



**CARLOW  
COLLEGE  
ST. PATRICK'S**

**PUBLIC CONSULTATION ON REFORM OF HIGHER EDUCATION AUTHORITY LEGISLATION  
(Published 23<sup>rd</sup> February, 2021)**

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**Carlow College St. Patrick's response to:**

- **Consultation Report – 'Update on the Reform of the Higher Education Authority Act, 1971 – A Shared Approach (February, 2021)'**

Carlow College, St. Patrick's welcomes the Consultation Report –Update on the Reform of the Higher Education Authority Act, 1971 and appreciates the opportunity to provide feedback to the Minister in relation to the said report. In this regard we refer to our submission made in 2019 in response to the Outline of the Legislative Proposals for the Reform of the 1971 Act (See Appendix 1). It is noted the updated report, 'A Shared Approach', builds upon the previous consultation process and it is therefore not intended to repeat what has already been stated, but rather refer to two specific areas which have been amended since the publication of the Consultation Report in Section 6:

**1. 6.8: Designation (page 22):**

We welcome the details now outlined in 6.8 which state

*"The designation model proposed in the Consultation Report published in July 2019 provided for the automatic designation of HEIs which are currently designated as institutions of higher education under the 1971 Act and the mandatory designation of all other higher education providers, whose principal purpose is higher education based on a proposed definition of an institution of higher education to be included in the legislation.*

*The proposed designation model in overall terms will be as follows:*

- *Automatic designation of institutions established under legislation,*
- *A process for the mandatory designation of other HEIs by Order under the legislation,*
- *Including a definition of higher education award as a programme of education and training, leading to the award of a degree or other qualifications which are to at least bachelor degree level and which are included with the National Framework of Qualifications.*

*All designated institutions of higher education may use the title "Designated Institution of Higher Education" to describe itself and the HEA will publish a list of designated institutions of higher education and will keep this list updated."*

We again draw attention to point raised in our submission in 2019 (page 5 hereunder) relating to a small number of HEIs which are in receipt of public funding from the Department of Further and Higher Education, Research, Innovation and Science, (Carlow College, St. Patrick's included). As previously stated, insofar as the DFHERIS has recognised the public good and social value of these HEIs by virtue of their provision of public funding to them, we propose that they be specifically referred to in the proposed published list of designated institutions of higher education.

## **2. 6.9: Funding of HEI's (page 22 / 23)**

We welcome and support the details now outlined in 6.9, whereby it is proposed in the reformed legislation that in addition to the original list of designated institutions which was limited to universities, technological universities, institutes of technology and a small number of other institutions, the HEA may now provide funding to the wider list of designated institutions of higher education. Having regard to the details outlined in the aforesaid paragraph and subject to conditions of funding which will be determined by the HEA, it is understood that despite designation status there is not an automatic funding allocation under the HEA. Therefore, given the ongoing contribution and distinctive position of Carlow College, St. Patrick's, we would like to present our case for inclusion in core funding allocated under the HEA, inclusive of other associated higher education funding initiatives.

## **3. Outline of Legislative Proposals for the Reform of the Higher Education Authority Act, 1971 Amendments to Various Acts – Parts IX to XII**

**Role of the Higher Education Authority in:**

- (1) Incorporation of Educational Institutions with existing Universities**
- (2) Incorporation of Educational Institutions with existing Technological Universities**

Request for consideration in the legislative proposals for the Reform of the Higher Education Authority Act, 1971, an additional Amendment to the Technological Universities Act, 2018.

Whilst not specifically referenced in the Update Report on the Reform of the Higher Education Authority Act, 1971, we wish to take this opportunity to refer to the role of the Higher Education Authority in the Incorporation of Educational Institutions with existing universities. Under Section 8 and subsections (3) to (6) of Section 44 of the Universities Act 1997, where the Higher Education Authority considers that an "educational institution" or part of an educational institution should form part of a university, the Minister may by order made with the consent of the Minister for Finance and with the consent of the institution concerned and with the consent of the governing body of the university concerned, provide that the institution or part thereof may become and form part of the university and on the making of the order it shall be so incorporated. Subsections (3) to (6) of Section 44 shall apply to the staff of an institution who immediately before the incorporation provided for in subsection (1) were employees of the institution and who become employees of the university on such incorporation.

see <http://www.irishstatutebook.ie/eli/1997/act/24/enacted/en/print.html>

It is noted that there is no provision, in the Technological Universities Act 2018, for the Higher Education Authority to recommend Incorporation of Educational Institutions with existing Technological Universities.

In this context we refer to the 'National Strategy for Higher Education to 2030 – Report of the Strategy Group January 2011'

- Page 23 'Coherent Framework' – "Smaller institutions should be consolidated to promote coherence and critical mass. In the case of institutions in receipt of core grant (partial or full) and free fees funding, the overall framework of incentives should operate to achieve the incorporation or merger of such institutions into existing universities **or institutes of technology or into technological universities.**"
- Page 99 - 8.5 'Consolidation across the Higher Education System', "*Smaller publicly funded institutions, that are not institutes of technology or universities, should be encouraged to align*

***with or be incorporated into institutions of sufficient scale to enable overall quality and efficiency objectives to be met.”***

Having regard to the above, particularly in the context of strategic positioning, we request that consideration be given to inclusion of a new section in the "Amendments to the Technological Universities Act, 2018", forming part of the Legislative Proposals for the Reform of the HEA Act 1971, providing for Incorporation of Educational Institutions with existing Technological Universities, similar to the terms outlined in Section 8 of the Universities Act 1997.

It is noted that the General Scheme of a Bill will be finalised and submitted to Government for approval by the end of quarter 1 2021.

## APPENDIX 1 - 2019 SUBMISSION

### CONSULTATION PROCESS ON LEGISLATIVE PROPOSALS

#### REVISION OF THE HIGHER EDUCATION AUTHORITY ACT 1971

Carlow College St. Patrick's response to:

- **The Consultation Report and Response of the Department of Education and Skills on the Legislative Reform of the Higher Education Authority Act, 1971**
- **Outline of the Legislative Proposals for the Reform of the Higher Education Authority Act, 1971**

Carlow College, St. Patrick's welcomes these legislative proposals and appreciates the opportunity to provide feedback to the Minister in relation to the same.

We welcome the focus of the key principles of the proposed legislation as supporting the Department's values and mission to *'facilitate individuals, through learning, to achieve their full potential and contribute to Ireland's social, economic and cultural development'*. We note and welcome the key principles and intent of the proposed legislation including:

- *promoting and safeguarding the interests of students;*
- *maintaining and enhancing the reputation of the higher education sector, including its international reputation;*
- *promoting and supporting HEIs in achieving excellence in teaching, learning and research in higher education;*
- *promoting equality of access and opportunity in higher education; and*
- *providing a comprehensive governance framework to safeguard State investment in the higher education sector and ensure transparency and accountability by HEIs for public funds.*

Specifically, we welcome the identification of the importance of a regulatory framework overseeing the governance, performance and accountability of publically-funded, non-profit, and private HEI's in Ireland and the legislative intent give this effect through the establishment of the Higher Education Commission.

#### **Higher Education Commission**

We note that Higher Education provision in Ireland is provided by a range of public, non-profit and private institutions. Further with the implementation of agreed frameworks of educational standards across the European Union, and the need to protect the integrity of award standards in Ireland, there is a requirement for a statutory body to develop and implement a new higher education regulatory model which ensures strong and effective internal governance and secures transparency and public accountability in Irish Higher Education. We recognize that education is both a private and a public good and that this factor is particularly pertinent to Higher Education. Given the cost of a first class higher education provision and its important role as a key public good, whether provision is through

public, non-profit or private institutions, it is absolutely necessary that the State ensures that the sector functions under a robust regulatory oversight.

Further, given the important role of Higher Education provision in the economic, social and cultural development of the country we welcome the proposal that the Higher Education Commission would have a pivotal role, alongside the Department of Education and Skills, in developing national strategy for higher education and higher education research.

We note that the provision of Higher Education in Ireland through non-profit institutions and state support for learners opting to study in such institutions arises, in part, from particular historical circumstances. We maintain that provision via non-profit institutions is often characterised by missions of service to particular populations and to education as a social rather than a market good. However, we recognise that such provision in Ireland is not possible without state support for the learners and fully recognise that such institutions must be integrated into state regulation and strategic policy in response. In this regard, we welcome and support the requirement for a system performance framework as outlined at section 40 and the requirement for a Strategy Statement by individual HEIs, as outlined under Section 41, and the requirement for an Equality Statement for HEIs not covered by the Universities Act 1997, Technological Universities Act 2018 or the Institutes of Technology Acts (1992-2006), as set out in Section 42. With respect to a system performance framework, for purposes of planning, evaluation, and transparency we welcome the proposals with regard to data collection and sharing (part VII).

We note and agree with the objects of the Higher Education Commission, as set-out in Section 8 of the Legislative proposals. We are particularly pleased to see specific reference in these objects to the needs of the student as a primary consideration (see Section 8 a), the promotion of equality of access and opportunity (8c), the promotion of excellence in teaching, learning and research (8d) and the contribution of higher education to national and regional social, economic and civic development. With respect to the general functions of the HEC we note and agree with the General functions as set out under Section 9. We welcome the specific reference to the educational needs of stakeholders at regional level (Section 9c (ii)), the development of collaborative provision between HEIs (c (iii)), and a framework and codes to promote collaboration between HEIs in regional areas in accordance with Section 43 - Regional Collaboration.

### **Designated Institutions of Higher Education**

We note and welcome, as set out under Section 9 h of the general functions of the HEC, that it shall 'provide funding to bodies in accordance with section 45 and monitor expenditure by bodies to which funding is allocated'. Carlow College is a non-profit Higher Education Institution in receipt of public funding from the Department of Education and Skills. We understand that this funding function will transfer to the HEC under this legislation. We welcome this and see it as consistent with the objects of the HEC as set out under Section 8. Further we understand Section 41 (Strategic Development Plan of Institutions of Higher Education) and Section 45 (Grants by the HEC) as being necessary and appropriate to the HEC carrying out its objects under this legislation.

We note and welcome the proposals in Part III for the establishment of a legislative basis for the term *Designated Institutions of Higher Education* and for its use. We note that the HEC shall publish

annually a schedule of higher education institutions and that the HEC will engage with QQI in the determination of providers of programmes leading to higher education awards included within the National Framework of Qualifications. Further we note the specific references to the types of HEIs which will be included in the first schedule of HEIs, (Section 33). However, we would draw attention to a small number of HEIs which are in receipt of public funding from the Department of Education and Skills (Carlow College, St.Patrick's included) which are not specifically referenced under Section 33. We respectfully suggest that this absence fails to make a distinction between such HEIs and the general body of private HET providers as listed by QQI. Insofar as the Department of Education and Skills has recognised the public good and social value of these HEIs by virtue of their provision of public funding to them, we propose that they be specifically referred to under Funding, Section 33.

### **Equity and Inclusion**

As noted in the National Action Plan for Equity of Access to Higher Education 2015-2019, 'promoting equality of opportunity in higher education is a national priority that has been fundamental to the role of the Higher Education Authority (HEA) since its foundation in the early 1970s'. Carlow College St. Patrick's particularly welcomes the reference to equality of access as an additional focus for the proposed revisions to sections 59 and 60 of the HEA Act. The emphasis on diversity framed within the context of social and economic disadvantage, geographical distribution, underrepresented members of society and people with disabilities is a useful contextual basis for evaluating the promotion of equity of access in higher education.

Participation from disadvantaged areas is still not as high as it should be. It is important to place all potential students, whatever their background, at the center of the new legislation. The Department should consider incentivising HEI's to promote wider participation. The extension of Free Fees to part-time students from non-advantaged and non-traditional background should also be considered. Carlow College, St Patrick's, as part of its ethos, welcomes students from such backgrounds whether as fulltime, mature or part-time students.

It is our perspective that it is also of significance to consider the implications of equality of access in a wider analytical context as is referenced in the DES consultation report and response. Namely, the DES response refers to the objective of equity of access alongside the more substantive measure of equality which moves along a trajectory that incorporates opportunity, progression and outcome.

Equality of outcome is a more significant benchmark in the measure of equality and it would be of value to include this specific phrasing within the proposed legislative reform. We note that the DES, HEC and QQI have a remit for supporting equality of opportunity as a core national objective in the higher education systems framework, underpinned and reinforced at European level by the Bologna process. The vision of the National Action Plan also states that the objective is 'to ensure that the student body entering, participating in and completing higher education at all levels reflects the diversity and social mix of Ireland's population'. This is consistent with the reference to equality of opportunity, progression and outcome.

Studies have documented that non-progression rates are clearly linked to socio-economic profiles and disadvantaged backgrounds. Empirical evidence illustrates that students from underrepresented

sections of society may require different types of supports in order to achieve the educational outcomes consistent with student cohorts from different socio-economic backgrounds. It is important that legislative commitment to equality and inclusion is cognisant of the practical implications of supporting equality of outcome. This leads to questions such as support for part-time students and consideration of the financial implications of providing the types of educational resources that can enhance equality of participation and outcome.

### **Regional Collaboration**

The section on regional collaboration supports the legislative basis for inter-institutional collaboration and responds to current departmental policy. It is our perspective, that it is of value to assign responsibility to the HEC for driving this strategic objective. In the short and longer term, regional collaboration is clearly a relevant objective of higher education in terms of advancing research, interdisciplinarity, promoting a wider range of courses in the region, and enhancing student opportunities. Joint provision of programmes of education and training provide opportunities for academic collaboration that can draw on the strengths and traditions of complementary departments and institutions. Widening the reference to include different stakeholders in a process of regional collaboration is a mechanism to increase responsiveness to the economic and social contexts and associated requirements. The potential to collaborate with a diverse range of participants from business to community is an important dimension to include.

Furthermore, it is our view that the reference to social needs is also consistent with the European objectives for higher education which have emphasised contribution to society as a key factor alongside economic priorities. Being responsive to social needs also reinforces the role of academic disciplines that are particularly articulated towards social conditions. The reference to the potential provision of funding to support regional collaboration is a noted factor which can support this strategic direction.

