

PUBLIC CONSULTATION

UPDATE OF THE HIGHER EDUCATION AUTHORITY ACT 1971

In the context of the Minister for Education and Skills' stated ambition for Ireland to have the best education and training system in Europe by 2026, we are committed to ensuring that the Higher Education Authority is appropriately equipped as an oversight / regulatory body to support higher education institutions to be the best in Europe in key areas such as supportive learning environments, inclusion of under-represented groups, promoting continuous improvement, building bridges between education and the wider community, linking research and enterprise, and governance and accountability.

In order to assist in achieving this ambition, the Action Plan for Education includes a commitment to update the HEA Act, 1971 (Action 92.4).

The Higher Education Authority Act, 1971 established the Higher Education Authority (HEA), set out the functions of the HEA and also provided for the governance of the HEA. The HEA is the statutory funding authority for the universities, institutes of technology and a number of other designated institutions and is the advisory body to the Minister for Education and Skills in relation to the higher education sector. The HEA also has responsibility for the effective governance and regulation of higher education institutions and the higher education system.

The Act has been updated on a number of occasions. However it is now timely to reflect on whether the current legislation fully reflects the functions, governance and authority of a modern oversight / regulatory body for the higher education sector.

In line with the Action Plan commitment and our ambition to be the best in Europe by 2026, the Department is now proposing to put in place new legislation which will provide the HEA with any necessary authority in relation to revised functions, governance and other related matters which more fully reflect its current central role and responsibilities in relation to higher education.

The development of a revised legislative framework also provides an opportunity to examine changing and/or expanding the role of the HEA in the future and addressing other areas within higher education which may need a clearer statutory underpinning. A key priority for the new legislation will be to clearly differentiate between the regulatory / oversight role of the HEA and the strategy and policy responsibilities of the Minister for Education and Skills in relation to the higher education sector.

The Department is requesting the views of all interested parties on the proposed update of the Higher Education Authority Act, 1971. The views received from this consultation process will be considered by the Minister in the context of the process of reviewing and revising the HEA legislation.

The following documents may be of assistance in informing and guiding the response to this consultation: The Higher Education Authority Act, 1971 is [HERE](#). The Universities Act, 1997 is [HERE](#). The Institutes of Technology Act, 2006 is [HERE](#). The Qualifications and Quality Assurance (Education and Training) Act 2012 is available [HERE](#). The Technological Universities Act 2018 is [HERE](#). The National Strategy for Higher Education to 2030 is [HERE](#). The System Performance Framework for HEIs is [HERE](#). The Codes of Governance for HEIs are [HERE](#).

It is proposed that there will be a feedback session in the Autumn following the completion of the consultation process. If you wish to attend this session it is requested that you include relevant contact details in your submission.

Note: Any personal details you provide will remain confidential and will only be used for the purpose of this project, in accordance with data protection legislation. However, all information and opinions you provide will be subject to the Freedom of Information Act (2014) and may be released.

The Department requests your views by completing the key questions in the questionnaire. Please forward your submissions to heconsultation@education.gov.ie by 31 August 2018.

QUESTIONNAIRE

UPDATE OF THE HIGHER EDUCATION AUTHORITY ACT 1971

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

The existing general functions of the HEA are outlined in Section 3 of the Act. Other specific functions of the HEA are outlined elsewhere in the Act. The HEA is the statutory funding authority for the universities, institutes of technology and a number of other designated institutions and is the advisory body to the Minister for Education and Skills in relation to the higher education sector. The HEA also has responsibility for the effective governance and regulation of higher education institutions and the higher education system. The views of stakeholders are invited in particular on whether there are any additional functions and responsibilities that the HEA should fulfil in the future in order to support and regulate an effective higher education system. In identifying the key functions of the HEA, stakeholders views are also invited on the most appropriate level of institutional autonomy for higher education institutions 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.

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

The Act includes a role for the Minister in designating institutions as institutions of higher education for the purposes of the Act, approval of moneys provided by the Oireachtas for institutions of higher education, approval of terms and conditions relating to HEA staff and the payment of allowances to the HEA advisory committee. Other Acts such as the Universities Act, the Institutes of Technology Act and the Technological Universities Act give authority to the Minister in relation to the higher education sector. Stakeholders' views are invited in particular on the issue of what is the most appropriate role for the Minister vis a vis the HEA in terms of regulating the higher education sector, and the relative roles and responsibilities of the Minister and the HEA in this area.

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

The legislative project may identify the requirement for amendments to other legislation in order to clarify the current and future role and responsibilities of the HEA in respect of the higher education sector and to ensure that the regulatory system put in place for the HEA is effective. This could encompass updates to statutory provisions relating to strengthened corporate governance in the Universities. Stakeholders are invited in particular to consider whether the opportunity should be taken to update any other relevant statutory provisions that could impact on the current and future role of the HEA.

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

The Act currently defines an institution of higher education as a university, a college of a university, a college to which the Institutes of Technology Acts 1992 to 2006 apply, Dublin

Institute of Technology, Royal College of Surgeons in Ireland, National College of Art and Design, Royal Irish Academy and such educational institutions as may be designated by order under section 5 of the Act. An alternative model that could be considered is a 'registration model' where Higher Education Institutions would be registered in different categories and subject to different registration requirements depending on the nature of their relationship with the State. Views are invited on whether a more flexible and responsive regulatory model as might be achieved under a registration system would be more desirable than the current 'designation model'; what would be the main benefits; whether any particular consequences might arise from a transition towards a registration system; and what might be the key elements of such a registration model.

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

Different jurisdictions have adopted different regulatory models for higher education. The HEA will be commissioning a piece of research to identify best practice internationally that could be considered in an Irish context. Stakeholders are asked to consider whether there are international models or practice that they are aware of that could be considered as part of this process.

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?

Designation/registration of Institutions, general functions of the HEA, Strategic Plans, governance of HEIs, penalties for governance or other breaches, appointment of Investigator, funding, withholding of funding, review and provision of relevant courses, gathering of information, improved data sharing to support more effective policy making while taking into account GDPR requirements and whether there are additional data sources that could be collated, reviews, research, links with other bodies, the Board. Views of stakeholders are invited on whether there are other areas that should be considered for inclusion in a new HEA Act.

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

Consideration should be given to compliance with the Act, financial compliance, governance compliance, compliance with frameworks and codes, provision of data, appropriate sanctions for non-compliance, autonomy of HEIs etc. The views of stakeholders are invited in particular on the most appropriate model of ensuring that the higher education sector operates to the highest standards of corporate governance and any particular measures that could be considered.

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

9. **Please provide the following contact details**

Note: Any personal details you provide will remain confidential and will only be used for the purpose of this project, in accordance with data protection legislation.

Name

Organisation (if applicable)

Address

Email Address

Please forward your submissions to heconsultation@education.gov.ie by 31 August 2018.

Submissions should be no longer than 2,000 words.

A summary of the key points raised in the submissions will be published on the DES website in due course. Please note that any personal details you provide will remain confidential and will only be used for the purpose of this project, in accordance with data protection legislation. However, all information and opinions you provide will be subject to the Freedom of Information Act (2014) and may be released.