

Mr. Simon Harris, TD,  
Minister for Further and Higher Education,  
Research, Innovation and Science,  
Marlborough Street,  
Dublin 1, D01 RC96

1 March 2021

Dear Minister Harris,

**Submission re Reform of the Higher Education Authority Act 1971**

As the Chair of the Governing Body and Interim President of University College Cork we welcome the establishment of the Department of Further and Higher Education, Research, Innovation and Science and the proposed new legislation to reform the Higher Education Authority Act of 1971. We are keen to work in partnership with the Department and HEA to promote and deliver high quality third level education. Working together in a mutually supportive framework we can build an innovative, adaptive and inclusive higher education system that meets the needs of our students and wider society.

In this spirit of constructive partnership, we would like to submit the following comments in reaction to the consultation on the reform of the Higher Education Authority Act:

1. The consultation seems to envisage that all Institutions will be subject to the same supervisory regime, but different types of higher education institutions have different characteristics and operating conditions. We see a need to distinguish between higher education institutions that are fully funded by the state and those that are only partially funded by the state. Universities such as UCC have the ability to generate a substantial amount of own income but require a degree of flexibility to enable it to take calculated risks, for example in committing to EIB loans for much needed infrastructure investment. We understand that universities borrowings are not currently considered to be part of the government's balance sheet so the decision making and the responsibility for the loans should continue to fall to the University.

UCC already operates to the highest standards of governance and accountability and will continue to do so in respect of all State funding. The Controller and Auditor General provide audit assurance on our compliance with all governance matters. However, accountability to the State should not be confused with control by the State and we would like to see the concept of partnership, rather than control, reflected in a balanced way in the future legislation. We are concerned by the proposal to put the Codes of Practice for Governance on a statutory footing. Putting codes of practice into legislation would greatly reduce the necessary flexibility to adapt and update them as circumstances change and we are not aware that this has been done in any other sector. The usual practice, which has proven to be effective, is that such Codes are 'comply or explain' regimes.

2. We support the recommendation for smaller Governing Authorities/Bodies with a majority of external members. The consultation proposes that the four external members be nominated by the Minister. To be able to reflect the different make up of each University (for example UCC has extensive, international research activities including through the Tyndall Institute) we would suggest that Universities be enabled to identify suitable external nominees through their Nominations committees and associated processes. If it is considered necessary for the Minister to make a nomination to the Governing Authority/Body this could be done through the nomination of one Ministerial representative.

The consultation indicates that students would be considered as external members of Governing Body but this does not fit with the usual competence and skill requirements for external board members, particularly in the context of Board oversight of a multi-million Euro organisation like UCC. Instead, we would suggest having three categories of Governing Body Members in the future: internal, external and students.

3. The consultation envisages a three-strand approach to governance: Corporate Governance 3. 3. via the Governing Authority Body, Academic Governance and the role of the President/Chief Officer. In our view, it would be important that the final overall authority remains with the Governing Authority/Body particularly given the responsibility for overseeing both State funding and substantial own funds. Clarity on this issue is needed to ensure a cohesive approach to governance and to continue to attract appropriate skilled members to serve on the Governing Authority/Body.
4. As a research intensive University, we welcome the proposal to put in place appropriate statutory provisions for research funding and we would welcome further details and an opportunity for input on future proposals as soon as possible.
5. The consultation says very little on the key issue funding. The Covid crisis has exacerbated an already difficult and precarious financial situation for the higher education sector. We stand ready to work with the Department to explore sustainable approaches which would enable us to deliver on our shared goals for this key sector for Ireland's future development.
6. Globally, it is acknowledged that there is a strong correlation between university autonomy and international standing. Recent reports by the European University Association (EUA) have shown that autonomy in European universities has generally increased. We believe that for Irish HEIs to be successful, it is critical that we are part of this mainstream approach.



Chair - Governing Body



Interim President

Copy: , Secretary General, Department of Further & Higher Education, Research, Innovation & Science  
 Director General, IUA

