



Minister Simon Harris  
Department of Further and Higher Education, Research, Innovation and Science,  
Marlborough Street,  
Dublin 1,  
D01 RC96

March 2021

### **Reform of the Higher Education Authority Act**

Dear Minister Harris,

The National Women's Council (NWC) welcomes the opportunity to make a submission on the consultation report on the Reform of the Higher Education Authority Act.

The NWC is very pleased to see such necessary reforms being undertaken by the Department of Further and Higher Education, Research, Innovation and Science. These fundamental reforms are essential to ensure that the Higher Education Authority (HEA) have the statutory powers necessary to effectively oversee higher education institutions (HEIs). As such, we welcome the opportunity for the public education sector to become more transparent and accountable in delivering on the changes needed within HEIs. NWC is particularly concerned with those changes required to ensure that HEIs are both equal and inclusive workplaces and campus communities, as outlined in the Gender Action Plan 2016-20, the Safe, Supportive, Respectful Framework (2019), the commitments of the Athena Swan programme and the Irish Research Council's Gender Strategy & Actions.

NWC welcomes the proposed establishment of a governance framework between HEIs and the HEA as set out in S.5.2. However, we note that the co-regulatory balance, between the HEI governing authority and the HEA, is weighted in favour of the HEI which will limit the oversight capabilities of the HEA. In particular, NWC calls for a greater emphasis on regular, cyclical review of institutions and programmes before adopting a 'risk-based regulatory approach'. This is particularly important given

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the lack of regulation and oversight of HEIs to date. To ensure that this is operational and meaningful, the HEA should be given the statutory power to conduct audits and/or full institutional reviews of HEIs. This should be clearly specified in the proposed bill.

Whilst we welcome the stepwise approach for addressing governance and accountability issues, ranging from the provision of assistance to the undertaking of a review, it is only in the most limited of circumstances that the HEA will undertake such measures, the 'intervention bar' is set extremely high. According to the consultation report, it is only when the 'governing authority failed to respond to and address a serious governing issue' that 'escalation' would arise. Furthermore, it is only when there is 'non-compliance with the governance framework ...that it [HEA] will intervene'. We understand that the objective in the co-regulation model is to balance competencies between the HEA and HEIs. However, we do not believe that the correct balance has been struck as it appears that it is only when the HEI have manifestly failed in their duty can the HEA intervene. This negates any opportunity to intervene to prevent harms that are being actively and currently caused by poor governance.

NWC recommends the development of an individual complaints' mechanism for students and staff of HEIs to the HEA. While we note that the Ombudsman can, and does, undertake investigations that relate to public bodies we believe that a dedicated mechanism should be established for students and staff. We recommend that such a body be given statutory powers to investigate complaints and compel HEIs and /or the HEA to act. This could be an entity that is independent of the HEA, or a separate section within it. In addition, a system should be established that tracks students' unions (SUs) and HEIs disputes and resolutions. A HEI must be obligated to keep a record of how disputes have been actioned and report this information to the HEA. The HEA will thus be able to have an overview of the issues that are ongoing and identify any trends within HEIs and the wider sector.

NWC welcomes the commitment to greater involvement of student representation. This is essential for effective governance and accountability. Students and their representative bodies need to be provided with the adequate supports and necessary training to equip them fully with the skills



