

Governance Framework for the Higher Education System

Introduction

This document sets out the governance framework for the higher education system. It represents the culmination of a process to build on the significant existing governance and accountability infrastructure already in place with a series of new and improved mechanisms which will provide more robust assurance of compliance with legislative and other requirements and more timely and responsive interventions to address any issues arising. This process has involved consultation with the Department of Education and Skills, higher education institutions and other key stakeholders to develop the individual components of the framework.

The framework makes clear the central oversight role of the HEA in monitoring governance practice across the system, the respective responsibilities of higher education institutions (HEIs) and the mechanisms in place to ensure good governance practice and accountability of State funding. It begins by considering the definition of governance in a higher education context, provides an overview of the roles and responsibilities in maintaining good governance and highlights the key components which will ensure a robust and transparent governance framework moving forward. The key relationships underpinning an effective framework are then outlined, together with the individual mechanisms in place that facilitate the monitoring of compliance and good practice.

What do we mean by governance?

For the purpose of this framework “governance” means the systems and procedures of oversight implemented by the HEA with regard to the individual HEIs, and to the collective system of higher education.

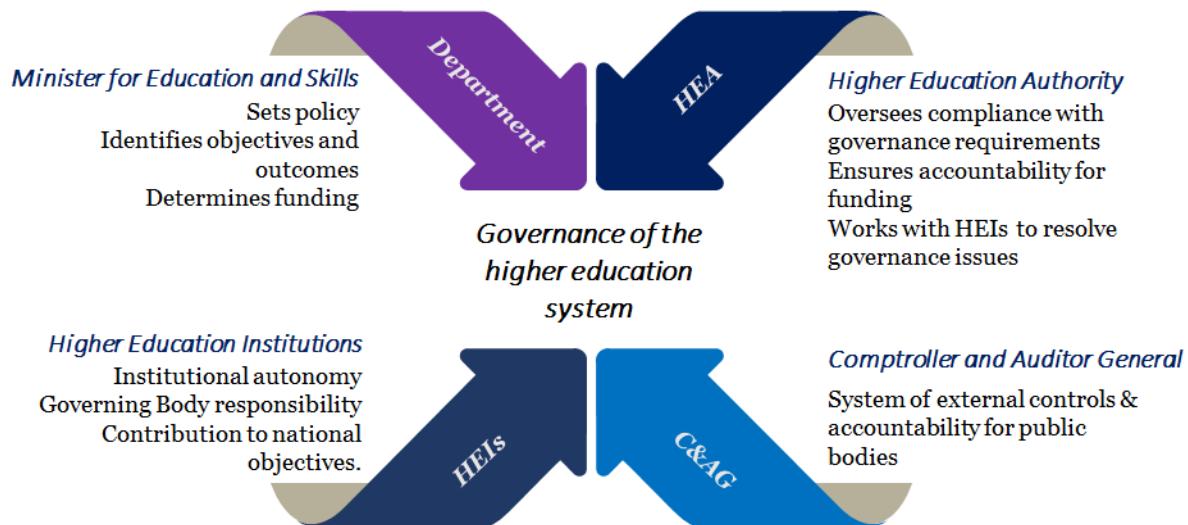
The objective of such oversight is to ensure that the HEIs and the system collectively meet the outcomes expected, effectively and efficiently. This is consistent with the definition set out within the respective Codes of Governance for Irish institutions. “Regulation” means the system of statutory and administrative rules and requirements placed on HEIs, with the HEA responsible for monitoring and reviewing ongoing compliance. In practice governance and regulation have a relationship of mutual dependence, with adherence to the regulatory system being a subset of overall good governance.

Governance comprises the systems and procedures under which organisations are directed and controlled. A robust system of governance is vital in order to enable organisations to operate effectively and to discharge their responsibilities as regards transparency and accountability to those they serve.

Code of Governance of Irish Universities 2012, Code of Governance of Institutes of Technology 2012

Overview of roles and responsibilities in the governance of higher education

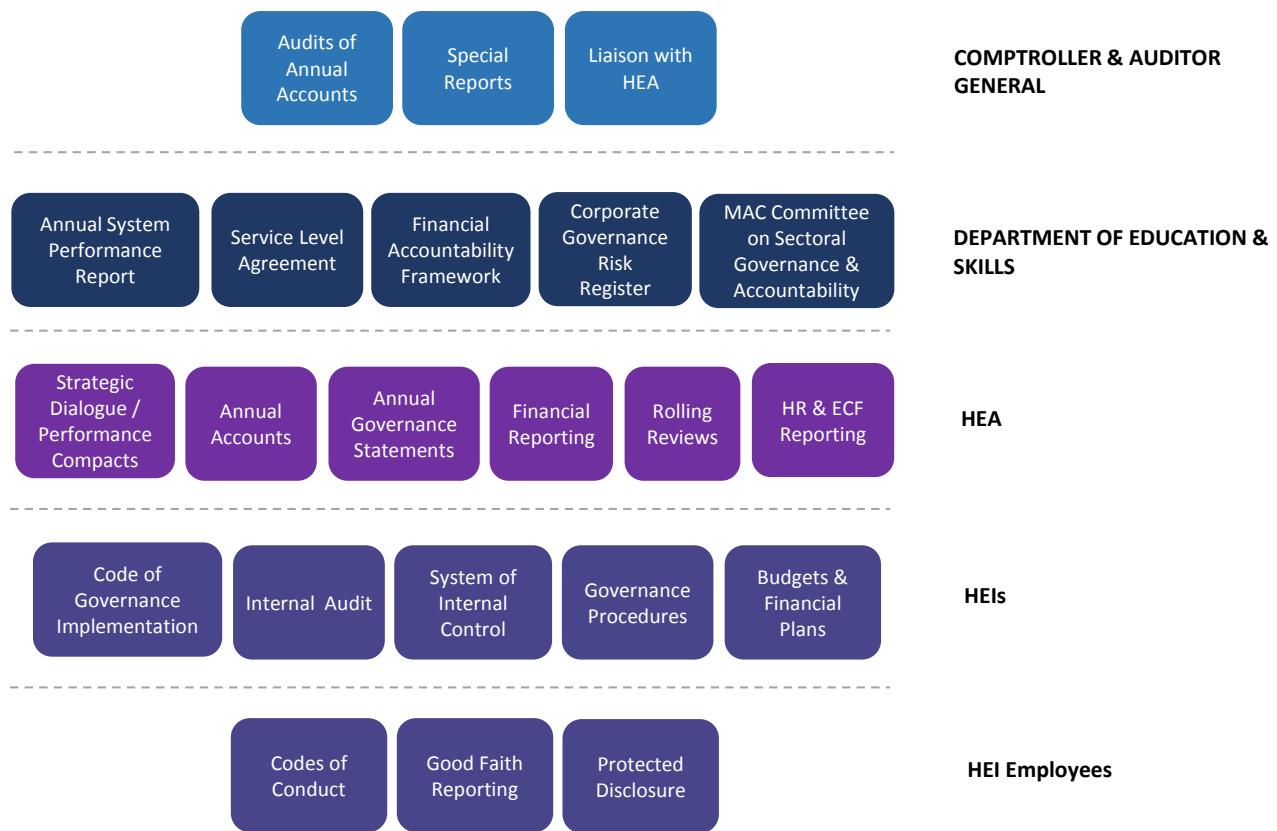
In exercising its governance and regulation mandate, the HEA operates in a multi-stakeholder environment, with the Department of Education and Skills, the HEIs and the Office of the Comptroller and Auditor General the other three ‘core’ pillars within the framework. An overview of the respective roles and responsibilities of these main actors is set out in the diagram below.



While the diagram above presents the core pillars over which an effective governance system for the higher education sector operates, there is of course wider engagement with other key stakeholders. This includes QQI, which is responsible for the overall quality assurance of the system; the Department of Jobs, Enterprise and Innovation, which is responsible for elements of research funding for higher education; and the Department of Public Expenditure and Reform, which has overall Government authority for implementation of wider public sector pay and employment controls across the higher education sector. The HEA works with all of these bodies to ensure clarity of respective responsibility and that effective co-ordination occurs between them within the context of national strategy for higher education and research. A full statement on the role of the HEA in the governance of higher education is set out in Appendix 1.

Overview of the Governance Framework for Higher Education

The figure below provides an overview of the governance framework as it stands, setting out the key mechanisms by which good governance and accountability across the higher education system is assured.



As the figure indicates, the success of this framework is dependent on clear governance and reporting arrangements between the HEA, the Department of Education and Skills, the Comptroller and Auditor General, the higher education institutions and their employees and students. These relationships, and the mechanisms that underpin them, are discussed in greater detail in the sections below.

The HEA and higher education institutions

The governance and regulatory function of the HEA operates as an integral part of the broader role of the organisation. The HEA is required by legislation to allocate funding to HEIs, to provide policy advice and to exercise certain regulatory functions in respect of almost all publicly funded HEIs. The funding remit includes the development of appropriate funding models and is concentrated on: ensuring transparency and fairness in allocations; accountability in terms of monitoring application of funding for the purposes intended; and oversight of the financial health of the individual HEIs and the system as a whole. Alongside this funding role, the HEA provides advice to the Minister on the development of higher education and research and is the agency of record for data on the HE system.¹ The HEA brings the following values to bear in all its interactions with the HEIs:

- Respectful of institutional autonomy, within an accountability framework.
- An open and inclusive approach through constructive consultation.
- Openness, fairness and transparency.
- Accountability to the Minister for the achievement of objectives.
- Commitment to evidence based policy development.
- Understanding of the multi-annual context underpinning HEI operations

There are five core aspects of the governance relationship between the HEA and HEIs as set out below.

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| Strategic Dialogue Process and Performance Compacts | <p>The HEA mandate encompasses the responsibility to create a well-coordinated <u>system</u> of higher education institutions which is capable in its totality of delivering on national objectives set for the system by the Minister. This aspect of the role requires the HEA:</p> <ul style="list-style-type: none"> • To focus on outputs and the performance of each HEI, and the system as a whole. • To negotiate a compact with each HEI reflecting its distinct mission. • To monitor performance against agreed deliverables, and • To provide funding based on performance <p>Performance against the compacts is monitored via a system of annual reporting and a strategic dialogue process, whereby the HEA meets with each individual institution to review performance and confirm good ongoing governance and accountability of the public funding distributed in each case.</p> |
| Annual Governance Reporting | <p>All HEIs are required to submit an Annual Governance Statement and Statement of Internal Control to the HEA, based on a revised template covering a comprehensive list of governance requirements, with non-compliance in any matter to be identified within the statement. Significant onus is placed on the Governing Body and its Chair properly scrutinising the information that forms the basis of the Governance Statement. Indeed the statement requires that the regularity of Governing Body and Internal Audit Committee meetings is set out and clarification that the effectiveness of the Governing Body is the subject of ongoing review. From 2014/15, the annual governance statement must be submitted to the HEA within 6 months of completion of the financial year. In</p> |



Individual higher education institutions, and the system as a whole, is established, governed and funded in the interests of students, the promotion of knowledge, learning and research, equality of opportunity and the social and economic interests of Ireland.

¹ HEA Act, 1971, Sections 3, 5, 6, 12

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| | <p>In addition, HEIs are expected to flag all major governance issues to the HEA on an ongoing basis. The template used for the Annual Governance Statement for all Universities and specialist colleges is set out as Appendix 2 and the template for Institutes of Technology is set out as Appendix 3.</p> |
| ECF and Other HR Reporting | <p>In addition, HEIs are required to report on a quarterly basis on core and non-core staffing in line with the principles set out in the Employment Control Framework (see Appendix 4). A Delegated Sanction Agreement which will replace the Employment Control Framework (ECF) is currently being finalised and this will maintain the quarterly reporting requirement. 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 (see Appendix 5). 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 Education and Skills and Department of Public Expenditure and Reform, but should be raised in the first instance with the HEA.</p> |
| Annual Accounts and Statements of Internal Control | <p>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 within a specified period of the end of the 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, as set out in Government Circular 7/15. The HEA will request written clarification from the relevant HEI on any issues identified within the C&AG certification of the accounts. New timeframes around the preparation of accounts and statements on internal systems of control are currently being implemented, with institutions required to submit within 6 months of year end (YE) for 2014/15, 4 months for YE2015/16, and 3 months for YE2016/17 (see Appendices 6 and 7).</p> |
| Financial Reporting | <p>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 (see an example of a signed copy in Appendix 8). These include:</p> <ul style="list-style-type: none"> • 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) <p>All HEIs are required to demonstrate a balanced recurrent budget in any financial year, and failure to do so means that the HEA must consider them as vulnerable. 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 (see Appendix 9 for an example of this letter). A formal HEA policy is in place with regard to the interventions required when an Institute of Technology acquires this vulnerable status (see Appendix 10). 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 vulnerable remains the same: 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. Any failure to do so will result in further direct intervention from the HEA. In addition, Universities are required to report annually on their position regarding the Framework for Borrowing and Loan Guarantees, which allows borrowing by these institutions within certain parameters (see Appendix 11). The Institutes of Technology are also required to seek approval from the HEA on the acquisition of any additional land or property, with a protocol in place to underpin the Authority's decision-making in this regard (see Appendix 12)</p> |

Rolling Governance Reviews

To consider good practice and issues in greater depth with regard to particular governance themes, a series of rolling reviews of corporate governance compliance with relevant Codes of Practice will be conducted across the higher education sector. A panel of suitably qualified companies that can perform such reviews has been selected by the Department of Education and Skills via a competitive tendering process, and the HEA will draw on this panel to conduct each review. The review will focus on a particular aspect of governance compliance, with each theme and associated terms of reference to be agreed with the Department in advance. The first rolling review is focusing upon procurement and commenced in the second quarter of 2016. The terms of reference for the first rolling review is provided as Appendix 13.

These six core components reflect a range of governance arrangements between the HEA and HEIs. The **Protected Disclosures Act 2014** also allows for any employee of an HEI to make a disclosure to the Chief Executive Officer of the HEA on any matter relating to the funding, planning and development of higher education and research in the State. The HEA has a process in place for receiving these disclosures and takes appropriate action on any governance issues identified via this process with regard to an HEI.

The HEIs and employees and students

HEIs are autonomous bodies and therefore the onus must lie with the institutions themselves to have fair and transparent governance and accountability arrangements in place that will ensure effective management of staff and a high quality learning and research environment for students. Central to these responsibilities must be a strengthened role for the Governing Body and the HEA have taken steps to ensure oversight and ownership of governance arrangements at this level via annual reporting requirements as noted above. Despite institutional autonomy, from a system governance perspective, there are a number of prerequisites which all HEIs are expected to have in place to ensure good governance. These include:

- Process by which the relevant Code of Governance has been put in place
- Codes of conduct for governing body members and institution staff
- Appropriate procedures for internal audit and effective internal control
- Appropriate procedures for procurement
- Clear and independent process for raising of, and investigation into, complaints from students.
- Procedures for Good Faith Reporting whereby employees may, in confidence, raise concern about possible irregularities in financial reporting or other matters with assurance of meaningful follow-up of matters raised in this way.

This latter requirement is an important mechanism in ensuring that any governance or other issues within an institution that may not be apparent from formal corporate reporting can be raised and investigated independently from management interests. Since the introduction of the Protected Disclosures Act 2014, there is also the capacity for employees to make such a disclosure to their institution (in addition to a right to make this to the CEO of the HEA as referenced above).

The HEA and the Department of Education and Skills

While governance at institutional level is a responsibility of the HEI, the HEA has an oversight role to ensure that appropriate systems are in place and are operating effectively, in line with its responsibility to ensure full accountability for public funding and to maintain a risk register for the sector on behalf of the Department of Education and Skills. This relationship with the Minister for Education and Skills and the Department around governance is a critical component of the overall governance framework. A series of mechanisms are in place to frame this relationship, covering: performance in the delivery of national policy objectives; a service level agreement outlining specific required activities; financial accountability; and risk. Further details on these mechanisms are set out in the table below.

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| Annual System Performance Report | The HEA is required to submit an annual system performance report to the Minister for Education and Skills setting out progress against the agreed national policy objectives and identifying any governance, financial or wider performance issues across the higher education sector. The report draws together the findings from the performance compact updates and associated strategic dialogue process with individual HEIs, setting out performance against agreed baselines and targets. |
| Service Level Agreement | The Service Level Agreement between the Department of Education and Skills and the HEA provides the formal framework for the DES/HEA relationship, providing the context both for the work of the HEA and for accountability to the Minister. It currently focuses on activities across 10 themes, with service commitments, associated indicators and delivery targets in place across each theme. One theme focuses directly on the monitoring of compliance with governance and accountability requirements for the sector. The latest Service Level Agreement is provided as Appendix 14. |
| Financial Accountability Framework | In conjunction with the SLA, the HEA also agrees a Financial Accountability Framework with the Department to provide for proper and effective use of public funding, effective control audit and accountability measures and cost effective and efficient delivery of services. A range of responsibilities are set out in this framework as follows: <ul style="list-style-type: none"> • Governance assurance and accountability structures • Financial control and reporting • Audit arrangements • Risk management • Procurement • Travel and subsistence • Tax Each of these responsibilities has associated HEA commitments and key performance indicators. The HEA monitors and reports on progress against these KPIs on a quarterly basis to DES. The Financial Accountability Framework is provided as Appendix 15. |
| Risk Register | The HEA is responsible for maintaining a corporate governance risk register for the higher education sector on behalf of the Department of Education and Skills. This sets out a series of risks such as, for example, Governing Body appointments not taking into account corporate governance expertise or HEIs failing to administer the Code of Governance correctly. The risk register is updated and submitted to the Department on a quarterly basis. The Risk Register is provided as Appendix 16. |
| MAC Committee on Sectoral Governance and Accountability | The MAC Committee on Sectoral Governance includes representatives from the Department of Education and Skills, the Chief Executive of the HEA and an external member who can provide an additional element of insight and experience in the area of governance oversight. The Committee's role |

is to support the development and implementation of best practice governance arrangements across the sector through oversight and regular assessment of its approach to governance. A Principal Officers' Sectoral Governance and Accountability Network has also been established to support the work of the MAC committee by facilitating discussion regarding compliance requirements, providing feedback, highlighting issues arising in each sub-sector and disseminating good practice.

The HEA and the Comptroller and Auditor General

While the Comptroller and Auditor General must, by necessity, maintain an 'arm's length' relationship with both the HEA and HEIs, it is also important that a good working relationship is maintained to ensure full understanding of C&AG findings and timely interventions where issues have been identified. To facilitate this, the HEA schedules formal meetings with the C&AG on a quarterly basis. These meetings focus in particular on the status of C&AG audits of financial statements of HEIs and the identification of any issues or difficulties arising (e.g. non-compliance with procurement requirements). Where issues arise that are not previously known to the HEA, it allows for earlier intervention with the relevant institution in order to address them.

The C&AG can also commission special reports with regard to a particular issue identified in the course of its regular work (e.g. governance concerns in a particular HEI), or on a particular cross-sectoral theme (e.g. capital investment) and the HEA works with it to facilitate these undertakings with relevant HEIs.

Higher Education Authority and the Department of Education and Skills

Corporate Governance Risk Register

| | Risk | Mitigating Actions | Timeline |
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| 1. | HEIs do not administer the Code of Governance correctly | HEI's will be requested to provide reports to HEA to verify that all governance and assurance mechanisms and structures are effective and adequate. | On-going |
| 2. | HEIs reporting inadequate | The HEA will establish clear requirements in respect of all reporting in relation to corporate governance. | On going |
| 3. | HEA template for reporting is inadequate | Periodically review the reporting template to ensure appropriate testing of whether proper corporate governance in place | HEA to issue revised reporting template to HEIs for reporting on 2013/14 year. Signalled to HEIs January 2015, update to HEIs May 2015 and issue revised template June 2015 with a view to new reporting template being returned by end July 2015. |
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| 4. | Annual Statement of Governance and Internal Control returned by HEIs taken in good faith by HEA | Establish system of rolling review of key elements of governance | Commence rolling reviews last quarter 2015 |
| 5. | Governing Body appointments do not take into account corporate governance expertise | DES will set out corporate governance expertise as factor when recommending appointments to Governing Body's DES will consult with HEA in respect of evidence of compliance with corporate governance | On-going DES to input |
| 6. | HEIs audit to confirm compliance may be delayed by C&AG | Periodic engagement with C&AG to set out timelines for audit, and identify reasons for particular delays. HEIs may be required to submit annual statement of governance and internal control within 6 months of end of accounting year. Explore possibility of de-coupling the statements from the annual audited accounts. | HEA/C&AG agree to meet quarterly – act as early warning system. First meeting to take place June 2015 Separate working group established on university audit issues. First meeting 27 th May 2015 |
| 7. | Final audits may conflict with governance returns and issue arising might not be identified by HEA | Require institutions to inform HEA in respect of any issues arising in audits regarding any non-compliance/financial irregularities/accountability issues that conflict with earlier statements, or otherwise material to the institution. HEA to | On-going |

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| | | monitor C&AG certification of accounts. HEA to engage with C&AG as part of quarterly meetings to identify issue arising. | |
| 8. | HEA Board unaware of findings of poor corporate governance | Establish clarity of expectations in terms of corporate governance returns from HEIs and present to System Governance and Performance Management (SGPM) Committee and Board in a timely manner | Aim to have reports to HEA Board in a timely manner (ideally 1 st Board meeting after full set of returns received.) |
| 9. | DES unaware of findings of poor governance | HEA will formally communicate all findings of poor governance to the DES after presentation of same to SGPM/HEA Board | HEA to report to DES after governance returns have been considered by HEA board. |
| 10. | HEIs refuse to implement good governance despite being notified to do so by HEA | Embed proper corporate governance within performance funding element of the Grant Allocation Process | Performance funding to impact on 2016 grant allocations |
| 11 | HEA acts ultra vires to becomes an auditor of HEIs | Clear understanding and definition of HEA role with DES, C&AG, PAC, etc. | On-going communication between all parties to ensure clarity of roles |
| 12 | HEA capacity to properly interrogate institutional returns inadequate | Provide training on an on-going basis to ensure capacity. Acknowledgement of need for additional staffing resources | Training to commence June 2015. Request for additional resources to DES. |

Financial Accountability Framework

Department of Education and Skills and the Higher Education Authority

Note: This framework works in conjunction with the Service Level Agreement agreed between both parties

Key Accountability Objective and Responsibilities:

Service Commitments:

- ❖ Proper and effective use of public funding
- ❖ Effective control, audit and accountability measures
- ❖ Cost effective and efficient delivery of services

| Responsibility | Commitment | Key Performance Indicators |
|--|---|--|
| Governance Assurance and Accountability Structures | <p>The HEA to ensure that its own governance and assurance mechanisms and structures are effective and adequate</p> <p>The HEA shall require confirmation from the higher education institutions under its designation, that governance and assurance mechanisms and structures in place are effective and adequate</p> <p>That a system of early warning reporting is in place for any potential problems to be highlighted and addressed. HEA will report to DES on a quarterly basis (or immediately in the case of extreme case) of any non-compliance issues/financial irregularities/accountability issues identified by HEA, arising from C&AG liaison or otherwise, in the previous quarter</p> | <ul style="list-style-type: none">• No. of non-compliance issues as highlighted by the C&AG and/or rolling reviews of corporate governance carried out by HEA• No. of issues where early warning identified |

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| | <p>Governance and assurance mechanisms for the HEA to be reviewed on an ongoing basis</p> <p>Governance and assurance mechanisms for HEI's under its designation to be reviewed on an ongoing basis</p> | <ul style="list-style-type: none">• Up to date Code of Practice and verification/assurance reporting in place by Dept for HEA• Verification of up to date Codes of Governance in place in each HEI• Annual system of reporting by HEIs to HEA to confirm compliance with key elements of the code• System of rolling reviews to provide further assurances of HEI compliance |
| Financial Control and Reporting | <p>HEA to account for funding provided for HEIs. Overview of budget meetings to be supplied to the Department. Details of financial position of each HEI to be supplied to the Department following budget meetings each year</p> <p>Written financial procedures to be in place in the HEA and updated as required. These procedures to include clearly defined roles and responsibilities with segregation of duties as appropriate for all financial transactions and reporting</p> <p>Financial system must have adequate audit trail to ensure full history of each transaction can be accessed and accounted for</p> | <ul style="list-style-type: none">• Timely, accurate and sufficiently detailed reporting and information supplied so that Department is aware of financial position of HEIs• Procedures in place and up to date• Audit trail available for inspection |

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| | <p>HEA to supply required bank account and cashflow details as required under the grant allocation letters terms and conditions issued by the Department each year</p> <p>HEA to be in compliance with public financial procedures and with other relevant circulars</p> <p>The HEA shall require assurance from the higher education institutions under its designation regarding compliance with public financial procedures and Government circulars by HEI's</p> <p>HEA to be in compliance with financial requirements under the Code of Practice for the Governance of State Bodies</p> <p>The HEA shall require assurance from the higher education institutions under its designation that the HEI's are in compliance with financial requirement of the Codes of Governance for the sectors</p> | <ul style="list-style-type: none">• Payments processed upon receipt of information• Full compliance by HEA and assurances from HEIs under monitoring & review procedures outlined above• Checks of compliance prove same are in place |
| Audit arrangements | <p>An audit committee should be in place and a properly constituted internal audit function with a formal charter as required under the Code of Practice</p> <p>The HEA shall require assurance from the higher education institutions under its designation that audit committees are in place</p> <p>Audit Committee should meet at least four times per year</p> <p>The HEA shall require assurance from the higher education institutions under its designation that the Audit Committee meets four times per year</p> <p>The Board is responsible for the body's system of financial control and should review annually the effectiveness of same. A Report regarding same must form part of the annual accounts</p> | <ul style="list-style-type: none">• Confirmation of committee in place by HEA to DES• Confirmation of committee in place by HEI's to HEA• Confirmation to DES by HEA• Confirmation to HEA by HEI's |

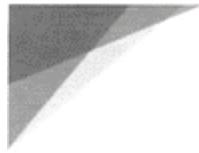
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| | <p>Draft unaudited annual accounts to be submitted to the Department not later than three months after the end of the financial year.</p> <p>Annual Accounts of the HEA, signed off on by the C&AG, to be submitted to the Department within one month of the audit certificate on the accounts being issued by the C&AG</p> <p>Annual Accounts of the HEIs, signed off on by the C&AG, to be submitted to the Department by the HEIs within one month of the audit certificate on the accounts being issued by the C&AG</p> | <ul style="list-style-type: none">• Confirmation in Chairpersons report and A/Cs of HEA to be submitted to DES• Confirmation in annual governance statements and A/Cs of HEIs to be submitted to HEA• HEA draft accounts submitted to DES by 31st March• A/Cs of HEA received and laid before Oireachtas in a timely manner• A/Cs of HEIs received and laid before Oireachtas in a timely manner |
| Risk Management | <p>As required under the Code of Practice, the HEA should have a Risk Management Policy and the Board should approve the risk management framework and monitor its effectiveness. The board should review material risk incidents and note or approve management's actions</p> <p>The HEA shall require assurance from the higher education institutions under its designation that each HEI has a similar arrangement in place</p> | <ul style="list-style-type: none">• Risk Management Policy in Place in HEA• Confirmation that Risk Management Policy in place in HEIs |
| Procurement | <p>The HEA must ensure that public procurement policy is adhered to and that when commissioning public services that economy, efficiency, transparency and effectiveness is achieved. There should be a Procurement Plan in place</p> | <ul style="list-style-type: none">• Public Procurement Policy in place in HEA |

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| | <p>The HEA shall require assurance from the higher education institutions under its designation that each HEI confirms compliance with public procurement policy</p> | <ul style="list-style-type: none">• Confirmation of compliance with Public Procurement Policy from HEIs |
| Travel and Subsistence | <p>The HEA should adopt and comply in all respects with the circulars issued from time to time regarding travel and subsistence. If significant annual expenditure on foreign travel by members of the staff or the Board occurs, appropriate procedures should be in place to monitor, report, and enforce the relevant rules and requirements</p> <p>A Travel Framework should be in place</p> <p>The HEA shall require assurance from the higher education institutions under its designation that each comply with public sector guidelines on travel and subsistence</p> | <ul style="list-style-type: none">• Travel Framework in place in HEA• Confirmation of compliance with public sector travel policy from HEIs |
| Tax | <p>The HEA must ensure full compliance with taxation laws and ensure that all tax liabilities are paid on or before due dates. Tax clearance requirements must be adhered to with regards the payment of grants, subsidies and any other similar type payments</p> <p>A copy of the Tax Clearance Certificate must be made available to the Department so as to ensure payment of Exchequer funding can be made.</p> <p>The HEA shall require assurance from the higher education institutions under its designation that each HEI confirms compliance with Taxation laws</p> | <ul style="list-style-type: none">• Current Tax Clearance certificate submitted to DES by HEA• Confirmation of compliance with taxation laws from HEIs to HEA |

Service Level Agreement

Department of Education and Skills
&
Higher Education Authority

Prepared By: Higher Education Division
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1 INTRODUCTION AND CONTEXT

1.1 PURPOSE AND SCOPE OF THE AGREEMENT

This Agreement sets out the management and accountability framework between the Department of Education and Skills (referred to in this document as “the Department”) and the Higher Education Authority (referred to in this document as “the HEA”). The purpose of the Agreement is to:

1. Set out the respective roles and responsibilities of both parties in relation to the development and oversight of the higher education sector in Ireland;
2. Provide clarity on the strategic and operational aspects of the organisations' relationship;
3. Provide a basis and framework for the delivery of high quality services and to set in place for 2015 the parameters and timeframe within which those services will be delivered by the Higher Education Authority.
4. Establish structured arrangements for communications, reporting and liaison;
5. Facilitate improved engagement and co-operation between both organisations.

This Agreement supersedes the Service Level Agreement for 2014.

This Agreement is not a legally binding agreement or a contract and is not exhaustive in its identification of responsibilities. It does not in any way limit any additional actions or policies being implemented between the two organisations. It also does not supersede any specific agreements between the two organisations in relation to particular work areas.

Both organisations will ensure that all relevant staff are familiar with the Agreement and its implications and that all dealings between the two organisations are conducted in accordance with its principles and provisions.

The services to be delivered as part of this Agreement will be finalised each year before the end of October so that the Higher Education Authority can incorporate its plans for delivery of services within its annual work plan.

1.2 DURATION OF THE AGREEMENT

This agreement is valid from 1st January 2015 to 31st December 2015. The agreement will be renewed on an annual basis.

Content of this Agreement may be amended or modified as required provided mutual agreement is obtained from both signatories.

1.3 FLEXIBILITY AND AMENDMENT OF TARGETS

Both parties recognise that it may become necessary to change, modify, add to or otherwise alter, agreed performance targets during the course of this agreement. A necessity for amendments may be prompted by changes in e.g. legislation, government/ministerial priorities or policies, prevailing operating circumstances and/or broader political, economic, financial or related priorities.

Where amendments become necessary, the Department will engage in meaningful and timely consultations with the HEA. Such consultation will include consideration of any increase or reduction in effort required to achieve amended targets and any related impact on total output requirements. In the course of all consultations, the Department will be cognizant of the resources required by the HEA to deliver additional priorities or the need to deprioritise some objectives if additional delivery requirements emerge. The Department also acknowledges that there may be co-dependencies in some instances where the delivery of objectives also require the commitment of other stakeholder agencies. At all times, the HEA is committed to working with all stakeholders in delivering the Government's objectives for the higher education system.

1.4 REPORTING AND LIAISON STRUCTURES

In addition to regular meetings and ongoing dialogue between management in the relevant areas of responsibility in the two organisations, the following meetings have been agreed to review progress on the services outlined in this Agreement. The final meeting is for the purpose of reviewing the performance of the system against the national priorities and system objectives outlined in the System Performance Framework¹ and agreeing priorities for the next period.

| Type of Meeting | Level of Attendance | Date |
|---|---------------------------|---------------|
| SLA review | Senior Mgt DES/HEA | End Q1 2015 |
| System Performance review | Minister/SG/CEO/Chair | End Q2 2015 |
| Mid-year SLA review | SG/CEO/Senior Mgt DES/HEA | End July 2015 |
| Progress 2015 and Draft SLA 2016 meeting | Senior Mgt DES/HEA | End Oct 2015 |

¹Higher Education System Performance Framework 2014-16 <http://www.education.ie/en/The-Education-System/Higher-Education/HEA-Higher-Education-System-performance-Framework-2014-2016.pdf>



2. RESPECTIVE ROLES AND FUNCTIONS

Higher education is central to individual, societal and economic development and is a vital component for overall national development. The Department and the HEA have a common mission of supporting the development and delivery of higher education. The respective roles are set out below.

2.1 DEPARTMENT OF EDUCATION AND SKILLS

The mission of the Department of Education and Skills is to provide for high-quality education, which will:

- Enable individuals to develop their full potential and to participate fully as members of society, and
- Contribute to Ireland's social, cultural and economic development.

Its key functions in relation to higher education are:

- To support Government in determining national policy across all dimensions of higher education activity and putting in place a three year System Performance Framework outlining the national priorities, the key system objectives and the performance indicators against which the performance of the system as a whole will be assessed;
- To support Government in determining the level of public funding for the sector, and to be accountable to the Oireachtas for its expenditure;
- To support Government in developing the legislative framework to ensure that national policies relevant to higher education can be implemented;
- To hold the HEA accountable for the performance of its functions.

2.2 HIGHER EDUCATION AUTHORITY

The HEA is the statutory funding authority for the universities, institutes of technology and a number of other designated institutions and is an advisory body to the Minister for Education and Skills in relation to the higher education sector. The Higher Education Authority (HEA) was established with the enactment of the Higher Education Authority Act 1971. The functions of HEA as defined in that and subsequent Acts include:

- Furthering the development of higher education;
- Assisting in the co-ordination of State investment in higher education and preparing proposals for such investment;
- Promoting an appreciation of the value of higher education and research;
- Promoting the attainment of equality of opportunity in higher education;
- Promoting the democratisation of the structure of higher education;

- Conducting reviews of the strategic plans and equality policies and to publish reports of such reviews;
- Promoting attainment and maintenance of excellence in learning, teaching and research in higher education;
- Allocating the moneys provided by the Oireachtas to publicly funded institutions.

The National Strategy for Higher Education to 2030 detailed a more strategic role for the HEA in the further development of the higher education system, including monitoring the performance of higher education institutions and providing accountability to the Minister in respect of performance outcomes for the sector. This will be delivered primarily through the HEA's role in implementing the System Performance Framework. The HEA also has a key role in developing funding mechanisms and deploying funding to drive performance in the system. The HEA will hold the institutions accountable for this funding. The HEA will also ensure adequate data collection and analysis to support system management and planning.

In addition the HEA plays a key role in providing policy advice as requested to the Minister and the Department on the current status of the higher education system and in the development of future higher education policy. In support of this role, the HEA may undertake to conduct research into relevant matters and raise policy issues with the Department where it considers action is required. The HEA will ensure that the Department is kept fully informed or involved on all initiatives/developments under consideration in this context. This should include where appropriate the participation of the Department in any working groups or processes established to progress work in a particular area.

2.3 MUTUAL COMMITMENTS

Both parties are committed to the promotion of partnership, responsiveness and mutual co-operation in their ongoing interactions.

Both parties undertake to ensure that no unnecessary delays will arise in respect of decision making, responses to correspondence, information requests or related matters. In relation to parliamentary questions or other parliamentary business, the HEA will provide appropriate material within the specified timeline. The head of Administration in the HEA will be the point of contact for such requests and will advise the Department who has been assigned responsibility for the response.

Both parties commit to keep each other fully apprised and updated on any emerging issues or planned public announcements. The HEA will ensure that there is prior consultation with the Department on draft reports in advance of final approval or publication. The Department will be cognizant of the demands placed on the HEA in delivering the service commitments set out in this Service Level Agreement and will support the HEA in its endeavours wherever practicable.



In relation to interactions with the higher education institutions, the primary conduit for communication between the Department and the HEIs will be the HEA who will keep the Department fully informed of such communications.

3. RE ACTIVITIES AND SERVICES 2014

The core activities and key services to be provided by the HEA to the Department in 2015 are set out in this section in addition to the service commitments relating to each service along with associated indicators and delivery targets:

No. Service

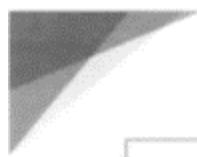
1. To put in place processes to implement the system performance framework
2. To support the improvement of system-wide quality in teaching
3. To support the development of research and innovation capacity across the sector
4. To improve the responsiveness of the higher education sector to workforce skills needs and its engagement with enterprise
5. To promote equity of access to the transformation of pathways to and within higher education
6. To support the internationalisation of the higher education system
7. To implement the agreed system reconfiguration and review higher education provision
8. To manage the allocation of public funding to higher education institutions and to support system financial sustainability and implementation of public sector reform
9. To monitor compliance with governance and accountability requirements for agency and for the sector
10. To support the Department in responding to the political system, departmental reporting and analysis requirements and policy development

3.1 SERVICE COMMITMENTS AND MEASUREMENT

| No. | Service Commitment | Associated Indicators | Delivery Target |
|--|---|---|----------------------|
| 1. To put in place processes to implement the system performance framework | | | |
| 1.1 | To continue to roll out process of strategic dialogue with all designated HEIs | Compacts and key indicators agreed and communicated to DES | Q2 2015 |
| 1.2 | To provide robust analysis on system performance against national priorities, system objectives and key system KPIs at institutional and regional cluster level | 2014 Progress update on compacts | Q2 2015 |
| 2. To support the improvement of system-wide quality in teaching | | | |
| 2.1 | To manage funding for the National Forum for Enhancement of Teaching and Learning; agree its work programme and monitor performance. | Implementation of digital capacity roadmap | Q4 2015 |
| | | Submission of report on non-progression in higher education | Q3 2015 |
| | | Seminar on 7 funded research projects for DES & HEA | Q3 2015 |
| | | Development of national professional development framework | Q4 2015 |
| 2.2 | To co-ordinate mainstreaming of Irish Survey of Student Engagement (ISSE) | Effective feedback and use of ISSE data: an emerging picture | Q1 2015 |
| | | National report 2015 | Q4 2015 |
| 2.3 | To implement the MoU with QQI with a particular focus on the alignment of QQI's institutional dialogue with the HEA's strategic dialogue. | MOU with QQI signed | Q1 2015 |
| | | HEA and QQI engagement | Ongoing through 2015 |
| 3. To support the development of research and innovation capacity across the sector | | | |
| 3.1 | To develop papers in consultation with DES on STI policies in higher education | Position papers agreed for input into National Research Strategy consultations | Q1 and Q2 2015 |
| 3.2 | To support the work of the Department's Horizon 2020 Working Group | Papers agreed for submission to and discussion with the High Level Group and the Strategic Research Proposals Group | Ongoing through 2015 |

| | | | |
|---|--|---|---|
| 3.3 | To implement as appropriate actions arising from research prioritization | Launch of National Framework Guidelines Feedback on Implementation of Guidelines | Q1 2015 Q3 2015 |
| 3.4 | To manage and develop, through the IRC, research funding programmes focused on people and skills development | Awards announced and funding allocated | Cyclical 2015 in line with IRC work programme |
| 3.5 | Maintain a suite of employer-facing research and skills development initiatives and provide researchers with opportunities to engage with diverse career options | Maintain the IRC Employment Based Programme (MSC & PhDs) - skills development while embedded in an employer organisation. Enhance participation of SMEs/micro-businesses in the IRC Enterprise Partnership Scheme (EPS) - cultivate enterprise focused researchers in their formative research career (students & postdocs). | Q3 2015 Q4 2015 |
| 3.6 | Address national societal challenges by partnering on research with government entities and civic society | Launch the IRC pilot 'Research for Policy and Society' initiative in partnership with a number of government departments and agencies | Q2 2015 |
| 3.7 | To review action plans in conjunction with IRC and HEA for engagement with Horizon 2020 | Review of action plans complete | Q3 2015 |
| 3.8 | Develop initiatives to support researcher careers and enhance Irish applications to Horizon 2020 | Launch the IRC 'New Horizons' initiative to enable researchers develop the track record required for success in Horizon 2020 | Q2 2015 |
| 3.9 | Secure support for innovative postdoctoral research and training initiatives from H2020 | Building on the success in FP7, IRC apply for a H2020 Marie Curie Skłodowska COFUND. | Q4 2015 |
| No. | Service Commitment | Associated Indicators | Delivery Target |
| 4. To improve the responsiveness of the HE sector to workforce skills needs and its engagement with enterprise | | | |
| 4.1 | Contribute to the development of the revised National Skills Strategy being led by DES | Contribute to work of the steering group and project team | Q3 2015 |
| 4.2 | To effectively manage, evaluate and report on the targeted Skills initiative | 2015 evaluation reports completed and submitted to DES | Q4 2015 |
| 4.3 | To implement relevant actions of ICT Action Plan | Chair ICT Graduate Output Delivery Team. | Q3 2015 |

| | | | |
|------|---|--|--|
| | | Implement actions under Springboard and ICT conversion programmes. Implement programme of incentivised additional places and any other actions necessary, in consultation with DES. | |
| 4.4 | Further develop and evaluate the Programme of Professional Postgraduate Practice | Evaluation Complete | Q3 2015 |
| 4.5 | Publish and implement system enterprise engagement strategy | Enterprise engagement strategy published and implementation of agreed actions | Q1 2015 |
| 4.6 | Follow-up on issues identified in the National Employer Survey | Follow-up actions to be agreed following publication of survey | Q1 2015 |
| 4.7 | Support development of regional enterprise engagement structures by higher and further education systems. | Contribute to work of DES led project | Q3 2015 |
| 4.8 | Support development of a new workforce planning framework for the health sector, in collaboration with DES and the Department of Health | Contribute to the work of the steering group and technical group established by D/Health | Q2 2015 |
| 4.9 | Contribute to the development of a new foreign languages in education strategy | Contribute to the work if the project established by DES including consultation with enterprise | Q4 2015 |
| 4.10 | Contribute to the work of the Apprenticeship Council | Call for new apprenticeships completed and roll out commenced | Ongoing |
| 4.11 | Support the HEInnovate review of entrepreneurship in Higher Education | Background report Initiated Kick off Workshop OECD Study Visit Completion of Final Report | Q2 2015 Q2 2015 Q2 2015 Q4 2015 |



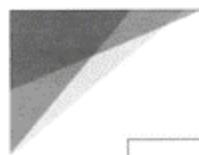
| 5. To promote equity of access and the transformation of pathways to and within higher education | | | |
|---|---|--|---------------------------------------|
| No. | Service Commitment | Associated Indicators | Delivery Target |
| 5.1 | To develop and implement a new National Access Plan from 2015 aligned with national priorities and system indicators | Publication of public consultation paper Completion of consultation process Publication of National Access Plan Yearly progress report included in System Performance report based on agreed metrics | Q4 2014 Q1 2015 Q1 2015 |
| 5.2 | To review institutional access policies/plans and practice to support measurable outcomes against objectives of new plan | Synthesis report on institutional plans and recommendations conveyed to HEIs as part of strategic dialogue | Q4 2015 |
| 5.3 | To manage the student assistance fund and the fund for student with disabilities and comply with the related ESF audit and reporting requirements | Available funding allocated on a prioritized needs basis and maximum ESF Funding drawn down. Report on the management of SAF at institutional level to be submitted to the Department | End Jan 2015 Q2 2015 |
| 5.4 | To conduct a review of the SAF and associated guidelines | Terms of reference agreed and independent external reviewers appointed. Final report ready for publication | Q2 2015 Q4 2015 |
| 5.5 | To conclude a data strategy to support future development of access policy and provide for monitoring of the new national access plan – see 10.4 | Agreed data strategy between HEA, DES and SUSI with dedicated resource in place to co-ordinate development | Q1 2015 |
| 6. To support the internationalisation of the higher education system | | | |
| 6.1 | Act as national agency for the higher education components of the Erasmus+ programme | Agree national targets for relevant Erasmus + programmes with the | Q2 2015 |

| | | Department in line with national policy | |
|---|--|---|---|
| 6.2 | Participate in review of current International Education Strategy, which runs to end of 2015, and in follow up work on development of an updated Strategy for 2016-2020. | DES discussion paper to be considered by High Level Group on International Education Updated Strategy | Q1 2015 Q4 2015 |
| 6.3 | Co-ordinate and develop Ireland's approach to the Brazilian Government's <i>Science Without Borders</i> Programme | Successful implementation of 2013 and 2014 calls. | As agreed with Brazilian authorities |
| 6.4 | Put in place review mechanism to measure outcomes for students on <i>Science Without Borders</i> | Mechanism in place | Ongoing 2015 |
| 6.5 | Implement the <i>Government of Ireland International Scholarships Programme</i> and develop arrangements to measure outcomes of the Programme. | Continued implementation of 2014 programme, and launch/implementation of 2015 call. | Ongoing 2015 |
| 7. To implement the agreed system re-configuration and review higher education provision | | | |
| 7.1 | To advise and support merging HEIs and advise DES on issues arising | Targeted funding allocated to successful applicants/project teams and report submitted to DES | Q4 2015 |
| 7.2 | To administer TU process on behalf of Minister | Panels and timely reports at stage 3 or 4 as appropriate | Ongoing 2015 |
| 7.3 | To liaise with HEIs in developing regional plans | Regional plans for all clusters in place | Q3 2015 |
| 7.4 | To monitor and facilitate establishment of regional ITE clusters | Implementation of targets for 2015 as set out in Institutional plans. | Ongoing 2015 – progress report end Quarter 2 2015 |
| 7.5 | To review dental education provision with Department of Health | Following the review of Dental education liaise with DOH as appropriate. Expert panel to be established when DOH Workforce Planning review is complete | Ongoing 2015 Contingent on DOH review |
| 7.6 | To plan disciplinary reviews in Engineering and VFM review of Nursing | Schedule agreed with DES | |
| 7.7 | To advise on future higher education infrastructure priorities | Provision of advice on future priorities for any capital investment | Q4 2015 |

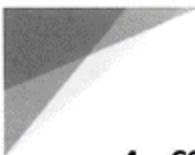


| No. | Service Commitment | Associated Indicators | Delivery Target |
|---|---|--|---------------------------------------|
| 8. To manage the allocation of public funding to higher education institutions and to support system financial sustainability and implementation of public sector reform | | | |
| 8.1 | To manage the allocation of current and capital funding to HEIs | Institutional grants allocated and budgets agreed. Objective is to achieve balanced budgets | Ongoing |
| 8.2 | To design and implement performance funding as part of system performance framework (Service objective 1) | Allocation of performance funding to HEI's | Ongoing through 2015 |
| 8.3 | To drive public sector reform in HEIs | Implementation of relevant areas of action on Programme Board work programme | As agreed by Programme Board |
| 8.4 | To participate in and provide secretariat support to the Expert Group on Future Funding for Higher Education | Expert Group report submitted to the Minister | Q4 2015 |
| 8.5 | To commence process for the transfer of non HEA bodies under the HEA and appropriate link with university/IoT agreed. | Agreement reached with each non HEA body for transfer under HEA and for link with a university or IoT as appropriate | Q4 2015 |
| 8.6 | To identify solution relating to future of an Chéim | Decision Finalised | Q1 2015 |
| 8.7 | To address areas of non-compliance with public sector policy in HEI's where identified | <p>Complete consultations with HEIs</p> <p>Review issues arising from consultation and consult with DES</p> <p>Introduce new measures</p> <ul style="list-style-type: none"> - More detailed questioning and review of institutional governance statements - Initiation of rolling review procedure for critical areas - Timely return of governance statements - Improved liaison with C&AG | Q1 2015 Q2 2015 Q2 2015 |

| | | | |
|---|--|---|--|
| 9. To promote, monitor and ensure best practice with regards governance and accountability requirements for agency and for the sector | | | |
| 9.1 | To comply with requirements of code of practice for State Bodies including the submission of the HEA Annual Report | Submit HEA annual statement to DES Submit HEA annual report and accounts and separate Chairpersons comprehensive report to DES | Q4 2015 Within one month of C&AG signoff |
| 9.2 | To review and improve processes for monitoring HEI compliance with code of governance and take appropriate action where required DES and HEA to formally agree Risk Register for the Sector Issue of non compliance with governance/government requirements identified and addressed | Annual Governance Statements received by HEA from HEIS and action taken on any issues arising in accordance with agreed format Risk Register agreed and implementation timelines agreed HEA identify and address issues with HEIs and notify DES on quarterly basis | Ongoing through 2015 Q2 2015 Quarterly |
| 9.3 | To monitor HEIs expenditure in line with public sector guidelines and notify areas of concern to DES | Annual HEI accounts received and analysed. Details submitted to DES with overview/observations of HEA System issues notified to DES and consideration of further action | Q3 2015 Ongoing |
| No. | Service Commitment | Associated Indicators | Delivery Target |
| 10. To support the Department in responding to the needs of the political system, departmental reporting requirements and policy development | | | |
| 10.1 | Provide DES with fortnightly calendar of planned communications, publications and media releases | Calendar of planned communications | Twice per month |
| 10.2 | To provide data and briefing to relevant DES officials and DES press office on responses due to be provided to the national media and on any media responses which could be considered sensitive so that DES can prepare | DES made aware of significant media responses before or at time of issue to the media | Ongoing |



| | | | |
|-------------|--|---|-------------------------|
| | necessary briefing for the political system, respond to PQs etc | | |
| 10.3 | To provide management information data to inform policy and funding decisions in relation to initiatives and programmes | Reports provided in timely manner | As indicated on request |
| 10.4 | To provide data and information on request to allow the Department to provide appropriate responses to parliamentary questions, briefing requests, reporting requirements and representations | Information provided in timely manner in appropriate format | As indicated on request |
| 10.5 | To provide annual data required for national and international reporting purposes. To expand data collections/provide estimates if necessary to respond to changing national and international demands | Information provided in timely manner in appropriate format | As indicated on request |
| 10.6 | To provide micro-data from the Student Record System for data matching with the Post Primary Pupil Database | Information provided in timely manner in appropriate format | As indicated on request |
| 10.7 | To develop a data and research (policy evidence base) strategy | Data and research strategy communicated to DES | Q3 2015-possibly Q2? |
| 10.8 | To liaise with DES and other agencies to establish medium term database for research and evaluation framework on Transition reform | Database established | Q4 2015 |
| 10.9 | To chair short term research steering group for Transition project | Research for new points allocation completed | Q1 2015 |



4. CORPORATE GOVERNANCE AND FINANCIAL ACCOUNTABILITY FRAMEWORK

4.1 CORPORATE GOVERNANCE

The Department and HEA are aware of the increasing responsibilities and oversight required in relation to governance and accountability in the Higher Education sector. Cognisant of this, the two organisations are working together in order to strengthen the oversight processes and will be agreeing and implementing strengthened procedures during the year.

The HEA will ensure that appropriate governance and assurance mechanisms and structures are in place in the HEA and higher education institutions. The HEA will ensure that the Code of Practice for the Governance of State bodies and the Codes of Governance for Universities and IOTs are in place in the HEA and HEI's respectively and will monitor their implementation. The HEA will ensure that circulars that issue from time to time from the Departments of Finance/Public Expenditure and Reform are notified immediately to HEIs and will monitor continued implementation.

The HEA shall submit to the Minister an annual report. The annual report shall be submitted to the Minister no later than one month following the completion of the audit of HEA accounts by the Comptroller and Auditor General or six months after the end of the relevant year, whichever is the earlier. Where it is the latter and the C&AG audit has not been completed the HEA shall publish its audited accounts separately.

4.2 FINANCIAL ACCOUNTABILITY FRAMEWORK

The objective of this Financial Accountability Framework is to ensure that there are appropriate structures in place in the HEA to provide for the necessary assurances to the Department of Education and Skills in respect of the funding advanced to the HEA for (a) the administration the Authority and (b) the disbursal of funding to the Higher Education Institutions.

4.2.1 Funding arrangements, including Monitoring and Reporting

The HEA will effectively manage the public monies provided and will ensure regular monitoring and verification arrangements to ensure best practice is followed and financial controls are adhered to in order to safeguard the public funding provided from the Exchequer.



Funding for the provision and administration of grants will be advanced to the HEA in line with agreed procedures which are set out in the grant allocation letters which issue from the Department each year. The HEA will provide financial reports and statistical data as required including data to support the preparation of budget and performance assessment and reporting.

4.2.2 Financial Procedures

Written procedures

The HEA will ensure that there are written financial procedures in place which reflect, and are in compliance with, the requirements of the Public Financial Procedures and other relevant financial regulations and guidelines and reflect the updated requirements of Department of Public Expenditure and Reform circular 13/2014. These procedures will be kept under ongoing review having particular regard to the findings of the annual internal review of the effectiveness of the HEA's system of internal controls and audits.

Grant payments

The HEA will agree with the Department a profile setting out proposed drawdown of funding for the year. Requisitions, signed by the agreed signatories, should be made in line with agreed profiles. In the event of the HEA not requiring full drawdown or requiring an increase, for any particular month, details of such a variation on agreed profile must be put to the Department for agreement.

The Department will issue grant allocation letters to the HEA each year in respect of each subhead. The HEA will comply with the requirements set out in these letters.

The Department will process requests for funding, where possible, within five working days

Pension Related Deductions (PRDs)

The HEA must pay over appropriate PRDs, in respect of public service employees as defined in the Financial Emergency Measures in the Public Interest Act (FEMPI) 2009, to the Department by the fifteenth day of each month in respect of the preceding month's payroll and by a date specified annually in respect of December payroll

4.2.3 Risk Management and Compliance

The HEA will adopt a structured approach to risk and control in respect of the Authority which will provide for the identification and control of financial risks and for the ongoing improvement of its financial management systems. The HEA will monitor the statements of internal control



produced by HEIs and reviewed by C&AG including the risk and control mechanisms in place in each higher education institution.

Compliance with Public Sector Legislation and Policy

The HEA will comply with all relevant public financial procedures and legislation. These include public procurement, taxation legislation including income tax and withholding tax, employment and pension legislation, prompt payment of accounts and all other relevant legislation applicable to bodies in receipt of Exchequer funding. The Department must be satisfied that the arrangements for the general control, management and administration of public funds are satisfactory and the HEA will ensure that proper accounts are kept and audited and are available for audit by the C&AG in a timely manner.

In line with the provisions of Department of Public Expenditure and Reform Circular 13/2014 the Department has the right to inspect the records of the HEA if required.

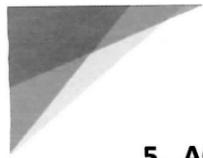
Annual Accounts

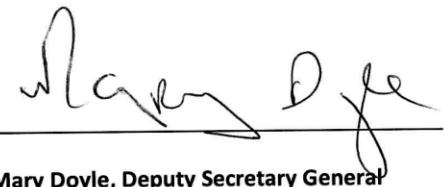
As required under the Code of Practice for the Governance of State bodies, and in line with the sanctioned extension of time, the HEA will submit a copy of draft unaudited accounts by 31st March of each year.

Section 8 of the Comptroller and Auditor General (Amendment) Act, 1993, provides for the audit by the C&AG of the accounts/financial statements of the Higher Education Authority.

Section 11 requires that a copy of the Annual Accounts should be submitted to the Department once signed off on by the C&AG. The HEA should submit the accounts to the Department immediately upon receipt after C&AG sign off. The Department will lay the Audited Accounts before the Houses of the Oireachtas within two months of receipt in the Department.

The audited accounts should be accompanied by a comprehensive report from the Chairperson affirming compliance with all requirements as set out in the Code of Practice for the Governance of State Bodies.

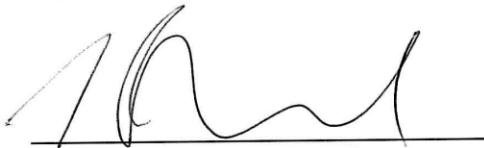
**5. AGREEMENT APPROVAL**



Mary Doyle, Deputy Secretary General
Department of Education and Skills

Date

24/3/15



Tom Boland, Chief Executive Officer
Higher Education Authority

Date

24/3/15

Request for Supplementary Tender (mini-competition)

HEA - SYSTEM OF ROLLING REVIEWS

Review of Procurement Practices in HEA-funded Higher Education Institutions

Terms of Reference

Background

As part of the HEA role to promote, monitor and ensure good practice with regard to governance and accountability for the higher education sector, the HEA is required to review and improve processes for monitoring higher education institutions' (HEIs) compliance with codes of governance and take appropriate action where required¹. In order to discharge this role more effectively, the HEA has instigated a number of changes to governance oversight processes during 2015 including reviewing the annual governance reporting formats submitted by HEIs with a view to achieving more consistency and depth in returns and putting in place a process of ongoing engagement with the C&AG to serve as an early warning system of potential issues. An overview of the current governance framework which is in place for the higher education system, together with the relevant statements, templates and agreements which underpin this framework, are set out in **Appendix A**.

In addition, as part of the process to review and strengthen HEA processes in relation to oversight and follow-up on governance and internal control statements, it has been signalled that the HEA will introduce a programme of **rolling reviews**. The rolling reviews will cover specific elements of governance processes by combining desk research of the approach across the higher education sector with more detailed review of practice across a sample of institutions, with four key objectives:

- to provide assurance that governance processes are operating effectively; and
- to inform understanding of how particular aspects of governance are implemented within HEIs
- to assess whether there are any deficiencies to be addressed
- to assist in the development of best practice approaches across the sector.

¹ DES/HEA SLA 2015

The HEA's objective will be both to consider the operation of corporate governance in the individual institution concerned, and to assess whether there are any deficiencies to be addressed, and more generally to identify any wider learnings that might be applicable across the sector, and disseminate such learnings accordingly.

It has been agreed that the first rolling review will focus on **procurement practices** in HEA-funded institutions and will commence in 2016. Institutions are now required to provide more explicit confirmation that they are compliant with national procurement guidelines as part of the new governance reporting templates and if not, what corrective action has been taken. The Comptroller and Auditor General, in the context of reporting on institutions' accounts, has highlighted a number of cases of non-compliance with national public procurement guidelines both in respect of goods and services procured and minimum thresholds applied. The issue of non-compliance with national procurement guidelines has also been a subject of discussion at the Oireachtas Committee of Public Accounts. The issue of assuring good practice is further complicated by the implementation of a new system of procurement across the public sector with the establishment of the Office of Government Procurement and the rolling out of a series of procurement frameworks, with the Education Procurement Service also charged with specific responsibilities within this system.

Review Requirements

A panel of suitably qualified companies that can perform auditing and accounting services has been selected by the Department of Education and Skills via a competitive tendering process. The HEA now invites supplementary tenders from members of this panel that set out proposals to deliver on the following terms of reference:

- Review C&AG audited accounts for the last 3 available years, identifying and analysing any areas of procurement non-compliance identified across the sector
- Review the Annual Governance Statements submitted by the HEIs over this three year period and identify any divergence between declared procurement practice and the findings of the C&AG with regard to the published accounts
- Consider the procurement practices in a sample of 7-8 higher education institutions (agreed in advance with the HEA) including:
 - Institutional arrangements with regard to procurement (e.g. designated responsibilities, procurement office, staff) and adequacy of the resources available

- Identify any divergence between procurement thresholds applied by the institutions and the thresholds set out in national and EU public procurement rules
- Review of procurement manuals and any other relevant documentation
- Review of awareness of procurement requirements across management and relevant staff and any information sharing, training or development activities to ensure staff have capability and knowledge to apply good procurement practice
- Chain of approval with regard to procurement and process by which appropriate sign-off is assured, including use of any systems to underpin this (e.g. Agresso)
- Review of use of (and engagement with) central procurement arrangements through the Education Procurement service (EPS) and the OGP.
- Identification and articulation of three case studies of specific procurements undertaken for each institution which demonstrate the approach taken by that institution. The overall base of case studies should include examples of both good and poor procurement practices.

- Review the adherence to national procurement regulations and procurement guidelines with regard to both goods and services procured and thresholds applying
- Produce overall analysis of the current approach to procurement across the higher education sector based on the information and institutions considered
- Recommend on best practice with regard to procurement practices in higher education institutions for wider dissemination in the sector.

Governance of the Review

It is anticipated that a small Steering Group will be set up to oversee the review, liaise regularly with the appointed consultants and review the draft and final outputs. Meetings will be scheduled with the Steering Group at the outset of the review and on a monthly basis until completion. The appointed consultants will also be required to submit short fortnightly progress reports.

Timescale

It is envisaged that the review will commence by 11th April 2016. A draft report will have to be produced by 31st July 2016, with a final report to be produced by 31th August 2016.

Estimated Days

It is estimated that the review will require 45-60 consultancy days to complete.

Request for Submissions

Interested members of the auditing and accounting services panel are now requested to submit a proposal to address the terms of reference outlined above. This proposal should include details of:

- the proposed approach to addressing the terms of reference
- the team proposed for undertaking the review, outlining relevant expertise and experience
- the resources to be deployed in undertaking the review, including the number of days to be delivered by each individual team member and the overall number of consultancy days proposed
- the proposed overall cost of completing the assignment

Deadline for Submissions

Proposals should be submitted to the Higher Education Authority by 5pm on Friday 1st April 2016. Electronic copies should be e-mailed to rollingreviewtender@hea.ie

Written requests for clarification can be submitted to this e-mail address before 5pm on Thursday 24th March 2016. Responses to all requests for clarification will be disseminated to all members of the panel within three working days.

Format of Tender

Tenders should be set out in the following format:

- Full details of the proposed service delivery plan, including an overview of the methodology and description of the discrete tasks proposed in order to deliver on the terms of reference
- Summary of the nature and structure of the team proposed to deliver the assignment, with details of the relevant expertise and experience of individual team members provided, and full CVs attached as an Appendix.
- The proposed cost of delivering on the terms of reference, both including and excluding VAT, and setting out any expenses to be incurred in the course of undertaking the assignment. Other requirements with regard to tender costing are set out below.

Cost

The tender should set out the proposed costs of undertaking the assignment. This must include specification of the consultants to be deployed in delivering the tasks set out in the service delivery plan, their respective daily rates and the number of days each will be deployed on each task. The total number of consultancy days in delivering the assignment must also be set out, along with the total cost, including both expenses to be incurred and VAT.

Evaluation Criteria

The evaluation of proposals will be based on the following criteria:

- Cost of the proposal (30%)
- Quality of tenderers service delivery plan, specifically tailored to meet the stated requirements of the Contracting Authority (50%)
- Suitability of the proposed team to meet the specific service requirements (20%)

Conflict of Interest

Any conflict of interest or potential conflict of interest on the part of the successful tenderer must be fully disclosed to the HEA.

Tax Clearance Certificate

Prior to the award of any Contract, the preferred tenderer shall promptly produce a Tax Clearance Certificate from the Irish Revenue Commissioners.

Freedom of Information / Confidentiality

The Contracting Authority undertakes to use its best endeavours to hold confidential any information provided by Framework Members in response to this SRFT, subject to obligations under law, including the Freedom of Information Act, 2014
<http://www.oireachtas.ie/documents/bills28/acts/2014/a3014.pdf>

Framework Members who do not want information supplied in their tender to be disclosed should identify such information clearly and specify the reason for its sensitivity (see **Appendix B**). The HEA will consult such Framework Members before making a decision on disclosure of the information concerned on foot of any relevant Freedom of Information (FOI) request, which may be received. However, the HEA can give no guarantee on the final outcome of any FOI request in any instance. The Contracting Authority may release all other information supplied by the Framework Member (without prior consultation with the candidate), in response to an FOI request. In addition, all Framework Members should note the commitment set out in the Public Service Reform Plan where details of purchase orders relating to the procurement of goods and services where the value is €20,000 and over (including VAT) may be published on the website of the Higher Education Authority.

The Contracting Authority requires that all information made available to Framework Members in the course of this tender competition be treated in strict confidence, unless indicated otherwise by the Contracting Authority in writing.

Acceptance of Tenders

The Contracting Authority reserve the right not to proceed with this supplementary tender (mini-competition) or any part of the supplementary tender process, or to change the basis of the supplementary tender and may terminate the supplementary tender (mini-competition) (or any part thereof) at any time. In such event, the Contracting Authority shall not be liable, howsoever, to any Framework Member. It is to be clearly understood by all Framework Members that nothing herein, or any communication between the Contracting Authority and Framework Members in connection with this supplementary tender (mini-competition) shall be relied upon as constituting a contract or agreement, or representation that any contract shall be offered in accordance herewith.

Insurance

Before being awarded a contract, a Service Provider **must** provide current certificates of insurance in relation to Public Liability Insurance and Employers Liability Insurance with an insurer licensed to carry on business in Ireland. Public Liability Insurance must contain appropriate Professional Indemnity cover with a limit of indemnity of not less than **€2.5 million** which must remain in place for the duration of any contract.

Higher Education Authority

March 2016

Higher Education Authority Procedure for Authority Approval of Institute of Technology Land Acquisitions

Decision sought: Approval of protocol attached as a process for consideration by the HEA of property acquisitions by institutes of technology

Background and context:

This Memorandum is a response to the Authority's request to the Executive to prepare a protocol setting out the process to be followed by the HEA in exercising their statutory role to grant approval for proposed land acquisitions by the Institutes of Technology.

It should be noted that property transactions, purchases and disposals are generally unique and opportunistic in nature and are often completed within a short timeframe. On this basis, the HEA endeavours to provide whatever resources are necessary to examine a proposal without any delay. Failure to acquire or dispose of a parcel of land due to a delay in the approval process could/would have a long term negative effect on the ability of an institution to develop in line with its strategic and master plans.

Ruth Davis/Damien Kilgannon

16 November 2012

Protocol

This protocol covers property transactions, whether or not they require Exchequer funding.

Section 5 (1)(i) Regional Technical Colleges Act 1992, as amended by Section 6(a)(iii) Institutes of Technology Act 2006, requires the approval of the HEA for the acquisition of land by an Institute of Technology.

The primary responsibility for the management and control of an Institute's affairs and of all of its property lies with the Institute itself, its Governing Body and the President as its accountable person.

Taking into account the Institute's autonomy in the management of its affairs, the HEA's responsibility when considering land acquisitions is to:

- a) ensure due diligence has been performed by the Institute in arriving at its decision to purchase the land in question;
- b) ensure that proper appraisal procedures, to include due diligence, based on the Department of Finance - Guidelines for the Appraisal and Management of Capital Expenditure Proposals in the Public Sector (Capital Appraisal Guidelines) as set out below, have been adhered to;
- c) have regard to the implications of the acquisition for the efficient management of the resources of the Institute, and
- d) ensure that due weight is given to wider strategic, sectoral and national interests.

Appraisal Procedures

The Capital Programmes Unit of the HEA undertakes a detailed technical appraisal of all exchequer-funded capital spending proposals (including construction projects and property transactions). The appraisal follows a standard methodology which is fully consistent with the principles of the Department of Finance - Guidelines for the Appraisal and Management of Capital Expenditure Proposals in the Public Sector (Capital Appraisal Guidelines). Capital Appraisal Guidelines recommend that the resources spent on appraisal are commensurate with cost and the degree of complexity of the issues involved. This methodology has been approved by the Department of Education and Skills.

The appraisal process includes the following steps:

Strategic assessment

1. Analysis of Institute's Strategic Plan for strategic fit and relevance (institutionally and nationally);
2. Analysis of Institute's Development Master Plan (if one exists) for strategic fit and relevance. In the absence of a Development Master Plan, an analysis of existing campus facilities and infrastructure, existing land holding for strategic fit and relevance;
3. Assessment of consistency with the National Strategy for Higher Education.

Operational matters

4. Assessment of value for money both in terms of cost in current market conditions and need;
5. Analysis of historic and projected student data and statistics generally;
6. Assessment of additional recurrent operational costs (if any) and funding arrangements to meet same.

Due Diligence checks.

1. Confirmation of Governing Body approval;
2. Independent property valuations - assessed to ensure valuations are up-to-date and objective;
3. Assessment of Institute's current financial status;
4. Evaluation of the source of funds where non-exchequer funds are available.

Decision process

Responsibility for the detailed evaluation of property transactions is delegated to the Capital Programmes Unit of the HEA in accordance with the above procedures.

Where a proposal has been successfully appraised by the Capital Programmes Unit and is recommended for approval, a summary of the proposal together with the recommendation will be presented to the Authority for approval.

Appendix

Purchase of land by IoTs

Section 5 (1)(i) Regional Technical Colleges Act 1992, as amended by Section 6(a)(iii) Institutes of Technology Act 2006, requires the approval of the HEA for the acquisition of land by an Institute of Technology.

Regional Technical Colleges Act 1992

s 5.—(1) The principal function of a college shall, subject to the provisions of this Act, be to provide vocational and technical education and training for the economic, technological, scientific, commercial, industrial, social and cultural development of the State with particular reference to the region served by the college, and, without prejudice to the generality of the foregoing, a college shall have the following functions— ...

(i) subject to the approval of the Minister, to acquire land

Institutes of Technology Act 2006

s 6.—Section 5 of the RTC Act is amended—

(a) in subsection (1)—

(iii) in paragraph (i), by substituting “An tÚdarás” for “the Minister”

An equivalent amendment was made by the same Act to the relevant section of the Dublin Institute of Technology Act 1992.

Dublin Institute of Technology Act 1992

s 5.—(1) The principal function of a college shall, subject to the provisions of this Act, be to provide vocational and technical education and training for the economic, technological, scientific, commercial, industrial, social and cultural development of the State with particular reference to the region served by the college, and, without prejudice to the generality of the foregoing, a college shall have the following functions—

(i) subject to the approval of the Minister, to acquire land

Institutes of Technology Act 2006, Part 3

s 31.—Section 5 of the DIT Act is amended—

(a) in subsection (1)—

(iii) in paragraph (j), by substituting “An tÚdarás” for “the Minister”

Universities Act 1997
Framework for Borrowing and Loan Guarantees

1. Provision in the Universities Act

- “38 (1) A university may borrow money by means of a bank overdraft or otherwise and may guarantee or underwrite a loan taken or borrowing undertaken by a person or body of persons.
- (2) Borrowing, guaranteeing and underwriting under subsection (1) shall be in accordance with a framework which shall be agreed from time to time between the universities and An tÚdarás, following consultations by An tÚdarás with the Minister [for Education and Science] and the Minister for Finance”.

2. Purposes of Framework

As stated in the Department of Education letter dated 16th December, 1996 to Dr. Michael Mortell, Chairman, Conference of Heads of Irish Universities, the intent of the framework is

- That a university can engage in borrowing, underwriting and guaranteeing activities provided that they impose no threat to, and do not create any contingent liabilities for, the public purse.
- To ensure that the capacity of a university to function effectively is not endangered.
- That advanced approval by An tÚdarás or the ministers, of individual instances of borrowing, underwriting or guaranteeing by a university would not be required.

3. Understanding

The framework is set in the context of the current scheme operated by An tÚdarás for the funding of universities.

4. Budgetary Context

The wider budgetary arrangements which set the financial context for this framework are outlined in Section 37 of the Universities Act, 1997. This section requires a university to operate within an annual budget agreed with the HEA and stipulates that where a university incurs expenditure in excess of its budget that excess shall be a first charge on the budget for next succeeding financial year.

5. Framework Criteria

A university shall not be required to obtain prior consent from An tÚdarás to engage in borrowing, underwriting, and guaranteeing activities if the exercise of its powers under Section 38 (1) of the Universities Act, 1997 involves either

- (1) short-term activities by way of overdraft or otherwise within existing arrangements and practices established by the university; or
- (2) long-term activities for capital purposes only.

In either case the activities must comply with the following conditions:

- I the purpose of the transaction is in accordance with the objects and functions of the university;
- II any new capital investment is in accordance with the university's strategic plan;
- III the university is able to demonstrate the benefit of the transaction, whether it be refinancing or new investments;
- IV the university is able to meet annual servicing costs without recourse to additional grants from An tÚdarás;
- V the university's ability to maintain financial and academic viability and structural and general service is not impaired;
- VI the university has ensured that the servicing costs of the transaction represent value for money;
- VII the level of charge against the core teaching and research funds of the university in respect of the annual servicing cost of capital, defined as the cost of capital repayment and total interest costs spread evenly over the period of the borrowing, based on a ten year repayment period, shall not exceed 4% of the University's annual income, as defined at paragraph 8 below.
- VIII borrowing to finance additional student capacity where such capacity gives rise to the need for additional exchequer funding may only take place with the prior approval An tÚdarás;
- IX borrowing arising from fully financed or tax financed projects approved under the Finance Acts, are not subject to the borrowing limit established under this framework and may take place provided the servicing of these borrowings has no impact on the annual income of the University, as defined in paragraph 8;
- X the borrowing capacity of an individual university under this framework may not be transferred to another university.

6. Reporting/Recording Requirements

Full details of borrowing, underwriting and guaranteeing arrangements (including repayment periods and interest rates) and implications for recurrent expenditure, as certified by the Accounting Officer for the university, must be submitted with the annual budget to An tÚdarás. Although excluded from the calculation of the 4% limit the annual borrowing report should include borrowings in respect of fully financed and tax financed projects. Recording in the audited accounts should be in accordance with standard reporting practice and in accordance with the openness, transparency and accountability obligations of a publicly funded institution.

7. Review

The framework shall be reviewed by An tÚdarás and the universities every three years, or earlier as may be required by either side.

8. Annual Income

For the purpose of this Framework, a university's annual income is defined as core teaching income – comprising recurrent State grant, student fees and sundry income – and research income as reported in the University's funding statements. Income derived from self-funded ancillary operations is excluded from this definition of annual income for the purposes of calculating the borrowing limit as are the related borrowings.

May 2009

Policy Framework for Engagement

with Institutes of Technology with Operating Deficits

This policy framework sets out the roles of the HEIs and HEA and describes how the HEA will structure its engagement with Institutes of Technology who have identified operating deficits.

Context

The maintenance of balanced budgets in all IOTs is a statutory requirement under Section 15 of the Institutes of Technology Act, and balanced budgets are a prerequisite for continued participation in the Employment Control Framework which has been negotiated for the higher education sector. In general, Institutes have been operating on the basis of balanced budgets. In recent years however a number of Institutes have been using accumulated reserves to balance their budgets. In these circumstances there is a need to put processes in place and metrics to trigger implementation to ensure that the underlying deficits are being addressed.

Key Principles

There are a number of principles which will inform the HEA's engagement with HEIs where an operating deficit is identified:

- To ensure value for money for the public
- To ensure the financial sustainability of the higher education sector
- To protect the interest of students enrolled in HEIs
- To ensure that any intervention is appropriate and proportionate
- To work in a supportive manner with HEIs to identify measures to address operating deficits.
- To maintain a distinction between the roles and responsibilities of the HEA and the HEIs.

Role of the Institute of Technology

Higher education institutions have a responsibility to address their own sustainability. Under the Institutes of Technology Act 2006, the President of the Institution is the accounting officer and is answerable to the Committees of the Oireachtas in relation to the disposal of monies. The legislation also provides that the C&AG undertake annual audits of the accounts and financial statements of the institution.

It remains the responsibility of the President, in conjunction with the Governing Body, to maintain a balanced budget and to carry into effect the necessary measures to address operating deficits, if they arise. It is critical that all necessary actions are taken to reverse deficits in an Institute in order to ensure on going sustainability.

Understanding the full economic costs associated with each activity undertaken by an institution is critical to ensuring long term sustainability. Decisions to continue or expand existing activities or introduce new ones must be based on sound data which clearly demonstrates the financial implications of choosing one course of action versus another.

Optimising income generating activities and on-going review and reform of existing structures and processes to create a more cost effective and responsive system are also critical.

A rigorous governance process and risk management strategy is essential to support financial and budgetary processes.

In situations where an institution has used accumulated reserves to achieve a balanced budget, the onus is on the institution to address issues associated with long term sustainability.

Role of the HEA

The Finance Committee is appointed by the Authority to assist in its role in relation to the allocation of funding provided to the Authority having regard to policy priorities set by the Authority. The Committee also advises the Authority in relation to specific financial functions assigned to the Authority under the Institutes of Technology Act.

The Finance Committee annually reviews the outcomes from the budget meetings and issues arising. It advises the Department of Education and Skills in relation to the financial health of the sector and individual institutions, where necessary.

The System Governance and Performance Management Committee annually reviews the Governance Statements of the IOTs which identify financially significant developments affecting the Institute in the past year, including the establishment of subsidiaries or joint ventures and acquisitions, and major issues likely to arise in the short to medium term.

Routine Engagement with Institutions

There are a number of ways the HEA will engage with IOTs, as a routine, in relation to their strategic and budgetary planning.

Strategic Dialogue

The annual strategic dialogue process seeks:

- To demonstrate how each institution is making its distinctive contribution to key national expectations of higher education
- To support institutions' efforts to improve their own performance – through better strategic planning and management, particularly with regard to the increasingly competitive global environment in which our institutions operate
- To demonstrate how institutions are performing against the objectives set out in their own strategic plans
- To enhance the accountability of higher education in respect of the very significant public funding allocated annually.

The HEA and HEI agree a compact as the outcome of the strategic dialogue process which will set out how the Institute's mission and goals align with national goals for higher education and agree strategic objective indicators of success against which institutional performance will be measured and funding allocated. The compact will also set out any specific requirements or conditions associated with funding provided by the HEA.

By detailing HEA funding commitments and reciprocal HEI commitments, the compact contributes to creating a transparent and accountable system of administration of State funding. The strategic dialogue meetings with each HEI will in future encompass the previous budget meetings.

Budgetary process

The HEA writes to each HEI on an annual basis informing of the recurrent grant allocation and related matters. Following receipt of the HEA's notification, the Institute prepares an annual Operational Programme and Budgets, approved by their Governing Body. The information submitted includes a budget summary detailing outturn and projected figures, other sources of income, reserves and student numbers. Consideration of the financial position of the HEI will form part of the Strategic dialogue meeting. Further meetings may be required to focus in more detail on the current and projected financial position of the institution and associated matters and the budgets submitted form the basis of the discussion.

Code of Governance Requirements

In this regard, each Institute must prepare and submit to the HEA, an annual governance statement according to the approved Code of Governance.

Ad hoc meetings

On some occasions, there will be a need for more focussed meetings in terms of capital development plans, course provision and other institutional matters.

The data used by the HEA to inform on the financial health of an Institute is the Institutional Compacts, the Operational Programme and Budgets and Audited Accounts. From analysis of this data, and arising from any of the above interactions, the HEA will determine what additional actions are required by the HEA and the Institute to address any financial issues arising.

Indicators of Risk

The HEA's assessment of risk is based on analysis of historical data and projected budgets for three to five years. In the first instance, this assessment is carried out on receipt of the budgetary information as part of the Strategic Dialogue process. The HEA may review this information on receipt of updated information submitted quarterly throughout the year. A combination of the following metrics may be used to indicate risk:

- Actual and projected income and expenditure
- Funding model trends
- Analysis of other funding streams
- Indications of financially significant developments as submitted through the Governance Statements
- Cash in bank expressed in days as a proportion of total expenditure
- Operating Surplus/Deficit as a proportion of total income
- Discretionary reserves as a proportion of total income
- Staff costs as a proportion of total income
- Ratio of income, Exchequer: non-Exchequer
- Current assets : Current liabilities ratio
- Annual capital and maintenance spend on estates and buildings as a proportion of value of estate

Engagement with Institutions where an operating deficit had been identified**Stage One Intervention**

The HEA in the first instance will engage with the institution through the strategic dialogue process to seek a common understanding of issues and identify any issues arising associated with strategic plans, collaborations with other HEIs (including the development of technological universities and/or mergers) and positioning of the institutions within the sector to gain on-going and further efficiencies.

Each Institute must prepare an annual governance statement according to the approved Code of Governance. This statement identifies financially significant developments affecting the Institute in the past year, including the establishment of subsidiaries or joint ventures and acquisitions, and major issues likely to arise in the short to medium term.

Where an operating deficit is identified, the Institute will be required to submit a financial/business plan which encompasses all income and expenditure projections for three years. The Institute must also set out a strategy and actions proposed to return the Institute to a balanced position. In this regard all strategies for the reform of the cost base (both pay and non-pay) and associated structures and practices should be considered, including rationalisation of provision, HR reform, closer collaboration with partner HEIs, expansion of student numbers and broadening of the income base.

The HEA will consider the proposed financial plan and in consultation with the Institute agree on proposed actions. The HEA will require continuing dialogue and quarterly updates on the Institute's budgetary situation during the year. Further meetings with the Institute will be held as required. The HEA may request the HEIs to appoint an independent financial expert to review the Institute's financial plan and provide independent validation of the funding projections.

The HEA will work as appropriate with the Department of Education and Skills to identify measures to assist in reforms in the sector to produce savings.

The HEA may require institutions as a condition of grant to make changes to proposed activities if there is concern that risks to Exchequer funding and the interests of students are not being addressed.

The HEIs may also be required to put appropriate training and development programmes in place in relation to strategic financial planning and institutional strategic planning.

It is envisaged that by engaging with institutions as above, the HEA will assist an institution to implement a financial plan to return the institution to a balanced budget. Such an approach has been the standard practice since the inception of the HEA and has to date operated satisfactorily.

However, if sufficient progress is not being made on implementation of the agreed financial plan the HEA will implement the interventions outlined below.

Stage Two Intervention

It will be deemed that sufficient progress is not being made, and that a Stage 2 intervention should be triggered, if, in the opinion of the HEA, an institution demonstrates any of the following:

- fails to engage proactively with the HEA or disclose information essential to gaining an understanding of its current and future financial performance
- is failing to implement (in a material way) an agreed financial plan to address operating deficits
- has a financial plan in place that is not returning the Institute to a breakeven position
- does not produce a contingency plan to redress the operating deficit if the agreed plan cannot be implemented
- refuses to pursue or implement obvious cost-saving measures
- is failing to implement processes to safeguard against high costs being accrued

A stage 2 intervention will involve the appointment of a person to work with the governance structure (up to and including the Chair of the Governing body) of the HEI. This person will be expected to have financial expertise and an understanding of the higher education sector.

Legislative reform is required to clarify and strengthen the HEA's role in relation to the appointment of this external expert. However the appointment of the external expert could be expedited with the agreement of the Institute by making it a condition of ongoing funding. This would require full acceptance by the Institute of the authority of the external expert to direct operational changes and implement a new financial

plan. If the HEA fails to secure the agreement of the institute in this regard, it will request via the DES that the Minister authorises a person to undertake an inspection of the institution⁷, a power set out within the IoT Act 2006.

The role of the external expert will involve:

- formal stress testing of the assumptions of the existing three year plan, including all funding inputs, projected student demographics, and staff numbers and remuneration increases/decreases.
- building an agreed revised financial plan to bring the Institute back into balanced budget within 3 years
- reviewing existing governance arrangements and making recommendations to the Governing Body on any action required in order to improve these arrangements.
- recommending to the Governing Body any remedial action identified in order to improve the institution's financial performance, including cost reform and process changes
- monitoring the implementation of the agreed financial plan and identifying any deviation from the agreed actions within that plan
- providing the HEA with an independent assessment of the ongoing financial performance and sustainability of the institution
- advising the HEA on any action required external to the institution in order to support its future sustainability

To assist this role, such additional information, reports and data as are required should be provided to the external expert. This may include operational cash flow, details on reserves, historical data, long term forecasts and staff cost predictions.

The HEA may require that specific information is audited and undertake or commission financial or other reviews, as appropriate, on any matters regarding the operation of the Institute.

Stage Three Intervention

If the above processes are not working, or recommendations to the Governing Body are not being progressed, Section 8 of the RTC Act (as amended) may be invoked. This

⁷ Legislative reform is also required in relation to potential mergers, closure of HEIs etc

section allows the Minister, following consultation with the HEA, to make an order dissolving a governing body or removing a President and to appoint any body of persons as the Minister thinks fit to perform the functions of the governing body or any person that the Minister thinks fit to perform the role of President.

The HEA will keep the DES informed of progress made and any issues arising during all stages of the proposed Framework.

The HEA will review the framework as appropriate and no later than September 2017.

Chief Executive
Higher Education Authority
Brooklawn House
Crampton Avenue
Shelbourne Road
Dublin 4

Section 37, Universities Act 1997 – notification of budget deficit

Dear Chief Executive,

In accordance with Section 37(6) of the Universities Act 1997, I wish to formally notify the Higher Education Authority that expenditure planned for 20XX will be in excess of the projected revenue for the year resulting in a deficit of €XXX. This deficit has been approved by the Governing Authority.

The reasons for this deficit position are as follows:

Yours sincerely,

President

Financial Memorandum between the HEA and Higher Education Institutions

The financial memorandum has an effective date of XX 2015.

Preamble

1. This memorandum sets out the formal relationship between the Higher Education Authority ('the Authority') and each higher education institution ('the institution'). The foundation of the relationship is provision of funding by the Authority to the institution, in accordance with relevant legislation and public policy and accountability for this funding within statutory and other agreed accountability frameworks detailed in the covering statement from the HEA (Appendix)
2. The basis for the relationship is laid down in relevant legislation, statutes, charters, articles and instruments of governance, particularly those which establish the Authority and the institution and regulate their governance, and those which establish the degree of their autonomy and set out their powers and duties.
3. For these arrangements to be effective the Authority and the institution have to work in partnership to achieve agreed objectives for higher education and to secure best value for funds provided by the State.
4. The Authority recognises that the institution may also undertake activities and have to comply with legislation and regulation which fall outside the scope of this partnership.

Purpose of the memorandum

Accordingly, this memorandum sets out the agreed expectations which the institution, in the spirit of constructive partnership, has a right to have of the Authority. It also sets out the Authority's expectations of the institution and the requirements which are a condition of the Authority's funding.

What the institution can expect of the Authority

1. The Authority will conduct its affairs at all times to the highest accepted standards for public sector bodies and in accordance with principles set out in the Code of Practice for the Governance of State Bodies. It will act reasonably on the basis of the fullest available evidence and objective analysis. Subject to any legal requirement to

observe confidentiality, it will be open and transparent with the institutions it funds and other stakeholders, and will give or be prepared to give a public justification of all its decisions.

2. The Authority in line with the Code of Practice for State Bodies will maintain a policy of openness and transparency in relation to the work of the Authority and the services it aims to provide.
3. The Authority will maintain regular and frequent dialogue with institutions and their representative bodies where it seems appropriate in order to:
 - i. promote a shared understanding of the aspirations, needs and concerns of the various stakeholders;
 - ii. support the beneficial impact of institutions' collaborative activities; and
 - iii. better enable it to provide the information, advice and assistance required by the Department of Education and Skills, other government departments or agencies.
4. The Authority will not substitute its judgements for those which are properly at the discretion of institutions. In particular, the Authority will seek to maximise the autonomy of institutions to use block grants provided by the Authority.
5. In discharging its duty to monitor and publish the performance of the institution generally and on specific projects, the Authority will, as far as possible, rely on the data and information used by the institution for its own purposes or in formats that are most useful and most easily provided by the institutions, consistent with requirements. The Authority will not seek to collect the same data and information more than once from the institution.
6. The Authority will allocate and pay grants in a timely manner to the institution in accordance with current policies and procedures. The institution will be consulted in advance and given as much notice as possible of any significant change to these policies and procedures and of significant changes in overall funding levels.
7. The Authority needs to be satisfied that the institution has put in place the structures and procedures necessary to ensure compliance with this memorandum, including delivery on agreed outputs as specified in the compact agreed between the HEA and the institution and the achievement of best value from recurrent funding provided by the State.
8. The Authority will obtain evidence from the institution, which will include undertaking reviews as required (but only by prior arrangement), to provide the assurances required to discharge this responsibility as laid out in point 8 above.
9. Where the Authority has insufficient information to provide the assurance required, the Authority will, in the first instance, seek to resolve matters with the chief officer of the institution and inform the Minister for Education and Skills. Where this has not

proved possible, the Authority will inform the chair of the governing body and the institution's chief officer in writing and without delay of any significant concern of the Authority about the conduct of the institution. Only after such notification and where the circumstances warrant it, the Authority may consider whether it is appropriate to hold back or suspend the payment of any or all grants to the institution.

What the Authority can expect of the institution

The following paragraphs state the Authority's expectations of the institution and the requirements which are a condition of the Authority's funding.

1. The Authority must be able to rely on the whole system of governance, management and conduct of the institution to safeguard all funds of the institution deriving from the Exchequer and to achieve the purposes for which those funds are provided. As a recipient of public funds, the institution will strive to achieve at all times good practice in the governance, management and conduct of the institution.
2. The governing body/ authority will ensure that it has in place and effectively implemented the proper arrangements for governance, leadership and management of the institution as required by statute, charter, its instrument and articles of governance and the agreed Codes of Governance in place for the universities and institutes of technology.
3. Respecting the primacy of the institution's own statutory obligations, the governing body/ authority will ensure that:
 - i public funds are used in accordance with relevant legislation and only for the purposes for which they are given;
 - ii the institution strives to achieve best value from its use of public funds from all sources;
 - iii annual financial statements are provided in a timely manner for audit by the C &AG, in accordance with the format specified by the HEA;
 - iv there is effective planning and delivery of the institution's education programmes, research and related activities, which is consistent with the institution's mission and takes account of potential for collaboration with relevant partner institutions/clusters;
 - v the institution obtains sufficient data and information of a quality to enable it to determine how well the institution is achieving its. Such information will be made available to the Authority on request as necessary for the exercise of its statutory functions;

- vi the institution takes appropriate account of the national objectives set out for the sector in the Higher Education System Performance Framework.
 - vii the institution is actively engaged in seeking continuously to enhance the quality of its programmes and services and to involve students, students unions, employers, partner institutions/clusters and other stakeholders in these processes;
 - viii there are in place up-to-date and readily accessible procedures for handling complaints by students, staff and others;
 - ix the governing body's and the institution's activities are conducted in an appropriately open, transparent and fully accountable manner;
 - x the institution plans and manages the deployment of its resources in an efficient way
 - xi the governing body and the institution adheres to the Authority's mandatory requirements (as notified to the institution and set out below) and the institution takes account of relevant public policy and good practice in the management of all its activities and resources including its:
 - staff, human resources and industrial relations practices;
 - estates and equipment; and
 - finances, and risk and internal control procedures.
4. The chief officer of the institution must inform the Authority without delay of any circumstance that is having, or is likely to have, a material adverse effect on the financial position of the institution or its ability to maintain its capacity to deliver relevant education programmes, research and related activities.
5. The chief officer of the institution shall, when required, give evidence to the Committees of Dáil Éireann on
- The regularity and propriety of the institution's accounts
 - The economy and efficiency of the institution in the use of its resources
 - The systems, procedures and practices employed by the institution for the purpose of evaluating the effectiveness of its operations
6. Mandatory requirements -
- Agreement of compact with HEA specifying agreed outputs
 - Agreement on budgets/financial plans
 - Provision of required RGAM returns
 - Compliance with public pay policy
 - Compliance with relevant Codes of Governance and provision of Annual Statements of Governance and Internal Control
 - Compliance with the requirements of the Protected Disclosures Act
 - Adherence to Borrowing Framework
 - Adherence to Departures Framework
 - Compliance with public sector Capital Expenditure requirements
 - Compliance with public sector Procurement requirements
 - Adherence to approved Format of Accounts
 - Compliance with process for Land Purchases in the IoTs



ARD-REACHTAIRE CUNTAS AGUS CISTE
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**Setting of dates for Submission of Annual Financial Statements by
Institutes of Technology**

By virtue of the powers conferred on me by Section 16 of the Institutes of Technology Acts 1992 to 2006 and by Section 17 of the Dublin Institute of Technology Acts 1992 to 2006, I hereby set the following dates by which institutes of technology are required to submit annual financial statements to me for audit.

- For the financial year ending 31 August 2015, the financial statements should be submitted for audit within 6 months of the year-end i.e. by 29 February 2016
- For the financial year ending 31 August 2016, the financial statements should be submitted for audit within 4 months of the year-end i.e. by 31 December 2016
- For the financial year ending 31 August 2017 and subsequent years, the financial statements should be submitted for audit within 3 months of the year-end.

Seamus McCarthy
Seamus McCarthy

16 June 2015

Sample letter to Universities from the Comptroller and Auditor General**On the Timeline for Submission of Annual Accounts for Audit**

President

University X

28 July 2015

Re: Timeline for submission of annual accounts for audit

Dear President

Under the Universities Act 1997, the Higher Education Authority approves the form of accounts and records of income and expenditure to be kept by universities. The 1997 Act also provides for the audit of the accounts of universities by the Comptroller and Auditor General.

The Comptroller and Auditor General audits the consolidated financial statements of the universities, prepared in accordance with generally accepted accounting principles. Funding statements, produced annually by the universities and submitted to the Higher Education Authority, are not audited by the Comptroller and Auditor General.

Given the practice by universities of appointing commercial auditors to undertake full scale audits, in accordance with international auditing standards, the Comptroller and Auditor General, in undertaking his audit, has sought to rely on that audit work to avoid unnecessary duplication and expense. To the extent that it is appropriate to do so, the audit undertaken by this Office has taken account of the work carried out and conclusions reached by the commercial auditors. Additional audit testing carried out by this Office has tended to focus on regularity and propriety issues.

There is currently no statutory or regulatory deadline for submission by universities of annual accounts to the Comptroller and Auditor General for audit. In practice, the timeliness of

accounts submission has varied considerably between universities. In the interest of timely public accountability, it is important that accounts are prepared and audited as soon as practicable after the end of the financial year.

Under Section 39(2) of the 1997 Act, the Comptroller and Auditor General can prescribe a date by which universities should submit their annual accounts to him for audit. As indicated by this Office at a recent meeting with the Higher Education Authority and university bursars/finance officers, the Comptroller and Auditor General intends to introduce timelines for the submission of accounts by universities on a phased basis.

The following are the proposed timelines to apply for accounts submission by universities over the next three financial years.

| <u>Year end</u> | <u>Accounts to be submitted for audit by</u> |
|-------------------|--|
| 30 September 2015 | 31 March 2016 |
| 30 September 2016 | 31 January 2017 |
| 30 September 2017 | 31 December 2017 |

Should you wish to express your views on the above proposal, please do so in writing by 19 August 2015 at the latest.

Yours sincerely

Shane Carton
Deputy Director of Audit

The Universities Act 1997 – Agreed Framework between the Universities and the Higher Education Authority for Departures from Approved Levels of Remuneration, Fees, Allowances and Expenses for University Employees

1. Introduction

1.1 Section 25 (1) of the Universities Act 1997 provides as follows:

“subject to subsection (2), a university may, in accordance with procedures specified in a statute or regulation, appoint such and so many persons to be its employees as it thinks appropriate, having regard to—

(a) the efficient use of its available resources, the requirements of accountability for the use of moneys provided to it by the Oireachtas and the policy relating to pay and conditions in the Public Service as determined from time to time by the Government,

(b) the implications of the appointments for its budget and for subsequent budgets, and

(c) the guidelines, if any, issued under section 50.”

1.2 Section 25(4) of the Universities Act 1997 provides as follows :

“Subject to subsection (5), there shall be paid by a university to the employees of that university, such remuneration, fees, allowances and expenses as may be approved from time to time by the Minister with the consent of the Minister for Finance.”

1.3 Section 25(5) (a) of the Act, allows for departures from levels of remuneration etc. as follows:

“A university may depart from levels of remuneration, fees, allowances and expenses approved under subsection (4) where the governing authority is satisfied that it is necessary to meet the objects of the university, but may do so only in accordance with a framework, which shall be agreed between the universities and An tÚdarás”.

1.4 For the purposes of the framework set out hereunder the term remuneration shall cover all forms of remuneration including fees, allowances and expenses.

2. Provisions of the Framework

2.1 General Provisions

- 2.1.1 The universities and the Higher Education Authority (HEA) (the parties) agree that the purpose of the framework provided for in the Act is to lay down principles to which the parties subscribe regarding the exercise of discretion on the part of a university to depart from levels of remuneration etc. approved by the Minister. The purpose of Section 25(5)(a) is to provide a discretion to a university where necessary to meet the objects of the university, in particular the advancement of knowledge through teaching, scholarly research and scientific investigation, the promotion of learning in its student body and in society generally and the promotion of the highest standards in, and quality of, teaching and research. It will enable universities to attract a person to its academic and research staff, who would, because of exceptional or scarce expertise and/or qualifications, command remuneration higher than the norm and who would not be prepared to work for the university unless so rewarded. The parties agree that the provisions of the framework will be used in exceptional circumstances only, for academic and research posts, and that its application shall have regard to avoiding any damage to the morale of staff in the universities. This framework shall not be used for administrative or technical appointments. Where a university wishes to make such an appointment outside approved levels of remuneration it shall make a submission to the HEA who shall forward this proposals, together with its observations, for consideration of the Ministers for Education and Science and Finance, in accordance with section 25 (4) of the Universities Act.
- 2.1.2 It is agreed by the parties that the implementation of this framework by a university should not have any repercussive effects in the university sector or in the public service generally deriving for example, from pay relativities or linkages or other conditions of employment which could form a basis for comparative claims from other groups. The parties agree that any employee who is paid as a result of an agreement under this framework shall be red circled and that any claims from university employees for improved conditions which are based on, or refer to, agreements made under this framework shall be opposed on that ground (without prejudice to any other grounds the university may have).
- 2.1.3 It is agreed by the parties that, subject to paragraph 2.2.3 following, the provisions of the framework should not be used to provide additional remuneration to existing staff.
- 2.1.4 The parties shall have regard to the IUA co-operation agreement in operating this framework with recruitment of staff being open and transparent and on the basis of best international practice.

2.2 Specific provisions and criteria

- 2.2.1 Subject to the general provisions set out above a departure as envisaged in Section 25(5)(a) of the Universities Act, 1997 shall take place only if
- (a) the Chief Officer confirms that the Governing Authority is satisfied and so certifies, that there is clear and documented justification that the departure is necessary to meet the objects of the university and that, in so far as its best endeavours can ascertain, it will have no adverse implications within the university sector or in the public sector generally;
 - (b) it is limited to a contract appointment in accordance with the following principles:
 - a separate individual contract must be drawn up;
 - it must be a specified purpose or fixed-term contract, not normally exceeding five years. It may be renewed for one further period of up to five years after which a permanent appointment may be made using scales approved by the Ministers. Alternatively a university may seek prior approval of the Ministers for a salary outside approved limits;
 - the post must bear a unique title, duties and responsibilities, which differentiates it from an established post or grade;
 - the contract should include stated performance objectives for the post holder, provisions for performance review in the light of these stated objectives, and for reduction in remuneration and/or for early termination of contract in the event of failure to meet the stated objectives;
 - (c) it is used as a means of recruiting a new staff member (but see 2.2.2 below);
 - (d) any costs arising are met within agreed budgets, in accordance with Section 37(2) of the Universities Act.
- 2.2.2 The framework shall not, in line with the statement of general purpose in paragraph 2.1.1 (above), be used to change the conditions of existing permanent employees of the universities. However, the parties acknowledge that there may be a limited number of specific instances where a departure is required in order to retain key academic/research personnel because of their outstanding existing and potential contribution to the capacity of the university to meet its objects. In such cases a university may, with the prior agreement of the HEA, apply the provisions of the framework to existing staff. Any such appointments would be on a contract basis and would require the member of staff to be formally seconded from his or her existing position and would be subject to the conditions for the appointment being agreed in advance by the

university and the HEA.

- 2.2.3 In the case of all departures under this framework the Chief Officer, as Accounting Officer, shall arrange for the documentation of all supporting considerations, including the conditions applying in appropriate comparable employments, and shall make such documentation available to the HEA in accordance with paragraph 2.2.4 (below).
- 2.2.4 Each university shall provide to the Higher Education Authority before end July and end January of each year details of, and detailed justifications for, any departures made by it under this framework. The justification will include the rationale for the proposed remuneration package. A template will be issued to the universities.
- 2.2.5 The framework shall not apply to the senior academic posts above the grade of Professor.

2.3 Duration and Review

- 2.3.1 The revised framework shall have effect when it has been approved by the Higher Education Authority and when the HEA has been notified by the Chief Officers that it has been approved by the universities.
- 2.3.2 It will be subject to review by both parties after a period of four years or sooner if deemed necessary by either party.
- 2.3.3 The framework shall cease to have effect with regard to any further appointments following notice in writing by either the HEA or by any of the universities that they no longer, for stated reasons, subscribe to the framework. Such a notice shall be preceded by consultations between the parties and shall not affect any agreements made with specific individuals during the period when the framework was in force.

22nd September 2009

Employment Control Framework for the Higher Education Sector 2011 -2014

1. Scope of the Framework

Under the National Recovery Plan 2011-2014, and in accordance with the Programme of Financial Support for Ireland agreed with the EU/IMF, the Government is committed to reducing the cost of the public sector paybill by, inter alia, reducing public sector numbers to 294,700 by the end of 2014, equating to an average annual reduction of approximately 3,300 in the number of serving public servants over the next 4 years. In this context, provision must be made for the application of this policy to the Higher Education sector by means of an agreed Employment Control Framework.

This Employment Control Framework is for the period 2011 to 2014 and replaces all previous frameworks. Its implementation shall take account of the relevant statutory provisions governing public sector pay and numbers and the management of the Higher Education sector.

The framework encompasses three broad categories of post, defined according to their nature and their source of funding:

- 1.1 **Core-funded staff**, i.e. mainstream posts funded from the Core Grant, undergraduate tuition fees (including grant in lieu of fees), Student Services Charge and the new Student Contribution being introduced in 2011;
- 1.2 **Non core-funded Research** and related project posts, including commercialisation posts, funded from **Exchequer resources** external to the institution; and
- 1.3 **Other Research and/or Specialist** project-based posts funded from **non-Exchequer sources**: EU research and other grants, private sector income, international student income, postgraduate and part-time fees - but not including full-time EU undergraduate tuition fees/student contributions as non-Exchequer, non-core income.

In accordance with Government numbers policy, specific ceilings are required for the Higher Education Sector for core-funded staff. However, in addition, all staff howsoever funded but who are members of a public service pension scheme must also come within the scope of the framework for the purposes of reporting requirements and to address the matter of deferred liabilities arising from their public service pension entitlements.

Accordingly, the following position shall apply in respect of the different categories of post as defined above, in terms of the numbers employed in the sector in the years in question:

| Category of Public Sector Numbers | 2011 | 2012 | 2013 | 2014 |
|---|-------------|-------------|-------------|-------------|
| Core-funded posts (ceiling) | 18,249 | 18,240 | 18,232 | 18,223 |
| Non core-funded Research & related posts funded from Exchequer resources external to the institution (envelope) | 2900 | 3000 | 3080 | 3160 |

The annual employment ceilings applying to core-funded staff and the reduction in numbers required to comply with these ceilings are those obtaining on the publication of this framework and are without prejudice to any further decisions that may be taken by the Government on funding or staffing levels.

Specific ceilings for core-funded posts shall be set by the Higher Education Authority for each institution taking into account the student numbers, staffing levels and other relevant factors in each institution. Individual institutional targets will not be issued in respect of **Exchequer-funded research** posts and related project posts including commercialisation posts, as the requirements of individual institutions will be determined by the outcome of competitive awards programmes operated by research funding agencies. An overall envelope of additional research posts is identified to provide for anticipated approved growth in Exchequer-funded research activity over the period. The adequacy of this envelope will be kept under review.

In relation to **non-Exchequer funded posts**, on the basis that these posts do not represent a cost to the Exchequer in the short term, and in order to facilitate the maximum possible employment creation potential of the sector while also encouraging institutions to seek to diversify their sources of funding away from the Exchequer, **non-Exchequer funded specialist posts** will not be subject to any restriction in terms of the number of such posts that may be created, provided that these posts are funded on a full cost recovery basis, including the deferred pay cost associated with the future pension liabilities of the staff members, as outlined in section 4 below.

2. Filling of Vacancies under the Framework, and specific conditions applying

2.1 Core-Funded Posts

Institutions will be permitted to fill vacancies arising in core-funded posts up to the level of the ceiling for their specific institution subject to the following conditions:

- a) The post must be required to deliver essential services. Essential services are those which are required to deliver academic programmes, services to students, essential governance and management of the institution, including financial administration, and to comply with regulatory requirements.
- b) In making this assessment institutions must consider the following factors:
 - The service to be provided and the consequences for services of not filling the post;
 - The capacity for redeployment of staff from another area within the institution, or, failing that, for redeployment of surplus staff from other higher education institutions or other public service bodies, in accordance with the terms of the Public Service Agreement;
 - Whether all available lecturing and research capacity has been fully used.
 - The capacity to provide the service from non-Exchequer sources.
- c) Details of these considerations must be formally recorded – see section 11.
- d) In addition, the General Conditions specified in section 3 must also be complied with.

2.2 Non core-funded research and related project posts, including commercialisation posts, funded from Exchequer resources external to the institution

Higher education institutions are involved in contracted research work under a range of programmes/schemes operated by state agencies such as Science Foundation Ireland, Enterprise Ireland, Health Research Board, IRCSET, IRCHSS, Environmental Protection Agency, Teagasc, etc.

Recruitment under these programmes/schemes will be permitted on the basis that the matter of the deferred liability for pensions is dealt with (see section 4) and according to the overall monitoring of employment levels under these programmes/schemes. This will be effected through the reporting arrangements put in place by the HEA.

Appointments in these instances must be on the basis of fixed term or fixed purpose contracts, whose term shall not exceed the scheme/award duration. Such contracts must also include a specific clause providing for early termination before the specified expiry date of the contract in the event of the envisaged funding stream being terminated or reduced by the funding agency. A specific reference to such a clause must be included in the acknowledgement of the terms and conditions attaching to the offer of the post to be signed by the potential employee.

The rates of pay for the posts must not be in breach of public sector pay policy.

Recruitment in these instances will also be subject to the General Conditions set out at section 3 below.

2.3 Other Research and/or Specialist project-based posts funded from non-Exchequer sources

In addition to state funded research, there are also a number of other positions in higher education institutions which are funded from non Exchequer sources in areas such as EU research, international education, industry research contracts, etc. These posts provide additional privately funded employment and financial returns to the Exchequer through tax remitted and the purchase of goods and services.

As indicated above, recruitment under these schemes will be permitted without any restriction on the number of such posts that may be created, on the basis that the matter of the deferred liability for pensions is dealt with (as outlined in section 4 below) and according to the overall monitoring of employment levels under these schemes which shall be undertaken via the reporting mechanisms put in place by the HEA.

Appointments in these instances must be on the basis of fixed term or fixed purpose contracts, whose term shall not exceed the duration of the projected revenue stream. Such contracts must also include a specific clause providing for early termination before the specified expiry date of the contract in the event of the envisaged funding stream being terminated or not being realised. A specific reference to such a clause must be included in the acknowledgement of the terms and conditions attaching to the offer of the post to be signed by the potential employee.

The rates of pay for these posts must not be in breach of public sector pay policy.

Recruitment in these instances will also be subject to the General Conditions set out at section 3 below.

3. General Conditions applying to the filling of all posts

The following general conditions shall apply in relation to the filling of all posts under the arrangements provided for above:

- a) The filling of any posts under the terms of this Framework should, wherever possible, give priority to the employment of new or recently qualified staff over those who are retired.
- b) Re-employment of retired staff should only occur in very limited exceptional circumstances and in these cases the salaries offered may not exceed 20% of the full-time salary an individual was in receipt of at the time of their retirement, adjusted to reflect the application of Government pay policy in the period since their date of retirement – including in particular the application of salary adjustments imposed under the Financial Emergency Measures in the Public Interest (No. 2) Act 2009. Any such proposed arrangements should be put in advance to the HEA.
- c) As a matter of national policy, in light of the very challenging budgetary position and taking account of the drive for efficiency savings under the Public Service Agreement, it is expected that bodies will prioritise, reconfigure and reorganise their business. In this context, the reductions required in the number of core staff must be achieved in a balanced manner across the grading structure and should not be concentrated at the lower grade levels, i.e. the framework should not result in ‘grade-drift’ within institutions. Section 9 below sets out the requirements in relation to the distribution of posts within institutions, which must be complied with in this regard.

The filling of any posts within an institution, to the extent that this Framework permits it, will be conditional on that institution operating strictly within a balanced budget and having an agreed plan in place with the HEA for the elimination of any accumulated deficits. In pursuing overall agreed strategic objectives, institutions will continue to respond positively to student participation demand, having regard to the maintenance of quality.

4. Deferred Pension Liability Provision

In the case of all posts not funded from core resources, a deferred liability exists where the employees in those posts are members of a public service pension scheme. In such cases, any such new posts created will be subject to an employer’s pension contribution charge of 20% of gross pay, representing the estimated contribution required from the project funder, in addition to the employee’s own personal pension contribution, to cover the deferred cost to the Exchequer associated with the future pension entitlements of the post holder.

The application of this measure will also apply to positions where project/contract renewal is involved, subject to the transitional arrangements set out below.

5. Transitional Arrangements for Research/specialist Projects

In order to avoid causing delays and/or financing difficulties for project proposals which were already well advanced when the new arrangements were introduced earlier this year, such projects may proceed on an exceptional basis under the “old” arrangements, i.e. those applying pre 10th March 2011. In other words, the

requirement to include a 20% pension charge would not apply on this occasion in respect of individual appointments or re-appointments under these projects.

Specifically, these “transitional arrangements” will apply

- To projects that were already in train across the sector on 10 March 2011, for the remaining duration of the project/award as originally approved;
- Where formal calls for proposals had already issued by funders under the “old” arrangements and the closing date for applications was prior to 10 March 2011, applications received by that date may proceed under the “old” arrangements. The transitional arrangements will apply in these cases for the duration of the projects as originally proposed and subsequently agreed, e.g. if vacancies arise which are required to be filled within the lifetime of such projects, such vacancies may be filled under the “old” arrangements up until the expiry of the term of the original project.
- In the case of project proposals being discussed with non-Exchequer funders but where no formal call for proposals procedure was involved, where such proposals had already been submitted and agreed with a non-Exchequer funder prior to 10 March 2011 but no formal announcement or award had been made, such projects may proceed under the “old” arrangements. The transitional arrangements will apply in these cases for the duration of the project as originally proposed/agreed, e.g. if vacancies arise which are required to be filled within the lifetime of such projects, such vacancies may be filled under the “old” arrangements up until the expiry of the term of the original project.
- In exceptional cases where agreement had been reached between HEIs on their individual contribution to proposed international collaborative research projects prior to 10 March 2011 (e.g. EU funded programmes where negotiation and agreement with partner HEIs is required prior to submission of the research proposal), provided that the final proposal is submitted to the relevant funding authority before end December 2011.

In all of the exceptional cases outlined above, detailed documentation must be maintained by institutions to justify the exemption of these projects from the requirement to fund the 20% employer pension contribution in respect of staff. This documentation must be available for inspection by the HEA on request.

Any doubt in relation to whether a project falls under the transitional arrangements should be referred to the HEA for clarification.

6. Accounting Arrangements for Pensions Purposes

The new employer’s pension contribution charge to be collected in respect of all new externally funded posts, or renewals of such existing posts where relevant, together with all other employee and employer pension contributions must be paid into a Pensions Control Account, which account will be used exclusively for the purposes of paying pensions. (This arrangement will be subject to review when the new single pension scheme for all new entrants to the public sector is introduced).

In order to ensure full transparency for accounting purposes, all pensions related receipts and payments must be accounted for on a gross basis through the Pensions Control Account. Within this account, any pension contributions and payments relating to staff who were members of the former funded schemes which transferred to the NPRF under the Financial Measures (Miscellaneous Provisions) Act 2009 must

continue to be identified and accounted for separately from all other pension contributions / payments. Similarly, any contributions arising from the new employer's pension contribution charge payable by third party funders must also be identified and accounted for separately within the Pensions Control Account and be open to audit.

Further instructions on the operation of these Pension Control Accounts will be issued by the HEA. Each institution's Pensions Control Account must be included as a disclosure note in its annual financial statements and accordingly will be subject to audit by its auditors and/or the C&AG.

7. Other Requests for Exceptions

In line with Government policy, any requests for exceptions to the Moratorium that are not covered by the delegated arrangements set out above must be agreed by the Department of Finance prior to the awarding or renewal of the employment contract.

8. Fixed Term Employees.

In the context of fixed term employees, contracts must be reviewed on a case by case basis. The Moratorium must not be used as a means of avoiding Contracts of Indefinite Duration (CIDs). Section 13(1)(d) of the Protection of Employees (Fixed Term Work) Act 2003 provides that an employer shall not penalize an employee by dismissing the employee from his/her employment if the dismissal is wholly or partly for or connected with the purpose of the avoidance of a fixed-term contract being deemed to be a contract of indefinite duration. In making a decision as to whether to renew or not to renew a Fixed Term Contract, no regard should be had as to whether the renewal of a Fixed Term Contract would bring the employee over the four year threshold specified at Section 9(2) of the Act. Section 9(2) does not, however, prevent an employer from renewing a Fixed Term Contract if there are genuine objective grounds for so doing (Section 9(4) refers). Employers must ensure that they comply with the Protection of Employees (Fixed Term Work) Act 2003 and in particular Sections 8 and 9 thereof.

9. Promotions

Academic promotions under this framework will be permitted subject to compliance with the terms of the framework as set out above, and also subject to the maintenance of appropriate balance between grades. This is to ensure containment of pay and pensions liabilities.

In the case of **academic posts in universities**, at end December of each year the distribution of such posts across the sector, as between Lecturer grades and Professor grades, must not change from the position as applying on 31 December 2008.

In the case of **academic posts in Institutes of Technology**, at end December of each year, the distribution of such posts across the sector, as between the assistant lecturer / lecturer grades, on the one hand, and Senior Lecturer (SL1, SL2 and SL3) and other higher grades, must not change from the position as applying on 31 December 2008;

Administrative, Professional and Technical promotions will be permitted on the basis that, at end December of each year, the overall percentage of posts which have a pay

scale which, at the maximum point, exceeds €70,000 must not increase above the percentage applying on 31 December 2008.

Restrictions will also apply to changes in the distribution of posts within the different groupings of grades. Detailed guidelines in relation to the operation of this measure will be issued by HEA.

10. Monitoring of Framework

This Framework shall be monitored by an Employment Control Framework Monitoring Committee comprised of the HEA, which shall chair the Committee, and representatives of the Departments of Education & Skills, and Public Expenditure & Reform. The Committee shall invite the IUA, IOTI, Department of Jobs, Enterprise & Innovation and others, as relevant, to meet with it from time to time to discuss operational matters of common concern. In this regard, and through the overarching STI governance structures, it will liaise with research funding agencies and Departments in monitoring the overall envelope of research posts provided to meet anticipated growth in Exchequer funded research activity.

11. Reporting and Records

Institutions shall maintain appropriate records in relation to their observance of these conditions and shall make these records available for inspection by the HEA and the Employment Control Framework Monitoring Committee, as required, from time to time.

Staff numbers shall continue to be reported on a quarterly basis. These returns shall include all staff employed in the institution (including all permanent staff, all contract staff and all staff on secondment from other bodies) who are members of public sector pension schemes, irrespective of whether the posts are funded (in whole or in part) by Exchequer funds or from non-Exchequer sources. (Staff on secondment to other bodies should not be included in an institution's returns, but will be returned where they are currently employed).

12. Review

The Framework will be reviewed in 2012.

June 2011.

Code of Governance of Irish Institutes of Technology

Annual Governance Statement and Statement of Internal Control - reporting arrangements to HEA

The Code of Governance of Irish Institutes of Technology sets out a number of items to be reported in an institute's annual Governance Statement and Statement of Internal Control. These are outlined in Section 2.11 of the Code, with Section 3.4 also setting out the format of the Statement as it relates to systems of internal control.

For the purpose of clarity and in order to ensure greater consistency in reporting across all institutes, an institute should ensure that both Statements explicitly address the items listed in Sections 2.11 and 3.4 of the Code. To ensure that this is the case, we ask that each institute prepares both Statements in line with the template set out below. Please note that relevant assurances or confirmation on items such as procurement must be clearly and separately specified. It is also imperative that in the event of an institute failing to comply with any requirement under the code, it shall report such matters of non-compliance to the HEA as part of the annual Governance Statement and Statement of Internal Control, providing an explanation for same and stating any corrective action taken or contemplated.

In addition, the HEA requests each institute to report in its annual Governance Statement and Statement of Internal Control on other items that, although not referred to in the Code itself, form part of the HEA's expectations on best practice and governance in the higher education sector. These items are also set out in the template below.

Following on from the submission of the annual Governance Statement and Statement of Internal Control, the Code also specifies (in Section 2.11.4) requirements to be met by each institute in filing annual accounts. This states that included with the accounts, which are kept in accordance with Section 16 of the 1992 Act, amended by Section 18 of 2006 Act, there should be a statement on the system of internal control in the form

set out in **Part 3.4**, which should be signed by the Chairperson and Chief Officer. The HEA also requests that this be accompanied by a covering letter from the Chairperson of the Governing Body confirming that the statement has been presented to and approved by the Governing Body. It is envisaged that this statement will be reviewed by the Comptroller and Auditor General to confirm that it reflects the audited Institute's compliance with the requirements of **paragraph 2.11.4** and that he will consider if the statement is inconsistent with the information of which he is aware from their audit work on the financial statements. The Comptroller and Auditor General should report his findings accordingly in the accounts to be submitted annually by an Institute in accordance with Section 16 of the 1992 Act to the HEA and Minister of Education and Skills. As set out in Section 2.11.4 (i) of the Code, the annual financial statements of Institutes should also reflect all post-balance sheet events, in accordance with generally accepted accounting principles (GAAP).

Template for Annual Governance Statement and Statement of Internal Control

Annual Governance Statement

1. Code of Governance (Section 2.11.4(i))

A statement confirming that the approved code of Governance has been put in place and implemented.

2. Code of Conduct for Members (Section 2.11.4(i))

A statement confirming that a Code of Conduct for Governing Body Members has been adopted and put in place and is being monitored.

3. Code of Conduct for Employees (Section 2.11.4(i))

A statement confirming that a Code of Conduct for Employees has been adopted and put in place and is being monitored.

4. Financially significant developments (Section 2.11.4(ii))

Financially significant developments affecting the Institute in the past financial year including the establishment of subsidiaries or joint ventures and acquisitions and major issues likely to arise in the short to medium term. This includes significant *ad hoc* expenditure on Internal Investigations and the appointment of advisors for Investigations.

5. Pay (Sections 2.6.1 and 2.11.4(iii))

A statement affirming that Government policy on pay is being complied with.

6. Financial reporting (Section 2.11.4(iv))

A statement affirming that all appropriate procedures for financial reporting are being carried out.

7. Internal audit (Section 2.11.4(iv))

A statement affirming that all appropriate procedures for internal audit are being carried out.

8. Procurement (Section 2.11.4(iv))

A statement affirming that all appropriate procedures for procurement are being carried out.

The Institute should confirm compliance with national procurement guidelines.

9. Asset disposals (Section 2.11.4(iv))

A statement affirming that all appropriate procedures for asset disposals are being carried out.

10. Guidelines for the Appraisal and Management of Capital Proposals (Section 2.11.4(v))

Confirmation that the Guidelines for the Appraisal and Management of Capital Proposals are being adhered to where appropriate.

11. Travel policy (Section 2.11.4(vi))

Confirmation that Government travel policy requirements are being complied with in all respects.

12. Guidelines on Achieving Value for Money in Public Expenditure (Section 2.11.4(vii))

Confirmation that the Guidelines on Achieving Value for Money in Public Expenditure as set out in the address by the Minister for Finance of 20 October 2005 and communicated to the Institutes are being followed.

13. Tax laws (Section 2.11.4(viii))

A statement affirming the Institute of Technology's compliance with tax laws.

14. Corporate Procurement Plan (Section 2.11.4(ix))

Confirmation that the relevant procurement policy and procedures and the development and implementation of the Corporate Procurement Plan are being adhered to where appropriate.

15. Non-compliance (Section 2.11.4)

In the event that the Institute fails to comply with any of the above the Institute of Technology shall report such matters of non-compliance to the HEA providing an explanation for same and stating any corrective action taken or contemplated.

In addition to matters of non-compliance being reported in the annual Governance Statement, the Institute should separately report such matters in the enclosed template to be signed by the Chief Officer and Chairperson.

16. Confidential Disclosure Faith Reporting – Protected Disclosures Act 2014 (Section 3.1.1.17)

The Governing Body should put in place procedures for Confidential Disclosure whereby employees may, in confidence, raise concern about possible irregularities in financial reporting or other matters and for ensuring meaningful follow-up of matters raised in this way.

Confirmation that a Protected Disclosures policy in line with the Protected Disclosures Act 2014 is in place.

Other items

The HEA also requests Institutes to report in their annual Governance Statement on other items that, although not referred to in the Code itself, form part of the HEA's expectations on best practice and governance in the higher education sector. These items are as follows:

17. Governing Body meetings

Confirmation of the number of Governing Body meetings held during the financial year in question and attendance record of members.

18. Audit Committee meetings

Confirmation of the number of Audit Committee meetings held during the financial year in question and attendance record of members.

19. Review of Governing Body performance

Confirmation that the Governing Body reviews its own performance and that it commissions an external review at regular intervals.

Confirmation should also be provided on when both internal and external reviews were last carried out and when both will be carried out again.

20. Salary of President

Confirmation of salary paid to President for the financial year in question

21. Child protection policy

Confirmation that an appropriate child protection policy is in place.

22. Fees and expenses in accordance with guidelines from the Department of Finance

Confirmation that fees and/or expenses paid to members of governing body are in accordance with the guidelines from the Department of Finance.

23. Fees and expenses presented in Annual Report

Confirmation that fees and/or expenses paid to members of governing body are presented in the Institute's Annual Report.

24. Note on schedule of fees and aggregate expenses

A note on the schedule of fees and aggregate expenses payable to external governing body members should be included.

25. Code of governance for trading subsidiaries

Confirmation that an appropriate code of governance is in place in respect of trading subsidiaries (i.e. subsidiaries with annual turnover and employees), with annual statements provided to the governing body.

26. General governance and accountability issues

Description of other governance and accountability issues that the Institute may wish to bring to the attention of the HEA.

Statement of Internal Control**27. Governing body responsibility for system of internal control (Section 3.4.1)**

Acknowledgment by the Chairperson and Chief Officer that the Governing Body is responsible for the body's system of internal control.

28. Reasonable assurance against material error (Section 3.4.2)

An explanation that such a system can provide only reasonable and not absolute assurance against material error.

29. Key procedures put in place designed to provide effective internal control - appropriate control environment (Section 3.4.3 (i))

The steps taken to ensure an appropriate control environment (such as clearly defined management responsibilities and evidence of reaction to control failures).

30. Key procedures put in place designed to provide effective internal control – business risks (Section 3.4.3 (ii))

Processes used to identify business risks, evaluate their implications and manage them within the Institute's risk management framework.

31. Key procedures put in place designed to provide effective internal control – information systems (Section 3.4.3 (iii))

Details of the major information systems in place such as budgets, and means of comparing actual results with budgets during the financial year.

32. Key procedures put in place designed to provide effective internal control – financial implications of major business risks (Section 3.4.3 (iv))

The procedures for addressing the financial implications of major business risks (such as financial instructions and notes of procedures, delegation practices such as authorisation limits, segregation of duties and methods of preventing and detecting fraud).

33. Key procedures put in place designed to provide effective internal control – monitoring the effectiveness of the internal control system (Section 3.4.3 (v))

The procedures for monitoring the effectiveness of the internal control system which may include: audit committees, management reviews, consultancy, inspection and review studies, the work of internal audit, quality audit reviews and statements from the heads of internal audit.

34. Review of the effectiveness of the system of internal control (Section 3.4.4)

Confirmation that there has been a review of the effectiveness of the system of internal control.

35. Weaknesses in internal control (Section 3.4.5)

Information (if appropriate) about the weaknesses in internal control that have resulted in material losses, contingencies or uncertainties which require disclosure in the financial statements or the auditor's report on the financial statements

36. Description of the action taken to correct weaknesses (Section 3.4.6)

The information relating to weaknesses in internal control should be a description of the action taken, or intended to be taken, to correct the weaknesses, or an explanation of why no action is considered necessary.

In addition to reporting weaknesses in internal control in the Statement of Internal Control, the Institute should bring any material breaches to the attention of the HEA in a timely fashion and separately report such matters in the enclosed template to be signed by the Chief Officer and Chairperson.

Matters of non-compliance and weaknesses in internal control

Where the Governing Body of [name of institute], has stated that the [name of institute] is not in compliance with the requirements as set out above the following actions have been agreed by the Governing Body to achieve compliance, together with the timeframes within which this will be done.

| Area of non-compliance or weaknesses in internal control | Actions to be taken to attain compliance or correct weaknesses | Due date |
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|---------------------------|--|
| Chairperson: | |
| President: | |
| Name of Institute: | |
| Date: | |

“Governance of Irish Universities” – Code of Governance for Universities**Annual Statement of Governance and Internal Control - reporting arrangements to HEA**

The “Governance of Irish Universities” code of governance sets out a number of items to be reported in a university’s annual Statement of Governance and Internal Control. These are outlined in Section 2.11 of the “Governance of Irish Universities” with Section 3.4 setting out the format of the Statement as it relates to systems of internal control. Other higher education institutions (National College of Art and Design, St. Patrick’s College, Drumcondra, Mary Immaculate College, Mater Dei Institute of Education, St Angela’s College) were also provided with the code for universities and requested to ensure that similar processes were in place in their institution and to report accordingly in the form of an Annual Statement of Governance and Internal Control.

For the purpose of clarity and in order to ensure greater consistency in reporting across all institutions, an institution should ensure that its Statement explicitly addresses the items listed in Sections 2.11 and 3.4 of the code. To ensure that this is the case, we ask that each institution prepares the Statement in line with the template set out below. Please note that relevant assurances or confirmation on items such as procurement must be clearly and separately specified. It is also imperative that in the event of an institution failing to comply with any requirement under the code, it shall report such matters of non-compliance to the HEA as part of the Statement of Governance and Internal Control, providing an explanation for same and stating any corrective action taken or contemplated.

In addition, the HEA requests each institution to report in its annual Statement of Governance and Internal Control on other items that, although not referred to explicitly in the Code itself, form part of the HEA’s expectation of best practice governance in the higher education sector. These items are also set out in the template below.

As per Section 2.11.1 of the “Governance of Irish Universities” the annual Statement of Governance and Internal Control to be provided by institutions to the HEA should be signed by the chief officer and accompanied by a covering letter from the chairperson of the governing authority confirming that the Statement has been presented to and approved by the governing authority.

In line with Section 2.11.2, this statement should be reviewed by the external auditors engaged by the governing authority who should consider if the statement is consistent with the information of which they are aware from their audit work. The external auditors should report their findings accordingly in the accounts to be submitted annually by an institution to the Comptroller & Auditor General for audit, in accordance with Section 39 of the 1997 Act. The statement may be reviewed also by the Comptroller & Auditor General.

In line with Section 2.11.3, the annual financial statements of institutions should reflect all post-balance sheet events, in accordance with generally accepted accounting principles (GAAP).

Template for items to be reported in Statement of Governance and Internal Control**1. Statement from Governing Authority in relation to responsibility and compliance (Section 2.11.4(i))**

A statement affirming that the governing authority is responsible for and is satisfied that the university is in compliance with all statutory obligations applicable to the university that may be set out in legislation governing the establishment of the university or in other relevant legislation.

2. Code of Governance (Section 2.11.4(ii))

A statement confirming that the approved code of Governance has been put in place and implemented.

3. Code of Conduct for Members (Section 2.11.4(ii))

A statement confirming that a Code of Conduct for Members has been put in place and implemented.

4. Code of Conduct for Employees (Section 2.11.4(ii))

A statement confirming that a Code of Conduct for Employees has been put in place and implemented.

5. Financially significant developments (Section 2.11.4(iii))

Financially significant developments affecting the university in the past financial year including the establishment of subsidiaries or joint ventures and acquisitions and major issues likely to arise in the short to medium term. This

includes significant *ad hoc* expenditure on Internal Investigations and the appointment of advisors for Investigations.

6. Pay (Sections 2.6.1 and 2.11.4(iv))

A statement affirming that Government policy on pay is being complied with, including the Agreed Framework between the universities and the HEA for Departures from Approved Levels of Remuneration, Fees, Allowances and Expenses for University Employees.

7. Financial reporting (Section 2.11.4(v))

A statement affirming that all appropriate procedures for financial reporting are being carried out.

8. Internal audit (Section 2.11.4(v))

A statement affirming that all appropriate procedures for internal audit are being carried out.

9. Procurement (Section 2.11.4(v))

A statement affirming that all appropriate procedures for procurement are being carried out and confirmation that the relevant procurement policy and procedures and the development and implementation of the Corporate Procurement Plan are being adhered to where appropriate.

The institution should confirm compliance with national procurement guidelines.

10. Asset disposals (Section 2.11.4(v))

A statement affirming that all appropriate procedures for asset disposals are being carried out.

11. Guidelines for the Appraisal and Management of Capital Proposals (Section 2.11.4(vi))

Confirmation that the Guidelines for the Appraisal and Management of Capital Proposals are being adhered to where appropriate.

12. Travel policy (Section 2.11.4(vii))

Certification that Government travel policy requirements are being implemented in all respects.

13. Guidelines on Achieving Value for Money in Public Expenditure (Section 2.11.4(viii))

Confirmation that the Guidelines on Achieving Value for Money in Public Expenditure as set out in the address by the Minister for Finance of 20 October 2005 and communicated to the universities are being followed.

14. Tax laws (Section 2.11.4(ix))

A statement affirming the university's compliance with tax laws.

15. Child protection policy (Section 2.11.4(x))

Confirmation that an appropriate child protection policy is in place.

16. Fees and expenses in accordance with guidelines from the Department of Finance (Section 2.11.4(xi))

Confirmation that fees and/or expenses paid to members of governing authority are in accordance with the guidelines from the Department of Finance.

17. Fees and expenses presented in Annual Report (Section 2.11.4(xi))

Confirmation that fees and/or expenses paid to members of governing authority are presented in the University's Annual Report.

18. Note on schedule of fees and aggregate expenses (Section 2.11.4(xi))

A note on the schedule of fees and aggregate expenses payable to external governing authority members should be included.

19. Code of governance for trading subsidiaries (Section 2.11.4(xii))

Confirmation that an appropriate code of governance is in place in respect of trading subsidiaries (i.e. subsidiaries with annual turnover and employees), with annual statements provided to the governing authority.

20. Non-compliance (Section 2.11.5)

In the event that a university fails to comply with any of the above the university shall report such matters of non-compliance to the HEA as part of the Statement of Governance and Internal Control, providing an explanation for same and stating any corrective action taken or contemplated.

In addition to matters of non-compliance being reported in the Statement of Governance and Internal Control, the institution should separately report such

matters in the enclosed template to be signed by the Chief Officer and Chairperson.

21. Good Faith Reporting – Protected Disclosures Act 2014 (Section 3.1.1.20)

In line with legislation, the governing authority should put in place procedures for Good Faith Reporting whereby employees may, in confidence, raise concern about possible irregularities in financial reporting or other matters and for ensuring meaningful follow-up of matters raised in this way.

Confirmation that a Protected Disclosures policy in line with the Protected Disclosures Act 2014 is in place.

22. Governing authority responsibility for system of internal control (Section 3.4.1)

Acknowledgment by Chief Officer that the governing authority is responsible for the body's system of internal control, which statement requires the formal approval of the governing authority.

23. Reasonable assurance against material error (Section 3.4.2)

An explanation that such a system can provide only reasonable and not absolute assurance against material error.

24. Key procedures put in place designed to provide effective internal control - appropriate control environment (Section 3.4.3 (i))

The steps taken to ensure an appropriate control environment (such as clearly defined management responsibilities and evidence of reaction to control failures).

**25. Key procedures put in place designed to provide effective internal control
– business risks (Section 3.4.3 (ii))**

Processes used to identify business risks and to evaluate their implications and manage them within the institution's risk management framework.

**26. Key procedures put in place designed to provide effective internal control
– information systems (Section 3.4.3 (iii))**

Details of the major information systems in place such as budgets and means of comparing actual results with budgets during the financial year.

**27. Key procedures put in place designed to provide effective internal control
– financial implications of major business risks (Section 3.4.3 (iv))**

The procedures for addressing the financial implications of major business risks (such as financial instructions and notes of procedures, delegation practices such as authorisation limits, segregation of duties and methods of preventing and detecting fraud).

**28. Key procedures put in place designed to provide effective internal control
– monitoring the effectiveness of the internal control system (Section 3.4.3 (v))**

The procedures for monitoring the effectiveness of the internal control system which may include: audit committees, management reviews, consultancy, inspection and review studies, the work of internal audit, quality audit reviews and statements from the heads of internal audit.

29. Review of the effectiveness of the system of internal control (Section 3.4.4)

Confirmation that there has been a review of the effectiveness of the system of internal control.

30. Weaknesses in internal control (Section 3.4.5)

Information (if appropriate) about the weaknesses in internal control that have resulted in material losses, contingencies or uncertainties which require disclosure in the financial statements or the auditor's report on the financial statements.

31. Description of the action taken to correct weaknesses (Section 3.4.6)

The information relating to weaknesses in internal control should be a description of the action taken, or intended to be taken, to correct the weaknesses, or an explanation of why no action is considered necessary.

In addition to reporting weaknesses in internal control in the Statement of Governance and Internal Control, the institution should bring any material breaches to the attention of the HEA in a timely fashion and separately report such matters in the enclosed template to be signed by the Chief Officer and Chairperson.

Other items

The HEA also requests institutions to report in their annual Statement of Governance and Internal Control on other items that, although not referred to explicitly in the Code itself, form part of the HEA's expectation of best practice and governance in the higher education sector. These items are as follows:

32. Governing Authority meetings

Confirmation of the number of Governing Authority meetings held during the financial year in question and attendance record of members.

33. Audit Committee meetings

Confirmation of the number of Audit Committee meetings held during the financial year in question and attendance record of members.

34. Review of Governing Authority performance

Confirmation that the Governing Authority reviews its own performance and that it commissions an external review at regular intervals.

Confirmation should also be provided on when both internal and external reviews were last carried out and when both will be carried out again.

35. Salary of President

Confirmation of salary paid to President for financial year in question.

36. General governance and accountability issues

Description of other governance and accountability issues that the university may wish to bring to the attention of the HEA.

Matters of non-compliance and weaknesses in internal control

Where the Governing Authority of [name of institution] has stated that the [name of institution] is not in compliance with the requirements as set out above the following actions have been agreed by the Governing Authority to achieve compliance, together with the timeframes within which this will be done.

| Area of non-compliance or weaknesses in internal control | Actions to be taken to attain compliance or correct weaknesses | Due date |
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| Chairperson: | |
| President: | |
| Name of Institution: | |
| Date: | |

The Governance and Regulation of Irish Higher Education:
A Statement of the role of the Higher Education Authority

Introduction

This is a statement of how the HEA interprets its role in the governance and regulation of the higher education system and the individual institutions that comprise that system.

For the purpose of this statement “governance” means the systems and procedures of oversight implemented by the HEA of the individual HEIs, and the collective system of higher education. The objective of such oversight is to ensure that the HEIs and the system collectively meets the outcomes expected, effectively and efficiently.

Governance comprises the systems and procedures under which organisations are directed and controlled. A robust system of governance is vital in order to enable organisations to operate effectively and to discharge their responsibilities as regards transparency and accountability to those they serve.

Governance of Irish Universities 2012, Governance of Institutes of Technology 2012

“Regulation” means the system of statutory and administrative rules and requirements placed on higher education institutions, the performance of which the HEA has responsibility for enforcing or reviewing.

In practice governance and regulation have a relationship of mutual dependence, with adherence to the regulatory system being a subset of overall good governance.

The exercise of governance and regulation is informed by relevant legislation, the values of the HEA, national policy and national and international best practice. Appendix I lists the relevant legislation.

Context

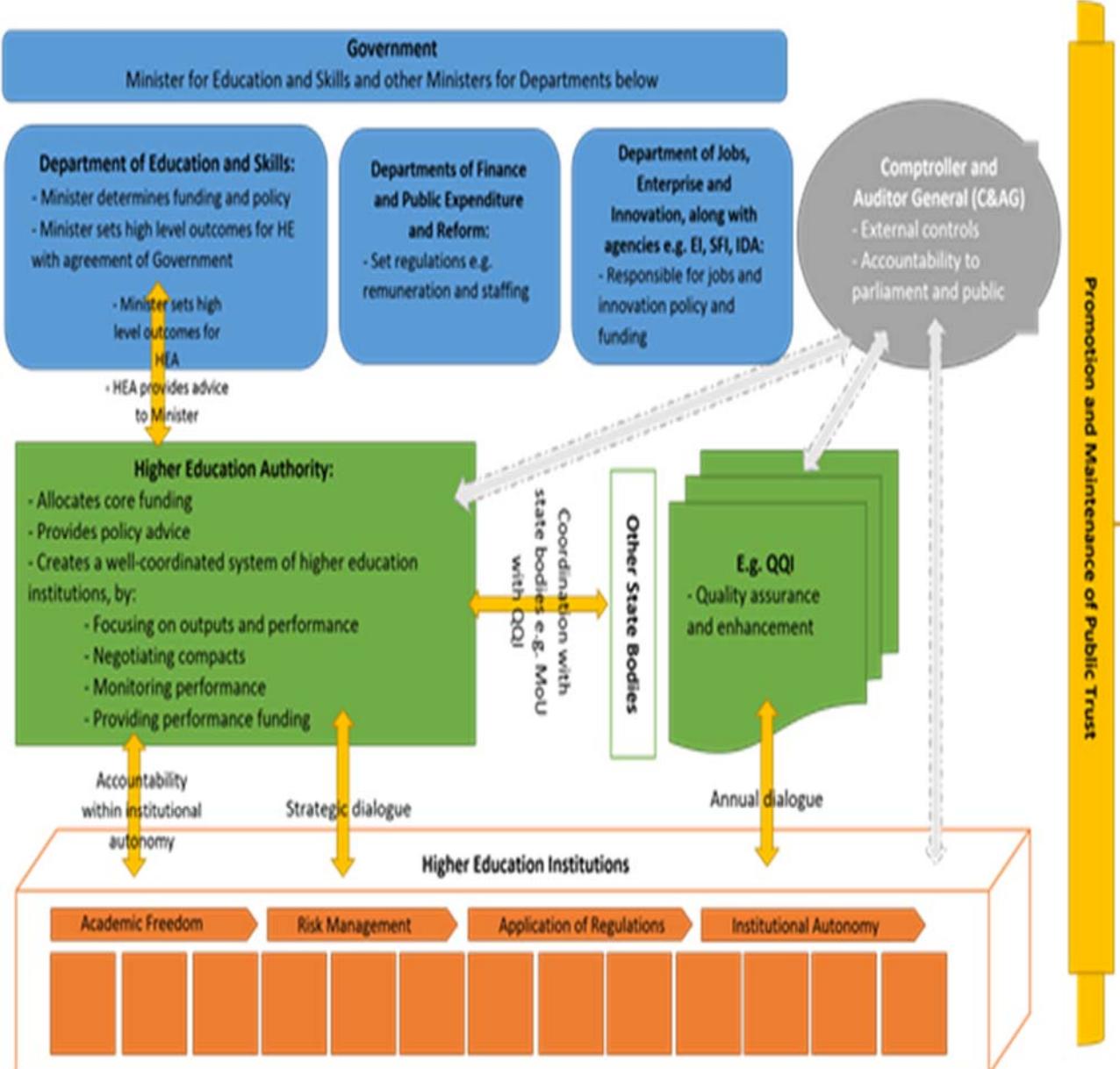
In exercising its governance and regulation mandate, the HEA operates in an environment involving the interactions of the following main actors –

- The Minister for Education and Skills (the Minister), with the Government, determines policy in respect of higher education and research in higher

education institutions; sets the high level outcomes required from the sector and determines the overall funding for the sector.

- The Minister, with the Ministers for Finance/Public Expenditure & Reform, sets regulatory requirements in respect of remuneration (pay and pensions) and staff exit mechanisms (redundancy & early retirement).
- The HEIs operate within the context of institutional autonomy in managing their internal affairs and with guarantees of academic freedom.
- HEIs agree with the HEA their contribution to national objectives within their mission and they are held accountable by the HEA for their performance against that agreement, with funding contingent on performance.
- The Office of the Comptroller and Auditor General, with the Committee of Public Accounts, operate a system of external controls and accountability to parliament and the wider public.
- Quality and Qualifications Ireland (QQI) have statutory responsibility for quality assurance/enhancement in HEIs.

This interplay of actors is represented in the following graphic.



The general role of HEA

The governance and regulatory role of the HEA operates as an integral part of the broader role of the organisation. (IUA: This statement needs to reference the specific legal basis of a regulatory role on the part of HEA.)

The HEA is required by legislation to allocate funding to HEIs, to provide policy advice and to exercise certain regulatory functions in respect of almost all publicly funded higher education institutions (HEIs). The funding role includes the development of funding models and is concentrated on ensuring transparency and fairness in allocations; accountability in terms of ensuring that funding is applied for the purposes intended, and oversight of the financial health of the individual HEIs and the system as a whole. The HEA provides advice to the Minister on the development of higher education and research and is the agency of record for data on the higher education system.¹

With the implementation of the National Strategy for Higher Education, the HEA mandate encompasses the responsibility to create a well-coordinated system of higher education institutions, each with a clear mission, which is capable in its totality of delivering on national objectives set for the system by the Minister. This aspect of the role requires the HEA –

- To focus on outputs and the performance of each HEI, and the system as a whole.
- To negotiate a compact with each HEI including regional cluster outcomes.
- To monitor performance against agreed deliverables, and
- To provide funding based on performance
- To report on an annual basis to the Minister on performance against agreed baselines/ targets for the institutions under its aegis.

HEA values

The HEA brings the following values to bear in all its inter-actions with the HEIs –

- Respectful of institutional autonomy, within an accountability framework.
- An open and inclusive approach through constructive consultation.
- Openness, fairness and transparency.
- Accountability to the Minister for the achievement of objectives.
- Commitment to evidence based policy development.
- Understanding of the multi-annual context underpinning HEI operations

¹ HEA Act, 1971, Sections 3, 5, 6, 12

The governance and regulatory role of the HEA

The following paragraphs set out the basis of, the underpinning principles of, and approaches to, its governance and regulatory role.

Basis of the role

The HEA derives its role for the governance and regulation of the sector from legislation and from government policy directions which in turn are based on the principle that individual higher education institutions, and the system as a whole, is established, governed and funded in the interests of students, the promotion of knowledge, learning and research, equality of opportunity and the social and economic interests of Ireland. The service level agreement established between the Department of Education and Skills sets out clear responsibilities for the HEA in monitoring compliance by institutions with governance and accountability requirements.

The HEA as an intermediary body

The HEA, in international terms, is understood as an intermediary body between the higher education institutions and government. As such the HEA has a responsibility –

- To provide expertise to the Department of Education and Skills and other stakeholders, and make decisions based on expertise;
- To advise the Government on the financial and other needs of the sector;
- To take decisions that are transparently objective;
- Subject to government policy, to take long term decisions that are outside the political cycle and provide a degree of objectivity as a result, especially in the case of decisions that may be controversial.

HEIs are autonomous institutions

Higher education institutions are separate, corporate entities with substantial autonomy in law and in practice.

Each HEI has a Board that is responsible for the institution's objects, values, strategic direction, internal governance and overall performance - within a framework of national policy and good governance practice.

While the HEA seeks to ensure that HEIs operate with the maximum level of autonomy, it requires that governing bodies have in place internal governance structures as set out in the relevant Codes of Governance, agreed with the HEA, that accord with best

practice and through a system of reporting, review and audit the HEA aims to ensure that these operate effectively.

HEIs are accountable, through the HEA, to the State.

While the HEA is the principal funder, other state agencies and Government departments can be involved in funding the sector and institutions are accountable for all funding received from it via state bodies and departments. Institutions are accountable to the Comptroller and Auditor General. Through the strategic dialogue and performance funding process, the HEA will move progressively to make funding allocations to individual HEIs that are based on outputs and results, with less focus on inputs to the system. The compacts, agreed with each HEI, based upon agreed performance towards stated national objectives will form the bedrock of the accountability relationship of HEIs to the State, through the HEA.²

Through this process, the HEA will also exercise its governance role vis-a-vis the higher education system, ensuring that, as a whole, the system is well positioned to meet national objectives through a well-coordinated system of highly collaborative, diverse HEIs. The development of regional clusters is central to such collaboration.

In addition to the overarching nature of strategic dialogue and compacts, the HEA will implement other accountability mechanisms -

- A governance framework for the HEIs, agreed with the HEA reflecting the Code of Governance of Irish Institutes of Technology (2012)/ the Governance of Irish Universities (2012) and the Code of Practice for the Governance of State Bodies (2009), current best practice in the public sector and internationally.
- HEIs are required to supply the HEA with reliable and prompt reports on how their resources have been spent, as well as other statistical returns related to performance and outputs³.
- Financial reports to be provided once a year,⁴ but with the provision for more frequent reporting, if an institution is thought to be facing financial problems.

In carrying out its responsibilities, the HEA will avoid micromanagement while ensuring that it is appropriately and sufficiently informed to assess the performance and governance of HEIs.

² HEA Act 1971 section 12.2

³ HEA Act 1971 section 7 and 11

⁴ IBID

The accountability system is expected to provide reasonable and not absolute assurance against material error. Institutions are expected to report to the HEA as issues arise – as requested in the annual statement of governance and internal control. HEIs are also expected to ensure that appropriate action is taken by the appropriate authorities, whether that be the HEA itself or the institutional authorities.

Communications

The HEA will ensure that there is reliable, objective information publicly available on the higher education system; that the interests and perspectives of higher education are communicated to government and other stakeholders and that the views and perspectives of government and other stakeholders are communicated to the higher education system.

The HEA shares responsibility with the HEIs to communicate the value, and values, of higher education and research⁵.

The HEA plays a lead role in strategic development

The HEA has the responsibility to anticipate developments in higher education and research, and in society and the economy as they are impacted by, or impact on, higher education and research, the better to inform policy advice to the Minister and to exercise an effective leadership role in the sector. A sophisticated awareness of international trends is necessary as well as a capacity to collect, manage and analyse both qualitative and quantitative data from the sector and the individual HEIs.

Good governance requires sound risk management

While risk management at institutional level is a responsibility of the HEI, the HEA has a responsibility to ensure that such systems are in place and are operating effectively, in line with its responsibility to maintain a risk register for the sector on behalf of the Department of Education and Skills.

HEA relationship to the Government and Minister of Education and Skills

The higher education sector is held accountable by the HEA for public funding under the annual strategic dialogue process and associated performance funding allocations. The process measures progress institutions have made against agreed targets in contributing to the achievement of national objectives as set out by the

⁵ HEA Act, 1971 section 3

Minister. The HEA then prepares an annual System Performance report to the DES, to report on performance and accountability of the higher education sector.

While the HEA operates in a very close relationship with the Minister for Education and Skills and the Department, it must also operate with an appropriate level of independence.

The Service Level Agreement between the DES and the HEA provides the formal framework for the DES/HEA relationship, providing both for the work of the HEA and for accountability to the Minister. In conjunction with the SLA, the HEA has also agreed a Financial Accountability Framework to provide for proper and effective use of public funding, effective control audit and accountability measures and cost effective and efficient delivery of services.

Co-ordination with other Departments/agencies

The HEA will liaise with all bodies with a significant involvement with higher education institutions to ensure that effective co-ordination occurs between them within the context of national strategy for higher education and research.

APPENDIX I**RELEVANT LEGISLATION / CODES / PUBLIC POLICY THAT APPLIES TO HIGHER EDUCATION INSTITUTIONS****Legislation**

A comprehensive list of legislation enacted since the foundation of the state is available at <http://www.education.ie/en/The-Education-System/Legislation/>

[The Higher Education Authority Act, 1971](#)

[National College of Art and Design Act, 1971](#)

[Regional Technical Colleges Act 1992 & Amendments](#)

[Dublin Institute of Technology Act, 1992 & Amendments](#)

[The Universities Act 1997](#)

[Comptroller and Auditor General \(Amendment\) Act 1993](#)

[Institutes of Technology Act 2006](#)

[Qualifications and Quality Assurance \(Education and Training Act\) 2012](#)

[Protected Disclosures Act 2014](#)

Codes

Code of Practice for Governance of State Bodies; Department of Finance; 2016

Governance of Irish Universities, 2012

Governance of Irish Institutes of Technology, 2012

Policy

National Strategy for Higher Education 2011

Compacts with the Higher Education Authority