

## **Public Consultation: Higher Education Authority Act, 1971**

### **Observations of the Royal College of Surgeons in Ireland (RCSI)**

**29th August 2018**

The RCSI welcomes the launch by Minister Mary Mitchell O' Connor T.D. of a public consultation seeking views on the updating of the Higher Education Authority Act, 1971 in line with the commitment in the Action Plan for Education (Action 92.4) to *"Produce a scoping paper, to inform future legislative updating of the HEA Act, 1971"*.

Our response to the consultation is set out below. We also look forward to participating in the feedback session in the autumn. In that regard, as requested, our contact details are provided at the foot of this submission.

### **Changes in the higher education sector since 1971**

The HEA has since its establishment been an important and effective public body. However, major changes have taken place in Irish society, economy and in higher education since the HEA Act were enacted almost half a century ago. A comprehensive review of the functions of the HEA and its enabling legislation is therefore timely.

The principal changes that have occurred since the HEA was established as a statutory body include:

- Dramatic increases in enrolments in Higher Education Institutions (HEIs) and increases in the transfer rates of school leavers to HEIs. There have also been increases in the numbers of older, non-school leaver entrants into third level education.
- The establishment of a number of new statutory HEIs – both universities and institutes of technology. The enactment of the Technological Universities Act 2018, creating a framework for the merger of institutes of technology and establishment of technological universities, is another important development.
- Increasing internationalisation of higher education, including very significant increases in the numbers of international students (particularly from outside the EU) enrolled in Irish HEIs.
- The higher education sector has become an increasingly "competitive space" – with competition for students (both international and Irish) between Irish HEIs and HEIs in

other countries. Competition is global. Competition is particularly marked for high performing students, graduate and research students, for high quality staff and research funding. The publication of international rankings have over the last decade has intensified these competitive pressures. At country level, having a number of highly ranked universities is now developing as a proxy measure of national competitiveness and as a criterion used by foreign direct investors.

- Increasing importance of a so-called “fourth sector” comprising postgraduate education, research (including collaborative inter-institutional research) and technology transfer from HEIs to business and industry.
- The development of a number of private (including private for profit) higher education providers, primarily dependent on revenue from student fees, which have shown considerable flexibility in responding to emerging labour market needs and skill bottlenecks.
- The development of a national framework for qualifications and quality assurance and the establishment of statutory bodies (HETAC and NQAI) responsible for promoting and ensuring quality and accountability. These statutory functions are now entrusted to the QQI (Quality and Qualifications Ireland) which was established in 2012 and which in effect has become a partner agency with the HEA in regard to the regulation of Irish higher education.

RCSI, a statutory, independent, not for profit, non-Exchequer grant-aided HEI established in 1784, has participated in and been affected by many of these changes. RCSI have grown significantly in scale and breath since the establishment of the HEA. The academic footprint of RCSI has also extended from its original missions in surgery and medical education to include undergraduate degrees in pharmacy and physiotherapy, postgraduate degrees in nursing and midwifery, and in research (through a School of Postgraduate Studies) and healthcare management (through an Institute of Leadership).

RCSI contributes to Ireland’s international reputation and profile – it ranks among the top 2% worldwide in the Times Higher Education World University Rankings 2018, rising rapidly in recent years (from the 350-400 category in 2015, through 251-300 in 2016 and to the 201-250 category in 2017 and 2018).

## **The growing recognition of the importance of higher education and research for national societal and economic development**

In the 1970s access to, and provision of, higher education was already seen as important for social and economic progress. This is more so the case today. The dramatic increases in enrolments in HEIs have profoundly positive impacts on the competitiveness and productivity of the economy and on living standards. The educational and training endowments of the Irish labour force are now key factors in making Ireland an attractive location for business and as a place to live and work and were significant contributors to the economic recovery of the last decade where we have now almost reached full employment.

This “talent or human capital” factor allied to an increasing emphasis on research, technology transfer and innovation will become even more important in the years ahead – particularly given the international pressures arising in relation to corporate taxation, the apparently growing threats of protectionism and Brexit as well as responding to the challenges and opportunities of rapid technological change – and indeed changes in the international order of relationships between states and governments.

These developments pose profound challenges for all the partners in higher education and research – Government, the Department of Education and Skills, HEA, QQI, research funders, and HEIs.

Going forward the emphasis of policy and practice should be on a relentless pursuit of quality and responsiveness to social changes and economic challenges. Across the HE sector, HEIs will require more investment, strategic and responsive leadership and particularly flexibility in responding to a rapidly changing environment and technological changes and opportunities with innovative approaches and strategies in teaching and learning. The RCSI agrees with the statement in the Public Consultation document that the HEA be “*appropriately equipped as an oversight /regulatory body to support higher education institutions to be the best in Europe.....*”.

There are a number of criteria, which should guide the consideration of an amendment or replacement of the HEA legislation. The top priority in our view is to ensure that the regulatory, advisory and funding functions and powers of the HEA are so designed as to underpin the key objective of ensuring that the higher education and research system makes the required major contribution to ensuring that the Irish labour force and population have the educational endowments and skills and access to knowledge capital to underpin a prosperous and just society.

These considerations have informed our responses to the questions in the questionnaire.

## Responses to the Questionnaire

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

The general functions of the HEA outlined in section 3 of the HEA Act should be extended to include a requirement that a general policy function of the HEA should include promoting the key role of higher education and research in meeting economic and social policy objectives.

Section 12 of the Act does not contain a general statement of the purpose for which payments of voted Exchequer funds may be made to and disbursed by the HEA to HEIs. For removal of doubt, it might perhaps be useful to clarify that such funds are provided for the purposes of education, training, research and knowledge transfer.

#### Autonomy and accountability

*“Stakeholders are asked to comment on the most appropriate level of institutional accountability for HEIs in order to deliver on national priorities while balancing governance and accountability requirements and whether the level of autonomy should be linked to “the institution’s performance in areas such as governance, delivering on national priorities etc.”.*

International comparative research indicates that institutional effectiveness is enhanced with greater levels of autonomy. The exercise of such autonomy should, of course, have regard to the needs of students and other stakeholders and to the requirements of national development. HEIs in receipt of public funding should also be accountable for the propriety and value for money of their expenditure of public funds.

Restrictions on autonomy should be carefully justified and proportionate - particularly having regard to the role of HEIs in Irish development. A distinction should also be drawn between those HEIs in receipt of “core” Exchequer funding and those financially independent HEIs who receive Exchequer funding only in competitive research calls and/or for the delivery of specified educational provision and services.

Key concerns for Government and public authorities in relation to institutional performance are in the areas of quality of educational outcomes (where QQI oversight and role are of central importance), in regard to the governance and management of those HEIs in receipt of “core” Exchequer funding, and in respect for all HEIs, on the propriety and value for money of the expenditure of Exchequer funds. In the latter case (propriety and value for money) access should be provided to auditors appointed by the public bodies (including the HEA) to report on the propriety and value for money for the Exchequer funds provided. Statutory provision

could be made to ensure such access by the HEA to all HEIs. All HEIs should also be required to provide the HEA with information on enrolments, completion and progression rates.

The role of the HEA is important in regard to autonomy and accountability. Section 11 of the 1971 Act requires HEIs to supply to the HEA all such information relative to the institution as the HEA may require; Section 12 (2) empowers the HEA to attach conditions as it sees fit to Exchequer funding provided by it to HEIs. In this regard, consideration might be given to supplementing Sections 11 and 12 by providing powers to the HEA to appoint inspectors to investigate and report with recommendations on aspects of the governance and management of HEIs in receipt of core funding where issues of public concern have been reported to the Authority and/or to the Minister. Such a power, accompanied by appropriate, targeted and proportionate sanctions in the event of proven failures of governance or management would make an important contribution to ensuring an appropriate balance between autonomy and accountability.

**Question 2 and 3: What role should the Minister have in relation to the regulation of the Higher Education Sector? Are there any related updates required to other Acts?**

Consideration might be given to providing a role for the HEA in the operation of Sections 20 and 21 (Visitations) of the Universities Act, 1997. A role for the HEA is provided for in Sections 26 and 27 (Investigation and Information) of the Technological Universities Act, 2018.

**Question 4: Is a registration model for Higher Education Institutions appropriate?**

In addition to giving statutory recognition to their roles as HEIs, the concept of “designation” provided for in the HEA Act brings such institutions within the funding and regulatory ambit of the HEA.

We doubt if a more flexible and responsive regulatory model would be achieved under a registration system than under the current arrangements where HEIs are “designated” as such under primary legislation or regulations made by the Minister. A differentiated registration system could run the risk of creating a more rigid framework for the higher education sector, which we believe, as argued above, does not accord with the requirements for national social and economic development. In particular, it could have the unintended and negative effect of impeding the development of existing institutions and the setting up of new types of HEIs. Such an effect could reduce the flexibility of Ireland as a relatively open



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economy to respond to educational opportunities in an era of potentially significant technologically driven innovation and disruption in higher education.

The current arrangement, provided if the additional powers, as suggested above, were assigned to the HEA, would provide for a system of effective oversight of institutions with considerable autonomy but subject to proportionate and meaningful accountability arrangements.

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

We look forward to the outcome of the research commissioned by the HEA referred to in the public consultation document.

**Questions 6, 7 and 8**

We have responded already in this document to many of the issues referred to under these headings.

We will be delighted to provide any further commentary, information or clarifications that might be required. We look forward to attending and participating in the autumn feedback session.



**Contact details**



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