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To: heconsultation <heconsultation@dfheris.gov.ie>

Subject: FW: Comment/QQ on DFHERIS position paper on governance (updated)

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Dear Sir/Madam, please see updated version of Comment on HEA Act which explains more why consideration should be given to whether the Department and HEA has sufficient authority over the next number of decades for shaping the Higher Education system (as distinct from ensuring proper governance, which of course needs to be paramount). I appreciate it is after the consultation close date. Best regards [REDACTED]

START OF SUBMISSION

Comments on proposed new HEA Act (05/03/21 Submission, updated 16/03/21)

Structure of HEIs Governing Bodies

- *Reduction in size to 12 people* – I strongly agree with this – only a group of such a size can operate and be shaped by the Chair to work together as a team – larger bodies especially of 40+ are really more consultative bodies with little coherence and influence. Special purpose sub-committees either time-limited or on-going could be considered such as major operation policy review groups, sectoral advisory groups, the Audit and Risk Committee, etc. that includes additional external members with specific expertise.
- *The selection by Minister of Chair* according to criteria and competition, as it is the current IoTs norm (but not the norm in the TU or academic universities) – I strongly agree with this proposal – selection of the Chair technically by a Governing Body itself risks it being essentially an Executive driven process, with major down-sides for proper governance.
- *Proportion of internals to externals* – I would not agree with the proposed approach, as it involves a relative weakening of the external perspective, and is a reduction in absolute numbers of externals (even when local representatives nominated by ETBs are not counted) and a strong rise in relative strength of the internals. (I would not count students as externals – they are connected beneficiaries). I would at least limit staff to the current (for IOTS) three, and/ or increasing overall numbers by 2 or 3 to allow for more real externals.
- *The subordinate role of the Academic Council*, with all its specific and clear important responsibilities and autonomy to act on academic matters and student's interests, needs to be clear as to its accountability overall to the Governing Body for such independent actions and decisions. The Governing Body needs to be clearly defined as having ultimate overall responsibility for the HEI.

Shaping the sector and individual HEIs

- *The HEA power of intervention (p17)* – I agree of course with legally clarifying such a role for governance and accountability issues, as proposed, provided there are clear terms of reference for any such intervention (i.e. on serious breaches, not to control the rightful business of the independent institution)
- *The ability to progress change with the HEIs*. There is also a need to proactively develop and differentiate the sector and individual institutions over the next number of decades, and for strong policy-making and translation from the Department and HEA needing to centrally drive that process. The question arises as to whether and how the respective roles and responsibilities of the Department and HEA in creating, developing, deciding, shaping, translating, resourcing and implementing the overall strategy, policies and agenda for the Higher Education sector should usefully be further clarified.

- The question also arises as to whether the performance framework and compacts/service level agreements are powerful enough to really impact on major individual HEI issues of under-performance or/and lack of response to desired national aims. Such national aims include applied research, support for established SMES, equity of access etc etc. Governance theory implies complex systems involving all three elements of hierarchy, markets and networks (as the Irish Higher Education sector does) requires all the corresponding levers of direction, incentive and persuasion, and not just the latter two. In shaping the direction of the HE system in Ireland over the next number of decades, it is important to ensure that the full range of levers are available to policy-makers and government decision-makers.
- *Legal power to drive change* Accordingly, it is worth considering that both the Department, with the HEA, and the HEA with individual HEIs, should have the **legal** ability to require such bodies to carryout a particular policy, engagement or action. Examples might include requiring individual HEIs to be
 - proactive within the regional cluster and/or regional skills forums etc., or
 - drive Europeanisation through increasing levels of Erasmus or balanced numbers of EU/nonEU students, or
 - ensuring that, in the event of any IoTs which are still not part of a consortium at the latter end of the TU formation process being refused an opportunity to join existing Tus, these IoTs can become part of an existing TU by direction of the Minister
 - building national or/and regional concentrations of capability in particular domains and subjects, or/and in particular functions and modes of delivery (e.g. employee education, online delivery etc.) – while bottom-up development is vital in any system, there is also a role for top-down direction to avoid fragmentation and sub-optimal initiatives based on a shared understanding of what is best for Ireland overall

In other sectors, there is a facility whereby Ministers can instruct agencies to adopt certain policies, subject to Oireachtas oversight.

END OF SUBMISSION