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HECA RESPONSE

TO THE

PUBLIC CONSULTATION

ON THE

UPDATE OF THE HIGHER  
EDUCATION AUTHORITY ACT  
1971

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# Higher Education Colleges Association (HECA) Response to the Public Consultation on the Update of the Higher Education Authority Act 1971

## Introduction

As the representative association for the providers of private and independent higher education in Ireland, HECA is grateful for the opportunity to respond to the Public Consultation regarding the Update of the Higher Education Authority Act 1971.

HECA is interested in working with the Government and other agencies to promote good policies, best practice and mechanisms for ensuring parity of standards across the wider higher education sector.

### 1. What should be the key functions of the Higher Education Authority?

HECA supports the general functions of the HEA. The notable key functions of the HEA relate to its management of the funding relationship between the state and higher education institutions, as well as its ability to monitor the output and deliverables of the HEIs relative to the funding received, and to provide to the Department of Education and Skills, the relevant matters pertaining to HEIs as an input to HE policy and strategy.

It is important that a balance exists between financial accountability and the autonomy of academic institutions. Academic autonomy, however, does not imply a lack of public scrutiny or accountability. Considering recent controversies in the University and IoT sectors, it is vital that there should be proper systems of accountability for the use of public funding.

HECA is concerned that there is an assumption that the Higher Education system only includes the publicly funded HE sector in Ireland. The suggestion that *“The HEA also has responsibility for the effective governance and regulation of higher education institutions and the higher education system”* is untrue. It has and should have responsibility for the effective governance and regulation of **publicly funded** Higher Education providers (Colleges).

The relationship between QQI and the HEA requires some consideration to avoid either duplication of function or unnecessary overlap. As key stakeholders in the HE sector in Ireland, HECA would welcome engagement with the Department of Education and Skills as well as the HEA and QQI on this matter.

### 2. What role should the Minister have in relation to regulation of the Higher Education Sector?

In terms of the Minister’s role, HECA believes that the Department and the Minister should have overall accountability for the establishment and monitoring of the effectiveness of

policy. They should continue to have a role in the formal designation or registration of Institutes of Higher Education and in that regard should be mindful of the advice provided by relevant stakeholders.

HECA believes that greater clarity regarding the HEA's role and that of QQI is necessary as there is an assumption that the HE Sector is restricted to the publicly funded HE sector. We believe that the Minister's role in relation to agencies, including HEA and QQI should be in determining the regulatory direction through policy.

### 3. Are there any related updates required to other Acts?

The new legislation will be framed in the context of a debate on striking the right balance of autonomy and accountability between the HEA and the DES. Greater autonomy for the HEA should be allowed so that the sector can fully deliver on our national plans for higher education and enterprise. The granting of greater autonomy could be counter balanced by strengthening the Governance arrangements of both the HEA and the individual HEIs.

The potential for duplication of role and functions of QQI also needs to be considered. QQI serves an extremely valuable function in terms of the overall standard setting and monitoring of the HE sector (as well as the FE Sector). Consideration should be given to any necessary amendments to legislation in that regard.

The National Plan for Equity of Access to Higher Education, 2015-2019 (HEA, 2015) incorporates national strategic goals to increase participation of students from under-represented groups, such as those from disadvantaged socio-economic backgrounds, mature students and students transferring from further education institutions. Legislation needs to look outside the nine grounds of equality legislation currently active in Ireland and include socio-economic status.

### 4. Is a Registration model for Higher Education Institutions appropriate?

HECA believes that a registration model is a good idea. A registration system with a clear criterion for each registration type and robust monitoring of HEI performance would be beneficial to the whole sector.

However, herein lies a fundamental issue of concern which underpins the core concerns expressed by HECA – namely the narrow definition of a Higher Education Institution within the Act. HECA would welcome further elaboration of this proposal and discussion regarding its implications. HECA can see some merit to further discussion among the wider HE sector in Ireland regarding the implications of a more inclusive and less restrictive model of recognition of HE Institutions. However, any recognition, in our view would clearly need to be based on formal processes whereby all providers should demonstrate adequate Quality Assurance and Enhancement standards, processes and procedures. Again, in that regard, the relationship between QQI and the HEA needs to be considered.

The registration process might be better within QQI legislation if it were to be placed as a quality assurance process. The current system defines 'designated institutions' which are granted this status through legislation (Universities or IoT Acts). This status positions them in the public sector and brings with it benefits such as sovereign guarantee, , student grants etc. It also brings obligations such as accountability to HEA, Oireachtas etc. A registration system that allows recognition of existing institutions against set criteria and allows registration for private institutions who meet the criteria might be more equitable. The registration system might also obviate the need to have specific legislation when new institutions are established.

5. Are there international models of regulation which should be examined as part of the process of updating the Act?

HECA welcomes the proposal to formally review international best practice in this regard. The recognition of HEIs' autonomy as employers, subject to accountability measures which safeguard state investment should be considered. In relation to Employment Contracts, it is noted that while Private Colleges have great flexibility around terms, conditions and rates of pay of employees the opposite is the case for public designated institutions. In the state sector a one-size-fits-all approach is used with rates of pay etc determined centrally by the Department of Education/Department of Public Expenditure and Reform. This does not allow for individual institutions or HE sectors to reflect their relative strengths, market positioning or locus within the higher education landscape.

While HECA providers have approval and recognition of the quality of our private educational institutions, we do not (in the majority of cases), like some other regulatory models, reap the benefits of our students receiving student grants. HECA recommends that students in HEIs that are quality recognised (e.g. QQI) should be eligible for student grants irrespective of the HEI being public or private. This would thereby enable a more inclusive and equitable access to higher education.

6. The following are some of the areas that could be considered for updating and/or inclusion in the Act. Are there other areas which should be considered?

While HECA welcomes and fully supports this proposal, we take this opportunity to emphasise the important role and requirements of HE corporate governance and HEI performances. HECA recognises that the quality assurance and policy/funding functions of QQI and HEA are quite distinct, but institutions report significant overlap in reporting and other requirements of both QQI and the HEA. In drafting new legislation greater clarity of function of these respective bodies is required.

All designated institutions return data on an annual basis to the HEA. This allows, among other things, overall system performance and individual HEI performance to be measured against national, regional and institutional targets. There is merit in considering the inclusion of private institutions in this data collection particularly considering the private sector makes a significant contribution to the national objectives for higher education. Independent

colleges of Higher Education would also welcome legislative change which would provide equitable access to state funding opportunities and in particular, student funding.

While this may not be an issue to address in the upcoming HEA legislation there is, nonetheless, a problem with current definitions of students as to whether they are full time or part time (domicile definition can also be an issue). The definition matters for students (access to grants, access to social welfare, back to education schemes, etc) and to institutions (recurrent funding model). With increasing use of blended learning where students can be online and onsite, then we propose that new definitions are required.

In relation to standardised learner data, there is a need for a consistency and clarity in data classifications across the DES, HEA and QQI which would support a more efficient and accurate representation of HE in Ireland.

#### 7. How should the HEA monitor compliance within the Higher Education Sector?

HECA notes the contribution of the Thorn Report(s) in relation to issues of compliance and welcomes and supports the requirements for strengthening the role of the HEA in ensuring compliance. In that regard, perhaps shared work with QQI regarding both governance and academic standards would be welcome.

The HEA could also monitor compliance within the HE sector by establishing a clear set of performance indicators for compliance with corporate governance, academic governance and government policy/strategy requirements. HEIs should be required to report quarterly against KPIs and the HEA needs to be resourced accordingly to review and challenge the HEIs on that performance, with powers of enforcement clearly set out.

#### 8. Are there any other relevant issues which you wish to comment on?

The HEA have a duty to be responsible for the delivery of an inclusive HE system that is more representative of the whole of society. The HEA need to establish progress initiatives that will support HEIs including private HEI in delivering student success in under-represented groups. While HEIs' access strategies support DEIS and the School Completion Programme, there is still a significant under-representation of students from DEIS areas. This is a significant problem and requires innovative ways of thinking and application to ensure inclusiveness in higher education. It is important that the HEA ensure that there is equal access and progression for all under-represented groups across all HEIs. Several progression support initiatives should be considered including funding for smaller class size and mentoring in both public and private HEI. When updating the HEA Act, the HEA should consider policy initiatives that demonstrate a positive impact on an inclusive higher education sector for the entire populace.

Finally, HECA would warmly welcome dialogue with the Department of Education and Skills and the HEA and QQI as well as the publicly funded sector on the shared issues of concern regarding quality, standards, governance and academic standards.

## References

HEA (2015) The National Plan for Equity of Access to Higher Education, 2015-2019 (NAP)  
[http://hea.ie/assets/uploads/2017/04/national plan for equity of access to higher education 2015-2019 single page version 01.pdf](http://hea.ie/assets/uploads/2017/04/national_plan_for_equity_of_access_to_higher_education_2015-2019_single_page_version_01.pdf)

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