



NUI RESPONSE TO DFHERIS CONSULTATION ON REFORM OF THE HIGHER EDUCATION AUTHORITY ACT, 1971

5 March 2021

Introduction

NUI is pleased to respond in this document to the current consultation on Reform of the Higher Education Authority Act (1971). The response relates to the generality of the reform proposals and also more particularly to the position of NUI in the context of the proposed reforms. This is the second NUI submission on this reform process, the first having been presented in 2019.

1. General response

NUI supports with enthusiasm the Minister's vision for a higher education system with at its centre 'vibrant, innovative, adaptive and autonomous HEIs ... accountable to the learner and the State ... supported by the HEA'. NUI agrees fully with the five stated objectives of legislative reform, as articulated in section 1 of the current consultation report (2021: 4). We greatly welcome the elevated status given by government to higher education and research as reflected in the establishment of the new Department dedicated to the sector. We are in agreement with the shared governance approach and the proposed reduction in size of governing authorities. We recognise the need for further development of the performance and regulatory framework. Having previously recommended that the Irish Research Council be established on a statutory footing, we note that in the context of the new Department's remit in relation to research, innovation and science, further consideration is being given the appropriate statutory provisions for research funding and we look to these in due course. We welcome the decision not to change the title of the Higher Education Authority which in our view would have achieved little.

2. Higher Education Governance

In relation to shared governance, we note in the commentary the distinction made between the corporate, executive and academic strands of governance and the rehearsal on p. 9, of the recommendation of the National Strategy for Higher Education to 2031 'the model favoured is a more managerial one, with a smaller number of members and a majority of non-academic lay

people’. While fully accepting the need for smaller governing bodies, we caution against undue impoverishment in the capacity of governing bodies through an excessive reduction in their size. While Academic Councils are seen as the bodies representing the academic community, we suggest that in the membership of governing authorities, beyond managerial expertise, there is a need also for a strong academic voice and expertise, a deep understanding of the mission of the university and in the public interest, an interface with wider society.

The role of the governing authority as set out in the document p. 14 includes

- ‘• guiding and reviewing strategic directions and major plans of action including approving and overseeing the implementation of a 5 year strategic plan in consultation with the academic council’.

We suggest that it is not self-evident that a governing authority of twelve with a majority of external members will be well placed to fulfil this function. While it is to be exercised ‘in consultation with the academic council’, we note that in the responsibilities proposed for Academic Councils on p. 14, there is no suggestion of a role in strategic academic planning. We suggest that in determining the future composition of governing authorities, care be taken to ensure they will continue to enjoy the capacity (i) for interrogating the proposals for the strategic direction of the university that they will be called on to consider and (ii) for taking account of the public good.

Having done a small desk-based survey of the governance structures of universities featuring prominently in university rankings, we have found only a small number (including the Freie Universität Berlin with a Council of ten members and the University of Melbourne with a Council of thirteen) whose governing bodies are comparable in size with that proposed for the Irish higher education sector. The others considered – including Oxford, Cambridge, Imperial College, London School of Economics, Manchester, Stockholm all have larger bodies.

Up to now, the large governing bodies at the head of Irish universities have combined strong academic expertise with expertise in other areas provided by elected graduates and ministerial appointees. While these latter groups may be seen as contributing to the excessively large scale of governing bodies, they also provided a valuable interface with the wider community and could be seen as representing the public interest, a legitimate voice in the strategic development of publicly-funded universities whose societal contributions advance the public good.

While accepting the need for smaller governing authorities, we consider that a membership of twelve may be too small to provide the optimal levels of academic, managerial and other expertise for universities funded by the HEA, particularly when the imperatives of student representation and gender balance are also to be achieved and we suggest that this might be reviewed.

We draw attention to the seminar held in November 2020 organised by NUI in partnership with the IUA on the topic of institutional higher education governance in Ireland and which was opened by the Minister. The seminar is available here:

<http://www.nui.ie/news/2020/PostEventHEGovernanceSeminar.asp>

The keynote speaker at the seminar Professor Peter Maassen of the University of Oslo, cited in the consultation document p. 8, pointed to the following paradox in higher education governance *‘the more universities take on and operate in line with the global governance reform agenda’s ideologies, the less effective they appear to be in realising some of the reform agendas, especially with respect to their academic production processes’.*

What emerges from Professor Maassen’s research the organisational complexity of universities, reflecting their historical evolution and collegial academic structures, as well as the many roles expected of the contemporary university. This resonates with research by other prominent scholars such as Professor Simon Marginson of the University of Oxford and the Institute of Education, UCL, who at an NUI seminar in 2018 said:

“Today, at first glance, the semi-independent corporate University slots into the familiar idea of the self-seeking business firm. The University is often seen as another business. Yes and no. The University is not primarily driven by profit or revenues, though many universities are busily ambitious for market share. Revenues are a means to the real end, which is social prestige, social status, and an expanding social role in the lives of families, communities and economies at home and abroad. Modern universities are driven to continually expand in size and function, to aggregate people, resources and status.” (Marginson, S “The Kantian University: Worldwide triumph and growing insecurity”, NUI Education and Society series, 1, 2018:p.9).

Since the Higher Education Authority Act, 1971 was passed, our higher education sector has achieved outstanding progress in achieving national educational, economic, social and cultural goals. We suggest that in the preparation of the legislation to reform the Higher Authority Act 1971, to meet current and future requirements, being mindful of the continually expanding roles of the modern university, care be taken to create a framework of governance conducive to continuing progress. Of course there are other key determinants of higher education progress beyond the scope of governance, notably funding. The deficiencies in Irish higher education funding have long

been rehearsed. It is to be hoped that with the establishment of a reformed Higher Education Authority and the 'elevation of higher education and research to a central and more visible position' will be reflected in by improved levels of funding for the sector.

3. Response related specifically to the National University of Ireland (NUI)

Established under the Irish Universities Act 1908 and restructured under the Universities Act 1997, the National University of Ireland is a federal university. NUI comprises UCD, UCC, NUI Galway and Maynooth University as constituent universities; RCSI University of Medical and Health Sciences and IPA as recognised colleges; and a range of other institutions associated with the constituent universities. NUI degrees and other qualifications are awarded in all of these institutions.

The university works in collaboration with its member institutions and is largely funded by them to fulfil its mission, receiving only a token annual grant from the HEA:

NUI's mission is to support the Irish higher education sector at home and abroad, by serving the interests of its member institutions and their students and graduates. NUI actively promotes, recognises and rewards academic distinction and scholarship at university level, and we assure comparable, high academic standards for degrees and qualifications awarded by NUI.

We proudly undertake activities to advance higher education, and to contribute to the civic, cultural and intellectual life of Ireland. We have a particular commitment to supporting the Irish language and the rich and diverse culture of our nation.

Our Mission provides context for our proposals to reduce the size and alter the composition of the NUI Senate. These proposals also reflect the range of activities undertaken and services provided by the NUI and overseen by the NUI Senate.

NUI fulfils responsibilities under its Charter and statutes and also under the Universities Act 1967 , notably in relation to matriculation where NUI administers the agreed policy of the University on common entry standards. NUI awards qualifications in recognised colleges, notably RCSI University of Medical and Health Sciences, both in Ireland and overseas. On behalf of the NUI universities, NUI awards higher doctorates on published work, the highest qualifications awarded by the University Under the 2012 Qualifications and Quality Assurance Act (Education and Training), NUI is a 'designated awarding body' with oversight responsibilities for the Institute of Administration. NUI

provides services to all its member institutions, including the provision of over 40,000 parchments annually for conferrings. NUI supports scholarship and research at the highest level through its annual awards scheme valued at approximately €1.0 million. NUI supports academic publishing, promotes higher education and seeks to contribute to the intellectual, social and cultural life of Ireland through activities and events. NUI maintains the central graduate registers of the University going back its establishment and also the Seanad Éireann register and houses the central archives of the University and its predecessor the Royal University of Ireland.

The Governing Body of the National University of Ireland is the Senate, whose composition is set out in section 45. 2 of the Universities Act 1997 as follows:

“(5)(i) The Senate shall be constituted by—

- (a) the Chancellor and the Registrar of the University and the chief officers of the constituent universities,
- (b) four persons nominated by the Government, two of whom shall be women and two men,
- (c) four persons elected by each of—
 - (i) the National University of Ireland, Dublin,
 - (ii) the National University of Ireland, Cork,
 - (iii) the National University of Ireland, Galway, and
 - (iv) the National University of Ireland, Maynooth,
- (d) eight members of Convocation elected by Convocation of the University, four of whom shall be women and four men,
- (e) not more than four persons co-opted to be members of the Senate by the Senate as constituted by the members appointed as referred to in paragraphs (a), (b), (c) and (d).

While pointing out that the majority of members of the Senate have always been external, NUI accepts the need, consistent with the legislative plans for reform, to slim down this body from its current membership of 34. However, given the nature of NUI as a federal university, funded by and providing services to its member institutions, we point to the continuing need for these institutions to be represented in our governing body. We greatly value the academic and other expertise the members of Senate provide and which has been critical to the formulation and implementation of our strategic plan. As mentioned in our previous submission, we would welcome the opportunity of

a meeting with the Department how best the NUI Senate might be reconfigured so as to remain representative of our member institutions while retaining the requisite levels of academic and other expertise necessary to support the continuing mission of NUI.

We note the proposal in the consultation document p.22 concerning designation of institutions of higher education. As an institution whose principal purpose is higher education, and which provides services to higher education, though not as a provider, NUI would greatly welcome discussion with the Department on the issue of designation.

Finally we welcome the proposal that the HEA 'may provide funding to the wider list of designated institutions of higher education, bodies which provide support services for higher education ...'. We would hope that NUI would benefit under this provision.