

**CANDIDATE INFORMATION BOOKLET**

Open competition for appointment to position of:

**Legal Advisor (Assistant Principal Officer) x2**

**Contact: Karen Tracey**

**Closing Date: 5pm 6<sup>th</sup> of April 2023**

## About the HEA

### About the Higher Education Authority

The mission of the Higher Education Authority (HEA) is to create a higher education system that maximises opportunities and ensures a high-quality experience for students. The HEA is the statutory funding body for the universities, institutes of technology and several designated higher education institutions and advises the Minister for Further and Higher Education, Research, Innovation and Science on the development of Irish higher education.

Arising from new legislation enacted in 2022, the HEA is now playing a key role in leading the higher education system in the achievement of higher levels of performance. The HEA advises the Minister for Further and Higher Education, Research, Innovation and Science on the objectives to be set for the higher education system and performance indicators to be applied. It is the HEA's responsibility to ensure that institutional objectives are aligned with national objectives, that appropriate metrics are in place to measure performance and that funding allocations reflect performance. We are the lead agency in the creation of a co-ordinated system of higher education institutions with clear and diverse roles appropriate to their strengths and national needs.

The HEA performs an advocacy role for higher education to students, Government, employers and the general public and we input into the national policy agenda through the provision of high quality, research, and evidence-based policy advice to the Department of Further and Higher Education, Research, Innovation and Skills and other agencies and Departments with significant interaction with the higher education system.

The HEA's Strategic Plan for the period 2018-22 is available here <http://hea.ie/about-us/strategic-plan/> work on a new plan is underway having regard to the HEA Act 2022.

The HEA Act 2022 is available [here](#).

### Location:

This Authority is currently based at 3 Shelbourne Buildings, Shelbourne Road, Dublin 4. The offices are well-serviced by Dublin Bus routes and are a five-minute walk from Lansdowne Road DART station.

A hybrid working policy is in operation and is applied and assessed based on the role requirements.

### Legal Advisor Assistant Principal Role:

Arising from the enactment of the 2022 Higher Education Authority Act the HEA wishes to establish a small legal unit consisting of

- Two qualified legal professionals (Assistant Principal Officer)

The successful candidates must demonstrate the ability to work independently and effectively at a senior level across all sections within the organization. The following is a list of the main

duties associated with the position (this is not a comprehensive list and may be altered as required):

## HEA Organisation

- Advise as appropriate on the HEA Act 2022 and other key legislation impacting on the work of the HEA including but not exclusive to the Universities Act 1997, the Technological Universities Act 2018, Protected Disclosures Act 2022, Data Protection Act 2018 and Freedom of Information Act 2014.
- Appear on behalf of the HEA in the making of applications before court.
- Draft statutory instruments, guidance notes, reports, affidavits, and pleadings in relation to various matters which may arise.
- Advise on all aspects of administrative law to ensure decisions taken by the HEA adhere to the principles of natural justice and fair procedures
- Provide legal advice on procurement activities including all aspects of tendering and contracts of service.
- Advise on the development of governance structures to meet the requirements of the Higher Education Authority Act 2022 for the HEA as an organisation and the HEA's oversight responsibility of the HE sector
- Provide expert advice to the CEO, Board of Directors, and senior team on legal affairs.
- Provide legal advice on capital projects managed by the HEA and lease arrangements in respect of the HEA's own accommodation
- Provide advice on employment law as required by the HEA
- Assist the various sections in the HEA in establishing internal and external policies and procedures.
- Assisting with aspects of competitive funding programmes managed by the HEA - the competitive funding guidelines and award contracts.

## Eligibility Requirements

- Candidates must on or before the closing date have:
- Been admitted and be enrolled as a solicitor in the State, or been called to the Bar of Ireland;
- A minimum of 4 years' experience as a practising solicitor or practising barrister in the State;
- Specialist knowledge in not less than two of the following:
  - Corporate Law
  - Public Law
  - Administrative law
  - Property law
  - Regulatory Investigations
  - Employment Law
- Excellent planning and organisational skills and an ability to manage a large and varying workload;

- The ability to communicate and deal with people at all levels of the organisation including senior management;
- The ability to work independently.

### Desirable Skills/Experience

- Have practical experience of providing legal advice to a government department, public body or regulated entity
- Good understanding of relevant public sector codes including the Code of Practice for the Governance of State Bodies.
- Have experience in providing legal opinions on statutory interpretation
- A strong understanding of data protection and protected disclosures legislation
- Have experience in the conduct of litigation or in managing the conduct of litigation, including before the Superior Courts
- An understanding and appreciation of the third level sector.

### Required Competencies

- Leadership and strategic direction
- Analysis and decision making
- Management and delivery of results
- Building relationships and communication
- Specialist knowledge, expertise and self-development
- Drive and commitment to Public Service values

For further details on the competency framework and definitions please see link below.

[Civil Service Competency Models Assistant Principal.pdf \(publicjobs.ie\)](#)

### Other Eligibility criteria

#### Eligibility to compete and certain restrictions on eligibility

Candidates must, by the date of any job offer, be:

A citizen of the European Economic Area. The EEA consists of the Member States of the European Union, Iceland, Liechtenstein and Norway; **or**

- (a) A UK citizen;
- (b) A citizen of Switzerland pursuant to the agreement between the EU and Switzerland on the free movement of persons; **or**
- (c) A non-EEA citizen who is a spouse or child of an EEA or Swiss citizen and has a stamp 4 visa; **or**
- (d) A person awarded international protection under the International Protection Act 2015 or any family member entitled to remain in the State as a result of family reunification and has a stamp 4 visa **or**

- (e) A non-EEA citizen who is a parent of a dependent child who is a citizen of, and resident in, an EEA member state or Switzerland and has a stamp 4 visa

## Principal Conditions of Service:

### General

#### Part 1 (Conditions which particularly apply to this position)

Pay: The Assistant Principal Officer standard salary scale for this position is as follows (rates) effective from 1st March 2023):

PPC - €74,701 €77,452 €80,241 €83,040 €85,834 €87,445 €90,265 (LSI 1) €93,095 (LSI 2)

PPC (Personal Pension Contribution) scale (for officers who are existing civil or public servants appointed on or after 6 April 1995 or who are new entrants to the civil or public service and who are making a compulsory personal pension contribution).

Different pay and conditions may apply if, prior to appointment, the appointee is an existing civil or public servant appointed prior to 6<sup>th</sup> April 1995.

Increments may be awarded subject to satisfactory service and to changes in the terms and conditions relating to salary increments in the Civil/Public Service generally.

The rate of remuneration may be adjusted from time to time in line with Government pay policy.

Salary: The appointment will be made on the salary scale at a point in line with current Government Pay Policy. New entrants to the Civil or Public Sector, as defined in Circular 18/2010, will commence on the first point of the salary scale. Different pay and conditions may apply if, immediately prior to appointment, the appointee is a serving civil or public servant.

1. Annual Leave: Annual Leave for the position of Assistant Principal is 30 working days. This leave is based on a five-day week and is exclusive of public holidays.
2. Hours of Attendance: Working hours will be in accordance with the standard arrangements for HEA and will equate to no less than a 35 hours (net of rest breaks) per week.

No additional payment will be made for extra attendance as the rate of remuneration payable covers any exceptional extra attendance liability that may arise from time to time.

#### Part 2 (Other conditions which apply generally to appointees to this position)

1. Tenure: The appointment to the post is subject to a probationary period that will be no greater than 11 months.
2. Duties: The appointee will be expected to perform all acts, duties and obligations as appropriate to this position (which may be revised from time to time).
3. Outside Employment: The position is whole-time and the appointee must avoid involvement in outside employment/business interests in conflict or in potential conflict with the business of the Higher Education Authority. Clarification must be sought from management where any doubt arises.
4. Sick Leave: Sick leave with full pay may be allowed at the discretion of the Higher Education Authority in accordance with established procedures and conditions for the public service generally.
5. Retirement and Superannuation: The appointee will be offered public service pension terms and retirement age conditions in accordance with pension arrangements in the Higher Education Authority depending on the status of the successful appointee.
  - a) In general, an individual who has no prior pensionable Public Service history in the 26 weeks prior to appointment will be a member of the [Single Public Service Pension Scheme](#) (Single Scheme) which commenced from 1 January 2013 (Section 10 of the Public Service Pensions (Single Scheme and Other Provisions) Act 2012 refers).

An individual who is on secondment will remain a member of the pension scheme of the employer they are seconded from, and their pensionable remuneration will be based on his/her substantive grade i.e., the grade at which the individual is employed in the organisation he/she is seconded from.

- b) An individual who was a member of a “pre-existing public service pension scheme” as construed by the Public Service Pensions (Single Scheme and Other Provisions) Act 2012 and who does not qualify for membership of the Single Scheme will be a member of the HEA’s Staff Superannuation Scheme and Associated Spouses and Children’s Scheme.
- c) At the time of being offered an appointment, the Higher Education Authority, in consultation with the Department of Further & Higher Education, Research, Innovation & Science and the Department of Public Expenditure and Reform if necessary, will, in the light of the appointee’s previous Public Service (and/or other) employment history, determine the appropriate pension terms and conditions to apply for the duration of the appointment. Appointees will be required to disclose their full public service history. Details of the appropriate superannuation provisions will be provided upon determination of appointee’s status;
- d) Retirement age shall be subject to relevant superannuation scheme provision and the statutory provisions set out in the Public Service Pensions (Single Scheme and Other Provisions) Act 2012 and the Public Service Superannuation (Age of Retirement) Act 2018;
- e) The following points should be noted:

- Pension Accrual: A 40-year limit on total service that can be counted towards pension where a person has been a member of more than one existing public service pension scheme will apply. This 40-year limit, which is provided for in the Public Service Pensions (Single Scheme and other Provisions) Act 2012 came into effect on 28 July 2012. This may have implications for any appointee who has acquired pension rights in a previous public service employment.
  - Pension Abatement: The Public Service Pensions (Single Scheme and Other Provisions) Act 2012 extended pension abatement so that a retiree's public service pension is liable to abatement on re-entering public service employment, even where the new employment is in a different area of the public service. However, if the appointee was previously employed in the Civil Service and awarded a pension under voluntary early retirement arrangements (other than the Incentivised Scheme of Early Retirement (ISER) or the Health Service Executive VER/VRS which, as outlined below, render a person ineligible for the competition) the entitlement to payment of that pension will cease with effect from the date of reappointment. Special arrangements will, however, be made for the reckoning of previous service given by the appointee for the purpose of any future superannuation award for which the appointee may be eligible.
  - Department of Education and Skills Early Retirement Scheme for Teachers Circular 102/2007: The Department of Education and Skills introduced an Early Retirement Scheme for Teachers. It is a condition of the Early Retirement Scheme that with the exception of the situations set out in paragraphs 10.2 and 10.3 of the relevant circular, and with those exceptions only, if a teacher accepts early retirement under Strands 1, 2 or 3 of this scheme and is subsequently employed in any capacity in any area of the public sector, payment of pension to that person under the scheme will immediately cease. Pension payments will, however, be resumed on the cesser of such employment or on the person's 60th birthday, whichever is the later, but on resumption, the pension will be based on the person's actual reckonable service as a teacher (i.e. the added years previously granted will not be taken into account in the calculation of the pension payment).
  - Ill-Health Retirement: Please note that where an individual has retired from a Civil/Public Service body on the grounds of ill-health his/her pension from that employment may be subject to review in accordance with the rules of ill-health retirement within the pension scheme of that employment.
6. Pension Related Deduction: This appointment is subject to the pension-related deduction in accordance with the Financial Emergency Measures in the Public Interest Act 2009. For further information in relation to public service superannuation issues please see the following website: <http://per.gov.ie/pensions>
  7. Incentivised Scheme for Early Retirement (ISER): It is a condition of the Incentivised Scheme for Early Retirement (ISER) as set out in Department of Finance Circular 12/09 that retirees, under that Scheme, are debarred from applying for another position in the same employment or the same sector. Therefore, such retirees may not apply for this position.
  8. Department of Health and Children Circular (7/2010): The Department of Health Circular 7/2010 dated 1 November 2010 introduced a Targeted Voluntary Early Retirement (VER) Scheme and Voluntary Redundancy Schemes (VRS). It is a condition of the VER scheme that persons

availing of the scheme will not be eligible for re-employment in the public health sector or in the wider public service or in a body wholly or mainly funded from public moneys. The same prohibition on re-employment applies under the VRS, except that the prohibition is for a period of 7 years, after which time any re-employment will require the approval of the Minister for Public Expenditure and Reform. People who availed of either of these schemes are not eligible to compete in this competition.

- 9. Collective Agreement: Redundancy Payments to Public Servants**  
The Department of Public Expenditure and Reform letter dated 28th June 2012 to Personnel Officers introduced, with effect from 1st June 2012, a Collective Agreement which had been reached between the Department of Public Expenditure and Reform and the Public Services Committee of the ICTU in relation to ex-gratia Redundancy Payments to Public Servants. It is a condition of the Collective Agreement that persons availing of the agreement will not be eligible for re-employment in the public service by any public service body (as defined by the Financial Emergency Measures in the Public Interest Acts 2009 – 2011) for a period of 2 years from termination of the employment. Thereafter the consent of the Minister for Public Expenditure and Reform will be required prior to re-employment. People who availed of this scheme and who may be successful in this competition will have to prove their eligibility (expiry of period of non-eligibility) and the Minister's consent will have to be secured prior to employment by any public service body.
- 10. Declaration of previous public service employment history:**  
Applicants will be required to declare whether they have previously availed of a public service scheme of incentivised early retirement and/or the collective agreement outlined above. Applicants will also be required to declare any entitlements to a Public Service pension benefit (in payment or preserved) from any other Public Service employment and/or where they have received a payment-in-lieu in respect of service in any Public Service employment

## Competition Process

### How to Apply:

Applications should be made by sending a current CV and a supporting statement (Max 500 words) outlining how applicants could if appointed contribute to the work of a legal unit in the HEA having regard to the statutory responsibilities of the HEA outlined above.

Applications should be submitted by email to Ms Karen Tracey, HR Executive Officer [ap.recruit@hea.ie](mailto:ap.recruit@hea.ie) no later than **5pm Thursday the 6<sup>th</sup> of April 2023**.

Applicants will be required to provide a declaration as outlined in paragraph 10.

### Selection Process:

The selection may include shortlisting of candidates on the basis of the information contained in their application and by:

- Interview, either in person in the HEA's offices or via MS Teams/Skype/Zoom
- Satisfactory references (referees will not be contacted without the candidate's prior agreement)

The Higher Education Authority reserves the right to require candidates attend a second interview.



### **Shortlisting:**

Normally the number of applications received for a position exceeds that required to fill existing and future vacancies for the position(s). While a candidate may meet the eligibility requirements of the competition, if the numbers applying for the position are such that it would not be practical to interview everyone, the Higher Education Authority may decide that a number only will be called to interview. In this respect, the Higher Education Authority provide for the employment of a short-listing process to select a group for interview who, based on an examination of the application forms, appear to be the most suitable for the position(s). An expert board will examine the application forms against pre-determined criteria based on the requirements of the position. This is not to suggest that other candidates are necessarily unsuitable or incapable of undertaking the job, rather that there are some candidates, who based on their application, appear to be better qualified and/or have more relevant experience. It is therefore in your own interest to provide a detailed and accurate account of your qualifications/ experience in your application.

### **Panel**

At the end of the selection process a panel of qualified candidates is formed from which vacancies may be filled. The panel will be used to fill suitable vacancies, permanent and fixed-term contracts. Qualification and placement on a panel is not a guarantee of appointment to a position. The panel will remain in place for a period of two years from the date of final interviews.

<b>Closing Date: Thursday the 6<sup>th</sup> of April 2023 5pm</b>
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### **Confidentiality:**

Subject to the provisions of the Freedom of Information Act, 1997 as amended applications will be treated in strict confidence.

### **Security Clearance:**

Garda vetting may be sought in respect of individuals who are considered for appointment. The applicant may be required to complete and return a Garda Vetting form. This form will be forwarded to An Garda Síochána for security checks on all Irish and Northern Irish addresses at which they resided. If unsuccessful, this information will be destroyed by the Higher Education Authority. If the applicant subsequently comes under consideration for another position, they will be required to supply this information again.

### **Candidates' Obligations**

Candidates should note that canvassing will disqualify and will result in their exclusion from the process.

Candidates must not:

- knowingly or recklessly provide false information
- canvass any person with or without inducements
- interfere with or compromise the process in any way

A third party must not personate a candidate at any stage of the process.

Any person who contravenes the above provisions or who assists another person in contravening the above provisions is guilty of an offence. A person who is found guilty of an offence is liable to a fine/or imprisonment.

In addition, where a person found guilty of an offence was or is a candidate at a recruitment process, then:

- where he/she has not been appointed to a post, he/she will be disqualified as a candidate; and
- where he/she has been appointed subsequently to the recruitment process in question, he/she shall forfeit that appointment.

### **Deeming of candidature to be withdrawn**

Candidates who do not attend for interview or other test when and where required by the HEA, or who do not, when requested, furnish such evidence as the HEA requires in regard to any matter relevant to their candidature, will have no further claim to consideration.

### **Quality Customer Service**

We aim to provide an excellent quality service to all our customers. If, for whatever reason, you are unhappy with any aspect of the service you receive from us, we urge you to bring this to the attention of the unit or staff member concerned. This is important as it ensures that we are aware of the problem and can take the appropriate steps to resolve it.

Feedback will be provided on written request.

### **General Data Protection Regulation (GDPR)**

The General Data Protection Regulation (GDPR) came into force on 25<sup>th</sup> May 2018, replacing the existing data protection framework under the EU Data Protection Directive.

When your application form is received, we create a record in your name, which contains much of the personal information you have supplied. This personal record is used solely in processing your candidature and should you be successful certain information you provide will be held by the HEA. Such information held is subject to the rights and obligations set out in the GDPR. To make a request to access your personal data, please submit your request in writing to: Human Resources, Higher Education Authority, 3 Shelbourne Buildings, Crampton Avenue, Shelbourne Road, Dublin 4, ensuring that you describe the records you seek in the greatest possible detail to enable us to identify the relevant record. Alternatively, you can email [dataprotection@hea.ie](mailto:dataprotection@hea.ie) or visit [https://hea.ie/about-us/data\\_protection/](https://hea.ie/about-us/data_protection/)