



IRISH RESEARCH COUNCIL

An Chomhairle um Thaighde in Éirinn

Irish Research Council Submission to Minister of State for Higher Education on the updating of the Higher Education Authority Act

Context and Background

The Minister of State for Higher Education, Mary Mitchell O'Connor, TD, has launched a consultation process seeking views on updating the Higher Education Authority Act 1971 ('the Act'). This document provides the Minister with the considered views of the Irish Research Council ('the Council') in relation to the updating of the Act. The Council is very pleased to have the opportunity to provide its input on this matter. **The views contained in this submission are preliminary, and the Council would greatly welcome any further opportunities for engagement with the Department on this matter.**

The Council notes that the HEA, under the aegis of which the Council sits, has also been invited to provide its views and will be making a separate submission to the Department.

Where possible, we have arranged the Council's response under the broad questions listed in the Minister's consultation paper. This submission focuses specifically on research and therefore does not address all topics of potential relevance in the consultation process. Accordingly, this submission responds directly to **questions 1, 2, 6, and 8.**

Information on the origins of the Irish Research Council is included in an **Appendix.**

Q1 What should be the key functions of the Higher Education Authority?

(i) It is the Council's view that the role of the Authority with regard to research be more explicitly provided for in statute.

The Council is recommending that, at a minimum, the functions of the Act be extended to encompass not just higher education, but higher education and research. Specifically, this would be articulated as follows:

(1) An tUdaras shall.....have the general functions of –

(a) furthering the development of higher education *and research*,

(b) assisting in the co-ordination of State investment in higher education *and research* and preparing proposals for such investment,

(c) promoting an appreciation of the value of higher education *and research*.

The current system of research funding carries risks to the sector and to the quality of outcomes and sustainability of individual institutions. Key issues include the extent to which research funding does not cover the overheads associated with research, resulting in resources being diverted from other elements of the HEIs' operation to a disproportionate extent, with the teaching mission being particularly vulnerable. As one of the key outcomes from research investment and activity is the quality of graduates, whose skills and knowledge have been honed in a research-rich environment, the connection between research and teaching needs to be copperfastened. **The role of the HEA in advising the Minister/Government on national priorities for research investment should be provided for as well as how the HEA should interact with other research funders to ensure that the broader objectives of research investment are provided for in practice and institutional sustainability is not undermined.**

(ii) Function of the HEA to set a national postgraduate research stipend

The Council strongly supports a more active role for the HEA, enshrined in legislation, in setting national guidelines and parameters pertaining to postgraduate research

students. By this, the Council refers to postgraduate students, from Masters by Research to PhD (NFQ Level 9 and Level 10 respectively).

The future health of Ireland's research and innovation system will greatly depend on the ability of research institutions to attract exceptional individuals into postgraduate research. An adequate stipend, recognizing the full-time nature of postgraduate research and the cost of living in contemporary Ireland, will be key to ensuring the pipeline contains the best talent to assure Ireland's future research competitiveness.

New functions for the HEA should include **the setting of a nationally agreed postgraduate stipend rate for all funded postgraduate research positions undertaken in designated higher education institutions**. This would be performed on a periodic basis, having regard to the needs of postgraduate students, changes in the cost of living, and international norms in comparator countries.

In addition to reviewing aspects of postgraduate research provision and the conditions of postgraduate researchers, the Authority should be given the power to issue directives to designated institutions on matters pertaining to postgraduate researchers. An example of the kind of directive that could be issued is in respect of maternity leave for funded postgraduate research students.

(iii) Access to Data

The enactment of the GDPR necessitates the need for more explicit reference to the ability of the HEA and the Council to collect student, staff, financial and research data from designated institutions and other bodies. The key objective of a statutory provision should be to put beyond doubt that the HEA/Council can have access to the kind of data it needs to monitor impact and outcomes and to share its data in a way that supports delivery of strategic objectives and overall national policy.

Q2 What role should the Minister have in relation to regulation of the Higher Education Sector?

The Council believes that updated legislation should provide greater clarity on the respective roles of the Minister/Department, and the HEA. Specifically, the Act should **strengthen the role of the Minister/Department in relation to higher education &**

research strategy and policy development, and that this role should be prioritised over an operational role for the Department. This should be complemented by a robust role for the Authority in providing advice to the Minister, in implementing said strategies and national policies, and in monitoring the impact of same.

Q6 Are there other areas which should be considered for updating and/or inclusion in the Act?

A Statutory Basis for the Irish Research Council

The Council considers that, in the evolution of the Act, priority should be given to preserving the positive and symbiotic relationship that has existed for almost two decades between the HEA, the Council and its predecessors.

In considering how the Council could be placed on a statutory footing, there are two clear options – a standalone Council as a corporate entity in its own right separate from the HEA or a continuation of substantially the same relationship between the Council and the HEA. The Council's considered view is that the Act should provide for the establishment of the Council on a statutory basis within the HEA, preserving the existing relationship with the HEA.

Similar models are already in place in other parts of the public sector. One example is the Financial Services Regulatory Authority which is established as a constituent body of the Central Bank under the Central Bank and Financial Services Authority of Ireland Act 2003.

The response to this question addresses how that could be achieved, giving statutory expression to the objects of the Council, setting out its powers and functions, describing its relationship with the HEA and giving a statutory underpinning to its operational independence.

(i) Objects

The Council considers that the objects of the Council as set out in legislation could be as follows:

The principle object of the Irish Research Council is to support and enhance human capital development in Ireland and its subsidiary objects are -

- (a) to enable and sustain a vibrant research community in Ireland by funding individual awards for excellent fundamental research in all disciplines and career stages, and providing such other supports to researchers as the Council considers necessary;
- (b) to promote the development of the knowledge and understanding of the benefits of fundamental research in Irish society;
- (c) to enrich the pool of knowledge and expertise available for addressing Ireland's current and future needs, societal, cultural or economic;
- (d) to support knowledge exchange through collaboration with government departments and agencies, business, enterprise and civic society;
- (e) to enhance Ireland's international reputation as a centre for research and learning and
- (f) to act at all times according to the values of excellence, independence, partnership, openness and professionalism.

(ii) Functions

The legislation should set out in some detail what the functions of the Council should be. Unless a function is specifically provided for, or is incidental to one that is, then it will not be possible for the Council to exercise it lawfully. It would be important to provide that the Council must operate within Ministerial/Government policy but be independent in its funding role. Suggested text for the legislation is as follows:

- (1) The Council shall, in addition to the specific functions provided for in this or any other Act, have the following general functions -
 - (a) support through funding programmes to individual researchers and otherwise the carrying out of fundamental research at the forefront of creating new knowledge;

- (b) provide funding support to individual researchers across all researcher career stages and all disciplines in accordance with funding programmes developed by the Council;
- (c) establish processes of independent peer review of research proposals for the purposes of exercising its functions at (a) and (b);
- (d) promote engagement between researchers and organisations or bodies engaged in for-profit or social enterprise;
- (e) provide funding jointly with for profit or social enterprise organisations or bodies;
- (f) develop and implement programmes of communication to increase awareness among members of the public of the benefits of fundamental research across all disciplines;
- (g) build partnerships with government departments and agencies in order to enable peer-reviewed research to underpin policy decisions and contribute to societal development;
- (h) support Irish researchers in interdisciplinary engagement with the European societal challenges by fostering creative connections across all disciplines;
- (i) facilitate the integration of Irish researchers within the European Research Area;
- (j) through collaboration with research councils in other Member States of the European Union, influence the development of research priorities of the Union;
- (k) conduct periodic reviews and evaluation of its funding programmes and the outcomes from such programmes and publish reports on such reviews and evaluation;
- (l) carry out any other functions conferred by this or by any other Act.

(2) In carrying out its functions the Council shall –

- (a) do so in accordance with the policies relating to higher education and research determined from time to time by the Minister (for Education and Skills) and any other Minister;
- (b) partner nationally and internationally with the research community, government departments and agencies, enterprise and civic society, and
- (c) engage with the Irish research community regularly to inform its work and the future development of its activities.

(iii) Independence in funding decisions

In establishing the Council on a statutory basis within the Higher Education Authority, it would need to be provided for in the legislation that the Council shall be independent in carrying out its funding support functions.

(iv) Advice and Information

Apart from its role in directly supporting research and researchers, the Council has an important role to play in advising the government on national research policy, both as it relates to its particular remit and more generally. In exercising this role, the Council should be in a position to do so as it considers necessary and as requested by the Minister/HEA. The following outline provisions are suggested.

- (1) The Council shall from time to time as it considers appropriate conduct research into postgraduate education and the research system and provide policy advice on same to the Higher Education Authority and to the Minister.
- (2) Whenever requested to do so, the Council shall conduct such research or provide such advice to the HEA or the Minister.
- (3) Whenever requested to do so, the Council shall provide information on any matters relating to the performance of its functions as the Higher Education Authority or the Minister requests.

(v) Council Composition

Council members are all active researchers. This is a strength of the Council. It is facilitated by the fact that the Council does not have the ordinary governance functions of a board of a corporate entity such as finance and staffing matters, as these are the responsibility of the HEA board. Therefore, a broader competency-based approach is less relevant and necessary. While the requirement that all Council members be active in research is a strength, consideration could be given to bringing additional expertise and experience to the Council. The following proposed provisions are informed by the statutory provisions for UK Research and Innovation.

- (1) The Minister shall appoint the Chairperson and ordinary members of the Council.
- (2) In making appointments to the Council, the Minister shall have regard for disciplinary spread and gender balance and to the desirability of the members (between them) having relevant experience of—
 - (a) research into science, technology, engineering, mathematics, arts, social sciences, humanities and new ideas,
 - (b) the development and exploitation of science and technology, new ideas and advancements in the arts, social sciences and humanities, and
 - (c) industrial, commercial and financial matters, the charitable sector and the practice of any profession.

Additional provisions would cover issues such as resignation and removal of members, code of conduct including the conduct of meetings, quorum, expenses and other standard issues.

(vi) Funding

At present there is no statutory provisions relating to the funding of the Council or its functions in respect of providing funding support. The Council recommends that specific provision be made in the Act for these matters, including but not limited to the following provision:

The Minister shall out of monies provided by the Oireachtas provide to the Higher Education Authority such sums of money as he or she from time to time considers appropriate to support the activities of the Council and the Authority shall make such monies available to the Council subject to such accounting and other requirements as it considers appropriate.

Additional provisions would provide for the keeping of books and records, budgeting and providing information on its funding activities to the HEA.

(vii) The power to set conditions

It is important that the Council have formal statutory powers to set conditions on its funding and that the provisions also provide for what action the Council may take where its conditions are not adhered to. In the absence of such provisions, the Council, if challenged, would find itself in the position of not being able to enforce any conditions it set.

Related to the above, the legislation should include stipulations as follows:

The Council may –

- (a) require the repayment, in whole or in part, of sums paid by it if any of the conditions subject to which the sums were paid is not complied with and
- (b) require the payment of interest in respect of any period during which a sum due to the Council in accordance with any of the conditions remains unpaid.

The legislation should recognize that the Council may require a person to whom funding support is given to provide the Council with any information it requests for the purpose of the exercise of any of its functions and failure to provide such information shall be regarded as a failure to comply with a condition of funding.

(viii) Other Important Provisions

The following provisions are proposed to complete the set of statutory provisions.

- Provide that the Council shall have a Director to be appointed by the HEA on the recommendation of the Council.
- Provide that the other staff of the Council shall be appointed by the HEA.
- Provide for an Annual Report to the Minister.
- Provide for the preparation and publication of a Strategic Plan to cover a three-year period and that, in presenting the plan to the Minister, the Council should set out -
 - the national policy instruments it has had regard to in developing the plan;
 - how the plan addresses specifically national policy for research;
 - how the Council engaged with the HEA, other research funders and other external stakeholders in developing the plan;
 - the financial assumptions underpinning the plan, with risk assessment and mitigation.

Q8 Are there any other relevant issues which you wish to comment on?

The HEA, through its Chief Executive Officer, is the accountable body for the Council. In mid-2012 a Standing Committee for Research and Graduate Education (RGEC) was established by the HEA and the COUNCIL as an advisory body. The overall objective was to provide policy and operational coherence between the two bodies. The Committee membership comprises Authority and Council members. The Committee's mandate includes -

- Preparation of draft policy statements and advice on aspects of research and graduate education, and the associated environment, for consideration by the Authority and/or the Council as appropriate;
- Oversight and reporting to the Authority and Council on the implementation of research and graduate education policy by the higher education system and its constituent institutions;

- Review of proposed policy initiatives, relevant to its remit, by the HEA or the Council.

The Council proposes that this Committee be placed on a statutory footing. This is not strictly necessary from a legal viewpoint as the HEA has the power to establish committees in any case. However, the RGEC would be an important part of the infrastructure if the Council is to be established as a constituent body of the HEA. It offers a formal opportunity for engagement between the HEA Board and the Council and a mechanism to enhance policy and operational co-ordination.

The Committee, established on a statutory basis, would co-ordinate the activities of the Higher Education Authority and the Council so as to ensure policy and operational coherence between the two bodies and shall advise both bodies accordingly.

The membership of the Committee is proposed as follows –

- (a) The Chairperson, or his/her nominee, and a designated number of members of the Board of the Higher Education Authority
- (a) The Chairperson and a designated number of members of the Council
- (b) The RGEC would also comprise the Chief Executive of the Higher Education Authority and the Director of the Council.

There would be an equal number of members from the Authority and the Council.

Irish Research Council

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Appendix: Genesis of the Irish Research Council

It is worthwhile reflecting on how the current Council was formed, a process with its origins 18 years ago.

IRCHSS was established following a report commissioned in December 1997 by the then Minister for Education and Science, Mr. Micheal Martin T.D. The report made the case, not just for the establishment of an IRCHSS, but for an overarching Irish Research Council which would also involve the establishment of a Science and Engineering Council. This had also been suggested in the earlier CIRCA Report.

When the Council was established on a permanent basis the Higher Education Authority (HEA) was given the administrative agency for it but it was the view of the IRCHSS board that if it was to develop its programmes more professionally and efficiently, the Council's legal basis had to be clarified in a way that was appropriate to its mission.

In the year after the setting up of IRCHSS, the then Minister for Education Dr. Michael Woods, T.D. addressed the inaugural meeting of the Irish Research Council for Science, Engineering and Technology (IRCSET) on 26 June 2001. The Minister stated that, as in the case of the parallel IRCHSS, IRCSET would operate autonomously in deciding how funds should be allocated, guaranteeing "complete independence" in the allocation process. The Minister also called for cross agency collaboration among research funders.

The two Councils continued their separate funding operations for the next decade, with substantial success. For example, a 2004 review of the IRCHSS by an International Expert Group commented that the IRCHSS had "performed a mammoth task in developing, from scratch and with minimal staffing, a national mechanism for the stimulation of fundamental research in the Humanities and Social Sciences". The Expert Group also stated that the "evident integrity of the Research Council's decision-making process...must be recognised as a major achievement by any standard. The Research Council's programme has had such a deeply beneficial impact on the academic profession in Ireland that any decision other than the consolidation and continuation of the IRCHSS would be – by all international standards – quite simply inconceivable". In the intervening period, administrative responsibility has remained with the HEA, albeit with a high level of Council operational autonomy.

The next major development occurred in November 2011 when the then Minister, Mr. Ruairi Quinn T.D., approved the merger of the IRSET and IRCHSS into a single entity, to be called the Irish Research Council – the actual establishment occurred in March 2012. In correspondence between the HEA and the Department of Education and Skills at the time, the remit of the Irish Research Council was described as “a particular and differentiated focus on supporting and enhancing postgraduate human capital development; directly nurturing, supporting and promoting excellence in research across the humanities, social sciences, business, law, the sciences, engineering, technology; identifying novel and innovative opportunities to support excellent researchers with a focus on their career development, including enabling international mobility so as to enhance the experience of researchers and engagement with stakeholders and knowledge users outside the higher education domain”. The HEA recommended that the Irish Research Council be given statutory recognition in the context of expected legislative change to the HEA Act.