in themselves but also are an important tool in advancing educational opportunities through creating progression "ladders" through the Framework.

#### *Head 8: Objects*

4. Provision (1) (c) might be modified for the sake of clarity into two separate points. We suggest:
  - a. To hold higher education providers to account for the use of Exchequer funding and to support securing value for money in the provision of higher education nationally;
  - b. To measure, assess and report on the performance of higher education providers against national priorities.
5. We suggest that (1) (f) should be strengthened to give An tÚdarás a role in “*upholding and promoting* the academic freedom of higher education providers and academic staff.”

#### *Head 9: General Functions*

6. We suggest (1) (j) might read, “measure, assess *and report on* the performance of higher education providers”.
7. We suggest (1) (p) is amended to read, “collect statistical information and maintain an evidence base in order to provide high quality evidence-based policy advice *and advice to higher education providers*”.
8. We suggest that An tÚdarás should have a strong role in promoting the Irish language through its activities—this may be appropriate as point (q) here. It may be useful to adapt the provision from the 1971 Act: “In performing its functions, An tÚdarás shall bear constantly in mind the national aims of restoring the Irish language and preserving and developing the national culture and shall endeavour to promote the attainment of those aims.” Higher education, in our view, is a critical vehicle for sustaining the Irish language and this should be reflected in the work of An tÚdarás.

#### *Head 20: Co-operation with An tSeirbhís Oideachais Leanúnaigh Agus Scileanna*

9. The formal agreement in this section is welcome and is indicative of a broader—and equally welcome—approach evident in the draft towards alignment between further and higher education providers. We note however that if the definition in Head 2 was applied, most apprentice provision currently offered by Institutes of Technology (in the main) would fall outside the domain of higher education.
10. We suggest that (2) (a) is relegated further down the list and that the joint agreement between An tÚdarás and SOLAS emphasises first of all the educational value of collaboration and the shared principles associated with educational access and high quality educational provision.
11. The reference in (2) (b) to regional collaboration is worth further elaboration. We note that the Technological Universities Act 2018, section 9 (1) (k) and (l) provide for a special relationship between the Technological University and the education and training board(s) in its region. It might be suggested that the formal relationship between An tÚdarás and SOLAS makes reference to and is informed by formal relationship between the Technological Universities and, as appropriate, Institutes of Technology and the relevant education and training boards.

#### *Head 36: Strategy for Higher Education*

12. It would be appropriate that (4) (a) also references European policy.

13. It would be appropriate that (4) (b) is informed not just by the wider tertiary education sector but by education in general.
14. The role of the HEA in developing, reviewing, supporting, and implementing the strategy set out here should be indicated. The relationship between this plan and the performance framework requires clarification.
15. We note that the current strategy for higher education is to 2030. (8) would seem therefore to be inconsistent with the strategy as it currently exists, assuming that strategy is not to be revised significantly.
16. It is important that the diversity of the higher education landscape in the State is preserved. As the *National Strategy for Higher Education to 2030* declares, “Diversity is one of the major factors associated with the positive performance of higher education systems” with a diversified system “better able to offer a spectrum of opportunities to meet different student needs and interests”, fostering “improved mobility, by offering pathways and ladders of progression for Students”, better able to “meet the dynamic needs of modern labour markets”, enhancing institutional excellence by allowing for institutional concentration on particular fields and activities, and enhancing institutional innovation “by allowing individual institutions to experiment”. It is important that the strategy for higher education referenced here, and the subsequent plans by An tÚdarás, including the performance framework, support the continued diversity of the system.

*Head 37: Planning for higher education provision*

17. While acknowledging that the demand for higher education provision is an important driver of future plans, it is equally important to consider the wider social, culture and economic *need* for higher education which is not always expressed in terms of demand. (We note, for instance, consistent low demand for certain disciplines where nonetheless graduates continue to be *needed* by industry and employers.) (1) should state the principles directing the provision of higher education by the State which should mirror the objects set out for An tÚdarás and might include:
  - Supporting excellence in the provision of teaching, learning and research;
  - Meeting the ongoing needs of society, culture and the economy for high quality higher education;
  - Providing accessible higher education across the State in support of enhancing quality of life and citizen empowerment, with a particular emphasis on the provision of education in support of regional development in turn aligned with national spatial and development strategy;
  - Enhancing Ireland’s international position with regard to education, training and research.
18. The review set out in (3) does not take account of potential regional imbalances and nuances in the provision of education. At the very least the review set out in (3) should cross-reference national spatial and economic strategy with regard to regional development and consider student numbers, projections, inclusion statistics and so on in that regard.
19. It would be useful to define “emerging needs” and “social, economic and cultural requirements” in (4) (l) and (m).

20. We note that the participation and demand for further education will inform higher education strategy. This is welcome but the comments above on demand also impact here: it is the *need* for various forms of educational provision that should determine strategy, not necessarily the demand.

*Head 38: Performance framework*

21. It would be appropriate, for consistency, that any performance framework that is developed references available resources – see for instance the constraints imposed on the overall plan for higher education described in (36) (4) (c) and (d). That is, if the overall plan takes account of the availability or otherwise of resources, so should the performance framework.

*Head 43: Engagement with Students*

22. We welcome the inclusion of this section. It may be appropriate to include in (3) a requirement that institutions reports on (as a point (b)) “formal structures internal to the organisations that support student engagement and offer students opportunities to contribute formally to, *inter alia*, institutional planning, governance and management.”

*Head 47: Lifelong learning*

23. We are unclear as to the rationale for the inclusion of this section. The principles listed here are relevant to all learners, not just so-called “lifelong learners”. Moreover, the “mainstreaming” of lifelong learning would suggest that this section is redundant.

*Head 48: Supply of non-personal information*

24. It would be useful to include the list of functions given in the explanatory note on p.79 as part of the text between (2) and (3) here.

*Head 53 and Head 54 Research/Research Integrity*

25. These sections are clearly incomplete. The centrality of research to higher education provision must be recognised in the Bill.

*Head 55: Designated institutions of higher education and Head 59: Review of compliance with designation conditions*

26. It is unclear whether the organisations listed as designated in (1) (a)-(f) can have their designation revoked and whether all designated institutions, including those in the above categories, are subject to compliance reviews as described in Head 59.

27. With regard to Head 59, it is unclear whether this review supplants the QQI institutional review or complements it and what the relationship is between this review and the performance framework.

28. We again suggest that there is a need to support the continued diversity of higher education provision across the system (see comment above). The procedure for “designating” institutions as higher education providers without any reference to different missions, strategies, traditions or vision suggests some dilution in that diversity.

## HEA Bill 2021 – Consultation process

### Comments from IT Sligo

16<sup>th</sup> June 2021

#### Context

This Bill sets out the proposed legal framework for the operation of the HEA and also seeks to amend the various pieces of legislation that set out the legal framework for HEIs (IOT Acts, TU Act, Universities Act, etc).

#### Changes

The following are new developments we identify that are being introduced in the new Bill:

1. Reduction in the size/membership of Governing Bodies across HEIs
2. Increase in the responsibilities of GBs both as a body (“satisfy itself that appropriate systems.....are in place”, “establish and implement arrangements for the management of the performance of the chief executive officer HEA/President IOTS and TUs) and for the individual members (size above and professionalization provision below)
3. Increased professionalization of the role of the (external) GB members – member selection provisions “shall be appointed from among persons who, in the opinion of the Minister, have sufficient experience and expertise relating to ..... matters connected to education, teaching and learning, research, international perspectives, organisational and financial governance, management or public administration.” (IOTs and TUs and the HEA)
4. Removal of provisions regarding Investigators and their replacement with an accountability on the part of the GB to investigate matters and report on them (IOTs, TUs and the HEA – Head 14 makes the HEA responsible for producing reports to the Minister on any matter specified by the Minister which presumably would cover their own operations). This is welcome in that it reinforces the accountability of the role of the GB.
5. Reduction in influence of external stakeholders on the GBs of IOTs, TUs and the HEA – this is not directly stated but is the result of the proposed reduction of the size of GBs and the professionalization of the role of external members, and the fact that many groups of external stakeholders are not listed in the provisions regarding consultation on Strategic Plans and Equality Policies, etc.

#### Observations

- a) While the reduction in size of the GB and increased professionalization of the external member’s role is not a problem per se, the selection process/procedures for the selection of properly qualified and independent external members would need to be addressed ahead of the start of the selection of these members, and it would be useful if these procedures were made available now in order to allow for a fuller understanding of the changes.

- b) The influence of external stakeholders is affected by the same provisions in that there are less seats for them and the remaining seats are for people who have “sufficient experience and expertise relating to.....” specific areas of operation and/or specific professional areas relating to organisational management.
- c) The increased professionalization of the external member role is noted; it would help in evaluating the bill if any proposals being made in this regard (allowances to be paid, indemnities to be given, etc) are made available now.
- d) The Bill makes the statement under several of the Heads when it comes to GB size that it is proposed to reduce these and make them smaller. The Bill does not however tell us how much smaller/what the size of a TU or IoT GB will be. Again it would help in achieving a full understanding of the bill if the proposed size(s) of the GBs were given now.

END



21 June 2021

Ms Tara Kelly  
Clerk to the Committee  
Joint Committee on Education, Further and Higher Education, Research, Innovation and Science  
Leinster House  
Dublin 2  
D02 XR20

Dear Tara

Please find attached QQI's submission to the Committee's request to make a written submission, as part of the Committee's Pre-legislative Scrutiny of the General Scheme of the Higher Education Authority Bill, 2021.

Yours sincerely

---

Dr Padraig Walsh  
Chief Executive

SUBMISSION TO  
OIREACHTAS JOINT COMMITTEE ON  
EDUCATION, FURTHER AND HIGHER EDUCATION,  
RESEARCH, INNOVATION & SCIENCE  
GENERAL SCHEME OF HEA BILL

18 JUNE 2021



**QQI**

Quality and Qualifications Ireland  
Dearbhú Cáilíochta agus Cáilíochtaí Éireann

Adding Value to Qualifications



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## Summary

QQI welcomes the General Scheme of the Higher Education Authority Bill, 2021. The statutory relationship between the HEA and QQI proposed in the Scheme builds on many of the administrative arrangements that have been successfully developed in recent years.

## Introduction

QQI made submissions at earlier stages of the policy development process in 2018<sup>1</sup>, 2019<sup>2</sup> and 2021<sup>3</sup>. We note that our previous observations have been taken into account in the subsequent work of the department and are reflected in the Scheme.

## Overall approach

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. In the first instance the quality assurance of the education, training, research and related activity of a higher education institution (HEI) is the responsibility of the institution itself<sup>4</sup>. QQI's own approach to the exercise of its functions of monitoring, review, and, where relevant, approval or authorisation, reflects this model. In such a model, mechanisms of transparency and engagement between the regulator and the regulated resolve any problems that have proven intractable through intra-institutional processes and the more intrusive powers of intervention provided for in legislation rarely if ever have to be invoked. For example, QQI's legislation includes powers to issue directions to an HEI following unsatisfactory findings in statutory review of the effectiveness of its quality assurance procedures but no such direction has ever had to issue.

## Governance

A significant safeguard to academic standards lies with the appropriate separation of decision making functions within HEIs. The arrangements proposed for institutional governance and academic governance in parts 9, 10, 11, and 12 of the scheme, amending various acts constituting HEIs, appear compatible with the requirements set out by QQI in its statutory quality assurance guidelines<sup>5</sup>. We note that the academic councils provide for the

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<sup>1</sup> [QQI submission to Higher Education Authority legislation \(Sept 2018\)](#)

<sup>2</sup> [QQI Submission on proposals to update the HEA Legislation \(Sept 2019\)](#)

<sup>3</sup> [QQI submission on further proposals to update the HEA legislation \(March 2021\)](#)

<sup>4</sup> Section 28, [Qualifications and Quality Assurance Act, 2012](#)

<sup>5</sup> [QQI Quality Assurance Guidelines \(qqi-qaguidelines.com\)](http://qqi-qaguidelines.com)



representation of academic staff and students in the academic governance of the HEI. This is a central requirement for good governance in higher education.

## Cooperation between HEA and QQI

The Scheme identifies and addresses various points at which the functions of the HEA and those of QQI overlap and provides appropriate mechanisms for mutual consultation and cooperation between the agencies. It also articulates the manner in which the functions of the two agencies complement each other, both in respect of designated HEIs and other HEIs which are not HEA designated but are relevant providers of QQI awards.

Since the establishment of QQI in 2012, we have developed a strong working relationship with the HEA over and above the existing statutory injunction on QQI<sup>6</sup> to consult with the HEA in the performance of our functions. This is formally expressed through a memorandum of understanding<sup>7</sup> outlining our respective responsibilities and functions and setting out a shared programme of actions, including coordination of our respective engagements with HEIs. QQI welcomes the proposal under Head 19 to put those shared understandings and collaborative arrangements on a statutory footing through a formal agreement. This will draw together the various references in the Qualifications and Quality Assurance Act 2012 (Sections 27, 34, 42, 57, 60), the present Scheme (Heads 18, 37, 39, 41, 43, 44, 45, 46, 47, 50, 51, 57, 61, 71) and other legislation, to exchanges between the two bodies. The two agencies have also cooperated in undertaking research. Head 52 does not refer to the HEA initiating research jointly with other bodies, though there may well be circumstances in which it is appropriate to do so.

A number of initiatives that have been jointly pursued by HEA and QQI, in partnership with others, under administrative arrangements, are to be put on a statutory footing (Head 43). The National Student Engagement Programme (NStEP)<sup>8</sup> has significantly enhanced to the capacity of student representatives in a variety of areas, including participation in quality assurance. Good quality feedback from students lies at the heart of quality assurance and the data provided by StudentSurvey.ie has become an indispensable tool and Head 45 will establish it in law. QQI welcomes both. Head 45 refers exclusively to HEA designated institutions. We note that the existing survey includes some relevant providers of QQI awards that are not HEA designated providers and we would wish to see such arrangements continue, especially for HEIs to whom QQI delegates awarding powers.

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<sup>6</sup> Section 9(2)(e), [Qualifications and Quality Assurance Act, 2012](#)

<sup>7</sup> [Memorandum of Understanding between the Higher Education Authority and Quality and Qualifications Ireland](#)

<sup>8</sup> [NStEP | National Student Engagement Programme](#)



## Equity of access and participation

HEA's role in promoting equity of access and participation in HE finds a counterpart in QQI's function of establishing policies and criteria for access, transfer and progression of learners, including into and within higher education, and monitoring the implementation of those procedures by providers, including designated HEIs. The placing of a plan for equity of access and participation into law (Head 46) is welcomed. QQI will work with the HEA to ensure that the procedures established by institutions for access, transfer and progression under the QQI legislation will be compatible with and support the objectives of the plan.

## Designation

The Scheme uses a mechanism of designation to identify which institutions fall directly under the HEA regulatory ambit. Private higher education institutions are not required to seek designation but would remain subject to regulation by QQI where they seek to become relevant providers with programmes validated under the QQI Act. The relevant regulation by QQI currently includes approval of procedures for quality assurance and access, transfer and progression, programme validation, and arrangements for the protection of enrolled learners. When the 2019 amendments to QQI's functions are commenced, the corporate capacity and capability of such providers will be open to specific scrutiny.

Private provider engagement with QQI may be used by the HEA as a criterion of eligibility for certain funding schemes (Head 39) and subsequently the agencies may exchange data, including personal information, to ensure compliance with funding requirements and other functions (Heads 41, 51). The roles identified in this part build on the administrative experience of schemes such as Springboard and the Human Capital Initiative where HEA and QQI have cooperated to bring quality assured, private sector provision to learners in a responsive manner.

Head 57 states that institutions to be designated shall have established procedures under the Qualifications and Quality Assurance Act 2012 and not received not had approval withdrawn by QQI under section 36 of that Act. Some prospective designates may however have been linked providers of designated awarding bodies (DAB) in which case any withdrawal of approval would be by the DAB under section 39 of the Act of 2012.

# Submission on the General Scheme of the Higher Education Authority Bill, 2021



Submitted to the Joint Committee on Education, Further and Higher Education,  
Research, Innovation and Science: June 2021



National Adult Literacy Agency  
Áisíneacht Náisiúnta Litearthachta do Aosaigh

## Introduction

Literacy, numeracy and digital literacy skills enable people to reach their full potential, be active and critical participants in society and help address poverty and social exclusion. These life skills allow us to participate in, and make sense of, the world. These skills involve listening, speaking, reading, writing, using numbers and everyday technology to communicate, to build relationships, to understand information and make informed choices.

NALA welcomes the opportunity to contribute to the consultation on the General Scheme of the Higher Education Authority Bill, 2021.

## Literacy, numeracy and digital literacy needs in Ireland

- One in six (18%)<sup>1</sup> of the adult population struggle with reading and understanding everyday text. For example, reading a bus timetable or medicine instructions.
- One in four Irish adults (25%) has difficulties using maths in everyday life. For example, basic addition, working out a bill or calculating averages.<sup>2</sup>
- Over half (55%) of the adult population has low digital skills.<sup>3</sup> For example, using a smart phone, googling and understanding information online. Note that the majority of people who have digital literacy needs have underlying literacy issues.

## Supporting unmet literacy, numeracy and digital literacy needs

The Department of Further and Higher Education, Research, Innovation and Science (DFHERIS) are currently developing a **10-year Adult Literacy, Numeracy and Digital Literacy Strategy** (to be published in June/July). As part of this new strategy, we hope to see more literacy learning opportunities, including intensive options and more blended and distance learning provision. We also hope to see the removal of barriers and availability of financial supports for participation in adult literacy learning to enable adults to progress their personal and professional development.

## NALA observations

NALA would like to see greater representation in higher education from under-represented groups with traditionally low participation rates. This requires an ambitious national active inclusion strategy with named target groups, actions and resources. Our recent submission to the Higher Education Authority (HEA) on the next National Plan for Equity of Access to Higher Education (2022-2026) outlines some suggestions – you can read our submission [here](#).

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<sup>1</sup> CSO (2013). [PIAAC 2012](#) (Programme for the International Assessment of Adult Competencies) Results from Ireland.

<sup>2</sup> Ibid.

<sup>3</sup> Cedefop (2020). Empowering adults through upskilling and reskilling pathways. [https://www.cedefop.europa.eu/files/3081\\_en.pdf](https://www.cedefop.europa.eu/files/3081_en.pdf)

## Comments on the Bill

We divide our comments into general, sections and some specific.

### 1. General comments

#### Language

- Need for consistent and more equitable use of language.
  - The use of the term 'student/s' is widespread in the Bill but then in Head 47 there is the term 'learner/s' used here– is there a reason for this distinction?
  - Need to define under-represented and disadvantaged ... in this Bill do they have distinct meanings or are they the same?
  - The use of “disadvantaged persons” (mentioned 21 times) is quite negative, stigmatising and is putting a label on people. We would suggest using “people experiencing socio-economic disadvantage” or “traditionally under-represented learners”.
- Where guidelines, codes and policies are mentioned, there should be a reference to using plain language and literacy friendly approaches (remove literacy related barriers).

#### Consultation

- In some parts of the Bill there should be reference to collaboration with other bodies for example community and informal education and Further Education & Training (FET). For example Head 47 (2) – page 75.
- Where developing policies and guidelines, consultation should take place with NALA on plain language and literacy friendly approaches.

#### Progression

- Need to include wider consideration of progression pathways not just within higher education (HE) but from further education and training (FET) and informal / community education and wider / standardised use of Recognition of Prior Learning (RPL) and Recognition of Prior Experiential Learning (RPEL). Need to acknowledge that not every adult wants to or can go through the CAO point system.

### 2. Comments under sections

#### Chapter 4 Co-operation with other bodies (page 32)

**Head 18 (2)** Name other bodies such as community and informal educational providers. Name the National Adult Literacy Agency (NALA) on plain language and literacy friendly approaches.

## Chapter 2

### Part 4: Students

#### Heads 44 and 45 Student Forum and Student Survey (pages 69 - 71)

Questions on representation and student feedback

- How will the students who attend this Forum be chosen – for example will someone from a ‘disadvantaged or underrepresented group’ or a student with a disability?
- How will the students chosen be able to get feedback on the student experience from different perspectives?
- The student survey (page 71) will take place “at suitable intervals” – what timeframe does this mean – yearly, every two years?
- In between these surveys, is there some process where students can raise issues with the Student Forum so for example an open call to raise issues before a Forum meeting.

### Part 5: Participation and Skills

#### Head 46 Equity of Access and Participation (page 72 – 74)

(5) (c) Question about using “disadvantaged person” – see note above on this.

(6) (a), (b) and (c) Define “under-represented groups”

#### Head 66 Guidelines, Codes and Policies (page 104) and Head 83 (page 132)

(2) (d) Add in to consult with the National Adult Literacy Agency (NALA) on plain language and literacy friendly approaches.

### 3. Specific comments

In the proposed Bill, we have some specific comments noted here:

Page no	Item	Comments
11	Definition of academic post	Should this also include administration work around teaching and research?
	Definition of higher education provider	Some of them currently provide Level 6 qualifications (for example, Access programmes)
34	Head 20: (2) (c)	Transfer and progression pathways also occur from community and informal providers.

	Head 20: (3) and (4)	This is not clear – where is the shared office – who are they sharing with? In (4) it says ‘two organisations’ – who are these?
58	Head 37 (3) (c)	The term “disadvantaged groups” sounds quite negative, stigmatising and is putting a label on people – we would suggest using “people experiencing socio-economic disadvantage” or “traditionally under-represented learners”. What is the definition of ‘disadvantaged groups’? Below on page 72 the term ‘underrepresented groups’ is used – is the same? One plain language guideline is to be consistent – pick one term and use it.
69	Head 43 (2) and (3) (b)	Training for Academic Councils is important – can that go in here too?
72	Head 46 (5) (c) and 6 (a) (b) and (c)	Define ‘underrepresented groups’ here. The term ‘disadvantaged groups’ is used in other places – see note above about this term and need to define.
75	Head 47 (2)	Should reference to collaboration with other bodies such as community and FET regarding progression.
104	Head 66 (2) (d)	Add in ‘such as the National Adult Literacy Agency (NALA) on plain language and literacy friendly approaches.’
132	Head 83 (1A) (i)	Include an example ‘such as the National Adult Literacy Agency (NALA) on plain language communications, understanding the needs of the furthest behind and literacy friendly approaches’.

## Further information

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National Adult Literacy Agency  
Sandford Lodge, Sandford Close  
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**From:** Joseph O'Grady <joe@cao.ie>  
**Sent:** Monday 21 June 2021 16:17  
**To:** Tara Kelly <Tara.Kelly@oireachtas.ie>  
**Cc:** Education and Further and Higher Education, Research, Innovation and Science <education@oireachtas.ie>  
**Subject:** HEA bill 2021

Dear Tara,

Thank you for inviting CAO to make a submission in relation to the HEA bill 2021.

CAO does not wish to make a submission.

We have a clarification which might be helpful; CAO is a not-for-profit company - CAO is not a public body.

Yours sincerely,  
Joseph O'Grady  
General Manager  
Central Applications Office  
Tower House  
Eglinton Street  
Galway  
Ireland

<https://smex-ctp.trendmicro.com:443/wis/clicktime/v1/query?url=www.cao.ie&umid=170a0a70-21a1-4d8c-8596-9c650467b5fc&auth=3851052a65d9657d2ab4c1fa657bb1ebb1940985-e17fe39a948ba655585966d661b0f42ea19dbd48>

phone 091 509800

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**Údarás Rialaithe Ollscoil Mhá Nuad  
Maynooth University Governing Authority**

Cathaoirleach/Chairperson: Dr Mary Canning  
Oifigeach Riaracháin/Administrative Officer: Ms Vivienne Murray

Our Ref: GA/VM

15<sup>th</sup> June 2021

Ms Tara Kelly  
Clerk to the Committee  
Joint Committee on Education,  
Further and Higher Education,  
Research, Innovation and Science.  
Leinster House  
Dublin 2  
D02 XR20

Re: Written submission on the General Scheme of the Higher Education Authority Bill 2021

Dear Ms Kelly,

I wish to thank the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science for allowing Maynooth University the opportunity of making the attached submission as part of the Joint Committee's Pre-legislative Scrutiny of the General Scheme of the Higher Education Authority Bill, 2021.

A full discussion took place on the General Scheme at a meeting of the Maynooth University Governing Authority at its meeting held on 3 June 2021. The attached submission reflects the discussions held at that meeting and the observations and suggestions made at that meeting and in a follow-up consultation. In preparing this submission, Maynooth University was at pains not to repeat the points made in the IUA submission which has the full support of Maynooth University. Hence, you will find most of the observation and suggestions made by Maynooth University are to do with the broad area of equality and disadvantage and how these are represented in policy making for Higher Education and how diversity is represented in the governance of Higher Education institutions.

I trust this is in order and thank you for the opportunity to make this submission.

Yours Sincerely

Professor Philip Nolan  
President  
Maynooth University

## Re: General Scheme of the Higher Education Authority Bill 2021 Response by Maynooth University Governing Authority

Maynooth University welcomes the publication by the Minister for Further, Higher Education, Research, Innovation & Science of the *'General Scheme of the Higher Education Authority Bill 2021'* (the 'Scheme'). The Maynooth University Governing Authority is appreciative of the opportunity to comment on the Scheme as published. The observations and suggestions made in this submission are made with the full support of the President, Professor Philip Nolan, The Chairperson, Dr Mary Canning and the entire membership of the Governing Authority of Maynooth University.

Maynooth University is also aware of the submission from the Irish Universities Association and is supportive of the thrust of that submission. In preparing this Maynooth University Governing Authority submission, we confine our observations and suggestions to the equality, diversity and inclusion area in the main.

The following are the specific observations and suggestions which the Maynooth University Governing Authority would like to be considered:

1. **Head 9, General Functions of An tUdaras, function(L)**: we suggest for consideration the following alternate wording "support equality, diversity and inclusion in higher education including the participation and success of under-represented sections of society, and in the governance and staffing of higher education".
2. **Head 22, Corporate Plan of An tUdaras section 3, (b)**: we suggest that the wording here could be strengthened to read "shall consult with all designated HEIs and national student representative bodies". A new 3(c) could then be introduced which might read "may consult with such other persons or bodies as it considers appropriate".
3. **Head 38, section (8)**: we suggest the addition of one further point in the list (a) to (d) by the insertion of (e) with the new insertion to read "shall take account of the specific context, situation and ethos of the higher education institution". The new insertion should perhaps be inserted before the current point (d).
4. **Head 44, Student Forum**: we suggest adding to the list (a) to (g) at section (2) by the insertion of (h) with the new insertion to read "representatives of socio- economically disadvantaged and under-represented students in higher education". The new insertion should perhaps be inserted before the current point (g).
5. **Head 46, Equity of Access and Participation, Section 5, point (c)**: we suggest amending this point to read "representatives of disadvantaged and underrepresented persons or groups".

6. [Head 63, Strategic Development Plan of Designated Institutions of Higher Education, section 5:](#) we suggest adding one further point here to those listed (a) to (g) by the insertion of (h) to read “how the designated higher education institution will address equity of access and participation and advance equality, diversity and inclusion”. The new insertion should perhaps be inserted before the current point (g).
7. [Head 77, Amendment of Section 16 \(Composition of Governing Authority\):](#) The main driver here appears to be the creation of a significantly smaller Governing Authority. This is based on the implied premise that a smaller Governing Authority will be more effective and efficient. Available research evidence questions that premise. Research evidence indicates that more diverse boards in both the private and public sector make better decisions and perform better.

That said I would consider that a Governing Authority that is broadly representative of the diversity of the population in the community it serves (students, staff, external stakeholders with private, public and civil society sector experience together with diverse identities) can be achieved with a Governing Authority in the region of perhaps 26 members. We believe less than this, universities will be significantly challenged to secure the diversity of expertise and identity needed, desired and required to govern the institution effectively. A Governing Authority reduced to 12 in number risks having insufficient numbers, expertise and diversity to carry out the basic governance functions. Effectiveness and efficiency in governance decision making needs to be partnered and balanced with trust and confidence in decision making. Trust and confidence today are often the major challenges facing public sector organisations and these challenges are often fundamentally linked to diversity.

8. [Head 83 Amendment of Section 36 \( Equality Policy\) , section 1 \(a\):](#) this section states that a governing authority shall for the purposes of preparing an equality policy consult with a number of parties. We suggest adding the following groups to those listed in (a) to (i) by the insertion of (j) to read “groups representing socioeconomically disadvantaged and underrepresented groups in higher education”. The new insertion should perhaps be inserted before the current point (i).

Maynooth University supports the position of the President of Ireland, Michael D. Higgins, when he states that Ireland needs to go beyond the commercialisation of higher education and that “universities should not be viewed as places to educate future workers, but as places to empower future engaged, informed and active citizens”. A rounded university education should inspire students to see beyond the needs of the market.

Graduate employability is important. Preparation for the world of work is important. A university education that promotes the social, cultural and aesthetic aspects of society, critical thinking, and teaches respect for the rights and values of others is just as important. Market forces and pragmatism must not be allowed to dictate the goals of a university education.

Many university graduates will end up in employment quite different from their undergraduate qualification. A good university education should equip such students to see beyond the narrow area of their degree discipline to the wider relationship of their qualification to other disciplines. A good university education will graduate students who are hungry for more and not just satisfied with what they have received over their years of study at the academy.



**Irish Research Staff Association submission to the Joint Committee on Education, Further and Higher Education, Research, Innovation and Science as part of the Committee's Pre-legislative Scrutiny of the General Scheme of the Higher Education Authority Bill, 2021.**

Research is a core mission of most HEIs and, as detailed below, is vital for the future growth of the Irish economy. Researchers and PhD candidates are the HEI staff who undertake all this research but are not provided with specific consideration in this Bill. They are key stakeholders in the activity and performance of HEIs so should be afforded the same equality of treatment as other stakeholder groups. Students are frequently mentioned as key stakeholders throughout the Bill but researchers, and indeed HEI academic and professional staff, are not also included as key stakeholders. Student higher education does not happen in a vacuum; research ensures that the teaching curriculum is at the cutting edge of current knowledge, and many researchers also teach undergraduate/postgraduate students and supervise students undertaking research projects required by their degree.

A recent report by the Initiative for Science in Europe (<https://initiative-se.eu/precarity-paper-2021/>) States that “precarity of academic careers is one of the most pressing issues of the research system.” The Government’s Innovation 2020 strategy stresses the importance of academic research feeding into the wider economy and driving growth. The vision in this strategy is for Ireland to be a Global Innovation Leader driving a strong sustainable economy and a better society. The following quote from the Innovation 2020 strategy directly underlines the need for researcher careers:

“The availability and quality of graduates is essential if we are to maintain our attractiveness as a location for investment and grow our reputation as a **destination for a successful research career.**”

Action 3.10 (DES with DJEI and relevant stakeholders) of Innovation 2020 states:

“**Identify and tackle impediments to career progression** and mobility of trained researchers and innovators in the publicly funded research system by developing a coherent national policy on structured progression for researchers.”

The “National Strategy for Higher Education to 2030” states that “A **clear career path** should be established for researchers that develops their talents and rewards them appropriately.”

Also “In addition to all research-active staff normally participating fully in undergraduate teaching, researchers should, where possible, be afforded opportunities to **participate in teaching** such as laboratory supervision and tutorials.”

This Bill presents a perfect opportunity to address years of neglect of research staff on rolling, precarious contracts, to fulfil previous Government commitments and to formally put in place research scientist, teaching and professional support career paths in parallel with the existing academic path.

We hope that the Committee take this opportunity to engage with IrishRSA to put in place internationally best practice career paths for research staff in Irish HEIs. These three paths are outlined below but we welcome the opportunity to provide further details.

The IUA proposed Researcher Career Development Framework does not alleviate most of the systemic problems underlying the Irish research ecosystem. It does not contain a clear career path for researchers. Research staff and Unions were not consulted with during the creation of this framework, which is not fit-for-purpose and will have a negative impact on the creation of an “Island of innovation”.

### **Research path**

Soft funding is required to support senior research posts, where currently there is a virtual vacuum. Research posts need to be of a reasonable duration, minimum of 2-3 years, with some options of up to 5-7 years, similar to the Charles Parson Award. Other solutions to enable researcher human capital to continue contributing to academic research is for funding agencies and HEIs to put in place **staff scientist positions and tenure track options**, thereby creating alternative attractive career progression routes within academia. These positions would need to be core funded by the HEA, not soft-funded. A recent report from the American National Research Council, for example, recommends raising the salaries of researchers to “appropriately reflect their value and contribution to research”. These options may be controversial during a time of limited research funding, but unless the career prospects for early career scientists are improved, we risk losing the talent that will be essential for our future progress in the biomedical sciences; indeed, across all areas of research.

### **Teaching path**

Many researchers consider research as the primary focus of their professional life. However, teaching is an important element of professional development, especially for those researchers who aspire to faculty positions. It is feasible for researchers to obtain relevant teaching experience without compromising research productivity. Possible solutions to address this include: the creation of specific programs to promote teaching among researchers, involving mentored teaching-researcher schemes, and universities offering certificated training on teaching skills. In promoting teaching excellence among researchers, the Irish Higher Education sector is not only emphasizing both teaching and research career aspects of researchers but also promoting research-related skills likely to strengthen the quality of education at Irish universities. This teaching path should be a deliberate choice by researchers and should not be compulsory.

### **Professional path and Intersectoral mobility**

Some research staff may move into careers in research support within the HE sectors. This can be a fulfilling career where, for example, someone who was previously working as a researcher can apply their skills to a new role where they assist other researchers in developing research grants, HE research policies, as a lab manager, in the careers office, etc. Research positions which have built into them co-hosting arrangements in industry or policy, as well as sabbaticals and placements, assist the researcher to consider alternative career paths. Again, researchers should be supported in making these career changes, and these career changes should be a deliberate choice by research staff.

We have some more specific points we wish to raise on the Bill itself, which we summarize in three main points: (1) research staff representation, (2) consultation, and (3) governing bodies

## 1. Representation

We note the bill does not offer opportunities for engagement between the university, Minister and research staff. Students are often referred in the document, but no reference is made to staff organizations (be it trade unions or staff associations, both of which should be included at a minimum in the Heads outlined below). Considering the need to consult with all relevant stakeholders, we suggest a change to Head 17, 3, in particular an addition of a new item: 'at least 1 person appointed under paragraph should be a representative of research staff in higher education providers'. This suggestion is in line with Head 18 (2) which clearly lists 'representative bodies of staff and researchers in higher education providers' as partners for cooperation.

Similarly, Part 4, Head 43 includes a whole section about engaging with students. We propose the promotion of engagement with research staff. This would include: reports providing information on staff engagement activities undertaken, training for staff members of governing bodies, and a summary of the issues raised by staff and the research staff representative and how these issues were addressed and research staff survey.

## 2. Consultation

Considering that research staff often lecture to students and, as part of their professional development, also avail of courses, they can provide important contributions to discussions as they experience higher education provision from both sides of the table. In this way, we suggest that Head 48, 1(c) includes: 'all staff, including research staff, of the designated institution of higher education or funded body'. Similarly, Head 48, 2(b) should include: 'information on all staff, including research staff, numbers, remuneration and other staff information.

Also, most HEI's strategic plans involve consultations with staff, but researchers are often not included in the planning process. Two items in the Bill suggest that consultation with (e) 'employees' and (i) 'any other body' might include researchers or researchers' representatives. We would like this section to clearly specify in Head 63, 2 that the 'The designated institution of higher education shall for the purpose of preparing a strategy under this section, consult with research staff and/or their representatives.'

The same applies to Head 64, 4 'Equality Statement of Designated Institutions of Higher Education' and to Head 66, 2 Codes and Policies, representatives of research staff at institutions of higher education should be consulted.

### 3. Governing Bodies

Across many HEIs research staff can constitute up to 25% of HEI employees; comparable in number to academic staff. Research staff have minimal or no representation on HEI decision making bodies, in particular the Governing Authority / Board. Academic staff currently dominate Board membership, followed by professional/support staff, student representatives and external members, while research staff have no representation. This review represents an ideal opportunity to address this glaring omission. **In the proposed revised Governance membership structure, the sizeable constituency of research staff is excluded from Board membership.**

If the Government and the HEA are planning to follow through on its 2006 commitment to the European Charter and Code<sup>1</sup> on equitable treatment and progression of researchers and for HEIs being awarded the “HR Excellence in Research” designation by the European Commission under the Human Resources Strategy for Researchers (HRS4R) process, the HEA needs, at a minimum, to address this Principle:

#### Participation in decision-making bodies

Employers and/or funders of researchers should recognise it as wholly legitimate, and indeed desirable, that researchers be represented in the relevant information, consultation and decision-making bodies of the institutions for which they work, so as to protect and promote their individual and collective interests as professionals and to actively contribute to the workings of the institution.

#### *Optimal Size and Composition of the Governing Authority / Board*

No adequate rationale is given for such a significant increase of external members, which would alter fundamentally the composition of the Board and dilute dramatically the representation of academic, administrative, support and research staff.

Collegiality and proportional representation of all staff in Board decision making is an important aspect of HEI governance. All staff should have a role in fulfilling the HEI’s vision and achieving its mission. This update to the HEA Bill 2021 should represent an opportunity to strengthen these aspects of our common aim. However, greatly decreasing the cohort of internal members and increasing the number of external members are backward steps. This

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<sup>1</sup> “IAU Cooperation Accord”. 13 September 2006. [https://euraxess.ec.europa.eu/sites/default/files/cc-declarations/ie\\_tcd.pdf](https://euraxess.ec.europa.eu/sites/default/files/cc-declarations/ie_tcd.pdf)

review could also be used by the Government to demonstrate international leadership in the recognition of and integration of Research staff within HEIs.

### *Characteristics of a future Governing Authority / Board*

We agree that there should be an independent chairperson, but it is important that the chair should have a firm understanding of the unique structures underpinning and composition of the HEI. Depending on the outcome of internal membership voting/selection, all academic staff could be senior level and there may be no union representation. This in essence would concentrate more decision-making authority under the control of a small cohort of powerful senior staff, increase the risk of “Group Think”, without any guarantee of representation for the hundreds of research, junior academic, professional and support staff whose work contributes to the national and international reputation of our HEIs. These voices will no longer be heard when decisions are made, directly affecting their workplace, and this will propagate the belief that their perspective is less valued and less welcome than others.

Particularly in the context of national movements towards equality and fairness in treatment of all, we think this should also be reflected within the Governance structures of our HEIs. **We call for explicit representation of Research staff, indeed all staff cohorts, on HEI Governance Authorities and we are very concerned about the proposed membership changes.**

### Page 172 - **Superannuation**

Transferability of pension schemes is one of the great barriers of sectoral and inter-sectoral mobility for researchers. Researchers who are highly mobile risk losing the small depositories of pension that they accumulate in the various institutions that they work for. Moreover, the logistics of accessing the pensions at the end of retirement may not be possible, considering the final location the researcher ends up living in. The European RESAVER scheme is a successful attempt to provide a trans-European pension scheme. RESAVER saves the combined accumulated pension for the researcher and can be accessed with ease at the time of retirement for the researcher. RESAVER has already signed up many institutions across Europe and Ireland has yet to consider joining this scheme.

**From:** President <president@ailg.ie>

**Sent:** Thursday 24 June 2021 13:39

**To:** Tara Kelly <Tara.Kelly@oireachtas.ie>; Education and Further and Higher Education, Research, Innovation and Science <education@oireachtas.ie>

**Cc:** President <president@ailg.ie>; mhoadé@cllr.galwaycoco.ie; Tommy Moylan <t.moylan@ailg.ie>; Elaine Lynch <e.lynch@ailg.ie>; Liam Kenny <l.kenny@ailg.ie>

**Subject:** Association of Irish Local Government Submission re Head 77 General Scheme of the Higher Education Authority Bill 2021

To: Cathaoirleach & Committee Members

Joint Oireachtas Committee on Education and Further and Higher Education

Dear Cathaoirleach and Committee Members

As President of the Association of Irish Local Government, representing Ireland's 949 elected Councillors, I have pleasure in forwarding you, on behalf of the AILG, the attached report "Ar Scáth a chéile: elected councillors and university governing authorities" .

This document prepared by the Association is relevant to your current pre-legislative scrutiny of the Higher Education Authority Bill 2021- Head 77.

The AILG report is a well-founded submission setting out the reasons why local authority members should continue to represent the public interest on the governing bodies of the nation's third level colleges.

There are currently twenty-five seats on University Governing Bodies to which councillors contribute: University College Dublin (8); University College Cork (7); University College Galway (7); University of Limerick (2) and Dublin City University (1).

In the case of the three University Colleges, the Councillor representation has been in place since 1908 including the eight delegates nominated directly from this association to the Governing Body of University College Dublin.

The Association has - with good reason - pride in this long record of service by elected members in the cause of higher education.

The Association contends that continued representation by councillors brings the following attributes to the deliberations of the Governing Bodies:

- **Representing the public interest:** Councillors, from their elected mandates, represent the public interest. Through their daily encounters with citizens, Councillors bring an awareness and understanding of the public's concerns to the governing processes.

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\* **Multi-Level Engagement:** Councillors are well placed to facilitate Government policy for a "joined-up" approach to public service delivery given their engagement with local and regional authorities.

\* **Diversity:** Councillors come from a range of backgrounds - urban, suburban, and rural, and bring with them a range of vocational experiences and strategic insights to their roles as governing body members. Such diversity contributes towards good governance and counteracts the boardroom tendency towards "group- think".

\* **Education Sector Linkage:** Councillors' involvement in other tiers of education - including as members of the regional Education and Training Boards (ETBs) and of boards of primary and post-primary schools generally, enables them to link the primary, secondary, and tertiary strands of education to the benefit of the Universities sector.

The foregoing factors supporting Councillor membership of University Governing Bodies are set out in further detail in the attached report prepared by the Association validating the retention of Councillor seats as they exist in 2021 on the Governing Bodies of Irish Universities.

The Association looks forward to presenting its case to you in relation to your scrutiny and specifically your examination of of Head 77 of the Higher Education Authority Bill (General Scheme) 2021 at your meeting of 6 July 2021.

You might be kind enough to acknowledge receipt of this submission.

Yours faithfully

Go n-eirí an t-ádh libh go léir!

Mary Hoade



**Cllr. Mary Hoade**  
**AILG President 2020/2021**  
Association of Irish Local Government

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*The AILG is a national representative body that represents and supports the role of our elected councillors. We are a strong voice for local communities through effective local government.*



# Ar Scáth a chéile: Elected Councillors and University Governing Authorities

Submission setting out basis for retaining local authority elected members on the Governing  
Bodies of Irish University Colleges

**Submitted by Cllr Mary Hoade, President,**

**On behalf the Executive Committee and Membership of the Association of Irish Local  
Government**

**April 2021**



## Purpose of this submission

The purpose of this submission is to demonstrate the contribution that elected local authority members have made to the good governance of Ireland's universities and to articulate the reasons why that contribution should be safeguarded in the reformed legislation.

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## THE CASE FOR RETAINING COUNCILLORS ON UNIVERSITY GOVERNING BODIES

### EXECUTIVE SUMMARY

For over a hundred years elected councillors have made a significant contribution to the governing authorities of Irish universities with eight Councillors being nominated to the governing authority of UCD by the Association of Irish Local Government (AILG) and seven councillors being nominated by local authorities to both the boards of UCC and NUIG. The involvement of elected councillors was enshrined in the founding Charters of the colleges.

Since 2018, there has been a move towards reform of the governance of higher education. The legislative reform proposals envisage a significant reduction in the size of governing authorities. The proposals do not include any reference to the inclusion of elected councillors on the reformed governing authorities, an omission which would have the effect of eliminating the aforesaid seats held by Councillors. AILG and its members are deeply concerned about the reform proposals. AILG has already made a submission to the Consultation on the Reform of the Higher Education Authority Act in February 2021.

The Association welcomes the Minister's commitment to 'the elevation of higher education and research to a central and more visible position at local and national level'<sup>1</sup> but AILG asserts that elected councillors should be retained on the governing authorities because of the qualities, experience and positional legitimacy they bring, namely:

- **REPRESENTATIVENESS:** Councillors represent the public interest. They are elected by ALL those that are resident in Ireland and thus have the legitimacy to speak on their behalf. Through their daily encounters with citizens, Councillors bring an awareness and understanding of citizen views and concerns regarding higher education to the governing processes.
- **ROLE and EXPERIENCE:** Through their work on local authorities, Councillors have considerable experience of decision-making about the allocation and utilisation of public resources as well as familiarity with risk-management and compliance

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<sup>1</sup> Update on legislative reform of the Higher Education Authority Act, February, 2021

processes in large organisations. They are well experienced as trustees of the wider public good.

- **MULTI-LEVEL ENGAGEMENT:** Councillors are involved in developing shared solutions to local and regional challenges. Their involvement in HEI governing bodies furthers our national government's ambitions towards joined up governance and specifically its efforts to achieve 'a broader 'whole of government' coordination of higher education'
- **CONNECTEDNESS:** Not only are Councillors connected with their local communities but they are involved in a range of organisations in their localities/regions. Having elected councillors on the governing authorities, means that information can be shared, priorities aligned, collaborative advantage exploited and voices from the regions/localities heard. This means they can contribute to strengthening HEIs' regional impact by fostering linkages and creating synergies between the diverse actors
- **DIVERSITY:** Councillors come from a range of backgrounds – urban, suburban and rural and also come from a diversity of professional backgrounds and have diverse competences. Such diversity is an asset to governing authorities.
- **QUALITIES AND COMPETENCE:** Councillors bring a range of professional, experiential and personal attributes as well as collaborative and decision-making skills and political awareness and astuteness. Their diverse lay competences complement the specialisms existing in HEIs. Councillors can bring views formed outside the groves of academe to what might otherwise be a rather socio-culturally homogenous forum.
- **EDUCATION SECTOR EXPERIENCE,** Councillors' involvement in other tiers of education enables them to link the various strands of education and bring an understanding of educational issues at the various levels.

The European Universities Association asserts that universities require 'a productive relationship with public authorities and an enabling regulatory framework'<sup>2</sup>. We believe the current reform proposal can achieve this but only if provision is incorporated to retain elected councillors as governing authority members. Enactment of the proposals in their current

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<sup>2</sup> European University Association (2019) *Efficiency, Effectiveness and Value for Money in our Universities*

format would seriously diminish the democratic efficacy of the governing authorities, weaken the diversity of views on those bodies, fragment the networks that have been built or strengthened through councillor involvement and limit the skill-set, experience and competences available.

**For the reasons outlined above, AILG urges the Minister and his Oireachtas colleagues to amend the reform proposals and retain and legislate for the presence of elected councillors on university governing authorities.**



**THE CASE FOR RETAINING COUNCILLORS ON UNIVERSITY GOVERNING BODIES**

**AN ISSUES PAPER SETTING OUT THE CASE IN DETAIL**

## 1. Introduction

Higher Education institutions (HEIs) are key players from both global and local perspectives, contributing not only to educational but also to social and economic development. The Association of Irish Local Government (AILG) acknowledges the influence of Ireland's HEI's and is proud that AILG members have contributed to their endeavours. The Association also recognises that the demands on HEIs and their operating conditions have changed and that reform is both timely and laudable. The co-regulation model proposed by the Minister seeks to ensure institutional autonomy while also assuring accountability in the deployment of public resources. However, the recalibration of university governance needs to ensure effective public representation. As the national representative body for county councillors, AILG believes its members have a vital role to play in facilitating the connection between higher education and the public that it serves and ensuring maximum impact from those public resources.

This Issues Paper explores the background and implications of the proposed changes and makes the case for retention of elected councillors on the reformed governing authorities. Following publication of a Working Paper by Mr. Liam Kenny, Director, AILG in February 2021, the Association commissioned Dr Bríd Quinn to prepare an Issues Paper on the topic, jointly with AILG. The Issues Paper sets out the reform context, the background to Councillor involvement on governing authorities, their role in promoting joined up government and the qualities and experience they bring to governing authorities. It concludes by outlining AILG's response to particular sections of the legislative proposals. Councillor participation on governing authorities has long been recognised and valued. **It is vital for effective governance of HEIs that local elected representatives continue to have a designated role on the reformed governing authorities.**

## 2. The representational role of Councillors

In addition to their core role of representing citizens and their interests in local government, elected councillors participate in a range of external bodies with varying purposes, structures and scales. In her review of the role and remuneration of Councillors, Moorhead highlights the importance of the representational role of councillors on external bodies. She states that they ‘implement and ensure that the policies of the executive council are reflected in the activities of the external body while influencing such activities in line with local authority thinking and ethos’<sup>3</sup>. This external representational role reinforces councillors’ responsibility as trustees of the wider public good.

The range of bodies on which Councillors participate is broad. At county and sub-county level they represent their council on various boards, companies, state agencies, groups and committees, often because the Council is a stakeholder and/or funder of the particular body. At regional level, they participate in bodies such as Regional Assemblies, HSE Forums, Education and Training Boards, Cross Border Bodies, Sports Partnerships, Drugs Tasks Forces, River Basin Management Committees and Údarás na Gaeltachta. Many of the bodies have an educational focus, e.g., ETBs and SOLAS. There has long been a link between higher education institutions and elected councillors as detailed in later sections.

As a national representative body for county councillors, AILG has championed the role that councillors play in facilitating the connection between higher education and the public that it serves. Now, however, the link between the system of local government and the governance of higher education is at risk of being severed. Documents such as the *Outline of the Legislative Proposals for the Reform of the Higher Education Authority Act, 1971* (2018), the *Consultation Report on the legislative reform of the Higher Education Authority Act* (2019) and the *Update on legislative reform of the Higher Education Authority Act* (February 2021) pave the way for significant reform of the governance of HEIs. The proposals advocate a stark reduction in the size of governing authorities, a move which would curtail if not totally abolish the involvement of councillors on HEI governing authorities. A significant proportion of university funding comes from the State. This involves a considerable public interest

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<sup>3</sup> Moorhead, 2020:15

dimension which must be protected in any new legislation. Continuing to designate places for councillors on governing authorities can ensure that protection.

### 3. The Reform Context

Changing socio-political, economic, demographic and educational concerns have affected what universities do and how they do it, resulting in ongoing reform. Reforms have impacted not only on the internal structures and processes of HEIs but also on their governance structures and processes. Reform trends have resulted in the opening of HEIs to greater public scrutiny along with obligations to fulfil the higher expectations of both governments and societies. Given the very important role HEIs play in national social and economic and development as well as their financial dependence on public and private sources, good governance is paramount. As in other spheres, university governance is mainly concerned with enhancing accountability and assuring (education) quality. In many countries, the state-university relationship has changed as a result of reform. In the Netherlands the approach changed from legislation and regulations to a steering from a distance approach. By contrast, in the UK, Australia and New Zealand governments have increased their intervention and regulation despite a tradition of HEI autonomy (Capano and Pritoni, 2020; de Boer and Maassen, 2020).

A combination of international and domestic catalysts has led to changes in the state-university relationship in Ireland. The reform trends in other countries; EU innovations and obligations such as the Bologna process; Ireland's changing social and economic contexts; the differing government priorities and party perspectives on education and the variety of goals assigned to higher education have led to continuous reform. As a result, 'restructuring, performance management and strategizing became key pillars of HE policy reform leading to system reconfiguration, inter-institutional collaboration and changed governance'<sup>4</sup>. The state-university relationship was strongly reinforced by the appointment of a Minister of State for Higher Education in 2017 and creation of a full Ministry and Department of Higher Education, Innovation and Research in 2020. The latest chapter in the reform saga puts a particular focus on governance issues. The reform proposals focus on both the role and formal

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<sup>4</sup> Quinn, 2020: 171

relationships of the HEA (Higher Education Authority) and the internal and external governance of HEIs with the aim of bringing ‘greater legislative definition to this engagement’.

In 1968 an *ad hoc* Higher Education Authority (HEA) was established and in 1971, the HEA was given statutory responsibility to advise the Minister on the country’s needs in higher education and allocate and monitor state funding of higher education. Since then, the HEA has progressively assumed multiple roles – advisory body, policy shaper, policy enforcer, allocator of funding and system co-ordinator but its legislative base does not reflect its expanded functions. In 2018, written submissions were requested on the reform of the HEA legislation and a consultation forum was held. In 2019 a report on the consultation process was published at the same time as a set of legislative proposals for reform of the HEA Act 1971. In July 2019, the government agreed to comprehensive reform of the 1971 Act. A further consultation process was held and then a working group was established in November 2019 to agree the objectives, scope and governance provisions of the legislation. Creation of the Department of Higher Education, Innovation and Research seems to have intensified the reform momentum. A memorandum was brought to government in December 2020 and in February 2021 a further Report was published and a consultation process undertaken. The Minister now seeks to ensure that the HEA will be provided with the necessary statutory basis for its functions. In addition to providing a robust legislative basis for the HEA, the reform proposals are aimed at putting in place legislation which ensures robust governance and accountability structures and processes within HEIs and which reflects national and international standards. According to the *2021 Report on Legislative Reform*, such structures and processes are expected to provide for maximum performance of HEIs and the achievement of societal objectives for higher education. A key element of the reform is the plan to create ‘more streamlined, competency based governing authorities’ (DFHRIS, 2021: 11). This is the issue which concerns elected councillors because of their long involvement in the governing bodies of Irish universities.

## 4. Councillor Involvement in Governing Authorities

### 4.1 Historical Background

Since the creation of the National University of Ireland in 1908, locally elected councillors have had statutory involvement in the governing authorities of UCD, UCC and NUIG. During negotiations leading up to the passing of the Universities Act of 1908 there were debates about the range of representatives to be included in the governing bodies of the proposed colleges. Not surprisingly, developments in Ireland were influenced by what had occurred in England during the late nineteenth century. During the Industrial Revolution, a number of English universities had been established which emphasised practical knowledge over academic knowledge in order to meet to meet the emerging scientific, technical, industrial, commercial and professional needs of a changing society. These ‘red-brick universities’ were deliberately linked to the civic authorities in their region/locality and local authority members were included in their governance structures.

The Dublin Commission, which was created to establish the National University of Ireland, was influenced by developments in England<sup>5</sup> and was conscious of the requirement for an educational infrastructure which would respond to Ireland’s need for graduates equipped to lead the country’s much-needed development. Towards the end of the nineteenth and the beginning of the twentieth century there were robust debates about the structure and the focus of the nascent university. Debates took place in the House of Commons and the House of Lords about the religious ethos, the disciplinary orientation and the governance structures of the proposed national university. The ‘university question’ was widely contested in other arenas also with many publications and editorials on the topic. A strongly nationalist focus was advocated by people such as John Dillon, Patrick Pearse and Douglas Hyde. Resolution of the issues was reached in the 1908 Universities Act which created the National University of Ireland, consisting initially of University College Cork (the former Queen’s College), University College Dublin (previously a Jesuit university) and University College Galway (the former Queen’s College)

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<sup>5</sup> See McCartney, 1999

Reflecting both emulation of the English redbrick system and the wish for political and religious compromise, the new institution's governance was formally linked to the embryonic local government system. In order to ensure that the National University was 'under popular control' (T M Kettle) and could be regarded as an 'extremely democratic university' (John Dillon)<sup>6</sup>, the Governing Body included representation from county councils. Proposals for such linkage had emerged during the earlier debates and received mixed reaction. In 1904, Patrick Pearse wrote an editorial in *An Claidheamh Soluis* advocating representation of the hierarchy, the county councils and the graduates on the governing structure of any new national university<sup>7</sup>. Earlier, in evidence to the Robertson Commission, Douglas Hyde stated that the Gaelic League believed the 'popular element' should be represented on the governing body either through the League or the county councils. Lord Dunraven, who had served as an elected councillor, also supported the idea of council representation. Accordingly, council representation was enshrined in the NUI Charters.

There were, however, differences in how council representatives were nominated to the constituent colleges. In the debates, the Cork and Galway constituent colleges were regarded as provincial so their governing structures were expected to represent the people of the provinces. There was pressure for UCD to be regarded as a national institution, a sort of counterweight to Trinity College, so it was advocated that council representatives to UCD be nominated by a national body, not by individual councils. McCartney outlines the various iterations which resulted in the UCD Charter stating simply that eight members of the Governing Body of UCD were to be elected by the General Council of County Councils. Since its creation, the AILG has continued that function. A different formulation was put in place for UCC and UCG with the individual councils in each province electing members to the respective Governing Bodies.

During the lead-up to the Universities Act of 1997, attempts were made to curb the number of councillors on governing bodies. Debates took place in both the Dáil and Seanad during 1996 and 1997 and a campaign was undertaken by the General Council of County Councils

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<sup>6</sup> Cited in McCartney, 1999

<sup>7</sup> See Walsh 2014

(AILG's predecessor) to retain the status quo<sup>8</sup>. Cross-party support was expressed for retaining the number of councillors. The relevant clause was removed during the University Bill's passage through Seanad Éireann when an amendment proposing the retention of the existing level of representation for county councillors was passed and proposals to reduce the size of governing authorities were defeated.

#### 4.2 The current model of representation

Thus, for over a century, the AILG and its predecessors have had the right to nominate members to the governing body of UCD<sup>9</sup> and each local council in the respective catchment area has nominated Councillors to the governing bodies of UCC and UCG/NUIG. Currently, the AILG has the right to nominate EIGHT persons to the Governing Authority of UCD while the Governing Bodies of University College Cork and University College Galway each include a total of SEVEN nominees (including some mayors) from local authorities within their catchment areas. The newer universities, DCU and UL, also include local elected representatives in their Governing Authorities. DCU has one Councillor member while the UL Governing Authority has the Mayor of the City and County and the Cathaoirleach of the Municipal District as members. Thus, elected councillors have long played a recognised role in university governance.

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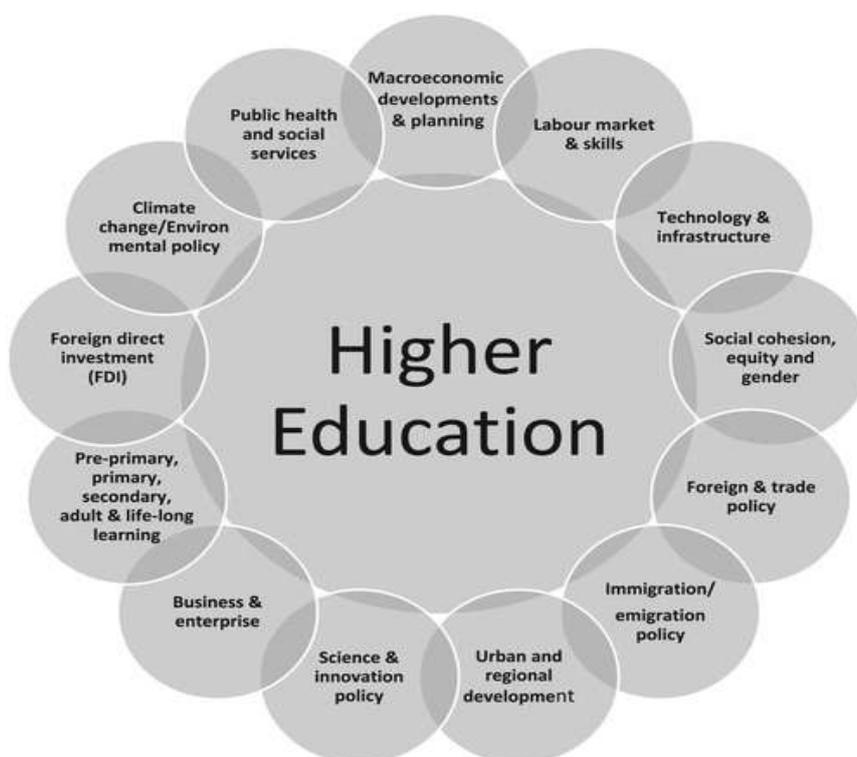
<sup>8</sup> Personal communication from Mr Liam Kenny, AILG, based on 1997 files

<sup>9</sup> Working Paper, February 2021, Liam Kenny, Director, AILG

## 5. Governing Universities in the 21<sup>st</sup> century – the aptness of councillor involvement

AILG acknowledges the key role that the higher education sector and the Higher Education Institutions (HEIs) play in Irish society and takes particular cognisance of their contribution to social, economic and cultural development at national and local levels. Figure 1 encapsulates the link between higher education and many policy spheres.

Figure 1 Higher Education at the centre of a complex policy eco-system



Source: Hazelkorn and Locke (2020)

As a national representative body for county councillors, **AILG believes its members have a vital role to play in facilitating the connection between higher education and the public that it serves.** The Association welcomes the Minister’s commitment to ‘the elevation of higher education and research to a central and more visible position at local and national level’<sup>10</sup>. In order to achieve this aim it is important that a clear link be retained between the system of local government and the governance of higher education. This link is important for a number of reasons, among them the significance attached to joined-up governance; the need for

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<sup>10</sup> Update on legislative reform of the Higher Education Authority Act, February, 2021

synchronisation of national/regional/local development; the contribution that Councillors make and the positional legitimacy, qualities, experience and diversity which Councillors bring to the role.

### 5.1 Joined-up governance

In order to boost the effectiveness, efficiency, speed and coherence of government, Ireland like many other countries has adopted the language and practices of joined-up government. Successive *Programmes for Government* and a myriad of government documents advocate joined-up approaches to achieve integration and co-ordination in different policy spheres. For example, Enterprise Ireland's Regional Plan (2019) seeks to foster engagement between each region's Higher Education Institutions (HEIs), SMEs and innovative start-ups. The *Strategy for Higher Education to 2030* calls for 'a broader 'whole of government' coordination of higher education'<sup>11</sup>. The recently published *Statement of Strategy 2021-2023* for the Department of Further and Higher Education, Research, Innovation and Science has as one of its goals, cross-governmental collaboration. There is also awareness of the need to enhance engagement between higher education institutions and local authorities and to collaborate in developing shared solutions to local and regional needs<sup>12</sup>. Public consultation has become the norm in policy making in Ireland as evidenced by the 27 open consultations listed on the gov.ie website in mid-March 2021. Government policies and strategies are also replete with calls to ensure the views of the public are represented in decisions regarding public resources. **Designating a place for Councillors on university governing authorities is a tangible step towards realising the aspirations towards joined-up governance.**

HEIs have an enormous influence on the regions/localities in which they are situated. An Indecon report, commissioned by the Irish Universities Association in 2019 found 'an estimated total gross economic impact of €3.96 billion' in 2017<sup>13</sup>. This does not take into account the earnings premium for graduates or the indirect and induced expenditure generated by universities. The Times Higher Education University Impact Rankings is an assessment designed to measure the social and economic impact of an academic institution

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<sup>11</sup> *National Strategy for Higher Education to 2030 - Report of the Strategy Group* (2011:89)

<sup>12</sup> See for example, *Legislative Reform of the HEA Act Consultation report* (2019) and *Outline of the Legislative Proposals for the Reform of the HEA Act, 1971(2019)*

<sup>13</sup> Indecon (2019) *Independent Assessment of the Economic and Social Impact of Irish Universities*, p 56

on society. In the 2020 rankings, 768 universities were ranked. Five of Ireland's eight universities featured in the top one hundred and the remainder were in the 100-200 category. These rankings illustrate the impact of universities on society. With thousands of students and staff in each institution, the impact on the economic, social and cultural activity in the city and region is vast. Local spend, rates income, infrastructural, accommodation and resource demands and cultural opportunities are all affected by the presence of a university in a region/city. The following examples illustrate universities' tangible and intangible impact on their regions. In 2018, UCC's Irish students generate €135 million for the local economy<sup>14</sup>. Collins et al. highlight the important role that the University College, Galway has played in the evolution of the cultural and industrial fabric of the city asserting that 'the University has played a vital role in much of that which Galway has become known for'<sup>15</sup> **HEIs are aware of their contribution to and role in their locality and recognise the importance of involvement with local authorities.** The University of Limerick's Strategic Plan lists a number of themes on which it collaborates with local and regional authorities.

- Working with local authorities in the region, identifying opportunities to support the redevelopment of Limerick city and the broader Mid-West region
- Informing and influencing regional and national discussions through the contribution and expertise of our people
- Engagement with local councils on regional planning, for example, the proposed Special Development Zone led by Clare County Council
- Involvement in city and regional transportation planning<sup>16</sup>

Since the 2014 local government reforms, local authorities have a clear economic development function and are designated as the 'the main vehicle of governance and public service at local level'<sup>17</sup>. Thus, Councillors have a strengthened role in public spending decisions in their localities. It is prudent, therefore to include Councillors in the governance structures of such important regional entities as the HEIs. **Having elected councillors on the**

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<sup>14</sup> UCC Economic and Social Impact (2018)

<sup>15</sup> Collins et al. (2021). Reframing development in Ireland, *European Planning Studies*, p. 21

<sup>16</sup> UL@50 STRATEGIC PLAN 2019–2024

<sup>17</sup> *Putting People First* (2012:1 )

**governing authorities, means that information can be shared, priorities aligned and collaborative advantage exploited.**

## 6. Specific qualities which Councillors bring to the governance role

Referring to the role of county councillors in early university appointments, McCartney mentions ‘the common sense, practicality, political clout, shrewdness and business acumen they brought to their task’<sup>18</sup>. Circumstances may have changed but such qualities retain significance in governance processes. The AILG case for the retention of Councillors on HEI governing structures is reinforced by their various functional roles and also by the qualities and experience they bring.

### 6.1 Representing the public interest

Elected Councillors have a range of representational, regulatory and statutory duties. Being directly elected, Councillors represent the public interest and ensure that the voice of the wider community is heard at the governance table, whether in the Council chamber or on external organisations. Councillors serving on governing authorities<sup>19</sup> highlighted the added value their connectedness with citizens and communities brings to the governing authorities and emphasised the importance of their democratic credentials and their contribution to ensuring the public accountability of the HEIs. **Thus, as members of HEI governing authorities, elected councillors act as a conduit to ensure that the issues and challenges of concern to citizens of the region are recognised and that the academic, social and economic activities of the HEIs reflect those concerns.**

### 6.2 Diversity of Experience & Perspective

Councillors bring their professional experience and expertise to the governing bodies. Their election by the public, through a competitive process, is an endorsement of their capabilities and their authority to act on behalf of the public. Irish society has grown in diversity in recent decades. Councillors come from a wide variety of social and geographic backgrounds and

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<sup>18</sup> McCartney, *op.cit.*, p. 38

<sup>19</sup> Informal personal communications with author

engage daily with diverse communities. ALLG membership not only mirrors this but the daily interaction of elected councillors with citizens from a range of cultures, experiences and expectations recognises and affirms that diversity. Local elections are the only elections in which all residents may vote so Councillors' legitimacy as representatives reflects Ireland's multi-cultural society. Councillors can bring views informed by such diversity to what might be otherwise a rather socio-culturally homogenous forum. Furthermore, their diverse lay competences complement the specialisms existing in HEIs. **Many Councillors have qualifications and experiences in the spheres identified in the DES document *Appointments to University Governing Authorities*, making them eminently suitable as governing authority members.** Such qualifications and experience are and have been utilised on governing authority sub-committees in the areas of finance, diversity & equality and health and safety, for example.

Local authorities account for significant spending. The estimated Current and Capital expenditure for 2020 was approximately 8.35 billion<sup>20</sup>. Adoption of each local authority's budget is a reserved function of the elected members of the local authority. From their involvement in the budget process, **Councillors bring experience of making decisions involving large amounts of public money and weighing up the implications of such decisions. Similarly, they have experience of risk-management and compliance in large organisations.** Such know-how among members adds to the effectiveness of governing authorities where many of the academic members, for example, may not have benefitted from such experiences.

### 6.3 Linkages with regional actors and with other tiers of education

Many of the Councillors who have, to date, served on governing bodies bring extensive **education sector experience**, having been involved in other tiers of education such as boards of management at primary and secondary levels and membership of the Education & Training Boards. They thus **help to link the various strands of education** and bring an understanding of educational issues at the various levels. They also bring their **varied professional capabilities and competences**, adding to the diversity of experience on the governing authorities.

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<sup>20</sup> Local Authority Budget 2020

Their work at local and regional levels connects Councillors with influential actors in the region so **they can contribute to strengthening HEIs' regional impact by fostering linkages and creating synergies between the diverse actors**. Their **involvement in strategy development and evaluation** in various bodies gives them valuable experience and involves them in a variety of stakeholder networks involving interdependent actors from public, private and voluntary sectors. The resultant **collaborative and decision-making skills** and the **insights into regional potential and challenges** coupled with their **political awareness and astuteness** gives them a rare combination of competences which are an asset to governing authorities.

## 7. The proposals for legislative reforms: issues and implications

The previous Government approved an overall policy approach to the reform of the Higher Education Act, 1971 and published a set of legislative proposals in 2019. The current government has intensified the reform drive and has made some modifications to the 2019 proposals and has undertaken a further consultation process. The proposed legislation, if enacted, will significantly reduce the size of governing authorities. There is no mention of either Councillors or local authorities in either the legislative proposals document or the recent update on the reform process. The 2019 documents proposed that the number of members on governing authorities should be in the range of 10 to 15. The February 2021 document proposes that the governing authorities of HEIs will have no more than 12 members.

AILG believes that the number recommended is too small at 12 to be an adequately representative governance forum. Even in a system like Norway's where small boards have been put in place, local government involvement continues. Out of a total membership of eleven on Norwegian boards 'two external members are appointed by local or regional governments'<sup>21</sup>. This demonstrates Norway's valuing of democratic representation and presents Ireland with a working model.

There are several references to competency in the reform documents. The updated document states that the 'reform of the governing authorities aims to provide more effective,

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<sup>21</sup> de Boer & Peter Maassen (2020), p. 2049

independent, strategic, competency-based boards'<sup>22</sup>. It later advocates emphasising competency over representation in the membership of the reformed governing authorities. It does not however, define the competences which it seeks. As demonstrated earlier, elected Councillors have **a range of skills, competences and experiences appropriate to the governance of complex institutions** such as HEIs. NUI, Galway has already developed a competency matrix for its current governing authority<sup>23</sup>. The role of Councillors within local authorities ensures they have the **professional, experiential and personal attributes** required by such matrices.

## 8. Conclusion

The European Universities Association asserts that universities require 'a productive relationship with public authorities and an enabling regulatory framework'<sup>24</sup>. We believe the current reform proposal can achieve this but only if provision is incorporated to retain elected councillors as governing authority members. Enactment of the proposals in their current format would seriously diminish the democratic efficacy of the governing authorities, weaken the diversity of views on those bodies, fragment the networks that have been built or strengthened through Councillor involvement and limit the skill-set, experience and competences available.

AILG urges the Minister and his Oireachtas colleagues to amend the proposals and retain and legislate for the presence of elected councillors on university governing authorities.

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<sup>22</sup> *Update on legislative reform of the Higher Education Authority Act, February, 2021*, p. 12

<sup>23</sup> Competency Matrix for Membership of Údarás na hOllscoile 2021-2025

<sup>24</sup> European University Association (2019) *Efficiency, Effectiveness and Value for Money in our Universities*

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 President

2 July 2021

Tara Kelly, Clerk to the Committee  
 Joint Committee on Education, Further  
 and Higher Education, Research,  
 Innovation and Science.

Leinster House  
 Dublin 2

*Via e-mail only:* [education@oireachtas.ie](mailto:education@oireachtas.ie)

Your Ref: JCES-I-2021-[467] – Invitation to make a submission

Dear Tara,

Thank you for your letter and invitation to provide a submission as part of the Committee's Pre-legislative Scrutiny of the General Scheme of the Higher Education Authority Bill, 2021.

NUI Galway supports the views of the sector as represented by the Irish Universities Association ('IUA'). We are happy that NUI Galway's views are represented accordingly in the IUA submission.

Please don't hesitate to contact me should you require any additional information.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Ciarán'.

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**Professor Ciarán Ó hÓgartaigh**

*BComm (Galway), DipPrAcc (UCD), PhD (Leeds), FCA (Ireland)*

**Uachtarán, OÉ Gaillimh, President, NUI Galway**

*c.c. Caroline Loughnane, Secretary for Governance & Academic Affairs*

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**Irish Congress of Trade Unions**

**Education Sector Group**

**Submission to the Joint Committee on Education, on  
Planned HEA Legislation**

**June 2021**

## **Introduction**

The Congress Education Sector Group comprises affiliate unions working at levels of the education sector, including: TUI, IFUT, SIPTU, Forsa, ASTI, INTO, Unite.

This Congress Education Sector Group welcomes the opportunity to input into the consultation on proposed changes to legislation governing the Higher Education Authority (HEA).

This brief submission is made in conjunction with submissions already made to the Oireachtas Committee on this issue from affiliated unions, all of which are fully endorsed and supported by the Congress Education Sector Group.

The submission is based largely on input provided recently (April 2021) by the Congress Education Sector Group to a Department of Further & Higher Education consultation process on planned changes to HEA governance.

## **Key Issues of Concern**

The Education Sector Group welcomes the opportunity to input into the consultation process in respect of the proposed changes to governance across the further and higher education sector.

Fundamentally, the Congress Education Group believes that the overall focus of the consultation process on regulation and governance is misplaced as this implies that governance is the essential and overriding problem in the sector. This is clearly not the case.

In that respect, the process appears to be a missed opportunity to address the deeper and more problematic structural issues relating to funding, representation and academic freedom/ independence.

Indeed, a comprehensive and deep dive into all areas of Higher Education Authority (HEA) competence, may well have been a far more productive and beneficial exercise.

## **Need to be Representative**

Congress is firmly of the view that, as currently constituted, the board of the HEA remains unrepresentative of all key stakeholders across the sector, given the glaring and continued absence of any form of trade union representation.

If the HEA is to become fully representative of all key actors across the sector, this deficit must be addressed.

Another issue of concern to emerge from this process is the lack of clarity or certainty around the proposed expansion of the role and functions of the HEA, as it remains unclear as to how this might impact, overlap or even align with role of both the Minister and the new Department of Further & Higher Education.

In addition, affiliated unions have expressed concern that proposed reductions and changes to composition of HEI Governing Councils and Boards could have a significantly detrimental impact on staff representation.

It is our strong view that the level of staff representation must not be reduced, as part of this process.

Equally, we believe that the creation of any competency-based process for the selection of governing authority or board membership has the capacity to fundamentally undermine and erode the very right of staff representation, across the sector.

In our view, such a process could prove to be a profoundly undemocratic exercise and, as such, detrimental to the wider ethos of the entire sector.

Specific issues also arise with respect to Technological Universities and adequate staff representation, in cases where multiple locations and sites are utilised.

In addition, changes to the both the size and composition of governing authorities within such institutions would require a change to existing 2018 Act and would require consultation/ dialogue and agreement.

The potential loss or erosion of academic freedom/ independence under the proposed changes is also a key concern for Congress.

### **Sustainable Funding**

There are also real concerns in relation to the possible introduction of performance-based funding models that, in our view, often serve to exacerbate and perpetuate social and educational division. Such models would also likely replicate the errors seen in the failed approach adopted in the UK.

Ultimately, the sector urgently requires a clear and coherent funding framework to place it on a sustainable footing into the future and which is developed out of a process of consultation and dialogue with all key stakeholders, including trade unions.

**David Kilcoyne**

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**From:** David Kilcoyne  
**Sent:** Thursday 8 July 2021 12:20  
**To:** David Kilcoyne  
**Subject:** Fw: HEA Bill

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**From:** Niamh O'Reilly <[noreilly@aontas.com](mailto:noreilly@aontas.com)>  
**Sent:** 07 July 2021 22:01  
**To:** Paul Kehoe <[Paul.Kehoe@oireachtas.ie](mailto:Paul.Kehoe@oireachtas.ie)>  
**Cc:** Dearbháil Lawless <[dlawless@aontas.com](mailto:dlawless@aontas.com)>  
**Subject:** HEA Bill

Dear Mr Paul Kehoe TD and Chairperson of the Committee on Education, Further and Higher Education, Research, Innovation and Science,

I am writing with regard to the recent debate on the HEA bill (6<sup>th</sup> July 2021). I would like to express my appreciation for your comments regarding equity of access to higher education. We in AONTAS believe this should form part of how the HEA bill is considered.

Access to higher education can be supported through a diversity of activities; however, specifically regarding the Bill, the following would further educational equality.

1. Increased equality, diversity and inclusion of traditionally under-represented groups in governance structures, representative groups and the academic council
2. Increased presence in decision-making mechanisms of representation from local communities and civil society organisations
3. HEI Core funding linked to a commitment to widening access to higher education

As an example, the National Access Steering Group in 2021 highlighted that learners from disadvantaged areas make up an average of 10% of the Irish student population, however this figure lowers in certain 'elite' institutions to 5% in Trinity College Dublin, Royal College of Surgeons Ireland and the Institute of Art, Design and Technology Dún Laoghaire, 6% in University College Dublin, which shows a failure to include vulnerable and marginalised learners.

There are only 110 Travellers within the entire student population in higher education (HEA, 2021). Compare this to recent AONTAS research (2021), where 45% of community education organisations state that members of the Travelling community are part of their learner cohorts. On the topic of funding, the most accessible part of the tertiary education system, community education, is the most precariously funded, for example, 76 organisations who reach 15,000 learners draw funding from 9 government departments across 51 funding streams. This impacts on higher education access, as in recent HEA research (2021), 21% of mature students were previously in community education and almost 75% in further education and training. Funding for access would benefit from taking a broad tertiary education perspective and accountability on behalf of HEIs, where their funding is linked to access targets.

We believe education is a public good, which requires public funding; however, HEIs, and specifically universities, must take greater responsibility in ensuring their student population genuinely reflects

society, especially marginalised groups. Autonomy cannot become synonymous with the status quo, which does not serve all of the population. There must be accountability regarding educational equality.

AONTAS made a number of related submissions:

1. [Public Consultation on Reform of Higher Education Authority Legislation](#)
2. [AONTAS Submission for the National Plan for Equity of Access to Higher Education 2022-2026](#)
3. [AONTAS Submission for the Public Consultation on the SUSI Grant Scheme](#) (Conscious that you mentioned funding as a barrier)
4. [AONTAS Submission to the Royal Irish Academy's Higher Education Futures Group](#)

AONTAS also recently published a research report: [CEN Census 2020: Community Education in a Time of COVID-19](#) that provides context for the above references to community education.

This broad-scale mixed methods research project, uncovers who engages in community education, what courses are provided, identify how it is funded, and most critically, how it effectively supports people to fulfil their potential.

I hope this is helpful to your deliberations, and please do get in touch if you require further information.

Best regards  
Niamh

Dr Niamh O'Reilly  
CEO



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2021/354

29 July 2021

Cathaoirleach Paul Kehoe TD  
Houses of the Oireachtas  
Committee on Education, Further and Higher Education, Research, Innovation and Science

### General Scheme of the Higher Education Authority Bill 2021

Dear Cathaoirleach Paul Kehoe TD,

As the Oireachtas Committee on Education, Further and Higher Education, Research, Innovation and Science continues the important work of pre-legislative scrutiny of the General Scheme of the Higher Education Authority Bill 2021, National College Ireland (NCI) wishes to make a specific request for the consideration of the Committee.

NCI specifically requests that the College be named in the legislation as a designated institute of the Higher Education Authority.

Naming NCI explicitly in the legislation recognises NCI's direct exchequer funding through the Department of Education and the Department of Further and Higher Education, Research, Innovation and Science.

As submitted by NCI in our direct response to DFHERIS on their consultation on the General Scheme of the Higher Education Authority Bill:

*Under Head 55 (1) NCI requests that National College of Ireland is named in full as a designated Institute of Higher Education, acknowledging DFHERIS 30 years direct exchequer funding of NCI students, and requests to use the title "Designated Institution of Higher Education" as outlined in Head 62.*

*NCI requests, under Head 56, that the Minister designate NCI as a designated Institute of Higher Education and as a consequence, be exempted from the requirement to have Protection of Enrolled learners bonding in place, as with other designated institutions of An tÚdarás.*

*NCI believes that it complies with all conditions for designation as an Institute of Higher Education as outlined in Head 57 of the Bill and is in agreement with the review of compliance with designated conditions outlined in Head 59 of the Bill.*

It is requested that the Committee specifically recommend that NCI be a named Designated Institution of the Higher Education Authority in the new legislation.

We attach our original submission and are available to provide further information and to present to the Committee if required.

Yours sincerely



Gina Quin  
President

c.c. Minister Simon Harris, Minister Paschal Donohue, Alan Wall, William Beausang

## National College of Ireland’s (NCI’s) response to General Scheme of the Higher Education Authority Bill 2021

National Collage of Ireland is pleased to submit its response to the General Scheme of the Higher Education Authority Bill. Please note that all NCI comments are in italics, and each comment follows the referenced and numbered section of the General Scheme of the Higher Education Authority Bill 2021.

### Part 1 – Preliminary and General

*NCI in agreement with this section with the following exceptions; it is suggested that the definitions of “funded Body” and of “funded education provider” be modified to include institutions that currently receive funding from the Department of Education/Department of Further and Higher Education and Research, Innovation and Science. The proposed rewording is detailed below and highlighted:*

“funded body” means a designated institution of higher education, other higher education provider, other education provider, other body or person which receives or received funding from An tÚdarás under section 39, **or directly from the Department of Education/Department of Further and Higher Education and Research, Innovation and Science;**

“funded higher education provider” means a higher education provider which receives or received funding from An tÚdarás, under section 39, **or directly from the Department of Education/Department of Further and Higher Education and Research, Innovation and Science.**

### Part 2 - The Higher Education Authority

Chapter 1 Continuation and Functions of An tÚdarás

Chapter 2 Ministerial powers and information

Chapter 3 Board and Committees

Chapter 4 Co-operation with other bodies

Chapter 5 Funding and Accountability of An tÚdarás

Chapter 6 Chief Executive Officer

Chapter 7 Staff and Superannuation

*NCI in agreement with Part 2 of the Scheme and particularly welcomes co-operation with the Qualifications and Quality Assurance Authority of Ireland and with An tSeirbhís Oideachais Leanúnaigh Agus Scileanna in the future role of An tÚdarás. NCI believes that close co-operation between HEs and Further Education, Skills and Training is essential to meet the contemporary needs of students and learners and to meet the needs of Ireland globalised economic development.*

## Part 3 Higher Education Sector

### Chapter 1 Strategic Planning

*NCI welcomes the continued development of strategy for HE and will continue to input to Strategy as requested by the Minister including projections for HE demand, widening access to disadvantaged learners and to the general objectives and performance framework of the HE sector.*

### Chapter 2 Provision of funding by An tÚdarás

*As a current recipient of direct funding from the DFHERIS and previously, DES, NCI would welcome the inclusion of its current and future funding allocations in the provision of monies to An tÚdarás under the conditions outlined in Chapter 2 of this document. NCI further requests that it become a named, designated higher institution of An tÚdarás, and be exempted from the requirement to have Protection of Enrolled learners bonding in place, as with other designated institutions, in the Higher Education Authority Bill 2021.*

## Part 4 Students

*NCI fully supports the Bill in respect of Part 4 dealing with the engagement with, and a forum, of Students. NCI has an active and engaged student body including Class Representative Council, Student Union (which is a fully participating Member of SUI) and Student Union/Student representation on NCI's Governing Body, Academic Council and in all Programme Development panels. NCI is a full participant in the National Student Survey (formerly ISSI) and in NStEP. NCI is an Athena SWAN Bronze Award Holder and an Autism Friendly Campus (designation achieved in 2021) and Hold a 4Star Q stars ranking. All of these accreditations require significant evidence of student engagement and, together with the above formal and informal student representations, demonstrate NCI's commitment to the importance of student engagement.*

## Part 5 Participation and Skills

*NCI is strongly committed to access in all aspects of the Institution and strongly supports this Part of the Scheme. NCI has a 70 year history of providing equity of access and participation and lifelong learning, and fully supports the objects of the Bill, providing clear evidence of achievement in this area. This can be seen in the following: NCI was a founding member of HEAR and DARE supports, is recently accredited as an Autism Friendly Campus, is one of the largest providers of part-time higher education to returning or later stage adult learners, and life-long learners, and provides education that is guided and interactive with the needs of individual learners, business, enterprise, the community and local and national interests.. NCI's commitment to equity of access is embedded in its mission to 'change lives through education'.*

*In the area of skills and reference to the skills requirement of the higher education institutions, NCI firmly supports the role of An tÚdarás in this regard. NCI's enterprise focus is best evidenced by its Award-winning Careers Service and consistent topping of the table of placement of graduates in employment, when compared to all HEs, Universities, Technological Universities and IOTs. NCI has a long tradition of close engagement with enterprise, calling on experts from enterprise to lecture on programmes, to input to programme design and to programme revalidation. With a School of Computing and a School of Business, NCI fully supports this role for An tÚdarás.*

## Part 6 Data and Research

*NCI has provided data on full-time students and programmes to the Department of Education & Science since 1996 when direct exchequer funding commenced. Since 2008 data on all students and programmes has been submitted to An tÚdarás similar to other designated HEs, and NCI continues to do so while complying with the GDPR legislation. NCI has cooperated and participated in all requests for research and studies conducted by An tÚdarás and fully supports the heads outlined in the Bill. NCI conducts research across its academic body in collaboration with National and International academic institutions and other relevant bodies.*

## Part 7 Designated Institutions of Higher Education

### Chapter 1 Designation of Institutions of Higher Education

*Under Head 55 (1) NCI requests that National College of Ireland is named in full as a designated institute of higher education, acknowledging DFHERIS 30 years direct exchequer funding of NCI students, and requests to use the title “Designated Institution of Higher Education” as outlined in Head 62.*

*Notwithstanding the above request, NCI requests, under head 56, that the Minister designate NCI as a designated institute of higher education and be exempted from the requirement to have Protection of Enrolled learners bonding in place, as with other designated institutions of An tÚdarás.*

*NCI believes that it complies with all conditions for making of a designation as an institute of higher education as outlines in Head 57 of the Bill and is in agreement with the review of compliance with designated conditions outlined in Head 59 of the Bill.*

### Chapter 2 Duties of Designated Institutions of Higher Education

*NCI fully complies and agrees with the duties of a designated Institution of higher education as outlined in the Bill.*

### Chapter 3 Oversight by An tÚdarás of Designated Institutions of Higher Education

*NCI fully agrees with the oversight by An tÚdarás of designated Institutions of higher education as outlined in the Bill.*

## Part 8 Appeals

*NCI fully agrees with the appeals process for consideration of designated Institution of higher education as outlined in the Bill.*

*Part 9-15 of the Head of Bill relate to specific Acts for Institutions and NCI does not have comment to make on these sections or on the First Schedule Superannuation or Second Schedule Board An tÚdarás.*

Part 9 Amendment to Universities Act, 1997

Part 10 Amendment to the Technological Universities Act

Part 11 Amendment to the Institutes of Technology Act, 1992-2006

Part 12 Amendment to the National College of Art and Design Act, 1971

Part 13 Amendment of Student Support Act 2011

Part 14 Amendment of Industrial Training Act 1967

Part 15 Amendment to the Social Welfare Consolidation Act 2005

First Schedule Superannuation

Second Schedule Board of An tÚdarás