An Comhchoiste um Oideachas, Breisoideachas agus Ardoideachas, Taighde, Nuálaíocht agus Eolaíocht
Tuarascáil ar an Grinnscrúdú Réamhreachtach ar Bhille an Údarás um Ard-Oideachas, 2021
Mean Fomhair 2021

Joint Committee on Education, Further and Higher Education, Research, Innovation and Science
Report on the Pre-Legislative Scrutiny of the Higher Education Authority Bill 2021
September 2021
MEMBERSHIP

<table>
<thead>
<tr>
<th>Rose Conway-Walsh TD</th>
<th>Alan Farrell TD Fine Gael</th>
<th>Paul Kehoe TD Fine Gael (Cathaoirleach)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sinn Féin</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Carol Nolan TD</td>
<td>Jim O’Callaghan TD</td>
<td>Marc O Cathasaigh TD</td>
</tr>
<tr>
<td>Independent</td>
<td>Fianna Fáil</td>
<td>Green Party</td>
</tr>
<tr>
<td>Donnchadh Ó Laoghaire TD Sinn Féin</td>
<td>Aodhán Ó Riordáin TD Labour Party</td>
<td>Pádraig O’Sullivan TD Fianna Fáil</td>
</tr>
</tbody>
</table>
Bulaíocht ar Scoil agus an Tionchar atá aici ar Mheabhair-Shláinte

Senator Aisling Dolan
Fine Gael

Senator Eileen Flynn
Independent

Senator Rónán Mullen
Independent

Senator Fiona O'Loughlin
Fianna Fáil (Leas-Cathaoirleach)

Senator Pauline O'Reilly
Green Party
CATHAOIRLEACH’S FOREWORD

The General Scheme of the Higher Education Authority Bill 2021 was published by the Minister for Further and Higher Education, Research, Innovation and Science, Simon Harris TD, in May 2021 and subsequently referred to the Joint Committee on Education, Further and Higher Education, Research for the purposes of Pre-Legislative Scrutiny.

The General Scheme follows on from the Programme for Government which contained a commitment to enact legislation reforming and restructuring Higher Education. In this context it states, among other things, that the present Government will:

- Develop a long-term sustainable funding model for higher-level education,
- Continue to reform the way our Higher Education Institutions (HEIs) operate through their relationship with the Higher Education Authority (HEA), by enhancing performance, financial management, governance, and transparency: and,
- Utilise the system performance framework to drive accountability and improvements in our Higher Education sector.¹

The Committee invited a wide range of stakeholders to make written submissions on the Bill. Representative Bodies, Trade Unions and Statutory Bodies gave oral evidence at meetings on 6th July, 13th July and 20th July 2021 respectively.

The Joint Committee expresses its gratitude to all those who came before the Joint Committee to give evidence and to those who took the time to make written submissions.

The Joint Committee is also very grateful to Niall Watters, Senior Researcher, Oireachtas Library and Research Service, for the extensive research conducted that assisted greatly in the production of the Report.

The Committee believes that the Bill is both opportune and timely as it comes when Higher Education Reform is fundamentally important to the future of our nation, from a social, cultural, environmental and economic perspective.

On 28 September 2021, the report was agreed to be published by the Committee.

Paul Kehoe T.D.,
Cathaoirleach,
Joint Committee on Education, Further and Higher Education, Research, Innovation and Science.
28 September 2021
### Table of Contents

**MEMBERSHIP** .................................................................................................................................................. 1

**CATHAOIRLEACH’S FOREWORD** ...................................................................................................................... 3

**EXECUTIVE SUMMARY** ................................................................................................................................. 7

**KEY RECOMMENDATIONS** ............................................................................................................................. 8

**RECOMMENDATIONS ON OVERVIEW AND ASSESSMENT OF THE GENERAL SCHEME** ..................... 8

**PART 1 – PRELIMINARY AND GENERAL:** .................................................................................................... 8

**PART 2 – HIGHER EDUCATION AUTHORITY:** ............................................................................................. 8

**PART 3 – HIGHER EDUCATION SECTOR:** .................................................................................................... 9

**PART 4 – STUDENTS:** ..................................................................................................................................... 9

**PART 5 – PARTICIPATION AND SKILLS:** ....................................................................................................... 9

**PART 6 – DATA AND RESEARCH:** ................................................................................................................ 9

**PART 7 – DESIGNATION OF HIGHER INSTITUTES OF EDUCATION:** ..................................................... 10

**PART 8 – APPEALS:** ....................................................................................................................................... 10

**PARTS 9 – 12 - AMENDMENTS TO LEGISLATION PROVIDING THE VARIOUS CLASSES OF HEIs:** ........ 10

**CHAPTER 1 – INTRODUCTION** ...................................................................................................................... 11

**INTRODUCTION** ............................................................................................................................................. 11

**CONTEXT** ........................................................................................................................................................ 11

**RESEARCH SCOPE** ......................................................................................................................................... 11

**CHAPTER 2 – BACKGROUND TO THE GENERAL SCHEME OF THE BILL** ............................................. 13

**POLICY CONTEXT** ......................................................................................................................................... 14

**HIGHER EDUCATION AUTHORITY** ............................................................................................................. 15

**HEA, GOVERNANCE AND THE HEIs** ............................................................................................................ 17

**PROGRAMME FOR GOVERNMENT** .............................................................................................................. 22

**NATIONAL STRATEGY FOR FOR HIGHER EDUCATION TO 2030** ..................................................... 23

**REFORM OF HIGHER EDUCATION AND THE HEA UNDER THE DFHERIS** ........................................... 24

**HIGHER EDUCATION SECTOR REGULATED BY THE HEA** ....................................................................... 26

**CHAPTER 3 – OVERVIEW AND ASSESSMENT OF THE GENERAL SCHEME** ..................................... 29

**RECOMMENDATIONS ON OVERVIEW AND ASSESSMENT OF THE GENERAL SCHEME** ............ 30

**PART 1 – PRELIMINARY AND GENERAL (HEADS 1-6)** .............................................................................. 30

**RECOMMENDATIONS FOR PART 1 – PRELIMINARY AND GENERAL: DEFINING “DISADVANTAGE”** ....... 31
PART 2 – THE HIGHER EDUCATION AUTHORITY (HEADS 7 TO 35) .......................................................... 31
  RECOMMENDATIONS FOR PART 2 – HIGHER EDUCATION AUTHORITY ........................................ 34
PART 3 – HIGHER EDUCATION SECTOR (HEADS 36 TO 42) ............................................................... 35
  STRATEGY FOR HIGHER EDUCATION ............................................................................................. 35
  PERFORMANCE FRAMEWORK ............................................................................................................ 35
  MAKING GRANTS TO HEIs .................................................................................................................. 37
  COMPLIANCE WITH FUNDING CONDITIONS .................................................................................. 37
  RECOMMENDATIONS FOR PART 3 – HIGHER EDUCATION SECTOR ................................................. 37
PART 4 – STUDENTS (HEADS 43 TO 45) ............................................................................................. 38
  RECOMMENDATIONS PART 4 – STUDENTS: ...................................................................................... 39
PART 5 – PARTICIPANTS AND SKILLS (HEADS 46 TO 47) ................................................................. 40
  RECOMMENDATIONS FOR PART 5 – PARTICIPATION AND SKILLS: ............................................. 41
PART 6 – DATA AND RESEARCH (HEADS 48 TO 54) ........................................................................... 41
  RECOMMENDATIONS FOR PART 6 – DATA AND RESEARCH: .......................................................... 44
PART 7 – DESIGNATED INSTITUTIONS OF HIGHER EDUCATION (HEADS 55 TO 73) ...................... 44
  GUIDELINES, CODES AND POLICIES ............................................................................................... 46
  RECOMMENDATIONS FOR PART 7 – DESIGNATION OF HIGHER INSTITUTES OF
  EDUCATION: ........................................................................................................................................ 47
PART 8 – APPEALS (HEADS 74 TO 76) .................................................................................................. 47
  RECOMMENDATIONS FOR PART 8 – APPEALS: .............................................................................. 48
PART 9 – 12 AMENDMENTS TO THE PRINCIPAL ACTS CONCERNING HIGHER EDUCATION
  INSTITUTIONS ....................................................................................................................................... 49
  RECOMMENDATIONS FOR PARTS 9 TO 12 – AMENDMENTS TO LEGISLATION PROVIDING
  THE VARIOUS CLASSES OF HEIs: ..................................................................................................... 54

APPENDIX 1: LIST OF SUBMISSIONS ................................................................................................... 56
EXECUTIVE SUMMARY

The General Scheme of the Higher Education Authority Bill 2021 seeks to revoke the existing Higher Education Authority Bill 1971, now over 50 years old. The General Scheme also seeks to introduce a range of reforms which respond to the transformed landscape in which higher education currently operates. This includes, among other things, the significant increase in the student population at higher level; the diversity of education programmes offered which in turn reflect the changing social and economic environment of contemporary times; the expansion of higher education institutions; and the strategic plans for the future of higher education.

The General Scheme seek to reform and modernise the higher education sector. The following are set out as the main objectives of the draft legislation:2

- promote and support Higher Education Institutions (HEIs) in achieving excellence in teaching, learning and research in higher education,
- promote and safeguard the interests of students,
- advance equality, diversity and inclusion in higher education,
- provide a comprehensive governance and accountability framework to safeguard Exchequer investment in the sector and ensure accountability by HEIs for that funding,
- maximise the contributions of higher education to social, economic, cultural and environmental development and sustainability,
- maintain and enhance the reputation of the higher education sector, including international reputation.

---

2 "Minister Harris published new legislation aimed at reforming and modernising governance of the Higher Education sector", Department of Further and Higher Education, Research, Innovation and Science Press Release, (06/05/2021), Gov.ie.
KEY RECOMMENDATIONS

RECOMMENDATIONS ON OVERVIEW AND ASSESSMENT OF THE GENERAL SCHEME

1. It is widely recognised that legislative reform will be of limited value unless it is accompanied by a sustainable funding model. 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 HEIs to fulfil their responsibilities under the legislation and their performance goals agreed with the HEA.

2. Provide greater clarity on how institutional autonomy will be maintained and continue to allow for the differentiation of mission by HEIs.

PART 1 – PRELIMINARY AND GENERAL:

3. Given the strong focus in the General Scheme on improving equity and access to higher education, terminology used to refer to “disadvantaged” learners, persons or groups should be consistent throughout. There would be merit in using Head 2 (Interpretation) to clarify the use of the term chosen while also expanding the term “disadvantaged” to reference social and economic disadvantage and/or those groups and persons “traditionally underrepresented” in the context of higher education.

PART 2 – HIGHER EDUCATION AUTHORITY:

4. In line with the Act of 1971, consideration under Head 8 (Objects) should be given to the following:
   - The HEA’s role in 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;
   - Acknowledging the role industry plays with higher education;
   - Expanding the reference to equality, diversity and inclusion to include measures such as universal design.
5. The HEA’s role in promoting North-South cross jurisdiction collaboration, cooperation, and student mobility.

6. There is a need to clarify the distinct boundaries of responsibilities and powers between the Minister and HEA that will ensure a strong and independent HEA. This would involve drawing up a competency-based model as the basis for appointments to the Board of the HEA, in a manner like that proposed for HEIs, and include Trade Union representation.

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

PART 3 – HIGHER EDUCATION SECTOR:

8. In respect of Head 39 (Grants by the HEA), competitive selection processes between HEIs should be designed to ensure innovation is actively encouraged.

PART 4 – STUDENTS:

9. There is a need for clear principles that will ensure traditionally underrepresented social groups in higher education are meaningfully represented in proposed student engagements structures/processes.

PART 5 – PARTICIPATION AND SKILLS:

10. Given the aims of this Head, the types of bodies that need to be consulted, including named civil advocacy sectors and relevant statutory bodies with a relevant remit, should be set out by sector.

PART 6 – DATA AND RESEARCH:

11. The HEA research role, including its role in policy advice, oversight, collaboration, as well as funding, needs to be set out very clearly. In this regard, there is merit in placing the Irish Research Council on a statutory footing and clarifying the roles and responsibilities between it and the HEA with respect to research in higher education.
PART 7 – DESIGNATION OF HIGHER INSTITUTES OF EDUCATION:

12. The designation process needs to be expanded regarding sections 36 and 39 of the Qualifications and Quality Assurance (Education and Training) Act 2012 and specifically the implications for “linked providers” and designated awarding bodies.

PART 8 – APPEALS:

13. Further clarity is required on how the Appeals Boards will be constituted in keeping with other Parts of the General Scheme.

PARTS 9 – 12 - AMENDMENTS TO LEGISLATION PROVIDING THE VARIOUS CLASSES OF HEIs:

14. In respect of the membership of HEI governing boards/authorities, further clarification is required regarding:
   - the number and proportion of external members to HEI governing board,
   - the competency-frameworks to be used for selection,
   - the impact on accountability and responsibility on internal members of governing boards due to the increase in the proportion of external members
15. Increase the proposed overall number of governing board members in recognition of the complexity and diversity of individual HEIs.
16. Ensure staff representation on HEI governing authorities.
17. Remove the limit of 70 on Academic Councils
CHAPTER 1 – INTRODUCTION

INTRODUCTION

The Government approved drafting of the Higher Education Authority Bill 2020 in May 2020. A General Scheme of the Bill was subsequently referred to the Oireachtas Joint Committee on Education, Further and Higher Education, Research, Innovation and Science (‘the Committee’) for the purpose of Pre-legislative scrutiny (PLS) in line with Dáil Standing Order 173.3

The Joint Committee on EFHERIS (“the Committee”) agreed to undertake PLS in May 2021, with written submissions requested by by 14 June 2021 and a series of Committee meetings beginning in July 2021.

CONTEXT

The General Scheme of the Higher Education Authority Bill 2021 seeks to revoke the existing Higher Education Authority Bill 1971, now over 50 years old. The General Scheme also seeks to introduce a range of reforms which respond to the transformed landscape in which higher education currently operates including, among other things, the significant increase in the student population at higher level; the diversity of education programmes offered which in turn reflect the changing social and economic environment of contemporary times; the expansion of higher education institutions; and the strategic plans for the future of higher education.

RESEARCH SCOPE

The purpose of this report is to assess the General Scheme in the light of the policy context for the provisions, and analysis and assessment of the policy areas most relevant to its provisions. This report will not cover every Head in the General Scheme, given the size and breadth of the General Scheme. Rather, it will focus on

3 Standing Order 173(1) states: “Prior to its presentation or introduction to the Dáil, the general scheme or draft heads of a Bill shall be given by a member of the Government or Minister of State to the Committee empowered under Standing Order 95 to consider Bills published by the member of the Government”, Houses of the Oireachtas (2020) Dáil Standing Order relative to public business 2020”, Dublin: Houses of the Oireachtas. Available here. The corresponding order for the Seanad is Standing Order 143, available here.
the most important areas as identified by the submissions received by the Committee and the oral evidence heard.
CHAPTER 2 – BACKGROUND TO THE GENERAL SCHEME OF THE BILL

On 6 May 2021, the General Scheme of the Higher Education Authority Bill 2021 was published by Mr. Simon Harris, T.D., the Minister for Further and Higher Education, Research, Innovation and Science (FHERIS). The General Scheme, and the resulting Bill, seek to reform and modernise the Higher Education Sector. The following are set out as the main objectives of the draft legislation:

- promote and support HEIs in achieving excellence in teaching, learning and research in higher education;
- promote and safeguard the interests of students;
- advance equality, diversity and inclusion in higher education;
- provide a comprehensive governance and accountability framework to safeguard Exchequer investment in the sector and ensure accountability by HEIs for that funding;
- maximise the contributions of higher education to social, economic, cultural and environmental development and sustainability; and,
- maintain and enhance the reputation of the higher education sector, including international reputation.

Minister Harris stated at the time of publication:

“The Higher Education Authority (HEA) has played a crucial and excellent role in funding and regulating the sector for the past 50 years, but the country has changed dramatically in that time and that’s why this Act is so welcome and necessary” and that “[w]e owe it to present and future generations to provide an education system that will give them the tools they need to compete in a world of work which is increasingly impacted by digitalisation, automation and artificial intelligence. I firmly believe this Act will help deliver on that promise”

4 “Minister Harris published new legislation aimed at reforming and modernising governance of the Higher Education sector”, Department of Further and Higher Education, Research, Innovation and Science Press Release, (06/05/2021), Gov.ie.
In addition, at the time of the General Scheme’s publication, Dr. Alan Wall, Chief Executive of the Higher Education Authority, stated:

“We welcome this significant step towards reform of the Higher Education Authority Act to ensure that we have an agile, responsive and accountable higher education and research system. A modern legislative framework that recognises and underpins the inherent value of the system is now required. New legislation will support the performance of a system that has transformed, grown and evolved, in particular over the past two decades. The State invests considerable resources into our system and needs to be assured that it and our students are getting the best possible return on that investment. Our institutions require a balance between autonomy and accountability, if they are to continue to innovate and to respond to national challenges and needs.”

The expected outputs following enactment of the Bill, based on the provisions set out in the General Scheme, are the following:

- strengthened powers for the Higher Education Authority including performance frameworks for state-funded Higher Education Institutions;
- the HEA to set conditions for funding third level institutions and the application of remedial measures if there is non-compliance;
- strong internal governance of universities, technological universities and institutes of technology by reforming the size and composition of their governing bodies;
- a Higher Education strategy to be published every five to seven years;
- safeguarding the autonomy of Higher Education Institutions; and,
- No changes to the current legislative provisions related to academic freedom.

**POLICY CONTEXT**

The General Scheme of the Higher Education Authority Bill 2021 comprises 115 Heads across 15 Parts and includes two schedules. The General Scheme, as a draft Bill, proposes, among other things, to revoke the Higher Education Authority Act 1971.
The Higher Education Authority Act 1971 is over 50 years old this year and has been amended over the years as the higher education environment has changed radically from that set out in 1971. Amendments to the Act of 1971 include those made as part of the following:

- National Council for Educational Awards Act, 1979
- Thomond College of Education, Limerick, Act, 1980
- Institute of Technologies Act, 2006
- Qualifications and Quality Assurance (Education and Training) Act 2012
- Technological Universities Act 2018

HIGHER EDUCATION AUTHORITY

As noted, the General Scheme seeks to revoke Higher Education Authority Act 1971. It also, in view of the significantly changed for higher education and Irish society since 1971, sets out a range of reforms for the higher education sector under the ambit of the Higher Education Authority (HEA).

The HEA was established on foot of the enactment of 1971 Act. As it stands, the HEA has a statutory responsibility, in lieu of central government, for the governance and regulation of higher education institutions (HEI) and the higher education system (HES) in the State.

The HEA has to date proceeded to ensure the following principles guide their oversight and regulation of higher education and the constituent HEIs:

- Having due regard to institutional autonomy and academic freedom;
- That institutional strategies are aligned with national strategic objectives; and
- That agreed objectives, which are agree in ‘compacts' with institutions, are delivered through performance-management at institutional and system-wide levels.
The current objectives, noted in the last bullet point above, include:

- Enhancing teaching and learning in the HES;
- Promoting equity of access to higher education;
- Enhancement of HES responsiveness to the needs of wider society;
- Building research capacity; and,
- The internationalisation of Irish higher education.

To support its core mandate, the HEA also currently exercises functions in respect of the following:

- Funding;
- Accountability;
- The quality of outcomes;
- Policy research and advice to the Minister;
- Data analytics and knowledge management;
- Advocacy and communicating in respect of higher education; and,
- Co-ordination of interaction between public bodies and the HEIs.

As a Statutory Body, the HEA is accountable to the Minister for Further and Higher Education, Research, Innovation and Science. From the Department perspective, the HEA is an intermediary body between the Government and HES. In addition to its oversight role the HEA also provides policy advice to the Minister.

The nature of the relationship between the HEA with the Minister (and her/his Department) is governed through a Service Level Agreement, which is typically updated annually.

The main functions and the relevant legislation pertaining to the HEA are set out in Table 1 below.
The current objectives, noted in the last bullet point above, include:

- Enhancing teaching and learning in the HEIs;
- Promoting equity of access to higher education;
- Enhancement of HEIs responsiveness to the needs of wider society;
- Building research capacity;
- and,
- the internationalisation of Irish higher education.

To support its core mandate, the HEA also currently exercises functions in respect of:

- Funding;
- Accountability;
- The quality of outcomes;
- Policy research and advice to the Minister;
- Data analytics and knowledge management;
- Advocacy and communicating in respect of higher education; and,
- Co-ordination of interaction between public bodies and the HEIs.

As a Statutory Body, the HEA is accountable to the Minister for Further and Higher Education, Research, Innovation and Science. From the Department perspective, the HEA is an intermediary body between the Government and HEIs. In addition to its oversight role, the HEA also provides policy advice to the Minister. The nature of the relationship between the HEA with the Minister (and her/his Department) is governed through a Service Level Agreement, which is typically updated annually.

The main functions and the relevant legislation pertaining to the HEA are set out in Table 1 below.

### Table 1: HEA key functions and relevant legislative source

<table>
<thead>
<tr>
<th>Key function</th>
<th>Relevant Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>To allocate moneys provide by the Oireachtas to publicly funded institutions</td>
<td>Higher Education Authority Act 1971</td>
</tr>
<tr>
<td>To assist in the co-ordination of State investment in higher education and the preparation of proposals for such investment</td>
<td>Higher Education Authority Act 1971</td>
</tr>
<tr>
<td>To further the development of higher education</td>
<td>Higher Education Authority Act 1971</td>
</tr>
<tr>
<td>To promote the attainment of equality of opportunity in higher education</td>
<td>Higher Education Authority Act 1971</td>
</tr>
<tr>
<td>To promote the democratisation of structure in higher education</td>
<td>Higher Education Authority Act 1971</td>
</tr>
<tr>
<td>To conduct reviews of the strategic plans, equality policies and the quality assurance procedures of the universities, and to publish the reports of such reviews</td>
<td>Universities Act 1997</td>
</tr>
<tr>
<td>To promote the attainment and maintenance of excellence in learning, teaching and research in higher education</td>
<td>Institutes of Technology Act 2006</td>
</tr>
</tbody>
</table>

Source: L&RS adapted from HEA Webpage on functions and legislation

**HEA, GOVERNANCE AND THE HEIs**

The HEA currently exercises its governance and regulation mandate through what it terms a ‘multi-stakeholder environment’. This includes the Department of FHERIS, the HEIs and the Office of the Comptroller and Auditor General. An overview of the respective roles and responsibilities of these actors is set out in the Figure 1 below. Figure 1 below therefore shows the current - pre enactment of the Higher Education
Authority Bill 2021 - governance and accountability paths between the Government Department, HEA, HEIs and the Comptroller and Auditor General.

*Figure 1: Roles and responsibilities in the governance of higher education in Ireland*

Source: Governance Framework for the Higher Education Sys. | Funding, Governance and Performance | Higher Education Authority (hea.ie)

*Figure 2* below provides more detail on the above and shows the governance framework’s - as it currently stands - key mechanisms through which the HEA seeks to assure good governance and accountability across the higher education system.
There are currently six central strands of the governance relationship between the HEA and HEIs. These are summarised in part below.

**STRATEGIC DIALOGUE PROCESS AND PERFORMANCE CONTRACTS**

The HEA’s mandate includes the responsibility to create a well-coordinated system of higher education institutions that can deliver on national objectives set for the system by the Minister for FHERIS. This requires the HEA to:

- focus on outputs and the performance of each HEI, and the system as a whole;
- negotiate a contract with each HEI reflecting its distinct mission;
- monitor performance against agreed deliverables; and,
- provide funding based on performance.
Performance against the contracts is monitored through a scheme of annual reporting and a strategic dialogue process, that is where the HEA engages with each HEI to review performance and confirm appropriate ongoing governance and accountability of the public funding distributed to the respective HEIs.

**ANNUAL GOVERNANCE REPORTING**

All HEIs are required to submit an Annual Governance Statement and Statement of Internal Control to the HEA based on a template covering a comprehensive list of governance requirements. Non-compliance in any relevant matter is to be identified within these statements. This places a responsibility on the relevant HEI’s Governing Body to effectively scrutinise the information that forms the basis of the Governance Statement. At present, the annual governance statement must be submitted to the HEA within 6 months of completion of the financial year. In addition, HEIs are expected to communicate all major governance issues to the HEA on an ongoing basis.

**EMPLOYMENT CONTROL FRAMEWORK AND OTHER HR REPORTING**

HEIs are required to report on a quarterly basis to the HEA on core and non-core staffing in line with the principles set out in a Employment Control Framework. HEIs are required to seek ‘case-by-case’ HEA approval for re-engagement of retired staff under the conditions set out in the ECF, and Universities are also required to report twice a year on any appointments made under the Departures Framework at levels of remuneration beyond established salary scales. Any other requests relating to staffing outside the terms of the ECF (e.g. rebalancing of grading structure, regrading of positions) requires sanction from the Department of FHERIS and the Department of Public Expenditure and Reform.

**ANNUAL ACCOUNTS AND STATEMENTS OF INTERNAL CONTROL**

Each HEI is currently required to have draft accounts and statements on systems of internal control, in the format specified by the HEA, ready for review and certification by the Comptroller and Auditor General (C&AG) within a specified period of the end of each financial year. The C&AG report will identify any areas of non-compliance with governance, regulatory or financial requirements, including any issues around
the institution as a going concern. Once the accounts are certified by the C&AG, each HEI must submit them to the HEA and the Department within one month to allow their presentation to the Oireachtas within three months of certification. The HEA will request written clarification from the relevant HEI on any issues identified within the C&AG’s certification of the accounts.

**FINANCIAL REPORTING**

The ongoing responsibilities and arrangements between the HEA and HEIs are set out in a financial memorandum which is signed by each institution on an annual basis. These include:

- Agreement on budgets and financial plans,
- Provision of required Recurrent Grant Allocation Model (RGAM) returns,
- Compliance with public pay policy,
- Adherence to the borrowing and departures frameworks (if applicable),
- Compliance with public sector capital expenditure requirements,
- Compliance with public sector procurement requirements,
- Compliance with the process for land purchases (IoTs only).

Under Section 37 (5) of the *Universities Act*, universities are required to provide a formal written declaration of a deficit expected to occur within the current calendar year. A formal HEA policy is in place regarding the interventions required when an Institute of Technology acquires this ‘vulnerable’ status. While the diversity of the funding base and differences in legislation means that no equivalent formal policy is in place for Universities and specialist colleges, the minimum requirement for any HEI considered financially ‘vulnerable’ by the HEA is as follows: that it must supply the HEA with a detailed 3 year financial plan demonstrating how it will move back into surplus and ensure ongoing sustainability within this period.
ROLLING GOVERNANCE REVIEWS

The HEA carries out a series of rolling reviews of corporate governance compliance with relevant Codes of Practice across the higher education sector.

PROGRAMME FOR GOVERNMENT

The Programme for Government, “Our Shared Future”, makes the following commitments about higher education, which serve to inform the scope and aims of the General Scheme:5

- Develop a long-term sustainable funding model for higher-level education, in collaboration with the sector and informed by recent and ongoing research and analysis;
- Continue to reform the way our Higher Education Institutions (HEIs) operate through their relationship with the Higher Education Authority (HEA), by enhancing performance, financial management, governance, and transparency;
- Utilise the system performance framework to drive accountability and improvements in our Higher Education sector;
- Commit to continuing and expanding the important initiatives in the Gender Action Plan towards tackling gender inequality in our education sector. In particular, we will implement the Senior Academic Leadership Initiative;
- Review and update the International Education strategy for Ireland, recognising the importance of overseas students and academics to our higher education sector; and,
- Work with all HEIs to develop partnerships throughout the EU to increase access to Horizon 2020 funding and to increase Irish participation in Erasmus+ programmes.

On foot of the above commitments, higher and further education functions of the Department of Education were transferred into a new government department which also took on government responsibility for the research, innovation and science roles held across various government departments. The Department of Further and Higher

---

5 gov.ie - Programme for Government: Our Shared Future (www.gov.ie)
Education, Science, Research and Innovation (DFHERIS) was established in Summer 2020.

The DFHERIS also became the lead department for the HEA. The Department’s central remit is to create policy for the higher and further education and research sectors. It also has responsibility to support and encourage the State’s social and economic development.

NATIONAL STRATEGY FOR FOR HIGHER EDUCATION TO 2030

The vision set out for higher education under the National Strategy is:6

“…Higher education will play a central role in making Ireland a country recognised for innovation, competitive enterprise and continuing academic excellence, and an attractive place to live and work with a high quality of life, cultural vibrancy and inclusive social structures. At its heart, however, it will still be about people and ideas: higher education institutions will have a strong engagement with individual students, communities, society and enterprise, will give students a sense of Irish place and identity, and will equip them with the skills to play a strong part on the world stage; they will be the source of new ideas through excellent research.”

In addition, the Strategy (dated 2011), also makes the following observations of relevance:7

- That new contractual relationships or service level agreement between the State and the higher education institutions should be established with the aim of ensuring performance, autonomy and accountability are aligned. The Strategy suggests that through this process, institutional strategies will be defined and aligned with national priorities,
- Cross-government structures will be used to develop the national priorities for higher education and to oversee their implementation,

---

7 This text is paraphrased from the National Strategy for Higher Education to 2030, p. 14.
• A reformed HEA should have responsibility, on behalf of Government, for engaging with institutions to enable them collectively to meet the national priorities, avoiding duplication,
• This process is to be supported through the collection of full, transparent and comparative data across the system which will form the basis for engagement with the institutions; and
• The new roles and relationships will require enhanced institutional capacity for system oversight, leadership and institutional governance. This will involve changes in the size and composition of the HEA Board and of its executive structures, and in the size and composition of the governance structures of the individual higher education institutions.

What is set out in the National Strategy has been incorporated into many parts of the General Scheme of the Higher Education Authority Bill 2021, particularly in respect to governance, performance, relationships, data and alignments with national strategy and policies.

REFORM OF HIGHER EDUCATION AND THE HEA UNDER THE DFHERIS

This section provides a brief overview of the reform process begun under previous governments with respect to higher education.

One of the key aims of the Department of FHERIS is to progress the earlier work carried out by the Department of Education regarding the reform of the legislative framework for higher education. The reform centres on several key issues.

Firstly, the higher education sector has changed significantly since the HEA legislation was enacted in 1971. At the time, it is estimated that there were approximately 20,000 students in higher education. This has increased to over 200,000 students with increases projected in future years. The HEA, as constituted following the 1971 Act, is now responsible for a transformed, more extensive and diverse higher education sector. For example, in 1971 the HEA had regulatory responsibility for five universities, and this has increased dramatically over the decades to include additional universities, Institutes of Technology and the new Technological Universities.
However, its legal powers have not changed. By necessity, it has undertaken its work through *implied* legal powers rather than those set out explicitly in the 1971 Act. In this regard, through its service level agreements with its parent Department and other bodies including the HEI sector specific legislation (Universities Act 1997, Institutes of Technology Act 2006 etc.). The HEA has gradually operated under specific mechanisms which are not explicitly provided for in legislation to discharge its role.

Together with the need for an updated legal framework to reflect the current and future needs of higher education, the need for updated legislation is also linked to the role that the HES has in economic and social development through the development of skills, research and innovation. This requires a clear statutory framework for the relationship between the HEA, the HEIs and the Department of FHERIS.

In July 2019, the previous government agreed to the reform of the HEA legislation. The core objectives of the legislative reform are to:

- promote and support HEIs in achieving excellence in teaching, learning and research in higher education;
- promote and safeguard the interests of students;
- advance equality, diversity and inclusion in higher education;
- provide a comprehensive governance and accountability framework to safeguard Exchequer investment in the sector and ensure accountability by HEIs for that funding;
- maximise the contributions of higher education to social, economic, cultural and environmental development and sustainability; and
- maintain and enhance the reputation of the higher education sector, including international reputation.

It should be noted that DFHERIS, and its predecessor Department of Education, has undertaken a significant consultation process in respect of updating the HEA legislation. The main phases of the consultation process to date are set out below:
July 2018 - written consultation process where key stakeholders in the HES submitted their views on a number of key questions related to the key functions of the HEA, the role of the Minister, international models of regulation, the areas for inclusion in the new Act and how the HEA should monitor compliance within the HES.

November 2018 – Minister of State hosted consultations with stakeholders on the proposed approach to the updating of the Higher Education Authority Act 1971.

September 2019 - The views of stakeholders were sought on the report “Legislative Reform, Higher Education Authority Act, 1971 – Consultation Report and Response of the Department of Education and Skills” and the “Outline of the Legislative Proposals for the reform of the Higher Education Act, 1971”.


HIGHER EDUCATION SECTOR REGULATED BY THE HEA

At present, the HEA has regulatory and oversight responsibility under the current legislation for the following classes of HEIs: Universities (including Technological Universities), Institutes of Technology and some ‘other’ colleges.

Table 2 below shows the relevant HEI and the respective funding allocation made by the HEA in 2019:
### Table 2: HEIs funded by the HEA and funding allocation in 2019

<table>
<thead>
<tr>
<th>HEI</th>
<th>HEA Funding 2019 €m(^8)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Universities</strong></td>
<td></td>
</tr>
<tr>
<td>Dublin City University</td>
<td>87.98</td>
</tr>
<tr>
<td>University College Cork</td>
<td>108.12</td>
</tr>
<tr>
<td>NUI Galway</td>
<td>90.30</td>
</tr>
<tr>
<td>Maynooth University</td>
<td>62.55</td>
</tr>
<tr>
<td>Trinity College Dublin</td>
<td>98.69</td>
</tr>
<tr>
<td>University College Dublin</td>
<td>124.64</td>
</tr>
<tr>
<td>University of Limerick</td>
<td>86.06</td>
</tr>
<tr>
<td>RCSI University of Medicine and Health Sciences</td>
<td>4.76</td>
</tr>
<tr>
<td>TU Dublin(^9)</td>
<td>115.71</td>
</tr>
<tr>
<td><strong>Institutes of Technology</strong></td>
<td></td>
</tr>
<tr>
<td>Athlone Institute of Technology</td>
<td>29.93</td>
</tr>
<tr>
<td>Cork Institute of Technology</td>
<td>64.27</td>
</tr>
<tr>
<td>Dun Laoghaire Institute of Art and Design</td>
<td>12.58</td>
</tr>
<tr>
<td>Dundalk Institute of Technology</td>
<td>26.91</td>
</tr>
<tr>
<td>Galway-Mayo Institute of Technology</td>
<td>40.44</td>
</tr>
<tr>
<td>Institute of Technology Carlow</td>
<td>28.28</td>
</tr>
</tbody>
</table>

\(^8\) The funding amount for TU Dublin refers to 2018.

\(^9\) The funding amount is combined amount for 2019, as per the HEA webpage detail on funding for TU Dublin, for the Dublin Institute of Technology and the Institute of Technology Blanchardstown. The funding data for the Institute of Technology Tallaght in 2019 was not available on the HEA at the time of writing.
<table>
<thead>
<tr>
<th>Institution</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institute of Technology Sligo</td>
<td>30.80</td>
</tr>
<tr>
<td>Institute of Technology Tralee</td>
<td>21.31</td>
</tr>
<tr>
<td>Letterkenny Institute of Technology</td>
<td>21.61</td>
</tr>
<tr>
<td>Limerick Institute of Technology</td>
<td>37.58</td>
</tr>
<tr>
<td>Waterford Institute of Technology</td>
<td>42.84</td>
</tr>
<tr>
<td><strong>Other Colleges</strong></td>
<td></td>
</tr>
<tr>
<td>Royal Irish Academy</td>
<td>3.3</td>
</tr>
<tr>
<td>St. Angela’s College, Sligo</td>
<td>6.51</td>
</tr>
<tr>
<td>National College of Art &amp; Design</td>
<td>13.13</td>
</tr>
<tr>
<td>Mary Immaculate College</td>
<td>22.63</td>
</tr>
</tbody>
</table>

*Source: L&RS, adapted from HEA funding data published on its website.*
CHAPTER 3 – OVERVIEW AND ASSESSMENT OF THE GENERAL SCHEME

The General Scheme of the Higher Education Authority Bill is comprised of 13 parts, which in turn account for 115 Heads. Given the size and diversity of the General Scheme, as well as the core of focus of PLS being on the policy principles of the draft Bill, the assessment below only focused on some of the key themes relevant to the Bill. The assessment and overview presented below draws on the various submissions made to the Committee and is supported where relevant from other policy literature. Over the course of the overview presented below, where applicable based on the literature and/or submissions, recommendations for the consideration by DFHERIS as part of its PLS of the General Scheme are set out.

By means of summary, the General Scheme although named as the Higher Education Authority Bill deals in practice with the HEA, as well as reforms to the higher education sector, which in turn impacts on HEIs.

The key policy aspects the General Scheme provides for are the following:

1. Providing a legal framework for the continued operation, organisation, governance, functions, leadership and staff, and roles and relationships of the HEA, including the relationship between the HEA and the Minister for FHERIS;
2. Providing a strategic framework for the development and funding of the higher education sector, including setting down conditions for such funding;
3. Promoting greater student engagement;
4. Providing for enhanced focus on equality of participation in higher education by traditionally underrepresented social groups and facilitating smoother processes of access, transfer of progression across education levels;
5. Providing for improved and regulated data sharing by HEIs to the HEA;
6. Enhancing and formalising the role of the HEA in promoting and funding research emanating from HEIs and ensuring the integrity of research and its outputs;
7. Providing for designation of higher education providers as “designated institutions of higher education”, which is accompanied by set of qualification and performance conditions, and that can expand to additional designations of higher education providers currently not designated;

8. Formalising the oversight of the HEA in respect of “designated institutions of higher education” and, introducing a co-regulatory model where HEI’s retain primary responsibility for governance but within a performance frame which includes accountability to, and monitoring by the HEA;

9. By amending the existing legislation providing for the existing HEIs regulated by the HEA, the General Scheme of the Bill seeks to reduce the size and composition of HEI’s current governing bodies, while increasing the proportion of external members in the composition of governing bodies. Membership of governing bodies is planned to be mainly competency-based.

Each of these policy issues is treated below under the relevant part of the General Scheme.

RECOMMENDATIONS ON OVERVIEW AND ASSESSMENT OF THE GENERAL SCHEME

1. It is widely recognised that legislative reform will be of limited value unless it is accompanied by a sustainable funding model. 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 HEIs to fulfil their responsibilities under the legislation and their performance goals agreed with the HEA.

2. Provide greater clarity on how institutional autonomy will be maintained and continue to allow for the differentiation of mission by HEIs.

PART 1 – PRELIMINARY AND GENERAL (HEADS 1-6)

The above Heads are standard provisions. However, under Head 2, interpretation, a few submissions pointed to the lack of clear definitions for some terms used through the General Scheme. The main issues arise in respect the use of “disadvantaged”. In some parts of the General Scheme reference is made disadvantaged persons,
disadvantaged groups, educational disadvantage, and economically and socially disadvantaged. Some submissions suggested that consistency in the usage of the terms was important and that the term alone “disadvantaged” carried connotations of stigma and stereotyping. It was suggested that the consistent use of one term, including its definition, would provide clarity. Suggestions made included “socially and economically disadvantaged persons and groups” and/or “traditionally underrepresented persons and groups”.

RECOMMENDATIONS FOR PART 1 – PRELIMINARY AND GENERAL:
DEFINING “DISADVANTAGE”

3. Given the strong focus in the General Scheme on improving equity and access to higher education, terminology used to refer to “disadvantaged” learners, persons or groups should be consistent throughout. There would be merit in using Head 2 (Interpretation) to clarify the use of the term chosen while also expanding the term “disadvantaged” to reference social and economic disadvantage and/or those groups and persons “traditionally underrepresented” in the context of higher education.

PART 2 – THE HIGHER EDUCATION AUTHORITY (HEADS 7 TO 35)

This Part of the General Scheme is expansive and provides chapters which deal in turn with functions of the HEA, Ministerial powers, HEA Board and its Committees, HEA co-operation with other bodies, the role of the HEA’s Chief Executive Officer and staff and superannuation.

There was a considerable volume of commentary in the submissions on various aspects of this part of the General Scheme, many of which referred in general terms to provisions applying to the HEA. Some of these points have resonance across one or several of the Heads, while others cannot easily be associated with one Head or another.

However, in respect of Head 8 (Objects), it was questioned why the promotion of the Irish Language was not included in the objects set out for the HEA. It is observed
that Section 4 of the 1971 Act refers to restoring the Irish language as one of general duties of the HEA with respect to ‘national aims’. In this regard, it should be noted that the current student population is very diverse ethnically and any emphasis on the Irish language in the aims or objects of the HEA would have to take this into consideration.

Under Head 8, it was noted in the submissions that no clear reference is made to industry, which it was contended does not therefore appropriately acknowledge its existing and important role in partnership with the higher education sector. In addition, it was also suggested that there would be merit including measures that would support equality, diversity and inclusion in higher education.

Across the Heads comprising this Part, it was suggested that additional clarity is required to make clear the distinction in the power, roles and responsibilities of the Minister and Department and the HEA. This issue was also noted in the Committee’s PLS hearings on the General Scheme. On 13 July 2021, Annette Dolan, Deputy General Secretary, Teachers Union of Ireland (TUI) stated:

“There is has to be a clearly differentiated role between the Department of Further and Higher Education, Research, Innovation and Science and that of the HEA. This is not clear anywhere in the Bill and that needs to much stronger.”

Similarly, on 6 July 2021, Dr. Joseph Ryan, CEO, Technological Higher Education Association (THEA) in his opening statement stated:

“There is the danger of perceiving the HEA as an extension of the Department of Further and Higher Education, Research, Innovation and Science. It would be advisable to have that relationship carefully documented within the scheme. One of the central considerations in the initial discussion about this renewed legislation centred on the independence of the HEA. It is the view of THEA that the system is best served by a strong and independent authority.”
At the same hearing, Mr Jim Miley, Director General, Irish Universities Association (IUA), stated:

“The Senator asked about the balance of the relationship between the HEA and the Department of Further and Higher Education, Research, Innovation and Science. The HEA should have the oversight and advocacy role. The primary role of the Department is to source the funding and set policy for Government. That is the differentiation I would see. On the balance between the regulatory and advocacy approach, it is important that the HEA retains a strong advocacy role in keeping with other sectors where the sectoral State agency would have that advocacy role, be that on the business side or elsewhere. It is very important it retains that. That needs to be upweighted in the sector.”

On 20 July 2021, Ms. Tanya Kenny, Principal Officer, Department of FHERIS stated:

“[The HEA] will be implementing policy. The Minister will be setting the policy and can issue guidelines around that. The HEA then can provide information and reports and advise the Minister to inform policy. The Minister then provides the funding to the HEA and will approve the HEA corporate plan and annual plan but that is aligned with the priorities of the Department. The Minister will also prepare the strategy for higher education and the HEA will develop the funding framework for the allocation of the funding. The Minister will also approve the equity of access and participation plan. Those are the key elements. It is really about the strategy and the policy with the HEA then implementing that policy.”

Head 17 provides for the membership of the Board of the HEA. It was noted in the submissions that competency-based appointments are cited in respect of the governing bodies of HEIs, and it was queried why the same approach is not clearly stated in respect of the membership of the HEA’s board. It was also noted that there was no mention of staff representation on the Board of the HEA.
Head 22 requires the HEA to prepare a corporate plan at three yearly intervals. The Head also outlines the indicated structure, related processes and who should and may be consulted with. In some submissions, it was suggested that HEIs should be explicitly named as bodies that should or may be consulted with in the HEA’s preparation of its corporate plan. Moreover, it was suggested that the Corporate Plan of the HEA, its preparation and ultimate implementation, would benefit from greater consideration of the funding to be made available and the need for flexibility in respect of expenditure below identified budget ceilings.

Head 23 provides that the HEA will submit an annual plan in respect of discharging its functions within 28 days of receipt of its financial allocation. Head 23 also outlines what such an annual plan should include. From some of the submissions made, it was suggested the content of the annual plan would benefit from referring to the need to consider risk planning on the part of the HEA following dialogue with the HEIs.

**RECOMMENDATIONS FOR PART 2 – HIGHER EDUCATION AUTHORITY**

4. In line with the Act of 1971, consideration under Head 8 (Objects) should be given to the following:
   - The HEA’s role in 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;
   - Acknowledging the role industry plays with higher education
   - Expanding the reference to equality, diversity and inclusion to include measures such as universal design.

5. The HEA’s role in promoting North-South cross jurisdiction collaboration, cooperation, and student mobility.

6. There is a need to clarify the distinct boundaries of responsibilities and powers between the Minister and HEA that will ensure a strong and independent HEA. This would involve drawing up a competency-based model as the basis for appointments to the Board of the HEA, in a
PART 3 – HIGHER EDUCATION SECTOR (HEADS 36 TO 42)

STRATEGY FOR HIGHER EDUCATION

Head 36 provides for the preparation of a “Strategy for Higher Education” by the Minister. Some of the submissions noted, that given the importance of research in the higher education sector, and the remit of the Department of FHERIS, this Head should make a reference to research in its text.

In addition, under Head 36, it was noted there is no mention of consultation with the HEA, HEIs and students: it is suggested that consultation be considered for inclusion in the text and reference be made to named stakeholders, as seen in Head 37, which provides for the “Planning for higher education provision”. This it was suggested would ensure a more transparent planning process for HEIs, students and other stakeholders.

The timeline set out for the strategy of higher education in the Head is five to seven years, with a review set at four years. Some submissions queried how appropriate this period was in the context of the rapidly changing research environment in respect of STEM areas and related industry developments.

In respect of Head 37, the process of effective planning is seen to require appropriate resourcing, thus some of the submissions questioned if resources would be provided for such planning. Submissions also called for the Head to consider how it might ensure that the planning process could be made clear and transparent with respect to provisions of HEIs and overall student places.

PERFORMANCE FRAMEWORK

Under Head 38, the Minister for FHERIS is required to develop a performance framework for the higher education sector at least every four years. A number of
submissions noted the experience in other jurisdictions, notably the UK, where such performance frameworks have led by intent or otherwise to ‘league tables’ of HEIs. These submissions suggested that this should be avoided to offset potential social and educational divisions emerging within the sector and suggested that the Head explicitly address this issue. In addition, it was observed in the submissions that HEIs are diverse as to their history, context, ethos and geographic (multi-campus) location(s). It was suggested that there would be merit in Head 38 taking into consideration the diversity of HEIs in the preparation of the Performance Framework for higher education.

The Performance Framework was also discussed at the Committee’s PLS hearings. On 20 July 2021, Mr. Tim Conlon, Head of Policy & Strategic Planning, HEA stated:

“From a HEA perspective, it is something of that balance between the national policy agenda, and...what is important locally. When setting out the strategy, they [HEIs] must demonstrate how they are responding to national priorities. They are most aware of what is the requirement locally and what is happening there, and so there is a balance in accountability and autonomy that will allow them to be free enough to respond to local needs.”

On 13 July 2021, Ms. Annette Dolan, Assistant General Secretary, (TUI) stated:

“Significant additional funding is required for HEIs as there has been major underinvestment in higher education for a considerable period. What is proposed is a very competitive, performance-based model which can be restrictive and limit innovation. The TUI supports and advocates for a publicly funded higher education sector. Increased investment is required in order to maintain academic quality and standards and the student experience. Performance indicators can assist with system accountability and transparency. However, there must be clarity of purpose and precise criteria used for measurement. In addition, consideration needs to be provided for regional provision, demographics and diversity.”
Several submissions also observed that the indicators of performance in Head 38 should be broadened from material or output only indicators to facilitate “inclusive reporting”, which would reflect part of the purpose of higher education and the aims of the General Scheme.

**MAKING GRANTS TO HEIs**

Head 39 provides for the making of grants to HEIs, designated or not designated. However, under the Head (2)(d) reference is made to competitive selection processes in the allocation of grants to HEIs, some of the observations made queried whether this might have effect of limiting innovation and leading to homogeneity across HEIs.

**COMPLIANCE WITH FUNDING CONDITIONS**

Head 40 provides for the conditions of funding to be provided under Head 39. This Head would benefit, in addition to the current draft conditions, by the addition of reference to timelines which would make the Head more robust.

Head 42 provides for the compliance by HEIs with the conditions of funding set down the HEA under Head 39. Several submissions commented that there was no reference to the right to appeal or an appeals process in relation to Head 42. Although Part 8 of the General Scheme provides for appeals, it was suggested that it was not clear that the appeals referred to Head 42. It was suggested therefore the more detail should be set out in the Head as to the basis of decision making on compliance with funding issues and the remedial measures expanded on to increase clarity and transparency in the process.

**RECOMMENDATIONS FOR PART 3 – HIGHER EDUCATION SECTOR**

18. Given the pace of change in technological sectors, the period of 5-7 years for which a strategy for higher education is applied should be reconsidered with a view to shortening the time period.

19. The performance framework provided for in Head 38 needs to account for the diverse history, context and ethos of different HEIs and go beyond material only indicators to encompass “inclusive reporting”. 
20. In respect of Head 39 (Grants by the HEA), competitive selection processes between HEIs should be designed to ensure innovation is actively encouraged.

21. In respect of Head 40 (Conditions of funding), further clarity is required on what timelines apply.

22. In respect of Head 42 (Compliance with conditions of funding), there needs to be a very specific appeals process which is clear and transparent.

**PART 4 – STUDENTS (HEADS 43 TO 45)**

Part 4 of the General Scheme is dedicated to students. Submissions from a broad range of stakeholders made observations on one or more of the Heads in this Part. Several submissions were positive about the emphasis placed on students through the promotion of engagement with students, the planned student forum and the putting of a student survey on a statutory footing. However, these stakeholders questioned how such efforts and bodies would be representative of the student population in its diversity and noted, in line with other priorities seen in the General Scheme, the inclusion of groups in the student body who are traditionally underrepresented in higher education. This includes the mechanisms for selection and how they might ensure appropriate representation.

Other submissions questioned what the ‘added value’ of the student forum was to the existing and proposed methods of increasing student engagement. Additional queries centred on ensuring appropriate planning, setting of clear boundaries and roles and that any new processes of student engagement would be organisationally resourced.

In respect of the student survey (Head 45), it was noted that while the text of the Head refers to only designated intuitions of higher education, the current student survey process also includes HEIs that are currently not designated under the current regulatory remit of the HEA.

Specifically, in the Committee’s hearings several witnesses made observations about students under the General Scheme.
On 13 July 2021, Ms. Annette Dolan, Deputy General Secretary, (TUI) stated that “[e]ngagement with students is important. However, engagement must be appropriate and relevant to matters of concern to students”

At the same hearing, Ms. Clare Austick, President, Union of Students of Ireland’s (USI) stated was that while welcoming the promotion of engagement with students set out in the General Scheme, she asked for more ‘operational detail’ of how the proposals would be implemented and stated the following:

“…it all comes down to engagement and ensuring effective participation, but also meaningful engagement. That means ensuring that student engagement is not a box-ticking exercise but, rather, that there is a lengthy process involving consultation and that all students and staff have their say at various points in the process, while also ensuring consideration is given to the outcomes of that process and what was discussed or suggested is carefully listened to and taken on board”.

On 6 July 2021, Mr. Jim Miley, CEO, IUA, stated:

“…the principal of student engagement is well outlined but the detail of how that would be executed in not clear in many instances. It is important to recognise that there is strong student engagement. The Deputy is asking whether this needs to be codified to a greater extent in the legislation. There are aspects where specific provision is made for student representation on governing authorities, for example, and that is as it should be. There is perhaps not as detailed a reference to their consultation role in policy setting. That is potentially an area that should be looked at in the more detailed legislation”.

RECOMMENDATIONS PART 4 – STUDENTS:

23. There is a need to identify clear principles to ensure traditional underrepresented social groups in higher education are meaningfully represented in proposed student engagement structures/processes.
24. The scope, role, functions, resourcing and outputs of the student engagement proposals need to be set out clearly with a view to ensuring they are meaningful and sustainable.

PART 5 – PARTICIPANTS AND SKILLS (HEADS 46 TO 47)

Heads 46 to 47 provides for an equity and access plan to be prepared by the HEA, the promotion of lifelong learning and access, transfer and progression of awards/accreditation. In the body of the text, while the provisions are generally welcome, especially the recognition of equity beyond access (opportunity) to include participation, some submissions suggested a wider range of bodies should be explicitly cited as those to be consulted with. These include civil society advocacy sectors (gender, youth, minorities etc), representatives of arts, industry and statutory bodies with a relevant remit such as IHREC and the Citizens Information Board etc.

It was also suggested that the text should refer to the need to ensure complementarity with other strategies, policies and plans both in and outside higher education that promote equity.

In the Committee’s PLS hearings, the issue of equity in higher education was also seen in the context of composition of governing authorities of HEIs. In this regard, on 13 July 2021, Ms. Joan Donegan, General Secretary, Irish Federation of University Teachers (IFUT) stated:

“If academics are still on…governing authorities and are not taken over by external appointees, something academics feel strongly about, that will ensure equity remains and important issue for universities”

On 6 July 2021, Dr. Joseph Ryan, CEO, THEA, suggested that the work commenced by the HEA centre for excellence on gender equality should be reflected in the Bill. At that meeting, Mr. Jim Miley, Director General (IUA), commented on the broader issues associated with equity and access in higher education:

“We must ensure that more of the children in…school who have the ability to go to third level are given the capacity to do so. There is a more complex issue around this in that primary the pathway starts in primary
The scope, role, functions, resourcing and outputs of the student engagement proposals need to be set out clearly with a view to ensuring they are meaningful and sustainable.

PART 5 – PARTICIPANTS AND SKILLS (HEADS 46 TO 47)

Heads 46 to 47 provides for an equity and access plan to be prepared by the HEA, the promotion of lifelong learning and access, transfer and progression of awards/accreditation. In the body of the text, while the provisions are generally welcome, especially the recognition of equity beyond access (opportunity) to include participation, some submissions suggested a wider range of bodies should be explicitly cited as those to be consulted with. These include civil society advocacy sectors (gender, youth, minorities etc), representatives of arts, industry and statutory bodies with a relevant remit such as IHREC and the Citizens Information Board etc. It was also suggested that the text should refer to the need to ensure complementarity with other strategies, policies and plans both in and outside higher education that promote equity.

In the Committee’s PLS hearings, the issue of equity in higher education was also seen in the context of composition of governing authorities of HEIs. In this regard, on 13 July 2021, Ms. Joan Donegan, General Secretary, Irish Federation of University Teachers (IFUT) stated: “If academics are still on…governing authoriti and are not taken over by external appointees, something academics feel strongly about, that will ensure equity remains and important issue for universities”

On 6 July 2021, Dr. Joseph Ryan, CEO, THEA, suggested that the work commenced by the HEA centre for excellence on gender equality should be reflected in the Bill. At that meeting, Mr. Jim Miley, Director General (IUA), commented on the broader issues associated with equity and access in higher education: “We must ensure that more of the children in…school who have the ability to go to third level are given the capacity to do so. There is a more complex issue around this in that regard…”

RECOMMENDATIONS FOR PART 5 – PARTICIPATION AND SKILLS:

25. Given the aims of the Head, the types of bodies that should be consulted, including named civil advocacy sectors and relevant statutory bodies with a relevant remit, should be set out by sector.

PART 6 – DATA AND RESEARCH (HEADS 48 TO 54)

Part 6 of the General Scheme provides for data and information sharing between HEIs and the HEA, and thereafter with research undertaken across the higher education sector.

Heads 48 to 51 provide for the supply and sharing of non-personal and personal information between the HEIs and the HEA. In respect of Heads 49 and 51 – supply and sharing of personal information – the submissions observed that the rationale for this in respect identifiable individuals was not clear. It was suggested that this rationale as to why this would benefit the HEA in performing its functions should be made clearer in the General Scheme. In this regard, it was suggested that consideration might be given to the introduction of an “universal ethnic identifier” which could assist the HEIs and HEAs track the progression of typically underrepresented groups in the HES. Again, a similar suggestion was made in respect of Head 48 regarding gender and disciplines to get a sense of participation across discipline areas.

Regarding research, several submissions draw attention to Head 53 “providing for arrangements” for the HEA to promote, support and fund excellent research and suggested that it was not clear how this Head will achieve its stated objective. In this regard, it was suggested that the Head provided an opportunity to put the the Irish Research Council (IRC) IRC on a statutory footing with dedicated research funding, similar to the SFI. This together with additional structures around research advisory bodies would bring the State in line with best practice in other States.
With the research priority allotted to the Department of FHERIS, some submissions queried where the boundaries lay between it and the HEA in respect of responsibilities overseeing the direction and funding research in the higher education sector.

Head 53 states that research in the higher education sector will be promoted and funded across all disciplines in accordance with national research policy. Several submissions suggested that additional text citing social, cultural and economic issues, fundamental research as well as that ‘close to market’ would increase the scope for the funding of research across all disciplines beyond narrow conceptions of priorities. In this context, several submissions observed that the higher education sector has become increasingly more technology and economic focused in its prioritisation of research.

On 6 July 2021, Dr. Joseph Ryan, CEO, THEA stated:

“The role of the HEA in research also needs to be aligned with the role of the Department in research policy. It would be beneficial for the Irish Research Council to have increased autonomy. This would allow better alignment with its mandate, putting arts, humanities and social sciences on an equal statutory footing [with for instance Science Foundation Ireland]”

At that meeting, Mr. Jim Miley, CEO, IUA, noted that the General Scheme gives little detail on the HEA’s role around research:

“As they are currently framed, the Heads are very light on the detail on research. We would like to see a much clearer and more defined role for the HEA both for funding research, which it already does through the Irish Research Council, and to have this upweighted, and with regards to the policy setting agenda particularly around research integrity and ethics, which is an area in which the HEA should have specific responsibility.”

On 20 July 2021, Ms. Tanya Kenny, Principal Officer, Department of FHERIS noted:

“It is intended that the overall research function of the Higher Education Authority will be included in the legislation. However, further consideration
is being given to the issue of appropriate statutory provisions for research, innovation and science. The Irish Research Council, as the Chairman mentioned, operates under the aegis of the HEA and further consideration will be given in the course of the drafting of the Bill to the legislative and organisation elements and arrangements for research. There will be further consideration.”

Head 53 states that research in the higher education sector will be promoted and funded across all disciplines in accordance with national research policy. Several submissions suggested that additional text citing social, cultural and economic issues, fundamental research as well as that ‘close to market’ would increase the scope for the funding of research across all disciplines beyond narrow conceptions of priorities. In this context, several submissions observed that the higher education sector has become increasingly more technology and economic focused in its prioritisation of research.

On 13 July 2021, Ms Joan Donegan, General Secretary, (IFUT) stated:

“We have seen in recent years, particularly in the last ten years, that that connection and alignment with business interests has become very competitive, marketized and linked to industry and growth. This is limiting innovation and those ideas and concepts we talked about earlier [marketisation of higher education research and the focus on applied as opposed to fundamental research]. There is a sense from academics that it can be just short-business interests which, when we look at university as a place of knowledge, takes away from primary research which should be a special as the applied research. We can see that being chipped away and we are concerned about it.”

It was also noted the HEA currently plays a wider role in research in the sector which encompasses policy advice, oversight, co-operation/collaboration as well as funding and that this Head provided an opportunity to provide a legal basis and recognition of this role. In this regard also, it was noted that the HEA’s role in research oversight was unclear, and this has led to confusion on the part of bodies funded for research.
It was suggested that the HEA’s research oversight role should be clarified under this part of the General Scheme.

On 6 July 2021, Mr. Jim Miley, CEO, (IUA) stated:

“Our investment in research is way below what it needs to be. We are a high skills economy. Look at how during Covid our tax base has held up remarkably well principally from the high skills sector that are fostered by the higher education sector which is the talent and innovation base for those Countries such as Denmark, Estonia or Finland spend around double what we spend on research”

The other aspect around the funding of research was the precarity of employment experienced by many researchers in higher education. On 13 July 2021, this issue was referred by Ms. Donegan, General Secretary (IFUT) and Ms. Austick, President, (USI).

RECOMMENDATIONS FOR PART 6 – DATA AND RESEARCH:

26. The role the HEA plays in research, including its role in policy advice, oversight, collaboration, as well as funding, needs to be set out very clearly. In this regard, there is merit in placing the Irish Research Council on a statutory footing and clarifying the roles and responsibilities between it and the HEA with respect to research in the higher education sector.

PART 7 – DESIGNATED INSTITUTIONS OF HIGHER EDUCATION (HEADS 55 TO 73)

Part 7 provides for formal designation as “designated institutions of higher education” (DIHE) those bodies currently under the regulatory remit of the HEA. It also provides for higher education institutions not coming under the remit of HEA, subject to certain processes and conditions, to apply for designated status. Part 7, among other things, also outlines the roles, duties, responsibilities and conditions associated with designated status.
Head 56 provides that higher education institutions who are not currently a DIHE may be designated as such. However, some observers sought clarification on the treatment of as a DIHE in the future and if such HEIs be required to retain the “enrolled learner protection bond” required of privately funded HEIs.

On 6 July 2021, Professor Diarmuid Hegarty, Chairperson, Higher Education Colleges Association (HECA), stated the following in respect of the time scale for designation of private colleges as an IHE:

“Referring briefly to designated institution status, the Bill should provide for interested institutions to apply for this and give a timeframe within which a decision should be made. A timeframe is essential to avoid the repetition of the inordinate delay in delegating authority to private HEIs to award degrees.”

In terms of Head 57, it was noted the detail in respect of the conditions to become a DIHE. Some submissions suggested more clarity is required as to what the principles, processes and benchmarks would be in the decision-making process on the part of the HEA. Furthermore, under this Head (57) (f) (ii) prospective HEIs if they are to be eligible to become a DIHE must not have had their approval withdrawn under section 36 of Qualifications and Quality Assurance (Education and Training) Act 2012, however the submissions noted that some of the providers who may qualify for status as a DIHE may have previously been a “linked provider”\(^\text{10}\) of a designated awarding body and any such withdrawal of approach would have been under section 39 (and not section 36) of the 2012 Act.

Head 59 provides for a review of compliance with the conditions governing designation, in this regard, the Head is not clear if this provision will apply to HEIs (Universities, Technological Universities and Institutes of Technology) currently regulated by the HEA.

\(^{10}\) A linked provider is a provider that is not a designated awarding body, but enters into an arrangement with a designated awarding body under which arrangement the provider provides a programme of education and training that satisfies all or part of the prerequisites for an award of the designated awarding body. See https://www.qqi.ie/Articles/Pages/Sector-Specific-QA-Guidelines.aspx
Under Head 64, newly DIHEs are required to prepare an equality statement. It was suggested that HEIs currently regulated by the HEA are viewed as ‘approved institutions’ for the purposes of eligibility for SUSI supports. In this regard, it was observed that clarity is required as to whether designation as an institution of higher education by the HEA will also mean that such designation will lead to SUSI approval. In respect of this Head also, it was suggested that the development of equality statements by DIHEs should be more expansive and set out detailed plans and processes with regards to different needs and circumstances of the persons and social groups the comprise those typically underrepresented in higher education. To this extent, the submissions suggested the Head include text to outlining a requirement for more detail in the equality statements of DIHEs.

GUIDELINES, CODES AND POLICIES

The General Scheme’s Head 66 provides for the HEA to develop guidelines, codes and policies for the HES comprising DIHE. It refers to several bodies, including government departments, DIHEs and their representative bodies, national student unions and other bodies deemed appropriate. The submissions suggested that the absence of trade unions on this list is an oversight as the development of such guidelines, codes and policies would more than likely require negotiation with staff groupings associated with DIHEs and as such, such staff groups would require representation by their respective trade union.

Heads 67 to 73 provide for oversight of DIHE’s by the HEA. Some submissions suggested that the specificities of designation, governance of DIHE and oversight by the HEA required additional clarity. It was also suggested that the potentially expanded role of the HEA in oversight of an increased number of DIHE, if it is to be carried out effectively, would have implications in terms of additional resources. On 20 July 2012, Mr. Tim Conlon, HEA, stated:

“This new legislation will provide greater clarity in respect of the extent and operation of the HEA’s responsibilities, those of the institutions and those of the Minister and Government. In order to deliver on these responsibilities, the HEA will need to be resourced and empowered
appropriately, for example, through an ability to recruit and deploy staff as required within agreed ceilings or budgets, rather than on a consent per post basis, as is currently the case.”

Head 66 provides the development of guidelines, codes and policies for the higher education sector by the HEA. It was questioned as to the extent to which this undermined the autonomy of the HEIs, which is provided for in other parts of the General Scheme.

RECOMMENDATIONS FOR PART 7 – DESIGNATION OF HIGHER INSTITUTES OF EDUCATION:

27. The designation process should be expanded regarding sections 36 and 39 of the Qualifications and Quality Assurance (Education and Training) Act 2012 and specifically the implications for “linked providers” and designated awarding bodies.

28. As part of the development of equality statements, all plans and processes should be equality proofed to ensure the different needs and circumstances of the persons and social groups that comprise those typically underrepresented in higher education are met.

29. Further clarity should be provided on how the HEA will be resourced to ensure the effective development and implementation of guidelines, codes and policies.

30. The legislation should state clearly how the Minister will provide direction to the HEA in the development of guidelines, codes and policies for bodies designated as institutions of higher education to ensure proper governance while retaining HEI autonomy.

PART 8 – APPEALS (HEADS 74 TO 76)

The General Scheme’s Heads 74 to 76 provides for the appeals processes and mechanism in respect of the Bill and thus the HEA’s interactions with HEIs.

Head 74 provides for the establishment of a three-person Appeals Board by the Minister on receipt of an appeal. The membership of the Appeals Boards will be from
those with an expertise in, or knowledge of, higher education and the HEA, but who cannot be associated with the HEA as a Board or staff member. In the submissions, attention was drawn to the lack of clarity on the composition of such Appeals Boards, for instance will it include members of the Department of FHERIS, HEIs, international experts etc? It is noted in this connection that other Heads of the General Scheme are comparatively detailed in terms of the composition of boards and other similar bodies.

In reference to all three Heads comprising this Part, a body of submissions noted that it is unclear what Parts and Heads of the General Scheme will be subject to appeal and suggested this required clarification in the Bill (following on from this General Scheme). For instance, some submissions suggested that on their reading of the General Scheme only appeals against actions taken in lieu of Head 68. Determination by An tÚdaráis (HEA) would seem to be eligible for appeal. Such submissions suggested reference to this Head and Heads 67 (Report to An tÚdaráis), Head 69 (Provision of Assistance), Head 72 (Appointment of an Observer), and Head 73 (Review), should also be clearly cited as subject to recourse to the appeals process under the General Scheme.

In this regard, on 6 July 2021, Mr. Jim Miley, CEO, (IUA) stated:

“There is a range of provisions under heads 67 to 76, inclusive, on regulatory oversight by the HEA, including those relating to intervention with a particular institution or a determination for action. It is critical that the trigger mechanism for such intervention is clearly defined in the legislation and that there is adequate provision for an independent appeals process in such cases.”

RECOMMENDATIONS FOR PART 8 – APPEALS:

31. Further clarity is provided on how the Appeals Boards will be constituted in a manner of detail in keeping with other Parts of the General Scheme.
PART 9 – 12 AMENDMENTS TO THE PRINCIPAL ACTS
CONCERNING HIGHER EDUCATION INSTITUTIONS

Parts 9 to 12 of the General Scheme set proposed Amendments in turn to the following Acts, each of which is the principal act for the relevant set of HEIs:

- *Universities Act 1997* (Part 9, Heads 77 to 88)
- *Technological Universities Act 2018* (Part 10, Heads 89 to 96)
- *Institute of Technology Acts 1992 to 2006* (Part 11, Heads 97 to 104)
- *National College of Art and Design Act 1971* (Part 12, Heads 105 to 110)

The amendments to each of the above Acts are similar in their intent, they provide, among other things, for the following across one or more of the current classes of HEIs regulated by the HEA:

- Reductions in the size and changes in the composition of HEI governing bodies;
- Additional functions for governing bodies;
- Limiting the membership of academic councils;
- For governing bodies to prepare strategic development plans;
- Preparation, including appropriate consultation, of equality policies;
- Role of Chief Officer and governing body in the preparation of HEI budget and related budgetary and accounting matters;
- Review and reporting mechanisms in respect of governance issues; and,
- Provision of guidelines by the HEA in respect of staffing and related budgets.

It should be noted that at the centre of the governance arrangements for the HEIs is a model of co-regulation between the HEI and the HEA. The logic of this, in summary, is to increase accountability in respect of public funding while retaining the autonomy and academic freedom of HEIs.

There was a significant number of issues raised in the submissions in respect to this Part of the General Scheme.
Head 77 seek to amend the *Universities Act 1997* to reduce the size and change the composition of university governing authorities.\(^{11}\) The rationale provided in the explanatory notes is that such proposed changes, if implemented, would ensure best practices around university governance.\(^{12}\)

The submissions made several observations in this regard. Firstly, while external membership was welcome by some stakeholders, further clarification was required on the number of such external members and the detailed mechanism for the competency-based appointment process. It was also proposed that competency-frameworks take cognisance of the existing competencies requirements set out by individual HEIs and what are the implications of increasing external membership for accountability within a HEI. Secondly, the proportion of the newly constituted governing authorities who will be external members needs clarification. Thirdly, while it is unclear from the Head what the number of members of governing authorities will be, save to say less than higher numbers currently seen in some HEIs, the numbers inferred are less than some HEIs see as practicable to account for their size, complexity and stakeholders\(^{13}\). Fourthly, given the significant number of research-only, non-teaching staff within universities, provision should be made for representation of this type of staff members on governing authorities. A related point made in the submissions was that staff members should be elected rather than selected which it is argued introduces an arbitrary nature and did not comply with transparency and representative principles. Fifthly, it was also suggested that where student representatives are appointed to governing authorities, these positions should be limited to currently elected officers of the relevant student union. Sixthly, the submissions queried whether the reduction of the number of internal members on governing authorities placed too much responsibly on a small cohort of persons with which to steer a diverse and complex organisation.

---

\(^{11}\) Some of the below will also refer to the related Heads applying to the governing structures of Technological Universities and Institutes of Technology.

\(^{12}\) DFHERIS, 2021 (p. 26), General Scheme of the Higher Education Authority Bill 2021. Available [here](#).

\(^{13}\) The required range suggested in the submissions differed depending on the class of HEIs with 17 to 26 in the case of universities, 12 to 14 in the case of Institute of Technologies, with the added caveat that some HEIs cover multiple campuses.
On 13 July 2021, Ms Joan Donegan, General Secretary, IFUT, stated:

“The Bill’s insistence that external representation should constitute a majority in the governance structures is a very negative development put forward without any coherent or sustainable justification. Higher education is different from the provision of 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. IFUT also wishes to emphasise that this part of the Bill, if enacted, will almost certainly have the possibly unintended consequence of leaving less room for representatives of employees.”

Ms. Donegan also stated the following:

“There is a concern that by reducing the number of internal participants on the governing authority that it will affect the input from the staff. Not only that, it will also create a mistrust of the governing authority because right through the Bill there are several heads referring to the need for the external membership to be higher than the internal membership and that a number of external members will be ministerial appointments. There is a very strong sense and huge concern among our members that the staff voice will be reduced and that the ministerial nominees will promote Government policy rather than staff concerns for the needs of the university.”

At the meeting, Ms. Clare Austick, President, USI, made the following comments in this regard:

“[W]e are concerned there is no requirement of a specific numbers of students in each governing body outlined… Similarly, with head 81, the USI is concerned that there is no required minimum number of students on academic councils.”
On 6 July 2021, Dr. Joseph Ryan, CEO, THEA suggested the governance structures as set out in the General Scheme, while facilitating “the need for accountability...when dealing with public moneys”, this concern should “not lead us into micromanaging these institutions”. Moreover, given that the General Scheme is not clear about the proposed size of governing authorities, other than at present they are deemed as too large, Dr. Ryan commented that “regarding the size of governing bodies...It is becoming an onerous role. It is becoming more difficult to attract people to take on this work”.

Dr. Ryan also added the following:

“Balance has been mentioned a number of times. Between trying to get very focused governing bodies but also those which people have a sense of ownership over will be critical. Geography comes into that as well.

I mentioned the practical difficulties at governing body level of people in committees. If one makes it too narrow, one does not get the many committees that are required to make these effective organisations.”

On this point, Mr. Jim Miley, CEO, (IUA) stated:

“[R]egarding the size governing authorities, we have suggested a range. We strongly support a competence-based approach, but some flexibility in the size ranges might be the way to go. We must recognise that different institutions may require different sizes depending on their scale and complexity”.

Councillor Mary Hoade, President, Association of Irish Local Government (AILG), suggested that

“there was merit in the governing bodies [of HEIs] reaching out to organisations such as ours and to all local authorities to strengthen the relationship in areas related to research and policy that are relevant to the local and regional development of the area”
Head 79 provides for additional functions to be accorded to universities. In the submissions, this Head and those following were queried as to the extent of consultations required with the HEA and Minister and whether this may impinge on the autonomy of universities, which is an essential plank of the approach to higher education under the General Scheme.

On 6 July 2021, Mr. Jim Miley, CEO, (IUA) stated:

“The provisions in the Bill to underpin accountability, as outlined in the heads, are strongly supported by the IUA. It is important, however, that the agility of individual universities is not unduly constrained. The principle of maintaining the primacy of the governing authority of each university in their governance, with the HEA providing appropriate oversight, is a sound one but it is essential that the specific provisions of the Bill do not compromise institutional autonomy.”

Head 81 provides for an upper limit of 70 members for academic councils. The submissions suggested that the size of the academic council relates to the size of the HEI, its disciplines and associated staff. In this regard, it was suggested that placing of arbitrary limits on the upper limit of membership of academic councils would potentially introduce a risk that some important voices would not be factored into the work of academic councils and for this reason this Head should introduce a process of consultation to arrive at appropriate limits.

It was also noted in the submissions that the size (and composition) of academic councils may require renegotiation of existing agreements reached with HEIs. In addition, while reference is made to student representatives, some submissions observed that this should be expanded to delineate between under- and post-graduate students, reflecting the composition of the student cohort.

Academic freedom was thus a subject raised during the Committee hearings on the General Scheme. On 6 July 2021, Mr. Jim Miley, CEO, (IUA) stated:

“We have proposed that consideration be given to providing for a range of sizes of governing authorities in line with the individual needs of
universities. We believe the proposed cap of 70 on the size of academic councils be removed. Academic councils are effectively the parliaments of our universities and, as such, it is important that size constraints do not impair the representation of the diverse range of interests in our universities.”

RECOMMENDATIONS FOR PARTS 9 TO 12 – AMENDMENTS TO LEGISLATION PROVIDING THE VARIOUS CLASSES OF HEIs:

<table>
<thead>
<tr>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>32. In respect of the membership of HEI governing boards/authorities, the following needs to be set out clearly:</td>
</tr>
<tr>
<td>- the number and proportion of external members to HEI governing boards;</td>
</tr>
<tr>
<td>- the competency-frameworks to be used for selection;</td>
</tr>
<tr>
<td>- the impact on accountability and responsibility on internal and external members of governing boards</td>
</tr>
<tr>
<td>- the proposed overall number of governing board members in terms of the complexity and diversity of individual HEIs.</td>
</tr>
<tr>
<td>- Increase the proposed overall number of governing board members in recognition of the complexity and diversity of individual HEIs.</td>
</tr>
<tr>
<td>33. The nature and extent of consultations between HEIs and the HEA/Minister and the impact of this on HEI autonomy needs to be set out clearly.</td>
</tr>
<tr>
<td>34. The legislation should provide for a review of the Constitution of all Academic Councils in the context of size and complexity of individual HEIs and their respective under- and post-graduate cohorts.</td>
</tr>
<tr>
<td>35. Remove the limit of 70 on Academic Councils</td>
</tr>
<tr>
<td>36. Ensure staff representation on HEI governing authorities</td>
</tr>
</tbody>
</table>

PART 13 TO 15 AMMENDMENTS TO MISCELLANEOUS LEGISLATION

Parts 13 to 15 of the General Scheme provide for technical amendments, that is the insertion mostly of references to the proposed HEA, to existing legislation such as the Student Support Act 2011 (Heads 111 to 112), Industrial Training Act 1967 (Heads 113 to 114) and the Social Welfare Consolidation Act 2005 (Head 115).
In the written submissions and oral hearings, there was only a limited number of comments made in respect of these parts, which were of a general nature.
APPENDIX 1: LIST OF SUBMISSIONS

Written submissions were received from the following organisations and individuals. All submissions are available here:

- Department of Further and Higher Education, Research, Innovation and Science
- Higher Education Authority (HEA)
- Quality and Qualifications Ireland (QQI)
- Munster Technological University
- Union of Students in Ireland (USI)
- Professor Pádraig Ó Macháin, Ollamh le Nua-Ghaeilge / Professor of Modern Irish, Roinn na NuaGhaeilge, University College Cork.
- Technological University Dublin
- National College of Ireland
- Higher Education College Associations (HECA)
- Irish Humanities Alliance
- Teachers’ Union of Ireland
- Dr. Anthony Soares, Secretary to Universities Ireland
- Technological Higher Education Association (THEA)
- Fórsa
- Irish Universities Association
- Skillnet Ireland
- Education and Training Board Ireland (ETBI)
- Irish Traveller Movement
- AHEAD
- Women in Technology and Science Ireland
- Institute of Art, Design & Technology
- Women in Research IE
- Waterford Institute of Technology
- IT Sligo
- National Adult Literacy Agency
- Maynooth University
• Irish Research Staff Association
• Association of Irish Local Government
• Irish Congress of Trade Unions
• National College of Ireland
Notes