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# HEA Bill 2022: Implications and Consequences

László Molnárfi and Gisèle Scanlon

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# Introduction

The Department of Further and Higher Education, Research, Innovation and Science is putting forward a bill repealing and replacing the Higher Education Authority Act (1971). In addition, it amends the Universities Act (1997), the Technological Universities Act (2018), the Regional Technical Colleges Act (1992), the Regional Technical Colleges (Amendment) Act (1994), the National College of Art and Design Act (1971), the Student Support Act (2011), the Qualifications and Quality Assurance (Education and Training) Act (2012) and related bills. The bill is named the Higher Education Authority Bill (2022), hereinafter referred to as the 'HEA Bill 2022' or 'bill'<sup>1</sup>.

Students, staff and their unions in academia are gravely concerned with the contents of this bill and what it entails for the future of third-level education in Ireland. The bill will alter the relationship between the state and third-level educational institutions. It amounts essentially to a government takeover of academia.

The authors, László Molnárfi (Chairperson of Students4Change) and Gisèle Scanlon (Vice-President of the Irish Federation of University Women) would like to extend their thanks to Gabrielle Fullam (President of Trinity College Dublin Students' Union), Luje Pendlebury (President of National College of Art and Design Students' Union) and Sai Gujulla (President of NUI Galway Students' Union) for their commitment to challenging the bill in the student movement.

We would further like to extend our thanks to all the Senators who put down amendments to the bill, who were Senator David Norris, Senator Tom Clonan, Senator Victor Boyhan, Senator Michael McDowell, Senator Alice-Mary Higgins, Senator Lynn Ruane, Senator Eileen Flynn, Senator Frances Black, Senator Annie Hoey, Senator Rebecca Moynihan, Senator Marie Sherlock, Senator Mark Wall, Senator Fintan Warfield, Senator Niall Ó Donnghaile, Senator Rónán Mullen, Senator Paul Gavan, Senator Gerard P. Craughwell and Senator Lynn Boylan.

We would like to extend our appreciation to Professor Sean Barrett for his opposition to this bill and for advising us throughout our research, especially in relation to his all-island perspective (former Pro-Chancellor of the University of Dublin, ex-Senator from 2011 to 2016 and former member of the North-South Interparliamentary Association from 2011 to 2016, former Junior Dean and Board member and current Lecturer in Economics at Trinity College Dublin).

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<sup>1</sup> Oireachtas. "Higher Education Authority Bill 2022 – No. 1 of 2022 – Houses of the Oireachtas."

*Www.oireachtas.ie*, 7 Jan. 2022, [www.oireachtas.ie/en/bills/bill/2022/1](http://www.oireachtas.ie/en/bills/bill/2022/1). Accessed 1 Sept. 2022.

We would like to thank President Michael D. Higgins for expressing his concern about the direction of bureaucracy in Irish academic institutions on the 8th June 2021<sup>2</sup>.

Finally, we would like to thank Daniel McConnell (Political Editor of the Irish Examiner) and David Wolfe (News Editor of Trinity News) for their reporting on the matter.

## Executive Summary

Currently, on its own website, the aim of the HEA is outlined as follows “to lead the strategic development of the Irish higher education and research system with the objective of creating a coherent system of **diverse institutions with distinct missions**, which is responsive to the social, cultural and economic development of Ireland and its people and supports the achievement of national objectives”<sup>3</sup>. In its latest form, as passed by Dáil Éireann on the 22nd of June 2022, the bill is a complete antithesis in its opposition to these principles. If the bill becomes law, it will seriously damage democratic decision-making, diversity and autonomy in our third-level institutions. It will:

- Take away democratic student, staff and trade union representation from governing bodies in our academic institutions, and replace them with more state-appointed, senior management and corporate appointees.
- Give the government excessive and unnecessary powers to interfere in our institutions, including in equality, finances and academic practices.
- Do nothing, and in fact worsen, the problems of rising fees, sky-high university accommodation rent, cutting of vital services like welfare, mental health supports and the casualization of the academic workforce.

The bill is a power grab by bureaucracy within institutions, and by the state over institutions.

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<sup>2</sup> Ireland, Office of the President of. “Diary President Addresses Conference on Academic Freedom.” *President.ie*, 8 June 2021, <https://president.ie/en/diary/details/president-addresses-conference-on-academic-freedom/speeches> . Accessed 13 Sept. 2022.

<sup>3</sup> Higher Education Authority. “Data Protection.” *Higher Education Authority*, 2022, [hea.ie/about-us/data\\_protection/](https://hea.ie/about-us/data_protection/). Accessed 1 Sept. 2022.

## Socioeconomic Context

Third-level institutions acquire 50% of their funding from private sources, the highest in the European Union, due to a lack of public funding<sup>4</sup>. Tuition fees for third-level were abolished in the mid-1990s, however, this has resulted in successive governments being tempted to slowly cut funding. While student numbers increased, so did taxpayer's investments into academic institutions, but the overall money available per-student has been decreasing. For example, spending per student at third-level decreased from €10,806 in 2007 to €7,089 in 2016, a drop of 34.4%. This is despite the fact that between 2007 and 2016, public spending on education increased by 5.1%<sup>5</sup>. It is simply not enough, and this has resulted in the corporatization of institutions, where they have to make up for the loss of state funding by operating like for-profit businesses, cutting courses, downsizing services like welfare and putting up fees.

Irish academia is at a breaking point. Students and staff are struggling, while institutions are under immense pressure to perform with little to no funding. Despite the government's commitment to plug the core funding gap, the €307 million as announced in the latest plan Funding the Future<sup>6</sup> falls half-short of what the 2016 Cassells Report<sup>7</sup> identified as needed. Furthermore, the plan stated that the Student Contribution Charge (SCC), in addition to non-EU and postgraduate fees, would continue to be a key part of funding. Despite promises, no actual reduction in fees have materialised. Combined with the housing crisis and cost of living crisis, this risks the elitization of academia. As the cost of education has increased, 11,189 students and their families have fallen in arrears during the Covid-19 pandemic across Ireland. The responses received indicate a 67% increase in fee and

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<sup>4</sup> Parliamentary Budget Office. *An Oifig Buiséid Pharlaiminteach Parliamentary Budget Office an Overview of Tertiary Education Funding in Ireland*. 2019.

<sup>5</sup> Central Statistics Office. "Education - CSO - Central Statistics Office." [www.cso.ie/en/releasesandpublications/ep/p-mip/measuringirelandsprogress2019/education/](http://www.cso.ie/en/releasesandpublications/ep/p-mip/measuringirelandsprogress2019/education/) .

<sup>6</sup> DFHERIS. "Minister Harris Publishes Landmark Policy on Funding Higher Education and Reducing the Cost of Education for Families." [www.gov.ie/en/press-release/11787-landmark-policy-funding-higher-education-reducing-cost-for-families/](http://www.gov.ie/en/press-release/11787-landmark-policy-funding-higher-education-reducing-cost-for-families/) . Accessed 1 Sept. 2022.

<sup>7</sup> Kelly, Emma O. "USI Criticises Plan on Funding for Third Level Sector." [www.rte.ie/news/education/2022/0504/1295884-reform-to-higher-education/](http://www.rte.ie/news/education/2022/0504/1295884-reform-to-higher-education/) . Accessed 2 Sept. 2022.

university-owned rent arrears from 6,678 in 2018-2019 to 11,189 in 2020-2021<sup>8</sup>. Reports are circulating that students are asking if they can pitch tents on campuses as a result of the accommodation crisis. It shows that students and their families are struggling across Ireland.

The student-staff ratio is 23:1 in Ireland<sup>9</sup> and can be even worse depending on the higher-education institution, while the European average is 15:1. Students find themselves not receiving the proper one-to-one support that they need, and staff are stretched beyond their limits. Institutions refuse to hire enough staff. Within the Irish third-level education sector, the average rate of casualization is 50%, with 80% of all researchers being on temporary contracts. They can be paid less than €10,000 a year. The average length of time spent in academic precarity in Ireland is 7.1 years for women and 5.7 years for men<sup>10</sup>.

The recent increase in college places has put further pressure on institutions, creating a situation where senior management accepts to take places for extra funding but there is no funding for the structures that would be required to deal with the influx, such as accommodation, welfare and sustainable cost of education.

## Governing Bodies

### Academic, Professional Staff and Trade Unions

The sizes of governing bodies will be shrunk to 19 members. In tandem with this, their makeup will be changed. Employing a one-size-fits-all approach they will become less diverse and less democratic.

There will be 10 external members. Of these, the Minister for Further and Higher Education, Research, Innovation and Science (hereinafter referred to as the 'Minister') will handpick 3 people on governing bodies, and a further 7 external people will be selected by the governing body in accordance with a policy set by the governing body that he or she approves. One of the 7 will be the chairperson. The chief officer of the institution will take 1 seat. There will also be 5 'internal members'. This is applicable to universities (S73(16)(2)), technological universities (S90(12)(2)) and regional technical colleges (S109(6)(4)).

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<sup>8</sup> Students4Change. "Number of Students in Fee and Rent Arrears Increased by 67% to 11,189 during the Pandemic." *Students4Change*, 9 Aug. 2022, [students4change.eu/2022/08/09/number-of-students-in-fee-and-rent-arrears-increased-by-67-to-11189-during-the-pandemic/](https://students4change.eu/2022/08/09/number-of-students-in-fee-and-rent-arrears-increased-by-67-to-11189-during-the-pandemic/). Accessed 2 Sept. 2022.

<sup>9</sup> TUI. "Unacceptably High Ratio of Students to Academic Staff Must Be Urgently Tackled" – TUI Responds to Government's Higher Education Funding Announcement." *www.tui.ie*, 2022, [www.tui.ie/news/%E2%80%98unacceptably-high-ratio-of-students-to-academic-staff-must-be-urgently-tackled%E2%80%99-%E2%80%93-tui-responds-to-government%E2%80%99s-higher-education-funding-announcement-%C2%A0.14438.html#:~:text=According%20to%20the%20most%20recent](https://www.tui.ie/news/%E2%80%98unacceptably-high-ratio-of-students-to-academic-staff-must-be-urgently-tackled%E2%80%99-%E2%80%93-tui-responds-to-government%E2%80%99s-higher-education-funding-announcement-%C2%A0.14438.html#:~:text=According%20to%20the%20most%20recent) . Accessed 2 Sept. 2022.

<sup>10</sup> Irish Precarity Network. "Irish Precarity Network." *Irish Precarity Network*, 2022, [irishprecaritynetwork.com/](https://irishprecaritynetwork.com/) .

Academic dissent will be muzzled, and academic freedom impacted, due to this. Combining state-appointed, external and senior management members, they will overpower staff members. A further cause for concern is that there is no guarantee that even any of the 5 will be academic, professional staff or trade union in case of universities. The governing body, dominated by those who are not keen to upset the apple cart, alongside the Minister, might decide to make a regulation under (S73(16)(6)) to only allow senior management to be the 5. This is because nowhere is it defined that such members have to be academic or professional staff, since (S73(16)(8)) allows as wide a definition as 'a person remunerated under a contract with the university'.

This is in sharp contrast to the Universities Act (1997) (S16(1)) (S16(2)), which provides for one chief officer, one chairperson, maximum 2 other senior management staff members, not less than two or more than 6 academic staff who are Professors or Associate Professors, not less than 3 or more than 5 other academic staff, at least one but not more than 3 non-academic staff, not less than 2 and not more than 3 undergraduate students, and 1 postgraduate student. It also foresees special interest representation like trade unions, provided a minimum of 20 but not more than 40 people on governing bodies in total. For example, Dublin City University (DCU) has 25<sup>11</sup> and University College Dublin (UCD) has 40 members<sup>12</sup>. These positions were all elected by their respective constituencies. The practical implementation of these regulations is that staff were well-represented on governing bodies, as shown by the theoretical configurations on the diagram below, but also a real-life example with Trinity.

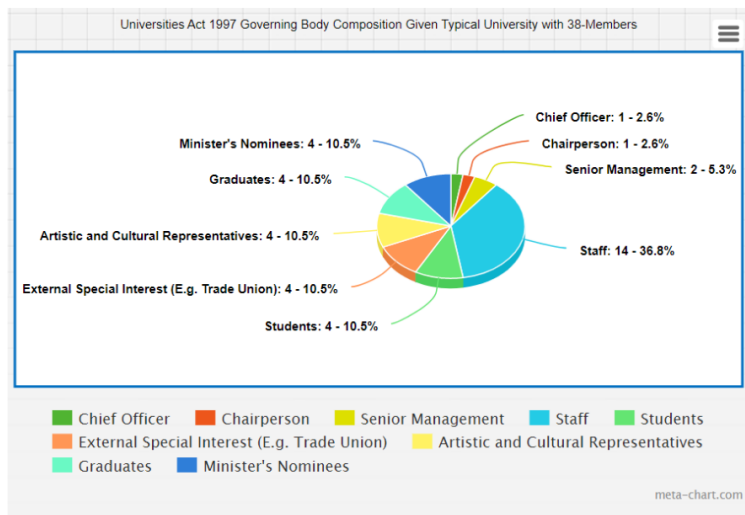
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<sup>11</sup> Dublin City University. "Membership | Governing Authority | DCU Governing Authority." *Dublin City University*, 16 Apr. 2013, [www.dcu.ie/governance/membership-governing-authority](http://www.dcu.ie/governance/membership-governing-authority) . Accessed 2 Sept. 2022.

<sup>12</sup> University College Dublin. "UCD University Governance | Governing Authority." *Www.ucd.ie*, [www.ucd.ie/governance/governanceandmanagementcommittees/governingauthority/](http://www.ucd.ie/governance/governanceandmanagementcommittees/governingauthority/) . Accessed 2 Sept. 2022.

## Governing Body Composition

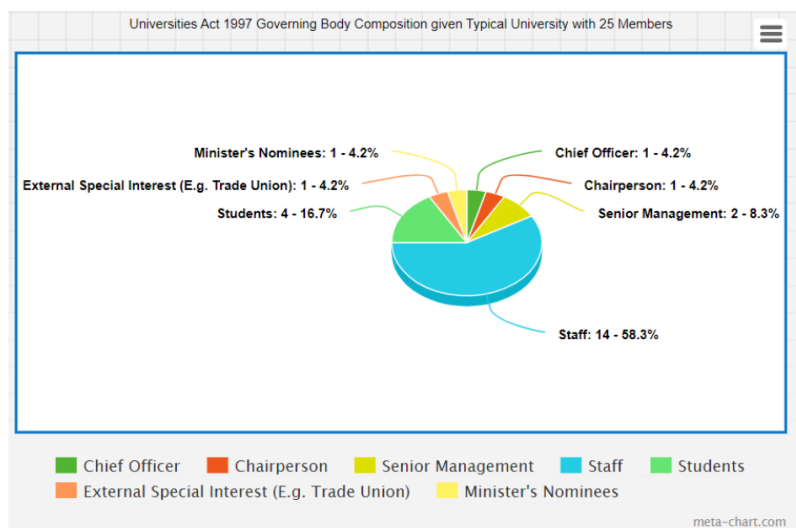
### Universities Act 1997 vs HEA Bill 2022



The 1997 Act provided flexibility, recognizing diverse institutions with diverse missions in Ireland. Governing bodies from 20 to 40 members were allowed, so this means that this is valid. In this configuration, students make up 10% and staff make up 36% of members to a total of 47%, but also note that the externals are special interest representatives rather than blanket externals. In this case, selection biases towards corporate appointees are less likely.

## Governing Body Composition

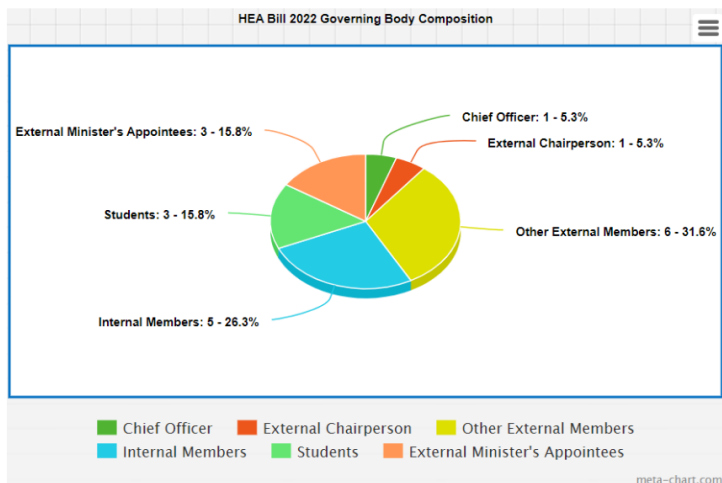
### Universities Act 1997 vs HEA Bill 2022



This is also valid. The 1997 Act set out one chief officer, one chairperson, maximum 2 other senior management staff members, not less than two or more than 6 academic staff who are Professors or Associate Professors, not less than 3 or more than 5 other academic staff, at least one but not more than 3 non-academic staff, not less than 2 and not more than 3 undergraduate students, and 1 postgraduate student. In this diagram, students make up 16% and staff make up 58% of members to a total of 75%, while the rest 25%.

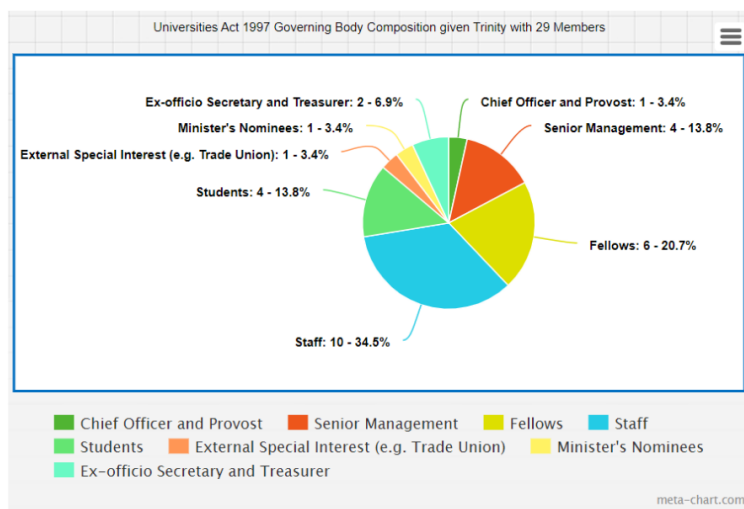


## Governing Body Composition Universities Act 1997 vs HEA Bill 2022



On the other hand, the HEA Bill 2022 governing body composition is this. It is inflexible, one-size-fits all, and undemocratic. Clearly, there is a bigger share of Minister-appointed, external - who due to selection biases end up being corporate - and university leaders at 58%, rather than students at 16% and staff at 26% to a total of 41%. The 26% is optimistic, since the "internal members" are not defined to be staff only as opposed to senior management, and neither is the election of staff or necessity of non-academic staff representation included. The election procedures allowed opportunities for trade union representation in addition to special interest clauses in the 1971 Act.

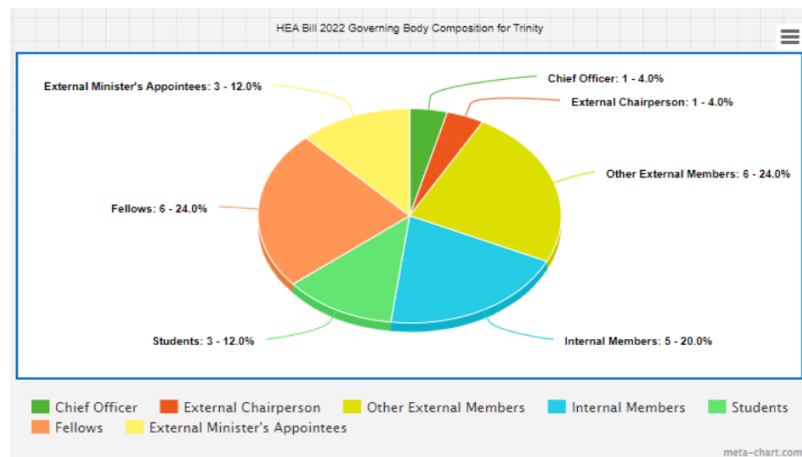
## Governing Body Composition Universities Act 1997 vs HEA Bill 2022



And so is this a valid configuration, that of Trinity. The 1997 Act also provides for special interest representation, like trade unions, Irish language, business, etc., provided that they are not students or employees of the university. The Minister's nominees - and not appointees - in tandem with governing body are equal to the number of special interest representatives.

## Governing Body Composition

### Universities Act 1997 vs HEA Bill 2022



This is the HEA Bill 2022 composition for Trinity. Ministerial, external and senior management representation increases from 27% to 44%. Staff representation declines from 34% to 20% and student representation declines from 14% to 12%, a total decline from 48% to 32%. It is clear who this bill benefits.

In the case of technological universities and regional technical colleges, the definition of 'internal members' is better refined. The 5 must contain elected academic staff and elected non-academic staff to sit on the governing bodies (S90(12)(2)(d)) (S109(6)(6)(d)). However, neither for universities, technological universities or regional technical colleges is there a requirement for trade union representatives, either academic or professional, to be on the governing body.

The 13 academic institutions under this bill in Ireland will have a total 39 ministerial nominees on their main decision-making bodies, and they will have weight in discussions. This is also an area of concern. This could lead to the micro-management of the sector. Furthermore, 7 of the external members are selected in accordance with a policy that the governing authority proposes and the Minister approves, which comes out to 91 members across Ireland.

All of this will lead to decisions adverse to staff, such as pay cuts, pensions cuts and increased casualization, to being met with less opposition and able to pass quicker.

## Governing Body of Trinity College Dublin

In the case of Trinity College Dublin, an exemption has been granted. This exemption allows Trinity a Board of up to 25 members, 19 as per the general proscriptions and a further number of Fellows up to 6 (S74(16A)). There are currently 6 Fellows on Trinity's Board, so this will be kept. This part of the bill consequently amends The Trinity College, Dublin (Charters and Letters Patent Amendment) Act 2000 (No. 1) (Private) bill. This allows the university to retain an internal majority. Fellows are diverse in their political allegiances, with many of them anti-commercialization and academic traditionalists. However, an issue identified in our research was that Fellows, who are "*appointed by the governing authority*" may be members of senior management (S74(16A)(1)(b)). For example, the Registrar of Trinity College Dublin, Neville Cox, is a Fellow, and so are many others, as it is part of one's career progression. This can be exploited by the higher-education institution to install loyal members on Board.

## External Members

The expertise of external members is appreciated, but this is an overwhelming share of non-community members. Selection biases for external members will lead to corporate-leaning appointees, as the Irish Federation of University Teachers (IFUT) recognized<sup>13</sup>. It was also recognized that the headhunt for external members runs the risk of selection from a shallow pool of candidates, the insiders or the favoured few, and that this will increase the power of senior management<sup>14</sup>. In other words, those selected for governing bodies who already fit in, leading to those dominating these decision-making bodies who are not keen to challenge the status quo. This will increase the chances of group-think. There needs to be a balance, but this balance has not been struck in this bill.

## Student Representation

From certain institutions, such as Trinity College Dublin, Maynooth University and University College Dublin<sup>15</sup>, one student representative will be removed from the governing body as in

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<sup>13</sup> University Times. "On Governance Bill, Trinity Asks: What Problem Is Really Being Addressed?" Universitytimes.ie, 13 Jan. 2022, <https://universitytimes.ie/2022/01/on-governance-bill-trinity-asks-what-problem-is-really-being-addressed/>. Accessed 2 Sept. 2022.

<sup>14</sup> IFUT, SIPTU, UNITE TCD branches, "Re: Board Review", assets.gov.ie, 27 August 2020, <https://assets.gov.ie/134231/0c8ef0f0-a671-4f47-8f9f-17d814b3cbbc.pdf>

<sup>15</sup> Wolfe, David. "Analysis: The Higher Education Authority Bill Does Not Increase Student Representation in Any Higher Education Institution." *Trinity News*, 2 June 2022, <https://trinitynews.ie/2022/06/analysis-the-higher-education-authority-bill-does-not-increase-student-representation-in-any-higher-education-institution/>. Accessed 2 Sept. 2022.

the new proposed legislation their numbers are fixed to 3 instead of 4, reducing the current representation and hampering future expansion. In 6 other cases, no students are added or removed. In 3 cases, one student will be added. The share of students on the governing bodies increases in all cases except one. This has been used by the The Department of Further and Higher Education, Research, Innovation and Science (hereinafter referred to as 'DFHERIS' or the 'department') to curry buy-in with student unions but is a red herring, which will be discussed later.

Institution	Student representation in absolute numbers	Student representation in absolute numbers with HEA Bill 2022	Increase/D decrease	Student representation in proportions	Student representation in proportions with the HEA Bill 2022	Increase/D decrease
TCD	4 of 27	3 of 25	-1	15%	12%	-3%
MU	4 of 34	3 of 19	-1	11%	16%	+4%
UCD	4 of 40	3 of 19	-1	10%	16%	+6%
UCC	3 of 40	3 of 19	0	7.5%	16%	+8.5%
DCU	3 of 28	3 of 19	0	10%	16%	+6%
TUD	3 of 21	3 of 19	0	14%	16%	+2%
NUIG	3 of 39	3 of 19	0	7.5%	16%	+8.5%
TUS	3 of 20	3 of 19	0	15%	16%	+1%
MTU	3 of 21	3 of 19	0	14%	16%	+2%
UL	2 of 29	3 of 19	+1	7%	16%	+9%
IADT	2 of 19	3 of 19	+1	10%	16%	+6%
Dundalk IT	2 of 18	3 of 19	+1	11%	16%	+5%
SETU <sup>16</sup>	N/A	N/A	N/A	N/A	N/A	N/A

The bill also does not guarantee that student representatives are elected to governing bodies of higher-education institutions, instead they could be handpicked or otherwise appointed without mandate, and not even be from the student's union. This is since the wording employed is that student members are "*appointed by the governing authority*" (S73(16)(2)(e)) (S90(12)(2)(e)) (S109(6)(4)(e)).

Furthermore, when it comes to the strategic development plan (S61(4)(d)) and the equality statement of higher-education institutions (S62(4)(d)), the student union can be disregarded

<sup>16</sup> N/A because it is a new TU that has not had its proper governing body finalised yet.

since wording is that the students “or” the student union shall be consulted. This would allow senior management to exclude the representative body of students and still be compliant with the law. This could happen in cases where the relationship between the student union and the institution is strained. For example, the National University of Galway (NUIG) removed the funding of the student union after students voted in a referendum to pay a lower sports levy<sup>17</sup>. These provisions are implemented in the consequential amendments to various acts under (S80(1A)(d)), (S81(1A)(d)), (S92(3A)(d)), (S93(2A)(d)), (S112(1A)(d)), (S113(1A)(d)), (S128(20C)(2)(d)) and (S129(20C)(2)(d)).

In addition, in multiple cases, namely the strategy for tertiary education (S33(5)(i)), performance frameworks (S35(2)(a)), the student union can also be bypassed. There, the definition is that the “*representatives of students or students’ unions*” shall be consulted. However, in (S2), the only definition given for “*representatives of students*” is that it “*shall include officers of a national student union in their capacity as such officers*”. Inclusion as a definition is weak. Therefore, the definition can be interpreted as any student, and the same issue arises. This issue is also reflected in (S43)(1) and (S43)(3)(c), which provides for generalised engagement with students. The requirement in (S43)(3)(c) is that consultation shall be conducted with “*students and representatives of students*”, the latter part of which does not actually prescribe anything. The same applies for (S44(1)), about national student engagement, (S45(1)), (S45(1)(f)) and (S45(2)), about student surveys, and (S46(3)(f)), about the strategic action plan for equity of education. The (S44), (S45) and (S46) only say that consultation shall be with “*representatives of students*”. Consultation with a wide variety of student stakeholders, such as grassroot groups, student unions and students is positive, but these sections of the bill achieve exactly the opposite, under the guise of being inclusive. It allows a bypass of student unions, while cherry-picking students who may be more loyal to the institution or the government.

Furthermore, all power is vested in the institution or in the Minister to recognize the student unions, due to the lack of a strong definition. The definition for a student union is “*a student union or other student representative body recognised by a higher education provider or by the Minister*” (S2). This is inadequate and allows cherry-picking of student unions and the recognition of non-mandated bodies, which an institution might engage in order to get rid of troublemakers. Finally, the fact that student unions are faced with co-optation, erosion of autonomy and attempts to silence by senior management<sup>18</sup>, is not dealt with in the bill at all.

All of this is despite one of the functions of the Higher Education Authority (HEA or An tÚdarás) being to “*promote and support student engagement and student success in higher education*” (S9(b)).

Therefore, there are multiple ways in which student unionism is weakened in the bill.

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<sup>17</sup>NUIGSU. “Levy Update July 2021 - NUI Galway Students’ Union.” *NUI Galway Students’ Union*, 2021, <https://su.nuigalway.ie/levy-update-july-2021/>. Accessed 2 Sept. 2022.

<sup>18</sup> Baker, Sinéad. “Amid Increasing Encroachments on Their Freedoms, Students’ Unions Seek to Legislate for Independence.” *Universitytimes.ie*, 5 Apr. 2017, <https://universitytimes.ie/2017/04/amid-increasing-encroachments-on-their-freedoms-students-unions-seek-to-legislate-for-their-independence/>. Accessed 2 Sept. 2022.

All of this will lead to decisions adverse to students, such as fee hikes, rent increases and the cut of vital services, to being met with less opposition and able to pass quicker.

## Community Representation

The loss of local representatives on governing bodies poses an issue, as it reduces democratic input into universities<sup>19</sup>. This is the case for UCD, UCC, NUI Galway, DCU and UL, all of whom have councillors, mayors and other local representation on their governing bodies. The proposed change has been fiercely resisted by the Association for Irish Local Government (AILG), including at the Oireachtas Joint Committee on Education and Higher Education<sup>20</sup>, arguing that it will result in being out of touch with the public need, loss of professional experience and diversity, and a fracturing of the linkage between regions and the academic institutions situated in them.

Institution	Local Representation
UCD	AILG nominates 8 persons.
UCC	Local council nominates 7 persons, including some mayors.
NUI Galway	Local council nominates 7 persons, including some mayors.
DCU	There is 1 councillor.
UL	The Mayor of the City and County and the Cathaoirleach of the Municipal District as members.

The loss of these representatives is despite one of the functions of the HEA being to “*facilitate co-operation at a national, regional and local level between designated institutions of higher education and other education providers*” (S9(1)(g)).

## Governing Body of the National College of Art and Design

The bill makes amendments to the National College of Art and Design Act (1971). It makes it possible for a full-time officer of the students’ union to sit on An Bord, but the definition of a

<sup>19</sup> Association Of Irish Local Government. *On Behalf the Executive Committee and Membership of the Association of Irish Local Government*. 2021, <https://assets.gov.ie/134176/14e21d14-9194-4660-a7bd-937110928fb0.pdf> .

<sup>20</sup> Moreau, Emer. “Keep Councillors on College Boards, Oireachtas Education Committee Hears.” *Universitytimes.ie*, 6 July 2021, <https://universitytimes.ie/2021/07/keep-councillors-on-college-boards-oireachtas-education-committee-hears/> . Accessed 2 Sept. 2022.

students' union suffers from the same issue as other ones, as it says *“the student union or other student representative body recognised by the College”* (S117(b)). It does not change An Bord in any other way, its composition seemingly being considered not an issue by the department. NCAD has a 10-member An Bord, with 3 others in attendance, and 2 non-sabbatical officer students are on it, as nominated by NCAD<sup>21</sup>. The current act already confers powers onto the Minister (S6). The current Terms of Reference (ToR) for An Bord state that *“With the exception of the Director, who is a member of An Bord on an ex-officio basis, all members are appointed by the Minister for a three-year term”*<sup>22</sup>.

## Academic Council of the National College of Art and Design

The National College of Art and Design Act (1971) did not set out requirements for the sub-committee of An Bord, the academic council. There is a terms of reference passed by An Bord at its own liking<sup>23</sup>, which include a diversity of students, academics, professional workers and management, for a maximum of 30. It is a positive that (S127(20A)(3)(a)) formalises that a majority of those on the academic council should be academic staff, but it is disappointing that (S127(20A)(3)(b)(iii)), the requirement for students, is merely “an appropriate number of students”. This does not guarantee student representation on the academic council. If the prescriptive route is taken, then for the avoidance of doubt, this section should have set out the requirement for trade unions, professional staff and students alongside academic staff and management.

## HEA Board

The HEA Board, referred to in the bill as Board of An tÚdarás (S15), oversees the implementation of the HEA's aims, and is accountable to the Minister for its performance (S15(4)). Some of the aims of the HEA listed in (S9(1)(n)) include equality, diversity and inclusion in higher education, so the Board is a crucial body.

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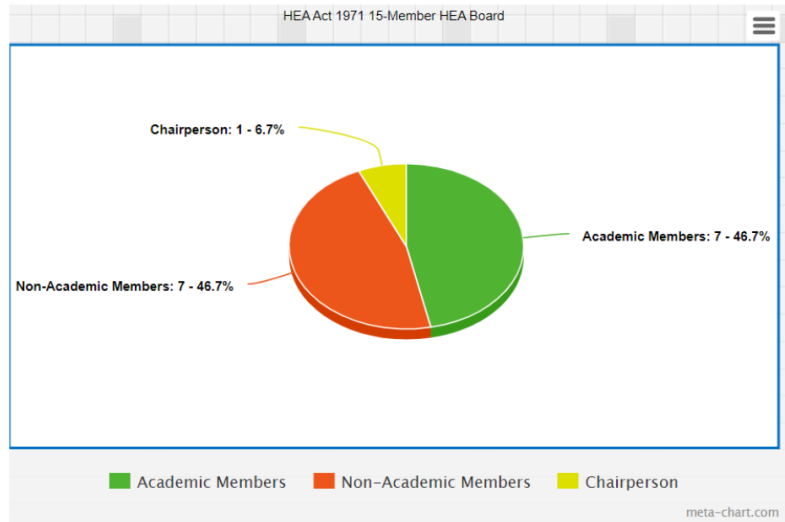
<sup>21</sup> National College of Art and Design. “An Bord - National College of Art and Design.” *W*[www.ncad.ie](http://www.ncad.ie), [www.ncad.ie/about/structure/an-bord/](http://www.ncad.ie/about/structure/an-bord/). Accessed 2 Sept. 2022.

<sup>22</sup> National College of Art and Design. “An Bord Terms of Reference”, *W*[www.ncad.ie](http://www.ncad.ie), [https://www.ncad.ie/files/download/An\\_Bord\\_Terms\\_of\\_Reference\\_NCAD.pdf](https://www.ncad.ie/files/download/An_Bord_Terms_of_Reference_NCAD.pdf).

<sup>23</sup> National College of Art and Design. “Academic Council Terms of Reference”, *W*[www.ncad.ie](http://www.ncad.ie), [https://www.ncad.ie/files/download/Academic\\_Council\\_Terms\\_of\\_Reference\\_July\\_2017.pdf](https://www.ncad.ie/files/download/Academic_Council_Terms_of_Reference_July_2017.pdf).

## HEA Board Composition

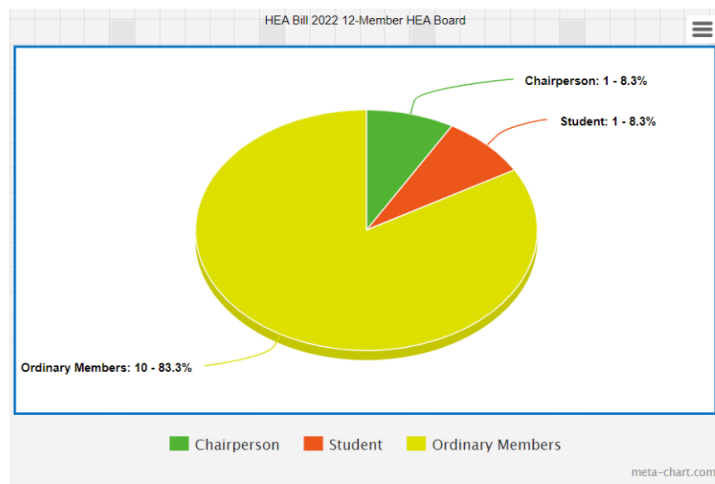
### HEA Act 1971 vs HEA Bill 2022



The HEA 1971 Act sets out a minimum 15-member Board and maximum 19-member, with no student representation, and at least 7 academic member representation.

## HEA Board Composition

### HEA Act 1971 vs HEA Bill 2022



The HEA Bill 2022 sets out a 12-member HEA Board, appointed by the Minister, with one student representative who they can reject and no academic representation guaranteed.



As per (S16(2)(b)), one of the members of the HEA Board will be from a nomination by the national student union of a student or a full-time officer of a national student union. However, this is not the full picture as will be discussed in a later section.

In the 1971 HEA Act, the 19-member HEA Board is mandated to contain at least 7 academic members (Schedule, 2)<sup>24</sup>. This is missing from the HEA Bill 2022. This could have acted as at least a minimal safeguard against corporate appointees pushing the marketisation of education and the dilution of academic input by seasoned intellectuals in higher education.

## Powers of the State

In the over 144-page bill, the “Minister” is mentioned 373 times. Undoubtedly, the bill confers significant powers to the Minister, the HEA, and the CEO of the HEA. The bill further lacks checks and balances.

The powers of the Minister start in (S11(1)(a)) and (S11(1)(b)), which gives them power to direct the HEA in any matter in the Act, any objective of the Minister or the government. The corporate plan of the HEA under (S20(2)(f)) must accord with the objectives of the Minister and the government as well. This is equally true for (S21(2)(g)), the annual plan of the HEA. The Minister prepares the strategy for tertiary education under (S33(1)). The HEA also provides recommendations for the Minister on the overall requirements for student places taking into account the demand for education under (S34(1)) and (S34(4)). The HEA, taking into account policy directions given by the Minister (S46(1)), also prepares the equity of access plan.

The Minister appoints the 12-member Board (S16(2)) and can remove members under permissive criteria (Schedule 2, (3), (a)), if it is “*necessary for the effective performance by the Board of its functions*”. The CEO is appointed by the Board with the consent of the Minister (S25(2)) and can be removed the same way. In this way, the system is quite tidy, and power is concentrated. The powers of the Chief Executive Officer (CEO) of the HEA are based upon (S26(1)) and (S26(2)).

The reason this is described is because these form the basis of worrying amendments in the bill, giving excessive and unnecessary powers to the state to interfere in institutional governance.

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<sup>24</sup> Book (eISB), electronic Irish Statute. “Electronic Irish Statute Book (EISB).” [Www.irishstatutebook.ie](http://www.irishstatutebook.ie), <https://www.irishstatutebook.ie/eli/1971/act/22/enacted/en/html> . Accessed 2 September 2022.

## Interference in Institutional Governance

It is the performance framework and performance agreements that pose a huge threat to the autonomy of institutions, as set out in (S35) and (S36), essentially dictating the development and focus of academia. The HEA prepares, with the approval of the Minister, performance frameworks which take into account the priorities that the HEA wants to achieve “*with the public moneys allocated*” (S35(3)(a)) and also taking into account the strategy for tertiary education (S35(4)(a)) under (S33). Thereafter, the HEA can enter into performance agreements with institutions for a period of not more than 5 years under (S36), which take into account the performance framework under (S35) and the strategic development plan of the institution (S61).

The provision of funding to institutions can be tied to a wide variety of conditions (S37(4)) (S37(5)), including operating according to standards of “*good governance*”, ring-fenced funding and performance targets and outcomes (S37(5)(e)). This is called the funding framework. The bill explicitly states that no state funding is guaranteed in (S37(6)). The conditions which must be met in order for funding to be given threaten the autonomy of institutions (S38(2)). Specifically, the requirement to comply with “*guidelines, codes and policies*” issued by the HEA (S143) (S38(2)(d)), the funding framework (S37) (S38(2)(e)) and the catch-all condition with any other condition as determined by the CEO of the HEA with Board approval (S38(2)(h)) are of the utmost concern.

The HEA in consultation with the Minister (S143(2)(a)) or the Minister directing the HEA (S143(3)) has the authority to issue “*guidelines, codes and policies*” (S143(1)) to institutions on which the institution must report progress to the HEA (S143(6)). Since this is listed as one of the conditions for funding, this section will lead to the control by the state over academia, a form of legislating over institutions without the legislation ever having passed a democratic house of the Oireachtas.

Compliance with the funding framework further restricts the autonomy of institutions, as the state will direct a substantial portion of finances that go towards teaching and research. The government’s priorities will become the priority of academia. In the past, the government has shown clear bias towards industrial, business and practical research as opposed to blue skies research<sup>25</sup>. In 2015, more than 1,000 scientists signed an open letter denouncing the government’s focus on the commercialisation of research<sup>26</sup>.

The Minister also has sway over the strategic development plan, as they must be consulted by the institution in its drafting (S61(4)(a)). The same goes for the equality statement of institutions (S62(4)(a)). The equality statement also needs to take into account the strategic

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<sup>25</sup> Irish Government. “Taoiseach and Minister Harris Announce Innovate for Ireland - a New Initiative to Recruit and Retain Talent.” [www.gov.ie](https://www.gov.ie/en/press-release/1b902-taoiseach-and-minister-harris-announce-innovate-for-ireland-a-new-initiative-to-recruit-and-retain-talent/), 1 July 2022, <https://www.gov.ie/en/press-release/1b902-taoiseach-and-minister-harris-announce-innovate-for-ireland-a-new-initiative-to-recruit-and-retain-talent/> . Accessed 2 Sept. 2022.

<sup>26</sup> Purcell, Conor. “Ireland Lagging behind in Funding “Blue Skies” Scientific Research.” *The Irish Times*, 2 Jan. 2020, <https://www.irishtimes.com/news/science/ireland-lagging-behind-in-funding-blue-skies-scientific-research-1.4118312> . Accessed 2 Sept. 2022.

development plan and any performance agreements in place (S62(5)(c)). The gifting away of the National Maternity Hospital to the Church should be an ample lesson that to hand over control to the government, rather than keeping it local and grassroots, of equality issues is problematic.

## Powers of the CEO of the HEA

Where the lack of democratic accountability procedures really shows, however, is in (S38(2)(h)), obliging a body in receipt of funding “*to comply with such other conditions as may be determined, with the approval of the Board, by the Chief Executive Office.*”. This is not reflective of principles of fairness or good governance. It does not seem appropriate that adherence to conditions determined in this way should be a precondition to the continued receipt of funding. The bill tries to put on a display of checks and balances but when taking into account the circular nature of appointments, and of the distribution of decision-making authority, it becomes clear that there are serious deficiencies.

The CEO furthermore is the judge, jury and executioner of whether institutions are in compliance with the many funding conditions imposed on them (S38). The CEO assesses information provided by institutions and assesses whether there are serious deficiencies or not with compliance (S40(3)) (S40(4)). Following this, the CEO can issue directions to comply under (S41(1)). If the CEO believes that these were not followed (S42(1)(a)) or otherwise assesses serious deficiencies, remedial action may be imposed. These may be as severe as withholding funding (S42(2)(a)), ordering a refund of public funds to the state (S42(2)(e)) and the appointment of specialists to provide “*advice or assistance*” to the institution concerned (S42(2)(f)). None of the measures listed under (S42(2)) require the permission of anyone other than the CEO.

Furthermore, the CEO has the same power when it comes to (S64(1)), which stipulates that if there are “*significant concerns*” regarding the governance or performance of an institution, or “*compliance with its obligations, including but not limited to, compliance with any guidelines, codes or policies issued under section 143*”, there may be a review (S64(2)). This is different from conditions of funding (S38). This section was probably established to provide power to the CEO to force institutions to act on a wide range of topics, even if they were not included as part of (S38(1)) in writing as part of funding conditions in a given fiscal year. Following this, the CEO may impose remedial measures (S65(3)(a)) as per (S66), request and send information (S65(3)(b)) as per (S67), or undertake a review (S65(3)(c)) (S68).

The remedial measures as set out in (S66) are problematic. The principles of good governance demand that the approval of the Board be required before remedial measures (a), (b), (c), (d), (e), (f), (g), (h) and (i) of (S66(3)) may be imposed on a designated institution of higher education. Currently, only (a), (b) or (d) of subsection of (S66(3)) requires Board approval. The ones that require approval are some of the weaker remedial measures, being admonishments, requirement to send governing body members to training and a review of the strategic development plan. The ones that do not require approval are the stronger powers, including the withholding of funding, refund of public money and revising conditions of funding.

## Vagueness and the Intersectionality of Power

There is also an aspect of vagueness to the bill. For example, what constitutes a lack of “*good governance*” under (S38(2)(c)), what can be considered “*serious deficiencies*” in compliance under (S40(4)) or “*significant concerns*” and “obligations” (S64(1)) are unclear. This laxity is dangerous, as it facilitates government overreach.

Furthermore, the provisions of the bill make it possible for there to be an intersectional exploitation of power. So, for example, not keeping to performance agreements under (S35) are not part of punishable offences. However, (S38(2)(h)), (S143) or (S64(1)) can be used to simply make it a condition of funding, a policy to follow which falls under condition of funding or a the CEO can indict an institution based on it not meeting its “*obligations*”, respectively. This will be the case for the state’s extended powers concerning property.

## Property, Finances and Loans

The bill changes the way that institutions acquire property, handle their finances and get loans.

When it comes to the HEA itself, there is a transfer of power when it comes to the ability of the body corporate to acquire, hold and dispose of land, an interest in land or any other property. It needs the consent of the Minister and of the Minister for Public Expenditure and Reform (S7(2)), whereas the 1971 HEA Act did not explicitly state either (Schedule (1)). The functions of the HEA are further extended to include giving recommendations to the Minister in relation to proposed acquisition or disposal of land by an institution, where the consent of the Minister is required for such a transaction (S9(1)(s)).

A series of amendments to make it necessary to have the consent of the Minister to acquire, hold and dispose of land or any other property when it comes to Regional Technical Colleges (S107) (S108) and NCAD (S118). There is also an amendment to the Housing Finance Agency Act (1981), which specifies that when higher-education institutions acquire land to build student housing, they need the consent of the Minister. From the latter, universities under (S53(1)(a)(i)) and (S53(1)(a)(ii)) are exempt.

This combined with the powers to set additional funding conditions as set out in (S38(2)(h)) or the ability to issue guidelines, codes and policies (S143) poses concerns that the HEA will now be able to direct property-related matters in these institutions. This would be beneficial to the HEA, because of the profit motive.

According to a webinar held July 11th 2022 by DFHERIS officials to Senators<sup>27</sup>, the department agreed that the bill could seriously hamper the ability of the state to borrow in the future from the European Union (EU) and other parties, if it is deemed that universities are under government control, due to the debt balance sheets of many institutions. 7 institutions have debt of close to a billion euro that could be affected in this way. Eurostat, an EU agency, would decide on the classification. This is possibly the same reason that when NCAD proposed the ability to loan on their own terms as a response to the bill, such a provision was rejected by the DFHERIS alongside the Department of Public Expenditure and Reform (D/PER) according to a request under the Freedom of Information Act (2014)<sup>28</sup>. There has also been intense back-and-forth between the department and NCAD, including meetings of which the contents are not public according to the same request, possibly because of the proposed large-scale € 90 million redevelopment of the campus<sup>29</sup>.

What might end up happening is a further push towards commercialization, as the state subsumes academia, then proceeds to impose austerity measures to keep its own finances balanced. In this sense, land- and real-estate is profitable, for example through sale, speculation and the building of expensive student accommodation. Such a command-and-control structure runs the risk of bypassing local authorities and their sustainability or other development strategies.

## Appeals Board

There is no appeals mechanism for decisions such as funding criteria, guidelines, codes and policies or performance agreements, insofar as their contents. In this way, what can be appealed is limited. It is limited to decisions taken as punishments to institutions<sup>30</sup>, under (S42) and (S65).

There is an appeals board (S69), but it is not independent, as the Minister appoints all of its 3 members (S69(1)), 2 higher education experts and 1 solicitor having not less than 10 years experience (S69(2)). As per (S69(8)), the Minister can also remove these members with permissive reasons, namely (S69(8)(c)), which states if it is “*necessary for the effective*

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<sup>27</sup> Students4Change. “DFHERIS Officials Admit HEA Bill 2022 Has No Guarantees for Trade Union, Academic Staff and Democratic Student Representation, FOI Reveals.” Students4Change, 12 Aug. 2022, <https://students4change.eu/2022/08/12/dfheris-officials-admit-hea-bill-2022-has-no-guarantees-for-trade-union-academic-staff-and-democratic-student-representation-foi-reveals/>. Accessed 2 Sept. 2022.

<sup>28</sup> Students4Change. “Freedom of Information Act (2014) Requests Database (HEA Bill 2022 Minister Harris, Land-related aspects of the bill, NCAD)”, <https://students4change.eu/2022/05/22/various-fois-on-rds-costs-student-fee-arrears-harrasment-cases-casualization-costs/>.

<sup>29</sup> Personal Communication.

<sup>30</sup> The appeals board also deals with matters under (S54), the granting of a designation to higher-education institutions, and (S59), the revocation thereof. However, this is outside the scope of this paper.

*performance by the appeals board*". There is no sign that these members would act independently of the Minister, despite (S70(12)) which states it should.

Furthermore, the fact that an appeal has been taken does not operate as a stay on what it has been instructed to do, unless the CEO agrees (S42(8)) (S42(9)) (S65(6)) (S65(7)). An may have to proceed to do what it is being told to do even when it is appealing the decision which was the basis for it being told to do it. The only exception to this is (S65(8)), which is for the action listed in (S65(3)(c)) of undertaking a review of the matter in accordance with (S68).

## Transparency

There is a lack of transparency concerning the directives that the Minister can give to the HEA (S11), where the publication of such directives is not mentioned in the bill at all. Furthermore, the HEA Board's meeting minutes are not mentioned anywhere in the bill to publish (S15). Currently, meeting minutes are published on the HEA's website<sup>31</sup>.

In the case of guidelines issued to the HEA by the Minister (S12), performance frameworks and their reports (S35(1)) (S35(7)), non-personal data supplied by third-level institutions upon the request of the HEA (S48(6)), research by the HEA (S53(5)), report on the possible designation of a new higher-education institution (S57(7)), the report of the CEO when reviewing a possible breach of obligations (S64(7)), the CEO's determination on the matter (S65(5)), the review commissioned by the CEO of the breach of obligations (S68(8)), their publication is written as a possibility, using the word "*may*", and not as a requirement.

There is a further use of "*may*" when it concerns personal data supplied by third-level institutions upon the request of the HEA, for obvious reasons (S48(6)).

The corporate plan (S20(8)), the annual report of the HEA (S23(4)), the strategy for tertiary education and any amendments (S33(6)) (S33(8)), student surveys (S45(2)), the equity of access plan and any amendments (S46(7)) (S46(16)), the strategic development plan that higher-education institutions make (S61(7)) (S128(20C)(7)), the equality statement that higher-education institutions make (S62(7)), accounts of institutions (S63(5)), dispute resolution procedures by An Bord (S119(b)(3B)(b)(iii)), names of institutions (S141) and "*guidelines, codes and policies*" issued by the HEA (S143(5)), are published.

## Opinions from Stakeholders

The consultation process for this bill began in July 2018, when key stakeholders in the higher-education sector were asked for input. Various follow-up consultations ensued, such

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<sup>31</sup> Higher Education Authority. "Board | Higher Education Authority." Higher Education Authority, 2016, <https://hea.ie/about-us/board/>. Accessed 29 Dec. 2019.

as government consultation open from 23rd of February to 5th of March 2021. Communications between stakeholders and DFHERIS continued after this date as well.

## Government Consultation

Virtually the whole of the third-level sector is in uproar, from students to staff and institutions themselves. The bill has numerous detractors. The 23 documents received as part of a Freedom of Information Act (2014) request<sup>32</sup> to DFHERIS include the Union of Students Ireland (USI) calling for a stronger definition of a students' union, UCC and MU calling the bill a "*command and control*" over institutions and the IUA saying that aspects of the bill do not "*accord with natural justice and will prove unworkable*".

Date	Who	Summary
5th of March 2021	Individuals from UCD	Individuals from UCD wrote to the Minister to fix the imbalance between funding opportunities for fundamental and applied research.
5th of March 2021	IADT	IADT writes in a submission to Minister Harris that the HEA Bill is not pandemic-proof, and does not include learned experience from Covid-19. They furthermore say that there is no macro-view, no defined roadmap or vision to the bill. It is a bill lacking a national vision, which, if the bill were to be delayed, could be worked on with a proper consultation. The submission further states that the consultation process seems to have excluded direct feedback from key stakeholders. They furthermore mention that

<sup>32</sup> Students4Change. "FOI Reveals IUA Called HEA Bill 2022 "Unworkable", Multiple Universities Dissent at "Command and Control" Structure." *Students4Change*, 27 June 2022, <https://students4change.eu/2022/06/27/foi-reveals-iua-called-hea-bill-2022-unworkable-multiple-universities-dissent-at-command-and-control-structure/>. Accessed 2 Sept. 2022.

		<p>accountability and autonomy should be managed on an institutional basis and not on a sectoral basis, and criticise the use of penalties as a primary enforcement mechanism.</p>
5th of March 2021	Trinity Fellows	<p>Trinity Fellows write to Minister Harris and say that the proposals in the bill would dismantle the democratic, diversity and competency of the bodies of College, most specifically Board. They argue against an external majority. The need to respect Trinity's autonomy, a well-performing institution, must be protected, they say.</p>
15th of April 2021	Trinity	<p>Representatives of Trinity College Dublin met with the DHFERIS, where both parties expressed a wish to reach an agreement. DFHERIS said that they have been <i>"intentionally silent"</i> on Trinity in order to give them space to discuss issues specific to the College. Trinity said at this meeting that <i>"TCD wish to arrive at a situation where the changes in TCD are framed in a private Act which is approved by the Fellows and linked to the legislation. The alternative is to impose change on the Fellows through the statutes"</i> and that <i>"They have persuaded the TCD community that a</i></p>



		<i>smaller, competency based board is needed in Trinity</i> ”, despite this not being the case according to a University Times article from 2020 <sup>33</sup> in relation to a similar proposal.
1st December 2021	USI	USI raises the issue of student union autonomy as part of the HEA legislation in a meeting with the Minister.
16th of December 2021	Trinity	The Minister follows-up on an earlier meeting with Trinity and agrees to an exemption.
12th of January 2022	Trinity	Provost replies to Minister Harris saying that after discussions with Board and Fellows, “ <i>while some opposition and reservations were expressed with aspects of the proposals</i> ”, there is a “ <i>sense that the proposals relating to Trinity may be generally acceptable on a consensus basis</i> ”, provided that the change is made via private legislation, and that this right is retained by Trinity through first mover advantage.
18th of January 2022	USI	Minister Harris follows-up on USI’s queries regarding student union autonomy, asking them to forward any views, including “ <i>how student unions are currently</i>

<sup>33</sup> MacNamee, Donal. “Board Members Slam Proposals That Could Reshape Trinity’s Governance.” Universitytimes.ie, 30 Apr. 2020, <https://universitytimes.ie/2020/04/board-members-slam-proposals-that-could-reshape-trinitys-governance/> . Accessed 2 Sept. 2022.

		<p><i>established and governed and their relationship with USI and any interaction that USI has had to date with representative bodies such as IUA and THEA on how such matters might be advanced collaboratively</i>". He also promised a follow-up meeting. Furthermore, the Minister lays out student partnerships in the bill. Furthermore, he refuses to change the composition of governing bodies.</p>
10th February 2022	IUA	<p>IUA requests a meeting with the Minister saying that certain aspects of the bill "<i>such as those relating to the unilateral powers of the HEA CEO and the appeals process for actions or measures taken by the HEA require specific attention as we, we believe, they do not accord with natural justice and will prove unworkable</i>" and they attach a list of amendments. The "<i>comply or explain</i>" principle amendment aims to restore autonomy to institutions under (S143) by allowing non-compliance.</p>
21st February 2022	IUA	<p>IUA follows up on meeting request.</p>
7th of March 2022	UCC	<p>UCC writes to Minister Harris to express "<i>serious concerns</i>" about the bill, and that "<i>We are concerned that the draft legislation, if enacted, may interfere with</i></p>

		<p><i>the responsibility of the University to take the necessary decisions in teaching, learning and research. This is both an issue of academic freedom and of the autonomy of decision making which enables UCC to carry out its particular mission".</i> UCC says that the powers of the CEO of the HEA are not accountable, and that the compliance with guidelines, codes and policies will result in a "command and control" system over universities. They also mention that the right of appeal is limited, and not independent. Furthermore, they mention that the bill under EU rules might reduce the overall capacity of the state to borrow, if Eurostat assesses the proposed restrictions amounts to government control.</p>
8th March 2022	National College of Ireland (NCI)	NCI requests to be a designated higher education institution under the bill and to be exempt from protection for enrolled learners programme (PE).
9th March 2022	IUA	Minister confirms meeting with IUA for the 14th of March.
25th March 2022	IUA	IUA follows-up and says that there are a number of issues that have not been addressed, such as the CEO's power to apply any funding conditions, the lack of checks and balances before applying remedial measures, the independence of the appeals Board and others.
16th May 2022	UCC	UCC follows-up and stresses once again to

		Minister Harris' that there is the threat of a " <i>command and control</i> " system over universities which mean that the doctrines of the HEA will become legally enforceable without being enacted in the form of legislation, and also stresses the issue of a need for a broader right of appeal.
16th of May 2022	IUA	IUA sends the Minister UCC's aforementioned correspondence.
17th of May 2022	MU	Maynooth University sends Minister Harris an email, saying that the HEA Bill will " <i>erode the autonomy of institutions</i> ", and that accountability and autonomy is insufficiently balanced. They also say that the current approach is a " <i>command and control</i> " system.
9th of June 2022	IUA	Minister Harris replies to IUA and says that he believes that the bill has struck the correct balance between autonomy of HEIs and oversight. He rejects the IUA's amendments in relation to " <i>comply or explain</i> " as opposed to " <i>command and control</i> ", saying that legal advice has been sought and it would not be appropriate to make the changes as requested. He also rejects an amendment by the IUA with regards to Board approval in respect of certain decisions, and approves a few and rejects a few others. Out of 7 proposed amendments, he rejects 3 outright, rejects 1 because previous amendments were made, accepts 2, and adds 1 alternative amendment.

13th June 2022	MU	Minister Harris replies to Maynooth University where he informs them that he is not making any further amendments to the “ <i>comply or explain</i> ” principle, saying that there are appropriate safeguards in place.
13th June 2022	UCD	UCD meets with Minister Harris.
17th June 2022	Trinity	Trinity Provost sends Minister Harris supplemental charter as agreed at the Board on the 15th of June 2022. There were 2 dissents at that Board meeting. Provost asks Minister Harris to check if there is anything that will conflict with the bill in this, to verify.
22nd June 2022	USI	Minister Harris writes to USI that after legal advice from the AGO, he is not in a position to agree to amendments relating to students’ union autonomy. He says student engagement is already guaranteed in the bill (S43) (S44), and that directives under (S143) will be used to guarantee student union autonomy.

Note that the above table does not cover certain documents, such as Trinity with a bit more fighting spirit, describing the bill as ‘command-and-control’, in March 2021<sup>3435</sup>.

The Irish Congress of Trade Unions (ICTU) in their submission to the government in February-March 2021, representing TUI, IFUT and SIPTU, was harshly critical of the bill. None of the three unions agreed with the changes to the governing bodies. The gist of the argument is that the changes concentrate power in the hands of the few. It is also cleverly raised that while the bill is so keen on competency-based decision-making bodies, the

<sup>34</sup> Trinity College Dublin, “Initial Submission from Trinity College Dublin on Consultation Paper on Reform of Higher Education Authority, 1971”, assets.gov.ie, 8 March 2021, <https://assets.gov.ie/134232/a73e93a9-f325-4331-94da-c6ec3227ed73.pdf>

<sup>35</sup> Watson, Cormac. “Trinity Calls for Exemption from Govt’s Drastic University Governance Reforms.” Universitytimes.ie, 25 Mar. 2021, <https://universitytimes.ie/2021/03/trinity-calls-for-exemption-from-govts-drastic-university-governance-reforms/>. Accessed 2 Sept. 2022.

Minister themselves does not need to pass any such criteria when taking on the role. IFUT has also put out its own, more detailed position on the bill. They are worried about erosion of autonomy, academic freedom, the undemocratic governing bodies, funding, powers of the state and such<sup>36</sup>. It is rightly pointed out that the government itself does not stick to its own advice of smaller bodies, such as at *“statutory bodies such as Education and Training Boards which have a membership of more than 20”*.

Other individuals in their submissions to the same government consultation who have raised concern with the bill include<sup>37</sup> Archbishop of Armagh and Bishop of Cashel Ferns and Ossorytaff Association, Irish Council for International Students Students and the Trinity Research Staff Association. The issues raised by the aforementioned organisations are the challenges of homogenising education in light of tensions in the 6 counties, the lack of safeguards for student representation on academic councils, and the lack of staff representation on governing bodies, respectively. Individual 7 raises interesting points about how the bill lacks an emphasis for research. The initially-proposed 12-member governing bodies were strongly opposed across the board and this wording never made it into the bill, but most of the concerns still have not been addressed. There are a total of 46 submissions on the website.

## Earlier Government Consultation

We would draw attention to the fact that the above section does not cover submissions earlier than February 2021. Consultation began in 2018 on the bill in various forms. It is important to note that submissions before this, to the initial consultation, were sent as well.

## Student Unions

Local student unions, specifically NUIGSU, TCDSU, NCADSU, TCDGSU alongside Students4Change have penned an open letter denouncing the lack of democratic input into the bill<sup>38</sup>. TCDSU have also done actions, such as a banner drop, about the bill<sup>39</sup>. UCDSU and DCUSU, alongside the USI, have also attended the Seanad sittings, in opposition to

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<sup>36</sup> Irish Federation of University Teachers. “Legislative Reform of the Higher Education Authority Act 1971 | Irish Federation of University Teachers.” [www.ifut.ie](http://www.ifut.ie), 18 Feb. 2022, [www.ifut.ie/content/legislative-reform-higher-education-authority-act-1971](http://www.ifut.ie/content/legislative-reform-higher-education-authority-act-1971) . Accessed 2 Sept. 2022.

<sup>37</sup> Irish Government. “Public Consultation on Reform of Higher Education Authority Legislation.” [www.gov.ie](http://www.gov.ie), 23 Feb. 2021, <https://www.gov.ie/en/consultation/7b885-public-consultation-on-reform-of-higher-education-authority-legislation/> . Accessed 2 Sept. 2022.

<sup>38</sup> McConnell, Daniel. “Controversial Bill to Overhaul University Sector Delayed until Autumn.” *Irish Examiner*, 13 July 2022, [www.irishexaminer.com/news/politics/arid-40917533.html](http://www.irishexaminer.com/news/politics/arid-40917533.html) . Accessed 2 Sept. 2022.

<sup>39</sup> TCDSU. “The HEA Bill is set to enter the report stage in the Seanad at 5pm tomorrow, Tuesday July 12th.” *Twitter*, 11 July 2022, <https://twitter.com/tcdsu/status/1546517232473317379/photo/2> . Accessed 2 Sept. 2022.

aspects of the bill. The student press, namely Trinity News<sup>40414243</sup>, has been active in the discussions surrounding the bill.

## Academics

We have identified key academics who have engaged with the bill, and have summarised their opinions below.

Academic	Institution	Summary
Professor Sarah Alyn-Stacey	Trinity College Dublin	<p><i>“It is the failure of successive Irish governments to fund adequately the third-level sector (and to eschew its own accountability for this) which has led, quite logically, to the imposition of the Bill.”</i> and that <i>“What the new Bill proposes (and it would seem to be a done deal by university presidents seeking something akin to appeasement) is a wholesale State ownership of the third-level sector”</i><sup>44</sup>.</p> <p>The analysis is to take note of, as, for example, Trinity’s senior management seem to have presented the bill as a fait accompli.</p>

<sup>40</sup> Wolfe, David. “Analysis: The Higher Education Authority Bill Does Not Increase Student Representation in Any Higher Education Institution.” *Trinity News*, 2 June 2022, <https://trinitynews.ie/2022/06/analysis-the-higher-education-authority-bill-does-not-increase-student-representation-in-any-higher-education-institution/> . Accessed 2 Sept. 2022.

<sup>41</sup> Wolfe, David. “HEA Bill to Be Pushed back to Autumn.” *Trinity News*, 14 July 2022, <https://trinitynews.ie/2022/07/hea-bill-to-be-pushed-back-to-autumn/> . Accessed 2 Sept. 2022.

<sup>42</sup> Wolfe, David. “Analysis: What Is the Higher Education Authority Bill and What Does It Mean for Trinity?” *Trinity News*, 28 May 2022, <https://trinitynews.ie/2022/05/analysis-what-is-the-higher-education-authority-bill-and-what-does-it-mean-for-trinity/> . Accessed 2 Sept. 2022.

<sup>43</sup> Connolly, Shannon, et al. “Concerns over Student Representation Dominate at HEA Bill Townhall.” *Trinity News*, 30 May 2022, <https://trinitynews.ie/2022/05/concerns-over-student-representation-dominate-at-hea-bill-townhall/> . Accessed 2 Sept. 2022.

<sup>44</sup> Alyn-Stacey, Sarah. “University Governance.” *The Irish Times*, 6 Jan. 2022, <https://www.irishtimes.com/opinion/letters/university-governance-1.4769582> . Accessed 2 Sept. 2022.

<p>Professor Sean Barrett</p>	<p>Trinity College Dublin</p>	<p>He has been a vocal critic of this bill. He has said that it is hard to see what problem the government is addressing, and that the bill is treating academic institutions as if they are guilty of something, but no one knows what<sup>45</sup>.</p> <p>He has furthermore argued that the provisions in the bill threaten to undermine the revised Article 3 of the Irish Constitution by referendum in both jurisdictions following the Belfast Agreement in 1998<sup>46</sup>.</p> <p>He said that <i>“Accountability, cited by proponents of the Bill, depends on the international standing of Irish degrees and awards, the international research and standing of Irish academics and graduates and the international external examiners who validate the courses and awards of Irish institutions. All of these factors are highly regarded abroad”</i><sup>47</sup>.</p> <p>He has further argued that the accountability of the sector for finance is already covered by Article 33 of the Constitution as functions of the Comptroller and Auditor General<sup>48</sup>.</p>
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<sup>45</sup> Moreau, Emer. “On Governance Bill, Trinity Asks: What Problem Is Really Being Addressed?” Universitytimes.ie, 13 Jan. 2022, <https://universitytimes.ie/2022/01/on-governance-bill-trinity-asks-what-problem-is-really-being-addressed/>.

<sup>46</sup> McConnell, Daniel. “Trinity Students and Staff Say Reforms “Threaten Autonomy and Status.”” Irish Examiner, 4 June 2022, [www.irishexaminer.com/news/arid-40888016.html](http://www.irishexaminer.com/news/arid-40888016.html). Accessed 2 Sept. 2022.

<sup>47</sup> Personal Communication.

<sup>48</sup> Ibid.



		Finally, it was argued by him that the historic protection for the autonomy of academia in Ireland, the U.K. and the U.S. lay in their legal status as charter corporations. The U.S. Supreme Court Case <i>Dartmouth College v. Woodward</i> (1819), which held that charters are protected against state interference, needs to be contrasted with the bill's intention to amend such charters. When asked to put the legal ruling into the Oireachtas Library, Minister Harris refused <sup>49</sup> .
Professor Eoin Devereux	University of Limerick	In an op-ed to the Irish Times, he stated that the <i>“proposed legislation on university governance will shrink, not only the size of governing authorities, but will also serve to muzzle the voices of academic and administrative staff. As outlined, membership will be weighted in favour of external (including ministerially appointed) members. Far from guaranteeing more robust governance, the more likely outcome will be a further constraining of critical voices.”</i> <sup>50</sup>
Dr. John Walsh	Chair of TCD's IFUT branch	He stated to University Times that the bill follows a rigid corporate philosophy, that it is an attack on the autonomy of institutions and that it seeks to increase the power of senior

<sup>49</sup> Oireachtas, Houses of the. “Higher Education Authority Bill 2022: Second Stage – Seanad Éireann (26th Seanad) – Tuesday, 28 Jun 2022 – Houses of the Oireachtas.” *Www.oireachtas.ie*, 28 June 2022, [www.oireachtas.ie/en/debates/debate/seanad/2022-06-28/22/](http://www.oireachtas.ie/en/debates/debate/seanad/2022-06-28/22/) .

<sup>50</sup> Devereux, Eoin. “University Governance.” *The Irish Times*, 6 Jan. 2022, <https://www.irishtimes.com/opinion/letters/university-governance-1.4769582> . Accessed 2 Sept. 2022.

		management to the detriment of academic staff. He further added that external and ministerial members have a bias towards corporate types <sup>51</sup> .
Professor Eunan O’Halpin	Trinity College Dublin	<p>Speaking about the Board Review Working Group, a committee of Trinity established in the wake of the HEA Bill 2022 consultation, he wrote an op-ed for the University Times.</p> <p><i>“The assumptions that underpin the working group are a) that a smaller Board will necessarily provide better governance in terms both of strategic direction and of oversight of administration; b) that an increase in, or perhaps a preponderance, of external Board members automatically leads to better governance in all third/fourth level institutions; and c) that all Board members should possess demonstrable “competences” – presumably to be tested in some pseudoscientific matrix or Tinder-like app.”<sup>52</sup></i></p> <p>He later stated as the bill passed through the various legislative states, that it has</p>

<sup>51</sup> Moreau, Emer. “On Governance Bill, Trinity Asks: What Problem Is Really Being Addressed?” Universitytimes.ie, 13 Jan. 2022, <https://universitytimes.ie/2022/01/on-governance-bill-trinity-asks-what-problem-is-really-being-addressed/> .

<sup>52</sup> O’Halpin, Eunan. “Reshaping Board Will Change Trinity’s Governance – and Not for the Better.” Universitytimes.ie, 30 Apr. 2020, <https://universitytimes.ie/2020/04/reshaping-board-will-change-trinitys-governance-and-not-for-the-better/> . Accessed 2 Sept. 2022.

		improved <sup>53</sup> .
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A group of 60 academics in addition to the Scholar's Committee from Trinity signed an open letter denouncing the government's proposed changes in March 2021. The letter stated that while *"managerialism has eroded the traditional liberal ethos of the third-level sector over the last two decades, establishing a culture inimical to academic excellence and freedom, the Board has upheld its democratic functions primarily through the free and open election of its membership. It should not be the latest casualty of a shift towards an increasingly top-down undemocratic governance structure"*<sup>54</sup>.

## Government's Response

Fianna Fail, Fine Gael, the Green Party, the Department of Further and Higher Education, Research, Innovation and Science (DFHERIS), Minister Simon Harris and Senator Malcolm Byrne have been adamant in defending this bill.

## Composition of HEA Board

When it comes to the composition of HEA Board, it was presented as a positive that one of the seats will go to a student representative from the Union of Students Ireland (USI). However, it is just one vote against a lot of apparatchiks provided for by the Minister who will always vote against student interests. They have not listened to the USI in committees so far, as evidenced by a recent radicalization of the national union, in which they are organising a mass student walkout on October 13th<sup>55</sup>. Furthermore, it is not actually set down that the nominated student of the USI will be on the HEA Board. As per (S16(2)(b)), what is set down is that one of the members appointed to the HEA Board will be from a nomination by the national student union of a student or a full-time officer of a national student union. However, the nominee can be rejected. The 12-member HEA Board will be appointed by the Minister as per section (S16(2)(a)), and so it is their choice. Furthermore, since there is a lack of a definition for the *"national student union"* (S16(2)(b)), one has to rely on the definition for *"student union"* (S2), at which point the same issue arises as with

<sup>53</sup> Moreau, Emer. "On Governance Bill, Trinity Asks: What Problem Is Really Being Addressed?" Universitytimes.ie, 13 Jan. 2022, <https://universitytimes.ie/2022/01/on-governance-bill-trinity-asks-what-problem-is-really-being-addressed/>.

<sup>54</sup> Trinity Academics. "Open Letter: In Opposition to Govt's Proposed Reform of Governance Structures." Universitytimes.ie, 3 Mar. 2021, <https://universitytimes.ie/2021/03/open-letter-in-opposition-to-govts-proposed-reform-of-governance-structures/>. Accessed 2 Sept. 2022.

<sup>55</sup> Mulgrew, Seoirse. "Students Plan Walkout from Lectures to Highlight Accommodation Crisis." Independent, 29 Aug. 2022, [www.independent.ie/irish-news/education/students-plan-walkout-from-lectures-to-highlight-accommodation-crisis-41944200.html](http://www.independent.ie/irish-news/education/students-plan-walkout-from-lectures-to-highlight-accommodation-crisis-41944200.html).

local student unions. In the U.K, the government cut engagement with the National Union of Students (NUS), instead replacing them on committee with individual student unions or alternative bodies such as the Office for Students' student panel in May 2022<sup>56</sup>.

When Rose-Conway Walsh, Education Spokesperson for Sinn Féin, tabled amendments on the 22nd of June 2022 in the Daíl to include trade union representatives as part of the HEA Board, this was rejected by Minister Simon Harris (Report Amendments, 25 and 27). The reasoning given was that the HEA Board is a competency-based board<sup>57</sup>.

This reasoning raises questions. The competency-based board is for fulfilling the functions of the HEA, and is accountable to the Minister. If this reasoning is taken to its logical conclusion, the fact that student representatives are on the board means that the DFHERIS regards them as part of the administrative superstructure of the HEA. This might be because the Union of Students Ireland (USI), through its many programmes like NsTep, StudentSurvey.ie, QQI partnerships and the likes has become partly subsumed into a bureaucratic arm of the HEA. Whereas, on the other hand, trade unions would be harder to control. Since the Board is accountable to the Minister (S15(4)), it is also unclear how the national student union is supposed to represent its constituents in a political capacity. This is a worrying precedent. Also, there are some things that competencies cannot legislate for, such as compassion.

## Proportionality of Student Representation

The proportionality argument fails when one considers a holistic approach of students and staff as a bloc against ministerial, external and senior management members. We posit that students and staff are those who are likely to push for progressive policies, whereas senior management, ministerial and external members are likely to advocate the further commercialization of the sector. This is why on the diagrams, the litmus test of democracy is conducted holistically, with the makeup of the diametrically opposed groups in contrast, rather than in isolation. The diagrams show that the bill benefits not students or staff, but those in power.

The loss of students is especially problematic considering that the country is in the aftershock of a pandemic, financial and mental health-wise. In Trinity, the Education Officer will be lost from the Board, who is a wealth of knowledge in terms of academic issues that students face. Each of these changes drastically alter the dynamic of governing bodies, in ways that are not visible at first glance from counting numbers or proportions. The human aspect is disregarded in the bill, and rather than it being permissive, it is prohibitive. While

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<sup>56</sup> Jackson, Marie. "NUS: Government Cuts Students' Union Links over Anti-Semitism Concerns." BBC News, 14 May 2022, [www.bbc.com/news/uk-61447105](http://www.bbc.com/news/uk-61447105) . Accessed 2 Sept. 2022.

<sup>57</sup> VideoParliament Ireland. "Deputy Rose Conway-Walsh- Speech from 22 Jun 2022." Wwww.youtube.com, 22 June 2022, [www.youtube.com/watch?v=BtZxCVMaYA4&ab\\_channel=VideoParliamentIreland](http://www.youtube.com/watch?v=BtZxCVMaYA4&ab_channel=VideoParliamentIreland) . Accessed 2 Sept. 2022.

there are 2 cases out of 13 in which student representation will be increased by 1 member, we believe on the whole the changes will leave our communities worse-off.

## Governing Body Details Are the Institution's Jurisdiction

Much of the responses of the government come not from a legal reading of the bill, but from an appeal to intentions. The bill has to be read in scrutiny, in terms of what possibilities it permits considering a bad faith actor. For example, when department officials met with Senators on the 11th of July 2022<sup>58</sup>, the answers to questions are revelatory of this thinking.

To the question *“considering that the composition of the 5 internal members on the governing bodies of higher-education institutions as listed in the HEA Bill 2022 does not guarantee either trade union or academic staff representation explicitly, how will this bill guarantee that those with a democratic mandate will sit on governing bodies of our institutions?”*, the answer given by DFHERIS officials was that the *“legislation allows for a flexible mix of academic, non-academic in accordance with the procedures set out by individual HEIs as the individual HEI requires”*. In other words, no trade union representation, and the keywords *“flexible”* and *“allows for”* implies there is no guarantee, and this is up to the institution's senior management to decide. This is in line with analysis in previous sections of this report. It certainly allows for, but the way the bill is worded does not require it.

To the question *“considering that the bill does not guarantee that student representatives are elected to governing bodies of higher-education institutions, how will this bill protect the autonomy of student unions and their democratic mandate to be on governing bodies?”*, the answer given by DFHERIS officials was that procedures will be *“be set out by each governing body regarding the election of students to its governing body”*. In accordance with previous analysis, the governing body, with reduced democracy, will not necessarily decide what is the best for students as constituents.

In both cases, the legislation is disregarded. The legislation is interpreted through a best-case scenario. This is not an appropriate answer.

## Governing Bodies are 'Unwieldy'

The argument that governing bodies, like that of UCD which has 40 members, are 'unwieldy', 'cumbersome' or 'ineffective' is rooted in a corporate thinking that ignores international best practice. So is the insistence on competency-based governing bodies, which by philosophy denies representation of trade unions. The academic consensus on the

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<sup>58</sup> Students4Change. “DFHERIS Officials Admit HEA Bill 2022 Has No Guarantees for Trade Union, Academic Staff and Democratic Student Representation, FOI Reveals.” Students4Change, 12 Aug. 2022, <https://students4change.eu/2022/08/12/dfheris-officials-admit-hea-bill-2022-has-no-guarantees-for-trade-union-academic-staff-and-democratic-student-representation-foi-reveals/>. Accessed 2 Sept. 2022.

matter is that the notion of governing body effectiveness is contested<sup>59</sup>. From one framework to another, the answer to what effectiveness is varies. If effectiveness is taken to be to push the commercialization of academia and therefore be cost-efficient, then there is no doubt which is better. On the other hand, if effectiveness is taken to be democratic governance by the community for the community, another answer arises. The Irish Congress of Trade Unions pointed out that academic institutions with the highest levels of autonomy and where representation has not been diluted by externals are also those with the highest reputations such as Oxford and Cambridge<sup>60</sup>. This point was also raised by Rose Conway-Walsh, Education Spokesperson for Sinn Féin, in the Select Committee on Education and Skills on the 27th of April 2022<sup>61</sup>.

When this was brought to the attention of Minister Harris in the course of Seanad debates, at one point, he justified the rise in external membership with Trinity's Board Review Working Group<sup>62</sup>. We would like to make note of it that this working group was dominated by the apparatchiks of the Provost, with a lack of inclusion of professional and academic trade unions, and its output was highly criticised by the Trinity community<sup>64</sup>, including in an open letter. All three trade unions, IFUT, SIPTU and UNITE expressed their 'disgust'<sup>65</sup> in an email at the way the consultation was conducted. It seems that this is the way democracy works. This exposes the complicit of senior management in this bill.

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<sup>59</sup> Schofield, Allan, "WHAT IS AN EFFECTIVE AND HIGH PERFORMING GOVERNING BODY IN UK HIGHER EDUCATION?", [www.bris.ac.uk](http://www.bris.ac.uk), January 2009, <http://www.bris.ac.uk/media-library/sites/university/migrated/documents/highperforminggoverningbody.pdf>

<sup>60</sup> Irish Congress of Trade Unions, "Submission to the Department of Further & Higher Education Consultation on Reform of HEA Legislation/ HEI Governance", [assets.gov.ie](https://assets.gov.ie), March 2021, <https://assets.gov.ie/134201/8b1ccb5c-514f-4389-8644-abadc9cc468e.pdf>

<sup>61</sup> Oireachtas, Houses of the. "Select Committee on Education, Further and Higher Education, Research, Innovation and Science Debate - Wednesday, 27 Apr 2022." [Www.oireachtas.ie](http://www.oireachtas.ie), 27 Apr. 2022, [www.oireachtas.ie/en/debates/debate/select\\_committee\\_on\\_education\\_further\\_and\\_higher\\_education\\_research\\_innovation\\_and\\_science/2022-04-27/2/?highlight%5B0%5D=higher&highlight%5B1%5D=education&highlight%5B2%5D=authority&highlight%5B3%5D=bill&highlight%5B4%5D=2022](http://www.oireachtas.ie/en/debates/debate/select_committee_on_education_further_and_higher_education_research_innovation_and_science/2022-04-27/2/?highlight%5B0%5D=higher&highlight%5B1%5D=education&highlight%5B2%5D=authority&highlight%5B3%5D=bill&highlight%5B4%5D=2022) . Accessed 2 Sept. 2022.

<sup>62</sup> Oireachtas, Houses of the. "Higher Education Authority Bill 2022: Second Stage – Seanad Éireann (26th Seanad) – Tuesday, 28 Jun 2022 – Houses of the Oireachtas." [Www.oireachtas.ie](http://www.oireachtas.ie), 28 June 2022, [www.oireachtas.ie/en/debates/debate/seanad/2022-06-28/22/](http://www.oireachtas.ie/en/debates/debate/seanad/2022-06-28/22/) .

<sup>63</sup> Students4Change. "https://twitter.com/S4c\_group/Status/1542162578302017539." Twitter, 29 June 2022, [https://twitter.com/S4c\\_group/status/1542162578302017539](https://twitter.com/S4c_group/status/1542162578302017539) . Accessed 2 Sept. 2022.

<sup>64</sup> MacNamee, Donal. "Board Members Slam Proposals That Could Reshape Trinity's Governance." [Universitytimes.ie](http://Universitytimes.ie), 30 Apr. 2020, <https://universitytimes.ie/2020/04/board-members-slam-proposals-that-could-reshape-trinitys-governance/> . Accessed 2 Sept. 2022.

<sup>65</sup> IFUT, SIPTU, UNITE TCD branches, "Re: Board Review", [assets.gov.ie](https://assets.gov.ie), 27 August 2020, <https://assets.gov.ie/134231/0c8ef0f0-a671-4f47-8f9f-17d814b3cbbc.pdf>

Minister Harris has also stated that it is not good governance for the Provost of Trinity to also be the Chairperson of the Board<sup>66</sup>. We agree with this. However, this does not justify the bill in any way, shape or form.

## Governing Bodies are Already Dominated by Senior Management

It is true that governing bodies are already plagued with the problem of group-think, and of academic members being too scared to speak out. Furthermore, it is the chief officers and their apparatchiks who dominate the discussions. However, for the reasons outlined, the situation will not be improved, and in fact, will be worsened, with the HEA Bill 2022.

## Using Section 143 for Students' Union Autonomy

On the 22nd of June 2022, Minister Harris updated the USI via email following their meeting on the 7th of June, according to a request under the Freedom of Information Act (2014)<sup>67</sup>. He rejects an amendment to the definition of students' union. He justifies this by pointing to correspondence that he had with the Attorney-General's Office (AGO). This correspondence has not been published anywhere.

Minister Harris claims that (S143) will be used to guarantee student union autonomy, in other words the power to issue "*guidelines, codes and policies*" to institutions by the HEA or on request from the Minister to the HEA will be used for this. What this is saying is that not only will the bill take away the autonomy of institutions, but that student union autonomy will be at the whim of the department. This is not in any sort of framework or legislative solution to the idea of student union autonomy, which Minister Harris later admits in the email, saying that "*these issues are not directly addressed in the new legislation*".

It is furthermore unclear how student unions not affiliated with the USI, like UCDSU, UL Student Life, UL Postgraduate Students' Union and TCDGSU will be able to raise their issues with their institutions.

## Student Partnerships

The Minister, in the aforementioned email, also mentions (S43(2)(a)), which will provide for the training of student representatives on governing bodies. This is not an answer to the

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<sup>66</sup> <https://www.irishexaminer.com/news/arid-40888016.html>

<sup>67</sup> Students4Change. "FOI Reveals IUA Called HEA Bill 2022 "Unworkable", Multiple Universities Dissent at "Command and Control" Structure." Students4Change, 27 June 2022, <https://students4change.eu/2022/06/27/foi-reveals-iaa-called-hea-bill-2022-unworkable-multiple-universities-dissent-at-command-and-control-structure/>. Accessed 2 Sept. 2022.

autonomy of students' unions. Furthermore, this sort of training fits well into the service-provider, KPI-centric and neoliberal student union, wherein everything they do has to fit into the labour market and be respectable and professional.

The Minister further talks about (S44(1)), which provides powers for the HEA Board to consult with “*representatives of students*” (the issues with the naming thereof having been previously discussed) on national topics. Following, the email mentions (S45), the HEA's student surveys that will be a co-operation between “representatives of students”, institutions and the Quality and Qualifications Ireland (QQI) (S45(1)). In the email, the Minister mentions StudentSurvey.ie as an example of such a partnership.

However, StudentSurvey.ie is a corporate survey that pushes a cookie-cutter capitalist logic, and its equivalent the National Student Survey (NSS) was boycotted in the U.K. by the National Union of Students (NUS) with the support of University College Union (UCU)<sup>68</sup> and some local student unions<sup>69</sup> for corporatizing institutions and raising tuition fees. Like league tables, they seek to pit institutions against each other in meaningless categories, and tend to ignore the cost of education, equality and welfare.

QQI and their reports on institutions are also mentioned in the email. QQI only cares about quality of education insofar as the bottom line, how financially viable the way institutions run their courses. For example, they would not consider the casualization of the academic workforce as an issue in institutions, and would not give recommendations on the topic.

The partnerships that this bill promotes is known as ‘commodified dissent’<sup>70</sup>. They are imbued with corporate philosophy. Furthermore, they are used to pacify the student movement. To take an example, despite these surveys, nothing fundamental changes. They are by-products of managerialism, a way to give the illusion that all issues within institutions can be remedied by bureaucratic-managerial means, thus divorcing one from wider socioeconomic context - the ruling mode of production - and suggesting that there is no link between the quality of education and capitalism's encroachment on academia.

## Defining Students' Unions Would be Exclusionary

In one of the strangest claims throughout the course of this bill, the Minister claimed that defining students' union would be exclusionary. He said that it would be too proscriptive. The basis for this was an opinion from the AGO, the contents of which no one has seen or

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<sup>68</sup> UCU, “I support the NUS boycott of the National Student Survey”, [www.ucu.org.uk](http://www.ucu.org.uk), December 2016, [https://www.ucu.org.uk/media/8432/Why-boycott-the-NSS-leaflet/pdf/Boycott\\_NSS\\_flyer\\_Dec16.pdf](https://www.ucu.org.uk/media/8432/Why-boycott-the-NSS-leaflet/pdf/Boycott_NSS_flyer_Dec16.pdf)

<sup>69</sup> Burns, Samuel. “Oxford Students Successfully Boycott National Student Survey.” *The Oxford Student*, 7 July 2019, <https://www.oxfordstudent.com/2019/07/07/oxford-students-successfully-boycott-national-student-survey/>. Accessed 2 Sept. 2022.

<sup>70</sup> Dolhinow, Rebecca. “Commodified Dissent: The Future of Student Activism?” *Www.societyandspace.org*, 3 Feb. 2020, [www.societyandspace.org/articles/commodified-dissent-the-future-of-student-activism](http://www.societyandspace.org/articles/commodified-dissent-the-future-of-student-activism).



published. It was also claimed by him in the same session that in the bill, student unions are limited to a consultative role<sup>71</sup>. We disagree with this characterization and believe that student unions should be regarded as key stakeholders of academic institutions.

## Welfare Funding Will Increase

Certain student unions, like UCDSU, have fallen trap to the promises of the DFHERIS and have expressed support for certain aspects of the bill, such as the ring-fenced funding it can provide. This is understandable. For example, UCD has developed lengthy waiting lists for counselling services due to a reliance on outsourcing, and when funding was provided by the HEA for improving the situation, this was not properly spent<sup>72</sup>. The argument goes that since senior management have been terrible at spending money on welfare supports for students and staff, the government will act to force institutions to spend in a student-centric way. After all, according to (S8(2)), the student is the primary consideration of the HEA.

The bill itself does not contain any provisions for mental health funding. The “Student Mental Health and Suicide Prevention Framework”, already published in October 2020 will fit in to provide for it under (S37(4)(a)) of the legislation. However, government policy has been to target welfare funding during austerity and beyond. There have been cuts in 2012<sup>73</sup>, 2016<sup>74</sup>, and a decline from 16% to 6% of mental health funding as part of the health budget since the 1980s<sup>75</sup>. There is no indication of this changing. A commitment in the financial plan to the demands of USI Budget Submission 2022 would be welcome, which stated a need of 28 million euros to provide adequate care across Colleges<sup>76</sup>. The government provided 5 million

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<sup>71</sup> Students4Change. “[https://twitter.com/S4c\\_group/Status/1545485129912619010](https://twitter.com/S4c_group/Status/1545485129912619010).” Twitter, 8 July 2022, [https://twitter.com/S4C\\_group/status/1545485129912619010](https://twitter.com/S4C_group/status/1545485129912619010) . Accessed 2 Sept. 2022.

<sup>72</sup> Personal Communication.

<sup>73</sup> O’Connor, Niamh. “Mental Health Reform Calls Protest on Unacceptable Cuts to Mental Health Budget.” Mental Health Reform, 6 Sept. 2012, [www.mentalhealthreform.ie/uncategorised/mental-health-reform-calls-protest-on-unacceptable-cuts-to-mental-health-budget/](http://www.mentalhealthreform.ie/uncategorised/mental-health-reform-calls-protest-on-unacceptable-cuts-to-mental-health-budget/) . Accessed 2 Sept. 2022.

<sup>74</sup> MacGuill, Dan. “FactCheck: Has the Government Actually Cut the Mental Health Budget by €20 Million?” TheJournal.ie, 25 Oct. 2016, [www.thejournal.ie/mental-health-e20-million-cut-budget-2017-facts-3044032-Oct2016/](http://www.thejournal.ie/mental-health-e20-million-cut-budget-2017-facts-3044032-Oct2016/) . Accessed 2 Sept. 2022.

<sup>75</sup> Fagan, Maresa. “Budget 2021 Allocation to Mental Health Deemed “Totally Inadequate.”” Irish Examiner, 15 Oct. 2020, [www.irishexaminer.com/news/arid-40065236.html#:~:text=Funding%20for%20mental%20health%20as](http://www.irishexaminer.com/news/arid-40065236.html#:~:text=Funding%20for%20mental%20health%20as) . Accessed 2 Sept. 2022.

<sup>76</sup> Union of Students Ireland, “Reboot: Funding Ireland’s Future Education and Beyond”, usi.ie, October 2020, <https://usi.ie/wp-content/uploads/2021/10/USI-Pre-Budget-Submission.pdf>

Euros<sup>77</sup> instead in the budget. This suggests that the possibility of fixing underfunded counselling and health services across institutions will not materialise.

## Institutions are Mismanaged

Senior management have played a key part in the commercialization of the third-level sector, if not explicitly but certainly by their passivity in face of the neoliberal coalition. However, the solution is not a state takeover of academia. It is building student-staff grassroots community power from below.

We posit that the bill represents an inter-bourgeois battle, an opposition between the government and senior management, and one which fades away once to the question of power, student-and-staff grassroots control is posed as an answer. There will be more oversight of institutions, but it is by the government. Both institutional leaders and the government belong to the ruling class. The actual solution to the issues raised by proponents of the bill is neither senior management nor the state. Oversight should be done on the frontlines, via non-bureaucratic and truly democratic governance. The de-marketization of institutions will lead to the flourishing of institutional democracy, and oversight would arise via such structures from students and staff. The Irish Universities Association (IUA) spoke of oversight *“as close to the frontline as possible – as in, with the governing authority and the relevant institution”*<sup>78</sup> and used it as an argument.

It is also of note that many of the ills of modern academia arise from government underfunding, including but not limited to corporatization, bureaucratic sprawl and the erosion of democratic governance in favour of autocracy.

## There was Consultation, and a Democratic Process

Firstly, Covid-19 has meant that the bill was not properly debated. It put a stop to a consultative process, and everyone was preoccupied with other matters. This bill should have been debated, line-by-line, on every campus in the country. At Trinity, the inner-institutional consultation process with the wider-community was a Microsoft Teams call lasting 1 hour on the 30th May 2022 from 1.00pm to 2.00pm, for a bill that will define the

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<sup>77</sup> Byrne, Kate. “Harris Announces €22m in Funding for Student Supports.” Universitytimes.ie, 11 Oct. 2021, <https://universitytimes.ie/2021/10/harris-announces-e22m-in-funding-for-student-supports/>. Accessed 2 Sept. 2022.

<sup>78</sup> Moreau, Emer, and Mairead Maguire. “Universities’ Autonomy Must Be Protected under Governance Bill, Says IUA.” Universitytimes.ie, 6 July 2021, <https://universitytimes.ie/2021/07/universities-autonomy-must-be-protected-under-governance-bill-says-iaa/>. Accessed 2 Sept. 2022.

future of academia for decades<sup>79</sup>. Furthermore, some of the consultative processes, like the one in February 2021 to March 2021, open only 11 days, were extremely short and rushed.

Secondly, as it stands, all six university senators opposed this bill. The university senators have proposed 329 amendments, of which 6 were discussed so far, and one session of the Seanad guillotined<sup>80</sup>. Their constituencies have 180,000 voters. However, these amendments have been rejected by the government. There seemed to be a sense of urgency, and of railroading this bill, without due cause. The bill has grown from 124 pages when first introduced in the Daíl to 138 pages as amended in Committee/Select Committee to 144 pages in the Seanad<sup>81</sup>. When looking at the amendments that were passed, however, no paradigm-shifting improvements were made<sup>82</sup>. Irish language representation was greatly strengthened, consultation requirements were widened, one extra student was added to governing bodies and so was one external member, and the requirement for CEO of the HEA to get Board approval for three remedial measures as discussed was proscribed. It was also added that in the one case discussed, the bringing of an appeal acts as a stay on the decision. The provisions around the possibility of publishing guidelines the Minister issues to the HEA (S12(4)) and the requirement to publish directions under (S143) were also added. None of this fundamentally changes the nature of this bill.

Finally, it is a mistaken conception to think that a bill which takes away democratic student, staff and trade union representation from governing bodies is pro-democratic. It cannot arise from truly democratic consultative processes, precisely because of this fact. Consider, for example, that the number of students at Trinity grew from ~2,000 or so in the 1960s to ~20,000 today<sup>83</sup>. Yet, the number of students on Board is being cut by one. This trend is paralleled on a national level, since in 1971 there were 20,000 students and today there are 200,000<sup>84</sup>. When the same demographic change happens in towns or cities, parliamentary constituencies are redrawn and more representatives are added. What is happening with the

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<sup>79</sup> Connolly, Shannon, et al. "Concerns over Student Representation Dominate at HEA Bill Townhall." Trinity News, 30 May 2022, <https://trinitynews.ie/2022/05/concerns-over-student-representation-dominate-at-hea-bill-townhall/> . Accessed 2 Sept. 2022.

<sup>80</sup> McConnell, Daniel. "Controversial Bill to Overhaul University Sector Delayed until Autumn." Irish Examiner, 13 July 2022, <https://www.irishexaminer.com/news/politics/arid-40917533.html> . Accessed 2 Sept. 2022.

<sup>81</sup> Oireachtas, Houses of the. "Higher Education Authority Bill 2022 – No. 1 of 2022 – Houses of the Oireachtas." *Www.oireachtas.ie*, 7 Jan. 2022, <https://www.oireachtas.ie/en/bills/bill/2022/1/?tab=bill-text> . Accessed 2 Sept. 2022.

<sup>82</sup> Draftable. "Comparison HEA Bill 2022 as Initiated versus as Passed by Dáil Eireann." Draftable.com, 2022, <https://draftable.com/compare/TMpAuBrJVjJW> . Accessed 2 Sept. 2022.

<sup>83</sup> Oireachtas. "Higher Education Authority Bill 2022: Second Stage – Seanad Éireann (26th Seanad) – Tuesday, 28 Jun 2022 – Houses of the Oireachtas." *Www.oireachtas.ie*, 28 June 2022, [www.oireachtas.ie/en/debates/debate/seanad/2022-06-28/22/](http://www.oireachtas.ie/en/debates/debate/seanad/2022-06-28/22/).

<sup>84</sup> *Ibid.*

bill is that the ~250,000 students and ~15,000 staff<sup>85</sup> are being disenfranchised across the island.

We have analysed anonymized correspondence between Minister Harris and Senators under a Freedom of Information Act (2014) request<sup>86</sup>, and have outlined the amendments to the bill and their rejection in the table below.

Amendment targets	Accepted	Reason
Priority group	No	While the amendments reflect policy intent, defining it would be inadvertently exclusionary as priority groups may change.
Equality and equity	No	While the intent of the amendments was noted, the Minister said that he is happy to engage with the Senators on how to promote equality and equity under various sections of the bill, such as S46.
Students' union definition and election of students to governing bodies	No	<p>Legal advice was taken, and S143 can be used to protect students' union autonomy.</p> <p>It is furthermore not the policy intent to put students who have not been elected by the students' union onto governing bodies.</p> <p>Finally, there are already provisions existing with regards to engaging students in the decision-making of third-level institutions and the government.</p>

<sup>85</sup> Oireachtas Library and Research Service. "Education in Ireland: Statistical Snapshot (2020)." data.oireachtas.ie, 2020, [https://data.oireachtas.ie/ie/oireachtas/libraryResearch/2020/2020-04-03\\_l-rs-infographic-education-in-ireland-a-statistical-snapshot\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/libraryResearch/2020/2020-04-03_l-rs-infographic-education-in-ireland-a-statistical-snapshot_en.pdf)

<sup>86</sup> Students4Change. "DFHERIS Officials Admit HEA Bill 2022 Has No Guarantees for Trade Union, Academic Staff and Democratic Student Representation, FOI Reveals." *Students4Change*, 12 Aug. 2022, <https://students4change.eu/2022/08/12/dfheris-officials-admit-hea-bill-2022-has-no-guarantees-for-trade-union-academic-staff-and-democratic-student-representation-foi-reveals/> . Accessed 2 Sept. 2022.

Academic freedom for students and staff	No	Provisions already exist in the sectoral legislation for staff, one of the objects of the HEA is academic freedom, and there are no restrictions for students' academic freedom in the bill.
Mental health	No	It does not appear appropriate to include mental health in the bill as there are other important policies which need to be implemented by the HEA that are not prescribed. S143 can be used for mental health policies, and the Minister is happy to engage with Senators on how to do this.
Comply-or-explain	No	Legal advice states that the comply-or-explain principle is already contained within the bill.
Academic precarity	No	It would not be appropriate to include provisions relating to academic precarity since that is covered by employment legislation.
Consultation with more groups under various sections of the bill	No	There is a risk in listing so many groups since it could end up excluding some. The bill already provides for authorities to consult with whomever they would like and so additional consultation would fall within these provisions.
Environmental provisions	No	There are already provisions, legal advice has been received which state that it would not be appropriate to include amendments, and S143 can be used for this.
Citizens' Assembly	No	The results of the Citizens' Assembly, the Minister promises, can be

		incorporated under the strategy for tertiary education in S33.
Diverse institutions with diverse missions	No	The policy intent of this bill is to maintain diversity within higher-education institutions.
Trade unions on HEA Board	No	The HEA Board is a competency-based body.
Board approval required before conditions of funding are applied by the CEO of the HEA	No	The CEO of the HEA is already an accountable personal, but is not accountable to the Board, but to the Committee of the Public Accounts (PAC).
Board approval required before application of remedial measures	No	The CEO of the HEA may need to act in a timely manner.
Land, property and finances	No	For universities, this is not applicable, amendments are necessary for the role of the HEA and the amendments were made with the consent of the Department for Public Expenditure and Reform (D/PER)
Governing bodies	No	The Minister is satisfied that the governing bodies are the right size, composition and that they are competency-based.

Note the insistence that the bill already follows a comply-or-explain principle despite higher-level institutions saying it does not and how the legal advice argument is used multiple times, with no further details provided. It is also of note that instead of strengthening the bill, amendments are refused on the basis that a passing mention of the issues are already provided for or by referring to policy intent. A lot of the responses claim that the issues raised can be handled through the new powers given to the Minister, CEO of the HEA or the HEA itself, but possibility and intent-based legislation is not definitive. None of these arguments are convincing. This is not genuine engagement despite promises by Minister Harris.

*"I am here to engage in good faith. It will take the time that it takes, and we will work our way through it. I would not be so rude, as a Member of the Lower House, to try to tell the Upper House how to do its business."*

- Minister Harris promising that all amendments will be considered on the 28th of June 2022<sup>87</sup>.

## Implications for the Peace Process

Ireland and the United Kingdom are the partners in the Belfast Agreement/Good Friday Agreement (1998). Following referendums in both jurisdictions, Article 3 was included in the Irish Constitution aspiring to *"unite all the people who share the territory of the island of Ireland in all the diversity of their identities and traditions"*. Trinity College Dublin has a diverse legal identity, a unique system of governance and traditions and a strong all-island linkage to both major traditions. For example, a copy of every book published in the United Kingdom is given to Trinity, as well as to the universities of Oxford and Cambridge, and national libraries in London, Edinburgh and Aberystwyth. The bill does not accommodate such wider dimensions incorporated in the Irish Constitution by the changes in Article 3 of the Constitution. For example, no consultation was held with the unionist community regarding the changes to Trinity, a point that has been brought up in the Seanad Éireann by Senator David Norris and also spoken of by Professor Sean Barrett<sup>88</sup>. The bill contradicts the diversity of traditions and identities of higher-education institutions by employing a one-size-fits-all approach, and the attack on the autonomy of Trinity sets a bad precedent in a time where tensions already run high.

## Implications for the Academic Climate

The bill will take away many of the safeguards, such as election of students and staff rather than appointment, and will eviscerate democratic compositions across Ireland by reducing students and staff in favour of external, ministerial and managerial members. These changes follow the logic of public management 'reforms' in other jurisdictions, which seek merely to increase the power of senior management and of the politico-economic elite.

It is imbued with a rigid, corporate philosophy that seeks a one-size-fits-all solution, in the name of efficiency, to the issues that academic institutions face. This is against international best practice. Some of the best-performing institutions have large, diverse and democratic governing bodies, with internal majorities. The real issue is that Irish institutions have been starved for funding for decades. If the government is concerned about value-for-money, governance issues or inadequate performance, it needs to look no further than itself. It is a crisis that the government themselves have created, and are now stepping in as saviours to fix it. However, they are not tackling the root cause. They will further push their disastrous neoliberal agenda, with the powers conferred onto them through this bill. The funding for institutions is still not adequate, and so the logical consequence of that is that the bill will mean the imposition of an austerity regime by the government on academia.

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<sup>87</sup> Oireachtas, Houses of the. "Higher Education Authority Bill 2022: Second Stage – Seanad Éireann (26th Seanad) – Tuesday, 28 Jun 2022 – Houses of the Oireachtas." *Www.oireachtas.ie*, 28 June 2022, [www.oireachtas.ie/en/debates/debate/seanad/2022-06-28/22/](http://www.oireachtas.ie/en/debates/debate/seanad/2022-06-28/22/) .

<sup>88</sup> Ibid

Students and staff on the ground will be the most affected. The bill is a move towards a U.K-like environment for academia culminating in student loans and student debt. Rising fees, intensified casualization of the workforce, the cut of essential services are just a few of the possible consequences, given the prevailing economic dogma of neoliberalism. Who controls the money will control the policy. Small courses could be cut, programmes merged and academics laid off. In other words, the corporatization of academia will intensify. This will also affect research, specifically further dwindling of blue skies research<sup>89,90</sup> is a likely possibility. Finally, a concern arises, that despite the government's promise of not implementing a student loan system, they might be led down this path, having crushed the ability of stakeholders to dissent at an institutional level. The insistence on KPI-based performance targets, value for money and an obsession with effectiveness are to be interpreted as the outlook that education is useful insofar as it benefits the labour market. It starts with (S8(1)(c)) and (S9(1)(c)) (S9(1)(l)) (S9(1)(m)), which stipulates one of the functions of the HEA is to ensure "*value for money*". It encompasses performance frameworks (S35) and performance agreements (S36). It continues with conditions of funding, one of them being to ensure the money allocated is used in a "*cost effective and beneficial manner*" (S38(2)(b)). Equity of access plan (S46(2)(b)) and lifelong and flexible learning (S47(1)(i) (S47(1)(j)) by the HEA, but also strategic development plan (S61(5)(f)) and equality statement (S62(5)(c)) of institutions all contain provisions restricting actions to securing value-for-money. This is worrying. Academia often conducts non-profitable, yet crucial research. Some of the greatest inventions have been discovered accidentally or after multiple tries, with a lot of money thrown at it. The application of corporate principles to such a process is a grave mistake.

Furthermore, even from a corporate perspective, the bill does not make sense. The state funding of Irish academic institutions stands only at 50%. The state is increasing their power but not increasing their duty of care to the sector. If the changes to the governing bodies are made in the name of value-for-money, then taken to its natural conclusion, students should make up close to, if not a majority of seats. In academic year 2020/21, Trinity's income totalled € 406 million. 13% of this income was the state grant and 41% were student fees<sup>91</sup>. However, it is important to oppose a consumerist interpretation of education, and stand for a communitarian one instead.

It is also of note that while the government put forward this bill while giving the impression that Irish academic institutions are in need of saving, yet the charge sheet against institutions has not been made explicit. For example, all Irish universities rank in the top 5%

<sup>89</sup> Purcell, Conor. "Ireland Lagging behind in Funding "Blue Skies" Scientific Research." The Irish Times, 2 Jan. 2020, [www.irishtimes.com/news/science/ireland-lagging-behind-in-funding-blue-skies-scientific-research-1.4118312](http://www.irishtimes.com/news/science/ireland-lagging-behind-in-funding-blue-skies-scientific-research-1.4118312) . Accessed 2 Sept. 2022.

<sup>90</sup> Irish Federation of University Teachers. "Future Funding of Higher Education in Ireland - IFUT Submission | Irish Federation of University Teachers." Www.ifut.ie, 14 Feb. 2022, [www.ifut.ie/content/future-funding-higher-education-ireland-ifut-submission](http://www.ifut.ie/content/future-funding-higher-education-ireland-ifut-submission) .

<sup>91</sup> Trinity College Dublin, "Consolidated Financial Statements Year ended 30 September 2021", [www.tcd.ie](http://www.tcd.ie), 2021, [https://www.tcd.ie/financial-services/external-assets/pdfs/Consol\\_Financial\\_Statements\\_2021.pdf](https://www.tcd.ie/financial-services/external-assets/pdfs/Consol_Financial_Statements_2021.pdf)



of institutions worldwide, with 34 higher-education institutions across the island offering 5,000 programmes<sup>92</sup>. The bill, instead of further promoting educational excellence, will damage international reputation through the constricting of academic freedom.

The use of the bill if an even-more hostile government came to power could be disastrous. Many of the provisions are based on intention, rather than possible consequences. This is a failing of the authors of the bill. In an age where extremists seem to be winning elections, and the far-right is on the rise, including in Ireland, safeguards against excessive state power are a must.

We would like to conclude our research paper on the HEA Bill 2022 with a quote by the Welsh poet Dylan Thomas, outlining why people who hold power should exercise prudence, as their actions have far-reaching consequences.

*The hand that signed the paper felled a city;  
Five sovereign fingers taxed the breath,  
Doubled the globe of dead and halved a country;  
These five kings did a king to death.*<sup>93</sup>

We trust those with influence will bear the ideals of Dylan Thomas close to their hearts as they respond to our concerns and not 'do to death' the unassuming kingdom of democracy, autonomy and freedom, the lifeblood at the heart of Irish academic institutions.

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<sup>92</sup> Catherine, Fanning. "Long Tradition in Education Excellence." *Www.educationinireland.com*, 2022, [www.educationinireland.com/en/why-study-in-ireland-/ireland-s-strengths/long-tradition-in-education-excellence.html](http://www.educationinireland.com/en/why-study-in-ireland-/ireland-s-strengths/long-tradition-in-education-excellence.html) . Accessed 12 Sept. 2022.

<sup>93</sup> AllPoetry. "The Hand That Signed the Paper by Dylan Thomas." Allpoetry.com, <https://allpoetry.com/The-Hand-That-Signed-The-Paper> .