

**The Governance and Regulation of Irish Higher Education:  
A Statement of the role of the Higher Education Authority**

## **Introduction**

This is a statement of how the HEA interprets its role in the governance and regulation of the higher education system and the individual institutions that comprise that system.

For the purpose of this statement “governance” means the systems and procedures of oversight implemented by the HEA of the individual HEIs, and the collective system of higher education. The objective of such oversight is to ensure that the HEIs and the system collectively meets the outcomes expected, effectively and efficiently.

Governance comprises the systems and procedures under which organisations are directed and controlled. A robust system of governance is vital in order to enable organisations to operate effectively and to discharge their responsibilities as regards transparency and accountability to those they serve.

*Governance of Irish Universities 2012, Governance of Institutes of Technology 2012*

“Regulation” means the system of statutory and administrative rules and requirements placed on higher education institutions, the performance of which the HEA has responsibility for enforcing or reviewing.

In practice governance and regulation have a relationship of mutual dependence, with adherence to the regulatory system being a subset of overall good governance.

The exercise of governance and regulation is informed by relevant legislation, the values of the HEA, national policy and national and international best practice. Appendix I lists the relevant legislation.

## **Context**

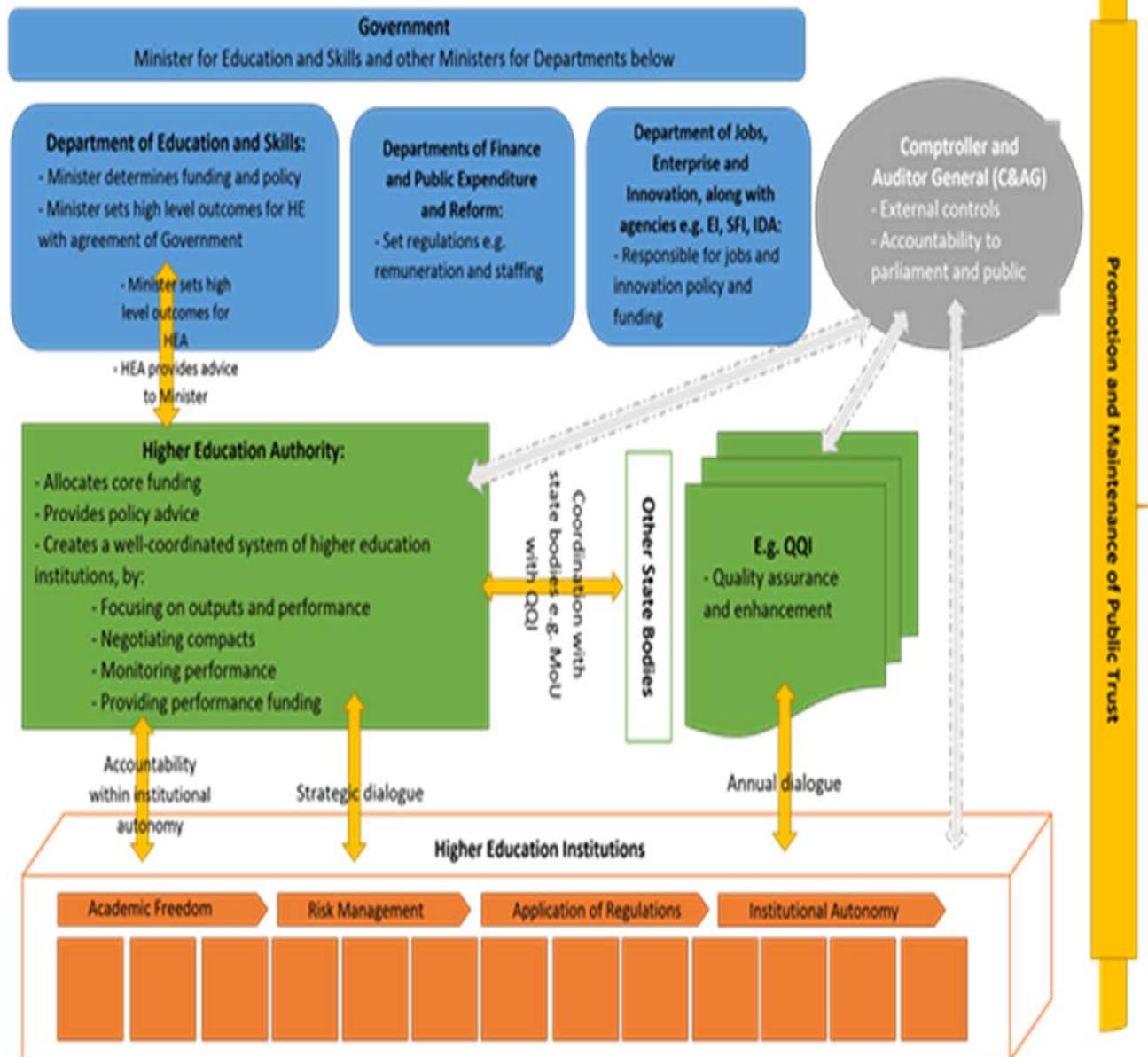
In exercising its governance and regulation mandate, the HEA operates in an environment involving the interactions of the following main actors –

- The Minister for Education and Skills (the Minister), with the Government, determines policy in respect of higher education and research in higher

education institutions; sets the high level outcomes required from the sector and determines the overall funding for the sector.

- The Minister, with the Ministers for Finance/Public Expenditure & Reform, sets regulatory requirements in respect of remuneration (pay and pensions) and staff exit mechanisms (redundancy & early retirement).
- The HEIs operate within the context of institutional autonomy in managing their internal affairs and with guarantees of academic freedom.
- HEIs agree with the HEA their contribution to national objectives within their mission and they are held accountable by the HEA for their performance against that agreement, with funding contingent on performance.
- The Office of the Comptroller and Auditor General, with the Committee of Public Accounts, operate a system of external controls and accountability to parliament and the wider public.
- Quality and Qualifications Ireland (QQI) have statutory responsibility for quality assurance/enhancement in HEIs.

This interplay of actors is represented in the following graphic.



## The general role of HEA

The governance and regulatory role of the HEA operates as an integral part of the broader role of the organisation. (IUA: This statement needs to reference the specific legal basis of a regulatory role on the part of HEA.)

The HEA is required by legislation to allocate funding to HEIs, to provide policy advice and to exercise certain regulatory functions in respect of almost all publicly funded higher education institutions (HEIs). The funding role includes the development of funding models and is concentrated on ensuring transparency and fairness in allocations; accountability in terms of ensuring that funding is applied for the purposes intended, and oversight of the financial health of the individual HEIs and the system as a whole. The HEA provides advice to the Minister on the development of higher education and research and is the agency of record for data on the higher education system.<sup>1</sup>

With the implementation of the National Strategy for Higher Education, the HEA mandate encompasses the responsibility to create a well-coordinated system of higher education institutions, each with a clear mission, which is capable in its totality of delivering on national objectives set for the system by the Minister. This aspect of the role requires the HEA –

- To focus on outputs and the performance of each HEI, and the system as a whole.
- To negotiate a compact with each HEI including regional cluster outcomes.
- To monitor performance against agreed deliverables, and
- To provide funding based on performance
- To report on an annual basis to the Minister on performance against agreed baselines/ targets for the institutions under its aegis.

## HEA values

The HEA brings the following values to bear in all its inter-actions with the HEIs –

- Respectful of institutional autonomy, within an accountability framework.
- An open and inclusive approach through constructive consultation.
- Openness, fairness and transparency.
- Accountability to the Minister for the achievement of objectives.
- Commitment to evidence based policy development.
- Understanding of the multi-annual context underpinning HEI operations

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<sup>1</sup> HEA Act, 1971, Sections 3, 5, 6, 12

## **The governance and regulatory role of the HEA**

The following paragraphs set out the basis of, the underpinning principles of, and approaches to, its governance and regulatory role.

### ***Basis of the role***

The HEA derives its role for the governance and regulation of the sector from legislation and from government policy directions which in turn are based on the principle that individual higher education institutions, and the system as a whole, is established, governed and funded in the interests of students, the promotion of knowledge, learning and research, equality of opportunity and the social and economic interests of Ireland. The service level agreement established between the Department of Education and Skills sets out clear responsibilities for the HEA in monitoring compliance by institutions with governance and accountability requirements.

### ***The HEA as an intermediary body***

The HEA, in international terms, is understood as an intermediary body between the higher education institutions and government. As such the HEA has a responsibility –

- To provide expertise to the Department of Education and Skills and other stakeholders, and make decisions based on expertise;
- To advise the Government on the financial and other needs of the sector;
- To take decisions that are transparently objective;
- Subject to government policy, to take long term decisions that are outside the political cycle and provide a degree of objectivity as a result, especially in the case of decisions that may be controversial.

### ***HEIs are autonomous institutions***

Higher education institutions are separate, corporate entities with substantial autonomy in law and in practice.

Each HEI has a Board that is responsible for the institution's objects, values, strategic direction, internal governance and overall performance - within a framework of national policy and good governance practice.

While the HEA seeks to ensure that HEIs operate with the maximum level of autonomy, it requires that governing bodies have in place internal governance structures as set out in the relevant Codes of Governance, agreed with the HEA, that accord with best

practice and through a system of reporting, review and audit the HEA aims to ensure that these operate effectively.

***HEIs are accountable, through the HEA, to the State.***

While the HEA is the principal funder, other state agencies and Government departments can be involved in funding the sector and institutions are accountable for all funding received from it via state bodies and departments. Institutions are accountable to the Comptroller and Auditor General. Through the strategic dialogue and performance funding process, the HEA will move progressively to make funding allocations to individual HEIs that are based on outputs and results, with less focus on inputs to the system. The compacts, agreed with each HEI, based upon agreed performance towards stated national objectives will form the bedrock of the accountability relationship of HEIs to the State, through the HEA. <sup>2</sup>

Through this process, the HEA will also exercise its governance role vis-a-vis the higher education system, ensuring that, as a whole, the system is well positioned to meet national objectives through a well-coordinated system of highly collaborative, diverse HEIs. The development of regional clusters is central to such collaboration.

In addition to the overarching nature of strategic dialogue and compacts, the HEA will implement other accountability mechanisms -

- A governance framework for the HEIs, agreed with the HEA reflecting the Code of Governance of Irish Institutes of Technology (2012)/ the Governance of Irish Universities (2012) and the Code of Practice for the Governance of State Bodies (2009), current best practice in the public sector and internationally.
- HEIs are required to supply the HEA with reliable and prompt reports on how their resources have been spent, as well as other statistical returns related to performance and outputs<sup>3</sup>.
- Financial reports to be provided once a year,<sup>4</sup> but with the provision for more frequent reporting, if an institution is thought to be facing financial problems.

In carrying out its responsibilities, the HEA will avoid micromanagement while ensuring that it is appropriately and sufficiently informed to assess the performance and governance of HEIs.

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<sup>2</sup> HEA Act 1971 section 12.2

<sup>3</sup> HEA Act 1971 section 7 and 11

<sup>4</sup> IBID

The accountability system is expected to provide reasonable and not absolute assurance against material error. Institutions are expected to report to the HEA as issues arise – as requested in the annual statement of governance and internal control. HEIs are also expected to ensure that appropriate action is taken by the appropriate authorities, whether that be the HEA itself or the institutional authorities.

### ***Communications***

The HEA will ensure that there is reliable, objective information publicly available on the higher education system; that the interests and perspectives of higher education are communicated to government and other stakeholders and that the views and perspectives of government and other stakeholders are communicated to the higher education system.

The HEA shares responsibility with the HEIs to communicate the value, and values, of higher education and research<sup>5</sup>.

### ***The HEA plays a lead role in strategic development***

The HEA has the responsibility to anticipate developments in higher education and research, and in society and the economy as they are impacted by, or impact on, higher education and research, the better to inform policy advice to the Minister and to exercise an effective leadership role in the sector. A sophisticated awareness of international trends is necessary as well as a capacity to collect, manage and analyse both qualitative and quantitative data from the sector and the individual HEIs.

### ***Good governance requires sound risk management***

While risk management at institutional level is a responsibility of the HEI, the HEA has a responsibility to ensure that such systems are in place and are operating effectively, in line with its responsibility to maintain a risk register for the sector on behalf of the Department of Education and Skills.

### ***HEA relationship to the Government and Minister of Education and Skills***

The higher education sector is held accountable by the HEA for public funding under the annual strategic dialogue process and associated performance funding allocations. The process measures progress institutions have made against agreed targets in contributing to the achievement of national objectives as set out by the

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<sup>5</sup> HEA Act, 1971 section 3

Minister. The HEA then prepares an annual System Performance report to the DES, to report on performance and accountability of the higher education sector.

While the HEA operates in a very close relationship with the Minister for Education and Skills and the Department, it must also operate with an appropriate level of independence.

The Service Level Agreement between the DES and the HEA provides the formal framework for the DES/HEA relationship, providing both for the work of the HEA and for accountability to the Minister. In conjunction with the SLA, the HEA has also agreed a Financial Accountability Framework to provide for proper and effective use of public funding, effective control audit and accountability measures and cost effective and efficient delivery of services.

### ***Co-ordination with other Departments/agencies***

The HEA will liaise with all bodies with a significant involvement with higher education institutions to ensure that effective co-ordination occurs between them within the context of national strategy for higher education and research.

## APPENDIX I

### RELEVANT LEGISLATION / CODES / PUBLIC POLICY THAT APPLIES TO HIGHER EDUCATION INSTITUTIONS

#### Legislation

A comprehensive list of legislation enacted since the foundation of the state is available at <http://www.education.ie/en/The-Education-System/Legislation/>

[The Higher Education Authority Act, 1971](#)

[National College of Art and Design Act, 1971](#)

[Regional Technical Colleges Act 1992 & Amendments](#)

[Dublin Institute of Technology Act, 1992 & Amendments](#)

[The Universities Act 1997](#)

[Comptroller and Auditor General \(Amendment\) Act 1993](#)

[Institutes of Technology Act 2006](#)

[Qualifications and Quality Assurance \(Education and Training Act\) 2012](#)

[Protected Disclosures Act 2014](#)

#### Codes

Code of Practice for Governance of State Bodies; Department of Finance; 2016

Governance of Irish Universities, 2012

Governance of Irish Institutes of Technology, 2012

#### Policy

National Strategy for Higher Education 2011

Compacts with the Higher Education Authority