

SUBMISSION TO
THE DEPARTMENT
OF FURTHER AND HIGHER EDUCATION,
RESEARCH, INNOVATION & SCIENCE
UPDATE ON HEA ACT REFORM

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QQI

Quality and Qualifications Ireland
Dearbhú Cáilíochta agus Cáilíochtaí Éireann

Adding Value to Qualifications



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Introduction

The Department of Further and Higher Education, Research Innovation and Science published an update on the legislative proposals on the Higher Education Authority Act, 1971 in February 2021. Public consultation is open until 5 March. The main objective of the legislative proposals is to update the 1971 legislation and provide a legal basis for the HEA's functions in relation to the performance and regulation of higher education institutions as the system has evolved since 1971.

QQI welcomes the latest update on the reform of the HEA Act. QQI made submissions at earlier stages of the reform process in 2018¹ and 2019². We are gratified to note that our previous observations have been taken into account in the subsequent work of the department and have been happy to contribute to the working group established by the department.

Overall approach

The philosophy of co-regulation mirrors, in respect of wider governance matters, the approach taken to the quality assurance of higher education both in Ireland and internationally. In the first instance the quality assurance of the education, training, research and related activity of an HEI is the responsibility of the institution itself (section 28 of the Qualification and Quality Assurance Act, 2012). QQI's own approach to the exercise of its external functions of monitoring, review, and, where relevant, approval or authorisation, reflects this model. In such a model mechanisms of transparency and engagement between the regulator and the regulated resolve any problems that have proven intractable through intra-institutional processes and the more intrusive powers of intervention provided for in legislation rarely if ever have to be invoked. For example, QQI's legislation includes powers to issue directions to an HEI following unsatisfactory findings in statutory review of the effectiveness of its quality assurance procedures but no such direction has ever had to issue.

¹ [QQI submission to Higher Education Authority legislation \(Sept 2018\)](#)

² [QQI Submission on proposals to update the HEA Legislation \(Sept 2019\)](#)



Governance

QQI has issued quality assurance guidelines³ for providers, including HEIs, as required under section 27 of the 2012 Act. These include guidance regarding governance. A fundamental concern is that academic governance be distinct from and respected within the overall governance of the institution. QQI deals with a wide range of providers and does not have any detailed prescriptions as to the form and functions of the general institutional governance arrangements, on matters such as the composition of the board. The existing institutional governance arrangements are compatible with QQI's guidelines; the changes to the governance arrangements proposed by the department also seem to be so compatible.

Academic councils

The functions of academic council are aligned with existing legislation, most recently that enacted in respect of Institutes of Technology under the Qualifications and Quality Assurance (Education and Training) (Amendment) Act 2019. QQI supported this change. In its role as custodian of the National Framework of Qualifications, QQI is keen to see that HEIs, particularly those with their own awarding powers, set appropriate standards for their awards and ensure that awards are only conferred on those students who meet those standards. It will be essential that academic councils make policy on student selection and graduation solely on the basis of academic criteria and that individual decisions based on these policies are not constrained in any way by commercial considerations, such as a desire to increase (or reduce) student numbers and associated income.

We note that the academic councils provide for the representation of academic staff and students in the academic governance of the HEI. This is a central requirement for good governance. The formal requirement needs to be matched by monitoring of the operation of the council to ensure that each group has an effective voice and is provided with appropriate training, resources and access to information to exercise that voice. In line with the principle of co-regulation, this monitoring responsibility sits in the first instance with the council itself and then with the governing body. It also falls within the purview of external quality assurance.

³ [QQI Quality Assurance Guidelines \(qqi-qaguidelines.com\)](http://qqi-qaguidelines.com)



Chief officer

We note that the functions ascribed to the chief officer of a HEI include that of implementing internal quality assurance and improvement policies and procedures and addressing the output of external quality assurance. QQI has established a practice of scheduling regular bilateral meetings with the chief officers of HEIs, as well as more frequent meetings with staff directly responsible for operating quality assurance procedures. These meetings, the most recent round of which was held in summer 2020, complement the annual institutional quality reports submitted by the HEIs⁴. It is essential to the satisfactory operation of QA that the chief officers have clear ownership of this function and that they delegate associated tasks appropriately. Peer review of the exercise this function is a central objective of the Cinnte⁵ cycle of reviews of HEIs that is currently in train.

Agency name

QQI welcomes the proposal to retain the name of the name An t-Údarás um Ard-Oideachas/Higher Education Authority. QQI, notwithstanding its trading name, is formally designated as an “authority” in its establishing legislation. Retaining the same expression for the HE agency would underline the parity of legal status between these key educational agencies under the aegis of the department. It will also build on the reputational capital and brand recognition that the HEA has acquired over the past 50 years.

Engagement with students

QQI welcomes the proposal to partner the HEA and student representatives in promoting the student engagement programmes. QQI helped to establish the National Student Engagement Programme (NStEP)⁶ and looks forward to further collaborative developments. We note the proposal to establish a national student survey on an annual basis for undergraduates and biennially for postgraduates. While we can see merit in providing a statutory underpinning to national collection of data directly from students, such as studentsurvey.ie, the detailed requirements and preferred methodology of such

⁴ [Annual Quality Assurance Report \(qqi.ie\)](#)

⁵ [Institutional Reviews \(qqi.ie\)](#)

⁶ [NStEP | National Student Engagement Programme](#)



data collection can vary over time. Details such as frequency and target groups should be left to secondary legislation provided for under the new bill.

Research

QQI's quality assurance remit extends to research within HEIs. This includes research undertaken by students. QQI is a partner in developing and implementing the National Doctoral Framework⁷. However the quality assurance mandate also extends to research more generally in HEIs and we await with interest the elaboration of policies and legislative proposals for research under the new department.

Data collection

An evidence-based public policy and regulatory regime relies on effective and efficient data collection and appropriate and legal sharing of information. The legislating amending QQI's functions in 2019 explicitly includes provision for sharing of information between QQI and the HEA (Section 14A). This is supported by a memorandum of understanding between HEA and QQI.⁸ We note that QQI holds extensive data on private higher education in Ireland that is not regulated by the HEA. Data on this sector is nevertheless relevant to the HEA's policy advisory and planning functions. Further thought might be given to whether any explicit mandate for transfer of such data is desirable under this bill.

Equity of participation

HEA's role in promoting equity of participation in HE finds a counterpart in QQI's function of establishing policies and criteria for access transfer and progression of learners, including into and within HE, and monitoring the implementation of those procedures by providers, including designated HEIs. To date QQI has bundled its monitoring and review of access, transfer and progression with monitoring and review of quality assurance. It is in the interests of policy coherence and minimising bureaucratic burden on institutions that the functions of the two agencies in this area are coordinated.

⁷ [National Framework for Doctoral Education](#) (2017)

⁸ [QQI-HEA Memo of Understanding](#) (2018)



Designation

We note that the model of designation outlined in the 2019 proposal is to be retained. Private higher education institutions would not be required to seek designation but would remain subject to regulation by QQI where they seek to become relevant providers with programmes validated under the QQI Act. For purposes of transparency and to keep the public, and particularly prospective students, well informed, it will be necessary to coordinate messaging to make clear that designation is not the only form of statutory recognition of HEIs.

While it is reasonable to set the definition of an HEI for designation purposes as an institution offering programmes leading to a degree or bachelor degree level (i.e. level 7 on the NFQ), it is important not to define higher education as confined to this level. There is significant HE provision both in HEA designated institutions and in other, private, providers with QQI validation, that leads to qualifications at NFQ level 6 (e.g. Higher Certificates) that are recognised both domestically and internationally as higher education qualifications.

One effect of designation is to qualify an HEI for consideration under the framework for the allocation of funding subject to appropriate conditions without establishing an entitlement to such funding. Where bodies that are already relevant providers under QQI legislation seek designation, it would be appropriate for HEA to consult with QQI prior to their designation. In similar vein, the Student Support Act 2011 (enacted before the establishment of QQI), requires the Minister to consult with HEA prior to prescribing an institution as approved under that Act (section 7(2)(b)). It would be appropriate to amend that Act to provide for consultation with QQI also in such circumstances.