



**UNIVERSITY *of* LIMERICK**

**O L L S C O I L L U I M N I G H**

**UNIVERSITY OF LIMERICK  
CODE OF GOVERNANCE**

**Approved by Governing Authority 30 May 2014**

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## Introduction

Good governance arrangements are essential for organisations large and small and whether operating in the public or private sectors. Governance comprises the systems and procedures under which organisations are directed and controlled.

The Universities Act, 1997 was very proactive in setting out a framework of accountability for the effective governance of universities. The Act also underscores the autonomy of Irish universities particularly in Section 14(1) which provides that a university shall “*have the right and responsibility to preserve and promote the traditional principles of academic freedom in the conduct of internal and external affairs and be entitled to regulate its affairs in accordance with its independent ethos and traditions*” and “*...if, in the interpretation of this Act, there is a doubt regarding the meaning of any provision, a construction that would promote the ethos and those traditions and principles shall be preferred to a construction that would not so promote*”. The approach to governance set out in this document seeks to preserve the balance between accountability and autonomy which is struck in the Act.

The principles of good governance enshrined in the Universities Act were built upon subsequently in the 2001 Framework: “*The Financial Governance of Irish Universities*” agreed between the HEA and the Conference of the Heads of Irish Universities (now the Irish Universities Association – IUA). In 2007 the HEA/IUA published “*Governance of Irish Universities – A Governance Code of Legislation, Principles, Best Practice and Guidelines*” which updated and replaced the relevant provisions of the 2001 Framework. In 2009 the Department of Finance issued a revised “*Code of Practice for Governance of State Bodies*” which, while covering much of the same areas as the previous Code, updated requirements, responsibilities and accountabilities in certain areas such as internal control, audit and risk management. While many of these had been anticipated in the 2007 Universities Code, additional areas were also addressed. As a result the HEA and the IUA agreed a revised “*Governance of Irish Universities*” in 2012 to reflect the additional provisions in the 2009 Code of Practice.

This document presents the University of Limerick Code Of Governance which addresses the requirements of the agreed sectoral code. It should be noted that the provisions of the University of Limerick Code are supplementary to and do not affect existing statutory requirements relating to the University (See Part 1 of this document) and any other legislation applicable to the University’s activities.

The UL Code of Governance should be seen as an aid to performance and effectiveness and not as an inhibitor of enterprise or innovation. Good governance arrangements necessarily involve having appropriate checks and balances in relation to decision-making in the University, so as to safeguard the collective responsibility of the Governing Authority. This document aims to assist the University and its Governing Authority in the good and proper management of the University and thereby provide comfort to the State and public at large that UL is operating to the highest standards of governance and accountability in its activities.

A key principle of university governance which should be underlined is that Governing Authority bears ultimate responsibility for, and has ultimate authority over, all of the activities of the University of Limerick.

## Executive Summary

**Part 1** of the University of Limerick Code of Governance constitutes a summary of the statutory framework for the governance of the University of Limerick as set down by the Universities Act, 1997. In particular, Part 1 deals with the following areas:

- The requirement to have a Governing Authority in place and the functions of that Governing Authority;
- The Third Schedule of the Act which provides for the operation of the Governing Authority including the terms of its membership and the conduct of business at meetings;
- The role of the Chairperson of the Governing Authority, who is called the Chancellor of the University. This is not a full-time role and the person appointed exercises no function in respect of the control and management of the University other than the functions of Chancellor of the University;
- The role of the Chief Officer, who is called the President of the University. The President is charged with managing and directing the University and has such powers as are necessary and expedient for those purposes subject to policies as set down from time to time by the Governing Authority;
- The provisions of the Act - the University must comply with requirements in the following areas:
  - Quality Assurance (requirements set out in the Universities Act, 1997 have been up-dated by the enactment of the Qualifications & Quality Assurance (Education & Training) Act 2012);
  - Equality and Access;
  - Disposal of Assets and Access to Assets by Third Parties;
  - Remuneration (including adherence to the Agreed Framework between the Universities and the HEA for Departures from Approved Levels of Remuneration, Fees, Allowances and Expenses for University Employees – Appendix 2);
  - Reporting Arrangements – budgets and keeping of accounts and records;
  - Strategic Planning;
  - Borrowing in accordance with the Framework for Borrowing and Loan Guarantees – Appendix 3.

**Part 2** of the University of Limerick Code of Governance is based on an amalgamation of the principles and guidelines set down by the 2012 HEA/IUA “*Governance of Irish Universities*”. In summary Part 2 deals with the following matters:

- The requirement for the University of Limerick to have written Codes of Conduct for members of Governing Authority and employees of the University. Such Codes will take account of the relevant provisions of the Universities Act, 1997, the Ethics in Public Office Act, 1995 and the Standards in Public Office Act, 2001. The requirements of these Codes will, in general, apply to operating subsidiaries of the University.
- The Governing Authority will have a formal schedule of matters specifically reserved to it for decision.
- The collective authority and responsibility of the Governing Authority will be safeguarded and all members will have independent access to the Corporate

Secretary who must ensure members are fully aware of appropriate rules, regulations and procedures.

- Payment of expenses to Governing Authority members and recording of attendance at meetings.
- Areas of responsibility of Governing Authority in addition to those set down by the Universities Act, include:
  - Approving annual accounts;
  - Review of the terms of reference and composition of its Committees;
  - The approval of a policy for Good Faith Reporting in accordance with legislation;
  - Ensuring compliance with the statutory obligations applicable to the University;
  - Maintaining an appropriate relationship with the University's external auditors;
  - Consider and approve an annual Statement of Governance & Internal Control (in accordance with the format set out in Part 2) that is submitted to the HEA;
  - Approving the establishment of subsidiaries of the University of Limerick.
- The role of the Chancellor in relation to Governing Authority is to provide leadership and to promote the well-being and efficient operation of the Governing Authority and to take care it observes the principles of good governance. Through leadership of the Governing Authority, the Chancellor plays a key role in the strategic direction of the University whilst not becoming involved in its day-to-day executive management.
- The role of the President in relation to Governing Authority is to implement the decisions of the Governing Authority and initiate discussion and consultation on proposals concerning the University's future and ensure such proposals are presented to the Governing Authority.
- Members of Governing Authority must maintain confidentiality in relation to all discussions and deliberations of the Governing Authority and will treat in the strictest confidence all information received in their capacity as members or attendees at meetings of the Governing Authority.
- Upon appointment, new members of Governing Authority will be provided with a range of information that will enable them to act in conformity with the applicable provisions of the Universities Act, 1997 and this Code of Governance.
- Central to the conduct of business of the Governing Authority is the requirement that members act impartially and not be influenced in their roles as members by business or social relationships.
- The Governing Authority is responsible for ensuring the University has in place and maintains a sound and robust system of internal control and risk management and reviews the effectiveness of such controls in order to provide reasonable assurance that the University will not be hindered in achieving its objectives.

- The Governing Authority will establish an Audit & Risk Management Committee as a Committee of the Governing Authority. The Audit & Risk Management Committee will be charged with keeping under review the University's audit systems including internal audit, external audit and risk management. The Audit & Risk Management Committee will report to Governing Authority on a regular basis.
- It is the responsibility of Governing Authority to ensure the University is compliant in relation to procurement and tax clearance. It is also a matter for Governing Authority to ensure best practice is followed by the University in disposal of assets or access to assets by third parties and will have regard to investment appraisal and value for money guidelines in the planning, appraisal and management of significant expenditure projects.
- In addition to the requirements of the Universities Act, 1997, the Governing Authority will monitor the implementation of the range of requirements set out in this Code of Governance.
- Governing Authority Procedures are set out in Part 3.

Any queries in relation to this Code or to rules, regulations or processes applicable to the Governing Authority should be directed to the Corporate Secretary at [callista.bennis@ul.ie](mailto:callista.bennis@ul.ie).

## **Part 1: University Legislation and Related Legislative Framework**

### **1.1 The 1997 Act**

1.1.1 The Universities Act 1997 is the primary piece of legislation governing universities. The Act imposes a number of considerable governance requirements on universities and these are detailed in this section.

### **1.2 Governing Authority**

1.2.1 In accordance with Section 15 of the 1997 Act all universities are required to have a governing authority established:-

*“15 Governing Authority*

- (1) Subject to section 21 [see **Appendix 1**], each university shall have a governing authority established in accordance with this Act which shall be known by whatever name the governing authority decides.*
- (2) Subject to this Act, the functions of a university [see **Section 18 – Appendix 1**] shall be performed by or on the directions of its governing authority.*
- (3) All acts and things done by a governing authority, or in the name of or on behalf of the university with the express or implied authority of the governing authority, shall be deemed to have been done by the university.*
- (4) The Third Schedule shall apply to the governing authority.”*

1.2.2 The governing authority determines the financial constraints within which the Academic Council operates and reviews decisions of that authority in accordance with Section 27 (1) of the 1997 Act:

*“27 Academic Council*

- (1) Each university shall have an academic council which shall, subject to the financial constraints determined by the governing authority and to review by that authority, control the academic affairs of the university, including the curriculum of, and instruction and education provided by, the university.”*

1.2.3 The operation of the governing authority is governed by the Third Schedule of the Act as set out below:-

#### **Third Schedule GOVERNING AUTHORITY**

- 1. (1) As soon as practicable after its establishment, the governing authority of a university shall provide and retain in its possession a seal of the university.*
  - (2) The seal of a university shall be authenticated by the signature of the chairperson or a member of the governing authority, and by the signature of an employee of the university, authorised by the governing authority to act in that behalf.*
  - (3) Judicial notice shall be taken of the seal of a university, and every document purporting to be an instrument made by a university and to be sealed with the seal of the university (purporting to be authenticated in accordance with this Schedule) shall be received in evidence and shall, unless the contrary is shown, be deemed to be such instrument, without further proof.*
- 2. (1) Each governing authority shall have a chairperson, as provided for in section 17 [see **Paragraph 1.3**], who may be designated by such title as the governing authority determines.*

- (2) *The chairperson may, at any time, resign from office as chairperson by letter addressed to the governing authority and the resignation shall take effect on the date on which the letter is received.*
3. (1) *A member of a governing authority may, for good and valid reason, be removed from office by resolution of the governing authority.*
- (2) *A member of a governing authority may, at any time, resign from office as a member by letter addressed to the chairperson and the resignation shall take effect on the date on which the letter is received.*
- (3) *A member of a governing authority who is absent from all meetings of the governing authority for a period of six consecutive months, unless the absence was due to illness or was approved by the governing authority, shall at the expiration of that period cease to be a member of the governing authority.*
- (4) *A member of a governing authority (including a chairperson appointed under section 17 (3)) whose term of office expires by effluxion of time shall be eligible for re-appointment.*
4. (1) *Subject to this Schedule and to section 21 [see **Appendix 1**], the term of office of a member of each succeeding governing authority, other than an ex officio member, shall be not less than three years and not more than five years as determined by the governing authority holding office immediately before the appointment of that member.*
- (2) *A member of a governing authority who is a student of the university shall hold office for such period, not exceeding one year, as the governing authority may determine but may be re-appointed for a further period or further periods, on each occasion not exceeding one year.*
5. (1) *If a member of a governing authority dies, resigns, is removed from office or for any other reason ceases to hold office, the governing authority shall arrange for the filling of the casual vacancy so occasioned as soon as practicable.*
- (2) *A person who becomes a member of a governing authority to fill a casual vacancy shall, subject to this Schedule, hold office for the remainder of the term of office of the member whose death, resignation, removal from office or ceasing for other reasons to hold office occasioned the casual vacancy and shall, subject to paragraph 3 (4), be eligible for re-appointment.*
6. (1) *Each governing authority shall, from time to time as the occasion requires, appoint from amongst its members a member (other than the chief officer) to be its deputy-chairperson.*
- (2) *The deputy-chairperson shall, unless he or she sooner resigns as deputy-chairperson, hold office until he or she ceases to be a member of the governing authority.*
7. (1) *Where a member of a governing authority—*  
(a) *is adjudged bankrupt or makes, under the protection or procedure of a court, a composition or arrangement with creditors,*  
(b) *is sentenced to a term of imprisonment by a court of competent jurisdiction, or*  
(c) *ceases to be a member of the category of person, as provided for in section 16, to which he or she belonged at the time of becoming a member, he or she shall thereupon cease to be a member of the governing authority.*
- (2) *A person shall not be eligible to be a member of a governing authority if he or she—*  
(a) *is an undischarged bankrupt,*  
(b) *within the immediately preceding three years has, under the protection or procedure of a court, made a composition or arrangement with creditors, or*  
(c) *within the immediately preceding five years, has been sentenced to a term of imprisonment by a court of competent jurisdiction.*

8. (1) *A member of a governing authority who has an interest in—*
- (a) *a company (other than a public company of which he or she is not a director or otherwise involved in its management) or concern with which the university proposes to make a contract, or*
  - (b) *a contract which the university proposes to make, shall disclose to the governing authority the fact of the interest and its nature and shall take no part in any deliberation or decision of the governing authority relating to the contract, and the disclosure shall be recorded in the minutes of the governing authority.*
- (2) *A member of a governing authority of a university who is related to a person who is a candidate for appointment by the governing authority as an employee of the university, shall disclose to the governing authority the fact of the relationship and its nature and shall, if the governing authority so decides, take no part in any deliberation or decision of the governing authority relating to the appointment, and the disclosure and decision shall be recorded in the minutes of the governing authority.*
- (3) *A member of a governing authority of a university shall at all times act, as a member, in the best interests of the university and shall not act as a representative of any special interest provided that nothing in this paragraph shall restrict a member from representing at meetings of the governing authority the views of those by whom he or she has been elected or to restrict the freedom of expression of that member.*
9. *The chairperson and members of a governing authority, other than an ex officio member who is an employee of the university, shall be paid out of funds at the disposal of the governing authority such allowances for expenses as the Minister, with the approval of the Minister for Finance<sup>1</sup>, may decide.*
10. (1) *A governing authority shall hold such and so many meetings, and at such times, as the chairperson may determine.*
- (2) *The chairperson shall convene a meeting of the governing authority whenever requested to do so by not less than the number of members which constitute a quorum.*
- (3) *The quorum for a meeting of a governing authority shall be one third of the total number of members, rounded up to the nearest whole number, plus one.*
11. *At a meeting of a governing authority—*
- (a) *the chairperson shall, if present, be the chairperson of the meeting, or*
  - (b) *if and so long as the chairperson is not present or the office of chairperson is vacant, the deputy-chairperson shall, if present, be the chairperson of the meeting,*
  - (c) *if and so long as the chairperson is not present or the office of chairperson is vacant, and the deputy-chairperson is not present or the office of deputy-chairperson is vacant, the members of the governing authority who are present shall choose one of their number to preside at the meeting.*
12. *Every question at a meeting of a governing authority shall be determined by consensus, but where in the opinion of the chairperson or other person presiding consensus is not possible, the question shall be decided by a majority of the votes of members present and voting on the question and, in the case of an equal division of votes, the chairperson or other person presiding shall have a second or casting vote.*
13. *Subject to paragraph 10 (3), a governing authority may act notwithstanding one or more than one vacancy among its members or any deficiency in the election or appointment of a member which may subsequently be discovered.*
14. *Subject to this Act, a governing authority shall regulate, by standing orders or otherwise, its procedure and business.*
15. *Subject to this Act, the governing authority of a university may make, from time to time, such regulations as it thinks fit for the conduct of the affairs of the university.*

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<sup>1</sup> Functions transferred from the Minister for Finance to the Minister for Public Expenditure and Reform - SI 418 of 2011, Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011.

## 1.3 Role of Chairperson and Chief Officer in relation to Governing Authority

### Role of Chairperson

1.3.1 The roles of the Chairperson and Chief Officer are governed by the 1997 Act. The role of the Chairperson<sup>2</sup> is governed in particular by Section 17, which is reproduced below and by the Third Schedule of the Act (see **paragraph 1.2.3** above).

#### *“17 – Chairperson of governing authority*

- (1) The first meeting of a governing authority of a university shall be chaired by the chief officer and, subject to this section, at that meeting and from time to time as the governing authority determines, the governing authority shall decide whether—
  - (a) the holder of the office of chief officer should be or continue to be the chairperson; or*
  - (b) a person other than the holder of the office of chief officer should be appointed as chairperson.**
- (2) Where the governing authority decides that the holder of the office of chief officer should be the chairperson then, subject to this section, the chief officer shall, ex officio, be the chairperson on and from the passing of the resolution to that effect.*
- (3) Where the governing authority decides at a meeting that a person other than the chief officer should be the chairperson, it shall, as soon as practicable at that or a subsequent meeting, by a majority vote of not less than two-thirds of its members, appoint a person who is not an employee of the university or a member of the governing authority to be the chairperson.*
- (4) Until a person is appointed under subsection (3), but subject to this section, the chief officer shall act as chairperson of all meetings of the governing authority.*
- (5) Subject to this section, a chairperson appointed under subsection (3) shall hold office on such terms and conditions as the governing authority may, at the date of his or her appointment, determine.*
- (6) A person holding office as chairperson of a governing authority in accordance with subsection (3) may, at any time for stated reasons, be removed from the office of chairperson by the governing authority and where a person is so removed from office, subsections (1), (2) and (3), with the necessary modifications, shall apply.*
- (7) In the case of the governing authority of Trinity College or a constituent university, the person holding the office of chief officer (by whatever name known) on the commencement of this Part shall be the chairperson of the governing authority of that university under this Act until his or her term of office as chief officer expires, he or she is sooner removed from the office of chairperson in accordance with subsection (6), or the office otherwise becomes vacant.*
- (8) Where immediately before the commencement of this Part the chief officer of a university was not the chairperson (by whatever name known) of the governing body (by whatever name known) of the university, then, except for the first meeting of a governing authority of the corresponding university under this Act or in the circumstances referred to in subsection (4), the chief officer shall not be eligible to be the chairperson of the governing authority.*
- (9) An appointment under subsection (3) shall not be on a fulltime basis and the person appointed shall exercise no function in respect of the control and management of the university other than the functions of chairperson of the governing authority.”*

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<sup>2</sup> The Chairperson “may be designated by such title as the Governing Authority determines.” [1997 Act, Third Schedule, Section 2 (1).] The titles “Chairperson”, “Chancellor” and “Cathaoirleach” are in use.

## Role of Chief Officer

1.3.2 The role of the Chief Officer<sup>3</sup> is governed particularly by Section 24 and by the Fourth Schedule of the Act as amended by Section 53 of the Institutes of Technology Act, 2006, which are reproduced below.

*“24 - Chief officer<sup>4</sup>*

*(1) A governing authority shall, in accordance with procedures specified in a statute, appoint in a whole-time capacity a person to be chief officer of its university, who shall be called the President or Provost or by such other title as the governing authority determines.*

*(2) The Fourth Schedule shall apply to the chief officer.”*

### **Fourth Schedule CHIEF OFFICER**

- 1. The chief officer of a university shall, subject to this Act, manage and direct the university in its academic, administrative, financial, personnel and other activities and for those purposes has such powers as are necessary or expedient.*
- 2. In performing his or her functions the chief officer shall be subject to such policies as may be determined from time to time by the governing authority and shall be answerable to the governing authority for the efficient and effective management of the university and for the due performance of his or her functions.*
- 3. (1) A chief officer may delegate any of his or her functions to an employee of the university, including any functions delegated to the chief officer in accordance with section 25 (2), unless they are so delegated to the chief officer subject to the condition that they shall not be sub-delegated, and the employee shall be answerable to the chief officer for the performance of those functions.*

*(2) Notwithstanding any such delegation, the chief officer shall at all times remain answerable to the governing authority in respect of the functions so delegated.*
- 4. A chief officer shall not hold any other office or position without the consent of the governing authority.*
- 5. A chief officer shall be entitled to be a member of and preside over any and every committee appointed by the governing authority.*
- 6. A person who, immediately before the commencement of Part III, was employed as the President of a constituent college or as Master of the Recognised College of St. Patrick's College, Maynooth shall, if he or she so consents be appointed as the chief officer of the corresponding constituent university on that commencement.*
- 7. Unless he or she otherwise resigns, retires or is removed from office, a chief officer shall hold office for a period of 10 years and, in the case of a chief officer to whom paragraph 6 applies, any period spent as President of a constituent college or as Master of the Recognised College of St. Patrick's College, Maynooth before the commencement of Part III shall be reckoned as part of that 10 year period.*

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<sup>3</sup> The Chief Officer “shall be called the President or Provost or by such other title as the Governing Authority determines” [1997 Act, Third Schedule, Section 2(1)]

<sup>4</sup> As amended by the Institutes of Technology Act, 2006.

8. *A Chief Officer shall, whenever required to do so by the Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports and reports of the Comptroller and Auditor General, give evidence to that Committee on-*
  - (a) *The regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General that the university is required by this Act to prepare,*
  - (b) *The economy and efficiency of the university in the use of its resources,*
  - (c) *The systems, procedures and practices employed by the university for the purpose of evaluating the effectiveness of its operations, and*
  - (d) *Any matter affecting the university referred to in a special report of the Comptroller and Auditor General under Section 11(2) of the Comptroller and Auditor General Act 1993 or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in subparagraph (a), (b) or (c)) that is laid before Dáil Éireann.*
  
9. *A Chief Officer, if required under paragraph 8 to give evidence, shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy.*
  
10. *From time to time and whenever so requested, a chief officer shall account for the performance of the university's functions to a Committee of one or both Houses of the Oireachtas and shall have regard to any recommendations of such Committee relevant to these functions.*<sup>5</sup>

## **1.4 Policies on Quality Assurance and Equality**

1.4.1 Section 35 of the 1997 Universities Act, 1997 dealt with Quality Assurance. However, the Qualifications & Quality Assurance (Education & Training) Act, 2012 has repealed this Section with saving provisions that are set out at section 84 of the new Act, included in Appendix 1. The new Act has also amended Section 34 of the Universities Act (relating to Strategic Planning) with the addition of Section 34(4) to 34(6) as follows:

- (4) *Where the governing authority of a university established under section 9(2) approves a strategic development plan under this section it shall—*
  - (a) *ensure that the plan provides the means by which that university shall comply with any requirements imposed on the university under the Qualifications and Quality Assurance (Education and Training) Act 2012, and*
  - (b) *provide a copy of that plan to the Qualifications and Quality Assurance Authority of Ireland.*
  
- (5) *Where the chief officer of a university established under section 9(2) prepares a report on the operations and the performance of that university under section 41, he or she shall have regard to the part or parts of the strategic development plan under this section relevant to any requirements imposed on that university under the Qualifications and Quality Assurance (Education and Training) Act 2012.*
  
- (6) *An tÚdarás shall consult with the Qualifications and Quality Assurance Authority of Ireland with regard to the means by which a university established under section 9(2) shall comply with any requirements imposed on the university under the Qualifications and Quality Assurance (Education and Training) Act 2012 when reviewing a strategic development plan prepared by the university in accordance with this section.*

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<sup>5</sup> Paragraphs 8, 9 and 10 inserted by Institutes of Technology Act 2006, section 53 (b), commenced 1.2.2007 (SI 36 of 2007)

#### 1.4.2 Section 36 of the 1997 Act deals with Equality policy and requires:

*“...the chief officer to prepare a statement of the policies of the university in respect of:*

- (a) access to the university and to university education by economically or socially disadvantaged people, by people who have a disability and by people from sections of society significantly under-represented in the student body; and*
- (b) equality, including gender equality, in all activities of the university, and the chief officer, in preparing the statement, shall have regard to such policies on those matters as may from time to time be determined by the Minister.”*

and to implement those policies in accordance with Section 36 (3) of the Act.

#### 1.4.3 The full provisions of 36 of the 1997 Act are set out in Appendix 1.

### 1.5 Disposal of Assets and Access to Assets by Third Parties

1.5.1 The disposal of university assets and access to university assets are governed by the 1997 Act, and in particular by Sections 13 and 42 of that Act. Section 13 (2) of the 1997 Act provides that universities *“may purchase or otherwise acquire, hold and dispose of land or other property”*.

1.5.2 Section 42 deals with the disposal of land or other property and is set out below:-

*“42 – Disposal of Land, etc.*

- (1) Subject to subsection (2), a university may sell or otherwise dispose of any land the property of the university.*
- (2) Where the acquisition, development or refurbishment of land, the property of a university, was funded in whole or in part out of moneys provided by the Oireachtas after the date of the passing of this Act, a sale or other disposal of that land shall be subject to such terms and conditions relating to a payment to the Minister in recompense for such moneys, as may be agreed between the Minister and the governing authority.*
- (3) If a university ceases to be funded substantially from moneys provided by the Oireachtas, then all moneys provided to the university by the Oireachtas after the date of the passing of this Act for the acquisition, development or refurbishment of land, or for the acquisition of any other assets which are the property of the university, shall be repayable to the Minister subject to such terms and conditions, including as to the amount to be so repaid, as may be agreed between the Minister and the governing authority.*
- (4) Where the Minister and a governing authority cannot agree on terms and conditions referred to in this section, the issues in dispute shall be determined by an arbitrator appointed by the President of the High Court and any arbitration shall be conducted in accordance with the Arbitration Acts, 1954 and 1980.”*

### 1.6 Remuneration

1.6.1 Section 25 of the 1997 Act deals with remuneration of staff and provides for the payment to university employees of *“such remuneration, fees, allowances and expenses as may be approved from time to time by the Minister [for Education and Skills] with the consent of the Minister for Public Expenditure & Reform<sup>6</sup>”* and further provides that *“a university may depart from levels of remuneration, fees, allowances and expenses approved ...in accordance with a framework which shall be agreed between the universities and An tÚdarás [HEA]”*. This framework is attached at **Appendix 2**.

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<sup>6</sup> Functions transferred from the Minister for Finance to the Minister for Public Expenditure and Reform - SI 418 of 2011, Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2011

## 1.7 Reporting Arrangements

- 1.7.1 The reporting requirements of universities are set out in Sections 37, 39 & 41 of the 1997 Act.
- 1.7.2 Section 37 deals with university budgets and requires a governing authority to *“...prepare and submit to An tÚdarás, in such form and manner as may from time to time be approved by An tÚdarás, a statement of the proposed expenditure and expected income of the university for the financial year.”*
- 1.7.3 Section 39 deals with keeping of accounts and records and requires that accounts *“...be submitted annually by a university to the Comptroller and Auditor General, for audit...and immediately after the audit, a copy of the accounts, together with a copy of the report of the Comptroller and Auditor General on the accounts, shall be presented by the university to An tÚdarás and to the Minister.”*
- 1.7.4 Section 41 requires the Chief Officer with the approval of the governing authority to *“...prepare a report on the operations and the performance of the university...”* and send this to the HEA and the Minister for Education and Skills.

## 1.8 Strategic Planning

- 1.8.1 Section 34 of the 1997 Act makes provisions in regard to strategic planning and evaluation in the universities.
- 1.8.2 The requirement to prepare *“a plan which shall set out the aims of the Governing Authority for the operation and development of the university and its strategy for achieving those aims, and for carrying out the functions of the university, during the period, being not less than three years, to which the plan relates”* is provided for in Section 34(1) of the 1997 Act.
- 1.8.3 In accordance with Section 34(3) a copy of the strategic development plan is provided to the Minister and to the HEA.
- 1.8.4 The full provisions of Section 34 of the 1997 Act are set out in **Appendix 1**.
- 1.8.5 Under Section 41(1) of the 1997 Act, the Chief officer shall, with the approval of the governing authority and having regard to the strategic development plan under Section 34, as soon as practicable after the statutory interval (not exceeding three years), prepare a report on the operations and performance of the university during that period.
- 1.8.6 In accordance with Section 41(2) the governing authority shall publish the report at 1.8.5 in such form as it sees fit and provide the Minister with a copy. On receipt of the report the Minister will lay it before each House of the Oireachtas as soon as practicable.
- 1.8.7 The full provisions of Section 41 of the 1997 Act are set out in **Appendix 1**.

## **1.9 Borrowing**

- 1.9.1 Under Section 38 of the 1997 Act, universities must observe the provisions of any Framework for Borrowings and Loan Guarantees (as amended, adapted or extended from time to time) agreed between the universities and the HEA under Section 38(2) of the 1997 Act. The current framework is at **Appendix 3**.

## **Part 2: UNIVERSITY OF LIMERICK CODE OF GOVERNANCE**

### **1. Code of Governance - Introduction**

- 1.1 The University of Limerick (UL) has adopted this Code of Governance which is based on the joint HEA/IUA “Governance of Irish Universities”, 2012.
- 1.2 The University of Limerick Code of Governance covers:
- The Governing Authority;
  - Role of Chancellor and President in relation to Governing Authority;
  - Briefing for new Governing Authority members;
  - Disclosure of interests by members of the Governing Authority;
  - Risk management;
  - Audit & Risk Management Committee;
  - Terms of Reference for Audit & Risk Management Committee;
  - Charter for Internal Audit.
- 1.3 The role of the Corporate Secretary of the University of Limerick will include the duty to keep Governing Authority members briefed in respect of all relevant developments in governance and accountability.
- 1.4 The University of Limerick and its subsidiaries\* will adopt this Code of Governance and, in accordance with paragraph 16.3 (Annual Statement of Governance & Internal Control), will confirm to the HEA that this has been done.
- 1.5 It is not feasible to have a code of best practice that will specifically provide for all situations that may arise. Members of the Governing Authority and employees of the University and its subsidiaries should bear in mind therefore, that it is primarily their responsibility to ensure that all of their activities, whether covered specifically or otherwise in this document, are governed by the ethical and other considerations implicit in this Code.

### **2. Codes of Conduct**

- 2.1 The University of Limerick will have written codes of conduct for members of the Governing Authority and for its employees. These codes will be developed in consultation with all relevant parties and will be subject to consideration and approval by the University’s Governing Authority. Once agreed and approved, the relevant Code of Conduct will be made available to members of the Governing Authority and all employees of the University and will be accessible through the University’s website. The Codes will take account of the implications of all the relevant provisions of the Universities Act, 1997, The Ethics in Public Office Act, 1995 and the Standards in Public Office Act, 2001.

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\* A company is deemed a subsidiary of UL when it meets the provisions of Section 155 of the Companies Act e.g. where UL holds a majority of the shareholders’/members’ voting rights. The University will apply the code to subsidiaries in a manner which does not compromise the commercial sensitivities of their operations

The Codes of Conduct will refer to the need for members of Governing Authority and employees to comply with relevant legislative and regulatory requirements. In addition, it should provide that non-disclosure of privileged/confidential information does not cease when membership of the Governing Authority or employment in the University has ended. The Code should also address the provision of consultancy services by former members of Governing Authority or employees of the University.

- 2.2 As part of the Annual Statement of Governance & Internal Control reporting requirements set out in Section 16.3 that are to be submitted to the HEA, the President will affirm to the HEA that the codes of conduct for members of the Governing Authority and employees of the University have been adopted by the Governing Authority.
- 2.3 The requirements specified in the Code of Conduct will, in general, apply to operating subsidiaries of the University of Limerick. Subsidiaries will formally report to the Governing Authority, through its Finance Committee, in accordance with procedures determined by the Committee, taking account of paragraph 1.4 above. The reports must be received by the Finance Committee prior to the President's Report to the HEA.
- 2.4 In addition to complying with UL's own governing legislation, each member of the Governing Authority and each person holding a designated position of employment with UL will ensure his/her compliance with relevant provisions of the *Ethics in Public Office Act, 1995* and *Standards in Public Office Act, 2001*.
- 2.5 The employees of the University of Limerick will promote the standard of service and the initiatives outlined in the "Principles of Quality Consumer Service for Customers and Clients of the Public Service" having regard to the University's own quality and appeals systems. Guidelines regarding the principles of such service are attached as Appendix 4 to this Code.

### **3. The Governing Authority**

- 3.1 The procedural operation and functions of the Governing Authority of the University are governed by the Universities Act, 1997. Section 18 of the 1997 Act (see Appendix 1) sets out the functions of the Governing Authority. The Third Schedule of the Act (see paragraph 1.2.3 of Part 1) in particular governs the operation of the Governing Authority.
- 3.2 The Governing Authority will meet regularly, exercise effectively its strategic governance role and monitor the executive management and performance.
- 3.3 The Governing Authority will have a formal schedule of matters specifically reserved to it for decision to ensure the proper management and control of the University. This schedule will include the various statutory functions reserved to the Governing Authority as set out in the Universities Act, 1997 and such other matters set down by this Code of Governance as appropriate.
- 3.4 The collective responsibility and authority of the Governing Authority will be safeguarded. Excessive influence on Governing Authority decision-making by individual members must be avoided, while allowing Governing Authority

members the opportunity to contribute fully to Governing Authority deliberations.

- 3.5 All members of the Governing Authority will have independent access to the advice and services of the Corporate Secretary of the University who must ensure that Governing Authority members are fully aware of the appropriate rules, regulations and procedures.
- 3.6 In the normal course of events outside legal or other advice required will be obtained by the Corporate Secretary on behalf of the Governing Authority in accordance with the collective nature of its responsibilities. Notwithstanding the foregoing, in exceptional circumstances, an individual member or group of members of Governing Authority may request independent legal or other professional advice at the reasonable expense of the University and will inform the Corporate Secretary of any such request. The Corporate Secretary will deal with the request in accordance with procedures to be laid down by the Governing Authority.
- 3.7 Any business or other interests, which could affect a member's independence, will be dealt with as outlined in Section 7 below.
- 3.8 Expenses paid to members of Governing Authority will be in accordance with guidelines from the Department of Finance and a statement certifying this to be the case will be included in the annual Statement of Governance & Internal Control. The schedule of fees and aggregate expenses paid to members will be presented in the University's annual report.
- 3.9 The attendance of each member at Governing Authority meetings will be included in the University's annual report and members should be informed accordingly.
- 3.10 Non-executive members of the Governing Authority must also take care not to become involved in the day-to-day executive management of the University. This also applies to the staff and student members of the Governing Authority, except that in the course of their employment or in their activities as students, they may have executive responsibilities within the University.
- 3.11 It should be noted that the Universities Act, 1997 provides as follows, "A member of a governing authority of a university shall at all times act, as a member, in the best interests of the university and shall not act as a representative of any special interest provided that nothing in this paragraph shall restrict a member from representing at meetings of the governing authority the views of those by whom he or she has been elected or to restrict the freedom of expression of that member." (Third Schedule of the Act, Section 8 (3)).
- 3.12 It is the Governing Authority's duty to ensure that a balanced and understandable assessment of the University's position is made in presenting its annual accounts to the Minister for Education & Skills, and to the HEA.
- 3.13 The Governing Authority will state in the annual accounts that they are responsible for approving the accounts. There should also be a statement by the external auditors engaged by the Governing Authority about their reporting responsibilities.

- 3.14 The Governing Authority, through its Audit & Risk Management Committee, will ensure that the University has in place a sound system of internal management and control, including:
- Managerial control systems, which may include defining policies, setting objectives and plans, setting Key Performance Indicators and monitoring financial and other performance;
  - Financial and operational control systems and procedures which may include the physical safeguards of assets, segregation of duties, authority and approval procedures and information systems.
- 3.15 The Governing Authority, through its Audit & Risk Management Committee, will review on a periodic basis the effectiveness of the University's system of internal controls, including financial, operational and compliance controls and risk management.
- 3.16 The Governing Authority, through its Nominating Committee, will ensure the constitution and terms of reference of its committees are reviewed regularly and up-dated as appropriate.
- 3.17 The Governing Authority will be supplied, in a timely fashion, with information which is of a suitable quality to enable the members to discharge their duties satisfactorily.
- 3.18 The Governing Authority is responsible for ensuring compliance with all statutory obligations applicable to the University. Where individual members of the Governing Authority become aware of non-compliance with any such obligation, they will immediately bring this to the attention of the Governing Authority with a view to having the matter rectified subject to the provisions of the Universities Act, 1997. However, if the matter cannot be rectified and/or constitutes a flagrant breach of the members' obligations, the Chancellor will advise the HEA accordingly.
- 3.19 The Governing Authority, through its Audit & Risk Management Committee, has a responsibility to establish procedures for maintaining an appropriate relationship with the external auditors engaged by the Governing Authority.
- 3.20 In line with legislation, the Governing Authority should put in place a policy for Good Faith Reporting whereby employees may, in confidence, raise concern about possible irregularities in financial reporting or other matters. Such procedures will provide for meaningful follow-up of matters raised in this way.
- 3.21 The Governing Authority places the highest priority on promoting and preserving the health and safety of University of Limerick employees and students.
- 3.22 The Governing Authority will ensure that community concerns are considered in the University's activities and operations and will endeavour to minimise the impact of its operations on the environment.

## **4. Role of Chancellor and President in relation to Governing Authority**

4.1 The roles of the Chancellor and President are governed by the Universities Act, 1997. The role of the Chancellor<sup>7</sup> is governed in particular by Section 17 and by the Third Schedule of the Act. The role of the President<sup>8</sup> is governed particularly by Section 24 and by the Fourth Schedule of the Act as amended by Section 53 of the Institute of Technology Act 2006. These and other relevant sections of the Act are set out in Sections 1.3.1 and 1.3.2 of Part 1.

### **4.2 Role of the Chancellor**

- The Chancellor is responsible for the leadership of the Governing Authority. As chairperson of its meetings he/she will promote its wellbeing and efficient operation, ensuring that its members work together effectively and have confidence in the procedures laid down for the conduct of business.
- The Chancellor will take particular care that the Governing Authority observes the principles of good governance, and that committees which play a central role in the proper conduct of the Governing Authority's business report back appropriately. The Chancellor will also ultimately be responsible for ensuring that the Governing Authority operates effectively, discusses those issues which it needs to discuss, and dispatches its responsibilities in a business-like way. The Chancellor will lead a periodic review by the Governing Authority of its own effectiveness.
- Through leadership of the Governing Authority, the Chancellor plays a key role in the strategic direction of the University, but is not to be drawn into its day-to-day executive management. For the Governing Authority to be effective there must be a constructive and challenging working relationship between the Chancellor and President. This relationship will depend on the personalities involved, but it is desirable to emphasise the need for both sides to recognise that the roles are formally distinct. The relationship must be mutually supportive, but must also incorporate the checks and balances imposed by the different roles each has within the University.

### **4.3 Role of the President**

The President is responsible for the executive management of the University and its day-to-day direction. He or she must not seek to determine matters reserved for the Governing Authority. The specific responsibilities of the President in relation to Governing Authority business include:

- Implementing the decisions of the Governing Authority or ensuring that they are implemented through the relevant part of the University's management structure;

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7. The Chairperson "may be designated by such title as the Governing Authority determines." [1997 Act, Third Schedule, Section 2 (1).] The titles "Chairperson", "Chancellor" and "Cathaoirleach" are in use.

8. The Chief Officer "shall be called the President or Provost or by such other title as the Governing Authority determines." [1997 Act, Third Schedule, Section 2 (1).]

- Initiating discussion and consultation including, where appropriate, consultation with the staff and the Academic Council on proposals concerning the University's future development, and ensuring that such proposals are presented to the Governing Authority.

4.4 It is noted that the Universities Act, 1997 provides as follows: "Where the chief officer of a university is of the opinion that a proposed course of action of the governing authority will or is likely to result in expenditure in excess of the budget ... a 'material departure from the budget', the chief officer shall so inform the governing authority. Where a governing authority... decides to proceed with its course of action, the chief officer shall, unless satisfied that a material departure from the budget will not occur, as soon as practicable, inform An tÚdarás of the decision of the governing authority." [Section 37(5) and 37(6).]

## **5. Confidentiality**

5.1 Members of the Governing Authority and attendees at meetings of Governing Authority and its Committees must maintain confidentiality at all times in relation to all discussions and deliberations at such meetings and will treat in the strictest confidence all information received in their capacity as members and attendees. In addition, members and attendees must ensure that appropriate care is taken to guarantee the security of documentation they receive as members of the Governing Authority and attendees at its meetings and that of its Committees. Members/attendees are encouraged to avail of the confidential document shredding service provided by the Corporate Secretary's Office.

5.2 Former members of the Governing Authority will treat information received while acting as members as confidential.

5.3 Former members of Governing Authority should not retain documentation obtained during their terms of office as members. It should be returned to the Corporate Secretary's Office for confidential shredding.

## **6. Briefing for New Members of Governing Authority**

6.1 Governing Authority members have duties under the Universities Act, 1997 and it is the responsibility of each member to act in conformity with the applicable provisions of this Act.

6.2 On appointment of new members of Governing Authority, the Corporate Secretary will provide them with the following:

- A copy of the University of Limerick Code of Governance;
- A formal schedule of matters reserved to the Governing Authority for decision;
- Procedures for obtaining information on relevant new laws and regulations;
- A schedule detailing the composition of all Governing Authority committees and their terms of reference;

- A statement explaining the Governing Authority members' responsibilities in relation to the preparation/approval of the accounts, the University's system of internal control and audit;
- A statement informing the Governing Authority members that they have access to the advice and services of the Corporate Secretary who is responsible to the Governing Authority for ensuring that the Governing Authority's procedures are followed and the applicable rules and regulations are complied with;
- Code of Conduct for members of Governing Authority that includes provision for disclosure of the members' interests and procedures for dealing with conflicts of interest;
- New members will be provided with specific University information and a copy of the most up-to-date version of the "Governance of Irish Universities" together with any relevant circulars and/or guidance notes.

6.3 The Corporate Secretary will put in place a mentoring process, which may be availed of by new members of Governing Authority if they so wish. The process will involve pairing experienced members with new members in order to enhance the induction process. The programme will remain in place for a period of six months after the new member(s) join the Governing Authority.

6.4 While it is the responsibility of the Corporate Secretary to ensure appropriate levels of information are available to new members of Governing Authority, it is the responsibility of the members to familiarise themselves with the material.

The procedures of Governing Authority are dealt with in Part 3 of this Code.

## **7. Disclosure of Interests by members of the Governing Authority**

7.1 It is central to the conduct of the business of the Governing Authority that members act, and be perceived to act, impartially and not to be influenced in their roles as members by business or social relationships.

7.2 The requirements of the Ethics in Public Office Act, 1995, and the Standards in Public Office Act, 2001 have been referred to at paragraph 2.4 of this Code of Governance.

7.3 It should be noted that in relation to contracts the Universities Act, 1997 (Third Schedule, 8(1)) provides that, "A member of a governing authority who has an interest in (a) a company (other than a public company of which he or she is not a director or otherwise involved in its management) or concern with which the university proposes to make a contract, or (b) a contract which the university proposes to make, shall disclose to the governing authority the fact of the interest and its nature and shall take no part in any deliberations or decision of the governing authority relating to the contract, and the disclosure shall be recorded in the minutes of the governing authority".

7.4 The provisions of 8(2) of the Third Schedule of the Universities Act, 1997 deal with the obligations of a member of a governing authority who is related to a candidate for appointment by the governing authority as an employee in the university, "A member of a governing authority of a university who is related to a person who is a candidate for appointment by the governing authority as an employee of the university, shall disclose to the governing authority the fact of the relationship and its nature and shall, if the governing authority so

decides, take no part in any deliberation or decision of the governing authority relating to the appointment, and the disclosure and decision shall be recorded in the minutes of the governing authority.”

- 7.5 In addition to the statutory requirements, the Governing Authority will set down a broader code for the disclosure of all relevant interests by its members, which pose a real or potential risk for conflict of interest or could materially influence the member in the performance of his or her functions as a member of the Governing Authority or damage public confidence in the University. The broader code will have regard, as appropriate, to best practice in universities internationally and in the Irish public sector with respect to relevant detailed disclosure provisions. A member for whom a relevant interest arises in relation to matters for decision by the Governing Authority must not take part in any deliberation or decision of the Governing Authority in relation to those matters.
- 7.6 The Governing Authority will not allow management or employees to be involved in outside employment/business interests in conflict or in potential conflict with the business of the University of Limerick and will establish appropriate policies to give effect to this.
- 7.7 It is acknowledged that the acceptance of positions following employment and/or engagement by the University can give rise to potential for conflicts of interest and confidentiality concerns. The Governing Authority will ensure that appropriate policies are in place in this regard and that these policies are monitored and enforced.

## **8. Internal Control and Risk Management**

- 8.1 A system of internal control has a key role in the management of risks that are significant to the fulfilment of the University’s objectives. A sound system of internal control contributes to safeguarding the interests of all relevant parties and the University’s assets. Internal control facilitates the effectiveness and efficiency of operations; helps ensure the reliability of internal and external reporting and assists compliance with laws and regulations.
- 8.2 Effective financial controls, including clear delineation and separation of functions and the maintenance of proper accounting records, are an important element of internal control. They help ensure that UL is not unnecessarily exposed to avoidable financial risks and that financial information used and published is reliable. They also contribute to the safeguarding of assets, including the prevention and detection of fraud.
- 8.3 The University’s objectives, its internal organisation and the environment in which it operates are continually evolving and, as a result, the risks it faces are continually changing. A sound system of internal control therefore depends on a thorough and regular evaluation of the nature and extent of the risks to which the University is exposed.
- 8.4 A sound system of internal control reduces, but cannot eliminate, the possibility of poor judgement in decision-making, human error, control processes being deliberately circumvented by employees and others, management overriding controls and the occurrence of unforeseeable circumstances.

- 8.5 A sound system of internal control therefore provides reasonable, but not absolute, assurance that the University will not be hindered in achieving its objectives, or in the orderly and legitimate conduct of its business, by circumstances which may reasonably be foreseen. A system of internal control cannot provide protection with certainty against failing to meet objectives or prevent all material failures, errors, losses, fraud, or breaches of laws or regulations.
- 8.6 Systematic assessment and management of risk is becoming an increasingly important part of internal control. Risk identification and management is seen as necessary to maximise the likelihood of achieving the University's desired objectives and outcomes. Risks fall into a variety of categories, some of the most common being:
- Strategic Risks;
  - Operational Risks;
  - Financial Risks;
  - Reputation Risks.
- 8.7 It is the responsibility of the Governing Authority to ensure, through its Audit & Risk Management Committee, that a robust system of internal control and risk management is in place in the University. This involves:
- The identification of risks that threaten the achievement of the University's objectives;
  - The evaluation of the likelihood of occurrence and potential impact of the risks identified;
  - The segregation of risks according to their gravity;
  - An appraisal of the techniques employed to manage the major risks and identification of any further steps that should be taken;
  - An appraisal of the levels of residual risk - after the application of mitigation techniques - and whether the residual risk is acceptable;
  - Continuous monitoring of the effectiveness of controls and management techniques;
  - Decision-making informed by the risk management process.
- 8.8 The Governing Authority, through its Audit & Risk Management Committee, should make provisions for:
- Approving the University's Risk Management Policy and monitoring its effectiveness;
  - Monitor the effectiveness of Risk Management in relation to risk identified as fundamental to the success or failure of the University's strategic objectives and report to Governing Authority on its findings;
  - Making Risk Management a standing agenda item at Audit & Risk Management Committee meetings. The Committee will report to Governing Authority on risk management at least annually;
  - Require an external review of the effectiveness of the risk management framework on a periodic basis.
- 8.9 The Governing Authority, through its Audit & Risk Management Committee, will ensure that the risk assessment and management processes are integrated into existing management systems and will be kept as simple as possible. Roles and responsibilities will be clearly assigned and a person at a senior level with overall responsibility for ensuring implementation of the

processes will be nominated with a direct reporting line to the Governing Authority. Risk management expertise should also be included in the membership of the Audit & Risk Management Committee.

## **9. The Audit & Risk Management Committee**

- 9.1 The Governing Authority of the University of Limerick will establish an Audit & Risk Management Committee as a Committee of the Governing Authority. The Audit & Risk Management Committee will have a written constitution and terms of reference that deal clearly with its authority and duties. The constitution and terms of reference will be reviewed regularly by the Governing Authority and up-dated as appropriate.
- 9.2 The membership of the Audit & Risk Management Committee will be appointed by the Governing Authority. The Committee will consist of at least three members. In appointing members, consideration should be given to the skills and independence of members and in particular it may be appropriate that a number of members be external to the University. At least one member should have recent and relevant financial experience and at least one member should have relevant risk management experience. The President, Chancellor and employees/students of the University will not be members of the Committee.
- 9.3 The Chairperson of the Committee will be appointed by the Governing Authority on the nomination of the President.
- 9.4 The Committee should monitor and review the effectiveness of the University's internal audit activities. The Committee will also keep under review and advise on the operation and effectiveness of the University's risk management systems and report at least annually on same to the Governing Authority.
- 9.5 The Committee will draw up its own working procedures.
- 9.6 The Committee will meet at least four times a year to enable it to fulfil its duties and will report at least annually to the Governing Authority.
- 9.7 The Committee will have explicit authority to investigate any matters within its terms of reference and will be given the resources needed for this purpose including outside professional advice as necessary and full access to information. Any internal audit/audit items that related to the Governing Authority's areas of responsibility should be communicated to the Governing Authority as soon as possible.
- 9.8 The Committee will advise on the selection and appointment of the external auditors engaged by the Governing Authority.
- 9.9 At least once a year the Committee will meet separately and without members of the Executive being present with each of the following: (a) the external auditors, (b) Head of the University's Internal Audit Function and (c) the person nominated as having responsibility for risk management within the University. The Committee will meet regularly with a representative of the Office of the Comptroller & Auditor General.

9.10 The Head of the Internal Audit Function will have on-going access to the Chairperson of the Audit & Risk Management Committee.

## **10. Internal Audit Functions**

10.1 The University will have a properly constituted and functioning internal audit service, provided either in-house or outsourced.

10.2 The Internal Audit function will have a formal charter, including terms of reference, which should be approved by the Governing Authority and should report directly to the Audit & Risk Management Committee.

10.3 The Head of the Internal Audit Function will have direct access to the President, to the Chairperson of the Audit & Risk Management Committee and to the Chancellor.

10.4 The objective of Internal Audit is to provide assurance that the University has a sound system of internal control.

10.5 The functional reporting structure for Internal Audit within the University will be clear and formally recorded.

10.6 The Internal Audit function will be adequately resourced with the necessary skills including the ability to deal with non-financial aspects.

10.7 The Internal Audit function will liaise frequently with the external auditors engaged by the Governing Authority so that the potential for cooperation between the two is maximised. In planning, executing and reporting its work, the Internal Audit function will ensure that value-for-money auditing receives adequate attention.

10.8 The Audit & Risk Management Committee should consult periodically with the Comptroller & Auditor General regarding best practice in the operation of the internal audit function.

10.9 As part of its work the Internal Audit function will review compliance with procurement and disposal procedures from time to time and report to the Audit & Risk Management Committee.

## **11. Remuneration**

11.1 The Governing Authority, through its Audit & Risk Management Committee, will ensure compliance with Government pay policy as expressed from time to time. These arrangements will cover total remuneration. The Governing Authority, through its Audit & Risk Management Committee, will also ensure compliance with further pay policy as expressed from time to time in accordance with Frameworks as set down by the Universities Act, 1997.

## 12. Procurement and Tax Clearance

- 12.1 The University recognises that competitive tendering will be the standard procedure in the procurement process of the University subject to paragraph 12.3 below. In addition to the national guidelines, set out by the Department of Finance, the relevant EU Directives, which have the force of law in this and all Member States, apply. It is the responsibility of the Governing Authority through University management to ensure that appropriate systems and procedures are implemented to ensure that the requirements for public procurement are adhered to and that the current value thresholds for the application of EU and national procurement rules are respected. The President will, in the Annual Statement of Governance & Internal Control, affirm that such systems and procedures are in place and that to the best of his/her knowledge and belief the University has been compliant with the procurement procedures outlined above.
- 12.2 EU Directives and national regulations impose legal obligations regarding advertising and the use of objective tendering procedures for awarding contracts above certain value thresholds. Even in the case of procurement that might not be subject to the full scope of EU Directives, such as certain 'non-priority' services or service concessions, the EU Commission and European Court of Justice have ruled that EU Treaty principles (including non-discrimination, equal treatment, transparency, mutual recognition, freedom to provide service and freedom of establishment) should be observed.
- 12.3 Research and Development contracts may be exempt from the scope of Procurement Directives where their benefits are for the greater public good, not confined to the contracting authority on condition that the service supplied is wholly paid for by the contracting authority. In this context, where the University enters into research collaborations, joint ventures with industry or other external parties, or other arrangements where Intellectual Property may be brought to the University, and where a decision has been taken that competitive tendering is not required, such cases will be reported to the Governing Authority, through its Finance Committee, with evidence of a valid and informed basis for the decision and evidence that the principle of obtaining best value for public funding has been followed.
- 12.4 The University must ensure that the Tax Clearance requirements set out in the Department of Finance Circular of 44/2006 of 21 December 2006 (which deals with payment of grants, subsidies and similar type payments), and Department of Finance Circular 43/2006, as regards Public Sector Contracts, or such other requirements/circulars in place from time to time, are adhered to fully.
- 12.5 Information on procurement policy and competitive tendering and general guidance on procurement matters, including matters relating to construction, is published by the National Public Procurement Policy Unit. This can be viewed or downloaded from their website at [www.etenders.gov.ie](http://www.etenders.gov.ie)

### **13. Travel**

- 13.1 The University should comply in all respects with the circulars issued or amended from time to time by the Department of Finance regarding travel and subsistence (available on the Department of Finance website).
- 13.2 In matters of official travel and subsistence, the University should adhere to civil service procedures as set out from time to time in guidance issued by the Government Departments or the HEA, as appropriate. The University should also be cognisant of the need to achieve economy and efficiency in expenditure on official travel and should have a policy in place that covers both foreign and domestic travel.
- 13.3 The Governing Authority should satisfy itself, through its Audit & Risk Management Committee, that the principles of the travel policy are adhered to and that the internal audit process is effective in ensuring that the University is fully complying with the policy.
- 13.4 The purpose of the travel policy should be to ensure that the best value for money is obtained in respect of each official trip undertaken, consistent with the requirements of official business.
- 13.5 Governing Authority members and staff should be advised of the details of the policy applying.

### **14. Disposal of Assets and Access to Assets by Third Parties**

- 14.1 In addition to the relevant statutory provisions of the Universities Act, 1997, set out in Part 1, Section 1.5 of this Code of Governance, the Governing Authority, through its Finance Committee, will approve the financial aspects of the acquisition, development, refurbishment, sale or other disposal of any land the property of the University as provided in Section 42 of the Act, with a view to ensuring best practice for the disposal of assets, the granting of access to property or infrastructure for commercial arrangements and the management of significant capital expenditure proposals. In addition, the University will have in place a policy for the Disposal of Assets and Access to Assets by Third Parties that is in accordance with best practice and endorsed by the Governing Authority through its Finance Committee.
- 14.2 The University will have in place an Intellectual Property Policy which will be endorsed by the Governing Authority, through its Finance Committee, and will have regard to the guidelines on Intellectual Property entitled "Funding Agency Requirements & Guidelines for Managing Research Generated Intellectual Property", a joint publication of Enterprise Ireland, Forfás, Health Research Board, HEA, Industrial Development Authority, IRCSET and Science Foundation Ireland, 2006 or such other requirements/guidelines in place from time to time.

## **15. Investment Appraisal and Value for Money**

- 15.1 “Guidelines for the Appraisal and Management of Capital Expenditure Proposals in the Public Sector” were issued by the Department of Finance in February 2005. These procedures outline best practice for the management of significant capital expenditure proposals in the public sector. The Governing Authority and the relevant management staff of the University will have regard to these guidelines, or such other guidelines in place from time to time, in the planning, appraisal and management of significant expenditure projects.
- 15.2 The HEA’s letter of 4 May 2006 to the President of each university regarding Capital Appraisal Guidelines and other Value for Money measures requires confirmation that necessary arrangements have been made to ensure full compliance with these requirements. Details of these requirements are available at <http://www.finance.gov.ie/viewdoc.asp?DocID=3561>

## **16. Reporting Arrangements**

- 16.1 In addition to the reporting requirements set out in the relevant legislation, the University will provide to the HEA an annual Statement of Governance & Internal Control which will be signed by the President and accompanied by a letter from the Chancellor confirming that the Statement has been approved by Governing Authority.
- 16.2 This statement will be reviewed by the external auditors engaged by the Governing Authority who should consider if the statement is inconsistent with the information of which they are aware from their audit work. The external auditors will report their findings accordingly in the accounts to be submitted annually by the University to the Comptroller & Auditor General for audit, in accordance with Section 39 of the Universities Act, 1997. The statement may be reviewed also by the Comptroller & Auditor General.
- 16.3 In addition to the above requirements, the following information should be included in the Statement of Governance & Internal Control:

### **Governance**

- (i) A statement affirming that the Governing Authority is responsible for and is satisfied that the University is in compliance with all statutory obligations applicable to the University that may be set out in legislation governing the establishment of the University or other relevant legislation;
- (ii) A statement confirming that the Code of Governance, a Code of Conduct for Members of Governing Authority and a Code of Conduct for Employees have been put in place and implemented;
- (iii) Financially significant developments affecting the University in the past year, including the establishment of subsidiaries or joint ventures and acquisitions, and major issues likely to arise in the short to medium term;

- (iv) A statement affirming that the University is in compliance with Government policy on pay (see section 11 above);
- (v) A statement affirming that all appropriate procedures for financial reporting, internal audit, procurement and asset disposals are being carried out;
- (vi) Confirmation that the Guidelines for the Appraisal and Management of Capital Proposals are being adhered to where appropriate;
- (vii) Certification that Government travel policy requirements are being implemented in all respects;
- (viii) Confirmation that the Guidelines on Achieving Value for Money in Public Expenditure as set out in the address by the Minister for Finance of 20 October 2005 and communicated to the universities are being followed;
- (ix) A statement affirming the University's compliance with tax laws;
- (x) Confirmation that a Child Protection Policy is in place;
- (xi) Confirmation that expenses paid to members of Governing Authority are in accordance with the guidelines from the Department of Finance and are presented in the University's Annual Report. A note on the schedule of aggregate expenses payable to members of Governing Authority who are not employees/students of the University should be included;
- (xii) Confirmation that a code of governance is in place in respect of trading subsidiaries (i.e. subsidiaries with annual turnover and employees), with annual statements provided to the Governing Authority through its Finance Committee.

In the event that there is a failure to comply with any of the above, the University will report such matters of non-compliance to the HEA as part of the Statement of Governance & Internal Control providing an explanation for same and stating any corrective action taken or considered.

### **Internal Control**

- (i) Acknowledgement that the Governing Authority is responsible for the University's system of internal control, which statement requires the approval of Governing Authority;
- (ii) An explanation that such a system can provide only reasonable and not absolute assurance against material error.
- (iii) Description of the key procedures that have been adopted by the Governing Authority designed to provide effective internal control including:

- a) The steps taken to ensure an appropriate control environment (such as clearly defined management responsibilities and evidence of reaction to control failures);
  - b) Processes used to identify business risks and to evaluate their financial implications;
  - c) Details of the major information systems in place such as budgets, and means of comparing actual results with budgets during the year;
  - d) The procedures for addressing the financial implications of major business risks (such as financial instructions and notes of procedures, delegation practices such as authorisation limits, segregation of duties and methods of preventing and detecting fraud); and
  - e) The procedures for monitoring the effectiveness of the internal control system which, in particular may include: the Audit & Risk Management Committee, management reviews, consultancy, inspection and review studies, the work of internal audit, quality audit reviews and statements from the Head of the University's Internal Audit function.
- (iv) Confirmation that there has been a review of the effectiveness of internal control.
  - (v) Information (if appropriate) about the weaknesses in internal control that have resulted in material losses, contingencies or uncertainties that require disclosure in the financial statement or the auditor's report on the financial statements.
  - (vi) The information relating to weaknesses in internal control should be a description of the action taken, or intended to be taken, to correct the weaknesses, or an explanation of why not action is considered necessary.

16.3 The annual financial statements of UL will reflect all post-balance sheet events, in accordance with generally accepted accounting principles (GAAP).

## **17. Tax Compliance**

17.1 As a beneficiary of State funding, the University will be exemplary in its compliance with taxation laws and will ensure that all tax liabilities are paid on or before the relevant due dates.

17.2 The University, while availing of all legitimate taxation arrangements, will not engage in "offensive" tax avoidance transactions. In broad terms tax avoidance is "offensive" if it involves the use of the tax code for a purpose other than that intended by the Oireachtas (including an unintended use of a tax incentive) with a view to reducing the amount of tax to be paid by the University or some other party to a transaction in which the University participates. Where a doubt arises in a particular instance, the University will consult the Revenue Commissioners.

## **18. Diversification and Establishment of Subsidiaries**

- 18.1 As one of the functions of a university, section 13 (2) (c) of the Universities Act, 1997 provides that a university, *“... may establish by incorporation in the State or elsewhere, or participate in the establishment of, such trading, research or other corporations as it thinks fit for the purpose of promoting or assisting, or in connection with the functions of, the university.”*
- 18.2 Proposals for the diversification of the University's activities, particularly in relation to diversification into areas outside the core functions of teaching and research, or for the establishment of new subsidiaries will require the approval of the Governing Authority, through its Finance Committee, which will consider the full implications, including any financial or other risks, for the University.

## **19. Strategic Planning**

- 19.1 In addition to the requirements of Section 34 of the Universities Act,1997 (see Part 1 paragraph 1.8.2), the University of Limerick Strategic Plan, approved by the Governing Authority, will set appropriate objectives, goals and relevant indicators and targets against which performance can be clearly measured.
- 19.2 In addition to the requirements of Section 41(1) of the Universities Act,1997 (see Part 1, paragraph 1.7.4), the report of the President will normally refer to the specific aims and targets proposed by the University in its Strategic Plan and the University's monitoring of the implementation of the Plan. Implementation of the University's Strategy should be supported through an annual planning and budgeting cycle.

## **Part 3: Governing Authority Procedures**

### **1. INTRODUCTION**

- 1.1 Subject to the Universities Act, 1997, the Governing Authority will regulate, by standing orders or otherwise, its procedures and business [Act, 3<sup>rd</sup> Schedule, 14]. The Governing Authority should review these procedures for the conduct of business not less than once every five years.

### **2. APPOINTMENT OF CHAIRPERSON AND APPOINTMENT OF MEMBERS TO BOARDS/COMMITTEES**

- 2.1 The first meeting of a new Governing Authority will be chaired by the President. In accordance with Section 17 of the Act, the President will chair subsequent meetings of Governing Authority until such time as the Chancellor (chairperson of the Authority) is appointed.

- 2.1.1 In the event the President is unavailable, the members of Governing Authority present at a meeting will elect a chairperson to chair the meeting.

#### **2.2 Nominating Committee**

- 2.2.1 During the first meeting of a Governing Authority, a committee, hereafter referred to as "The Nominating Committee", will be appointed and charged with the responsibility of recommending to Governing Authority an individual to serve as Chancellor of the University.

- 2.2.2 In addition, the Nominating Committee will be the vehicle for determining other Governing Authority Committee compositions, memberships (including the filling of casual vacancies as they arise) and terms of reference and, when requested by Governing Authority, will review such compositions and terms of reference for consideration by Governing Authority.

- 2.2.3 The Nominating Committee is also charged with making recommendations to Governing Authority on appointments to the boards of UL subsidiaries, associated companies and other bodies.

- 2.2.4 The Nominating Committee will comprise the following:

- The President (who will be Chairperson of the Committee unless he/she delegates otherwise);
- A Senior Officer of the University who is ex officio a member of Governing Authority;
- Three members of Governing Authority who are not employees/ students of the University;
- One member of Governing Authority who is a member of academic staff/research staff of the University;
- One member of Governing Authority who is a member of support staff of the University;
- One representative of the UL Students' Union.

- 2.2.5 The Chancellor of the University will not be an employee of the University or an existing member of the Governing Authority.
- 2.2.6 The Nominating Committee's recommendation of an individual as Chancellor of the University will be presented to the Governing Authority at its next meeting or as soon as is practicable thereafter and requires for approval, a majority vote of not less than two-thirds of its members.
- 2.2.7 The Chancellor will assume his/her responsibilities immediately following approval by Governing Authority.
- 2.2.8 In considering expressions of interest from members of Governing Authority to serve on committees/boards/other bodies, the Nominating Committee will, where practicable, ensure that a member of Governing Authority does not serve on the same committee/board/body for greater than one term of office of the Governing Authority.

### **2.3 Deputy Chairperson of Governing Authority**

- 2.3.1 The Governing Authority will appoint from amongst its members a member (other than the President) to be its Deputy Chairperson [*Act, 3<sup>rd</sup> Schedule, 6(1)*] and such Deputy Chairperson will, unless he or she sooner resigns as Deputy Chairperson, hold office until the end of the term of office of the Governing Authority, or until he or she ceases to be a member of the Governing Authority (whichever comes first) [*Act, 3<sup>rd</sup> Schedule, 6(2)*].
- 2.3.2 The following process will apply in the appointment of a Deputy Chairperson of Governing Authority:
- Members of the Governing Authority may express their interest in serving as Deputy Chairperson of Governing Authority to the Corporate Secretary. In addition, members of the Governing Authority may be nominated for the position. Such nominations should also be forwarded to the Corporate Secretary;
  - In the event of one expression of interest/nominee as Deputy Chairperson, then the Governing Authority will be so informed;
  - Should there be more than one expression of interest/nomination received, the Chancellor and President will discuss the matter with the relevant individuals. If, following these discussions, more than one candidate remains, then the matter will be decided by postal ballot of members of the Governing Authority.

## **3. ORDINARY MEETINGS OF GOVERNING AUTHORITY**

- 3.1 The Governing Authority will hold such and so many meetings, and at such times, as the Chancellor may determine [*Act, 3<sup>rd</sup> Schedule, 10(1)*], in consultation with the President and taking cognisance of the preferences of the members. A schedule of meetings will be adopted by the Governing Authority for the subsequent twelve months. The dates of meetings so adopted may be postponed or brought forward by the Chancellor should the need arise.

- 3.2 Additional ordinary meetings may be convened by the Chancellor. The Chancellor will convene a meeting of the Governing Authority when requested to do so in writing by not less than the number of members which constitutes a quorum [Act, 3<sup>rd</sup> Schedule, 10(2)] or by the President. Normally the Chancellor will be required to give members at least seven days' notice in advance of such a meeting.
- 3.3 Items for inclusion on the agenda of an ordinary meeting of Governing Authority will be sent to the Corporate Secretary, accompanied by appropriate documentation, at least ten working days prior to the meeting.
- 3.4 The agenda, minutes and available supporting documentation will be dispatched electronically to members of Governing Authority at least five full working days prior to the meeting. The documentation will be dispatched by post to members of Governing Authority immediately thereafter. On the recommendation of the Chancellor, at the commencement of a meeting, the Governing Authority may agree to accept late items for inclusion on the agenda.
- 3.5 Any proposed changes or amendments to the minutes of a Governing Authority meeting will be submitted in writing to the Corporate Secretary at [callista.bennis@ul.ie](mailto:callista.bennis@ul.ie) by mid-day prior to the day of the meeting at which the amendment is to be considered.
- 3.6 Normally the order of business at ordinary meetings of Governing Authority will be:
- (i) apologies
  - (ii) presentations to Governing Authority
  - (iii) minutes of previous meeting
  - (iv) matters arising from the minutes
  - (v) business that may be introduced by Chancellor and/or President
  - (vi) President's Report
  - (vii) reports of Governing Authority Committees
  - (viii) matters requiring decisions by Governing Authority
  - (ix) matters presented for information e.g. Report of Academic Council
  - (x) any other business.
- 3.7 A quorum for a meeting of Governing Authority is one third of the total number of its members, rounded up to the nearest whole number, plus one. A meeting will not commence unless a quorum is present. If a quorum is not present or ceases to be present during a meeting, the Chancellor will adjourn the meeting.
- 3.8 The Chancellor may decide to invite non-members to attend a meeting or meetings of the Governing Authority. Non-members so attending will not be entitled to vote.
- 3.9 The Corporate Secretary will record or cause to be recorded, minutes of all meetings of Governing Authority and these will be circulated to Governing Authority in accordance with Section 3.4.

- 3.10 Each issue for decision at a meeting of the Governing Authority will be determined by consensus, but where in the opinion of the Chancellor, consensus is not possible, the issue for decision will be decided by a majority of the members present and voting on the issue and, in the case of an equal division of votes, the Chancellor will have a second or casting vote [*Act, 3<sup>rd</sup> Schedule, 12*].
- 3.11 Voting will normally be by a show of hands and the decision will be recorded. The Corporate Secretary will have responsibility for organising the counting of votes. When determined by Governing Authority or the Chancellor, voting on some issues may be by secret ballot. Any member of Governing Authority taking part in a vote will bear in mind the requirements of the Ethics in Public Office Acts.
- 3.12 The number of votes for and against a motion and the number of abstentions will be announced by the Corporate Secretary at the meeting and recorded in the minutes.
- 3.13 Where a dispute arises as to the interpretation of these orders, the Chancellor will adjudicate on the matter. The ruling of the Chancellor is final.
- 3.14 Should questions that are not dealt with in these Procedures or in the Act arise at any meeting, they will be considered by the Chancellor whose decision will be final.

#### **4. SPECIAL MEETINGS OF GOVERNING AUTHORITY**

- 4.1 A special meeting of Governing Authority may be called by the Chancellor at the request of the President or of a quorum of members [*Act, 3<sup>rd</sup> Schedule, 10(3)*].
- 4.2 The convening of a special meeting of Governing Authority will require at least seven days' notice except in the case of an emergency when a meeting may be summoned at 24 hours' notice.
- 4.3 The notice convening any special meeting will contain a statement of the business to be addressed at the meeting of Governing Authority. No business other than that for which the meeting has been called will be transacted at such a special meeting.

#### **5. STATUTORY AND OTHER REGULATIONS**

##### **5.1 General**

- 5.1.1 Subject to the Act, the Governing Authority may make, from time to time, such regulations as it thinks fit for the conduct of the affairs of the University [*Act, 3<sup>rd</sup> Schedule, 15*].

##### **5.2 Governance**

- 5.2.1 The University shall have a governing authority which shall be known by whatever name the governing authority decides [*Act, Section 15(1)*]. The

governing authority of the University of Limerick shall be known as the Governing Authority.

### **5.3 Composition of Governing Authority**

5.3.1 The Governing Authority shall consist of such members being not less than 20 or more than 40 as determined by Governing Authority in accordance with the Act [Act, Section 16 (1-4), 5(g), (6-11)].

### **5.4 Expenses**

5.4.1 The Chancellor and members of Governing Authority, other than an *ex officio* member who is an employee of the university, shall be paid out of funds at the disposal of the Governing Authority such allowances for expenses as the Minister (for Education & Skills), with the approval of the Minister for Finance, may decide [Act, 3<sup>rd</sup> Schedule, 9].

### **5.5 Membership**

#### **5.5.1 Term of Office of Members**

5.5.1.1 The term of office of a member of the Governing Authority (including the Chancellor), other than an *ex officio* member, shall be not less than three years and not more than five years as determined by the Governing Authority holding office immediately before the appointment of that member. [Act, 3<sup>rd</sup> Schedule 4(1)] except as set out in Section 7.2.

5.5.1.2 The Governing Authority may act notwithstanding one or more vacancies among its members or any deficiency in the election or appointment of a member, which may subsequently be discovered [Act, 3<sup>rd</sup> Schedule, 13].

#### **5.5.2 Reappointment of Members**

5.5.2.1 A member of the Governing Authority (including the Chancellor) whose term of office expires by effluxion of time shall be eligible for reappointment [Act, 3<sup>rd</sup> Schedule, 3(4)].

5.5.2.2 A member of a Governing Authority who is a student of the University shall hold office for such period, not exceeding one year, as the Governing Authority may determine but may be re-appointed for a further period or further periods, on each occasion not exceeding one year [Act, 3<sup>rd</sup> Schedule, 4(2)].

### **5.6 Ineligibility and Removal of Members**

5.6.1 A person shall not be eligible to be a member of the Governing Authority if he or she:

- (a) is an undischarged bankrupt,
- (b) within the immediately preceding three years has, under the protection or procedure of a court, made a composition or arrangement of creditors, or

- (c) within the immediately preceding five years, has been sentenced to a term of imprisonment by a court of competent jurisdiction [*Act, 3<sup>rd</sup> Schedule, 7(2)*].

5.6.2 Where a member of Governing Authority:

- (a) is adjudged bankrupt or makes, under the protection or procedure of a court, a composition or arrangement with creditors,
- (b) is sentenced to a term of imprisonment by a court of competent jurisdiction, or
- (c) ceases to be a member of the category of person, as provided for in Section 16 of the Act, to which he or she belonged at the time of becoming a member.

he or she shall thereupon cease to be a member of the Governing Authority [*Act, 3<sup>rd</sup> Schedule, 7(1)*].

5.6.3 A member of the Governing Authority may, for good and valid reason, be removed from office by resolution of the Governing Authority [*Act, 3<sup>rd</sup> Schedule, 3(1)*].

5.6.4 A member of the Governing Authority who is absent from all meetings of the Governing Authority for a period of six consecutive months, unless the absence was due to illness or was approved by the Governing Authority, shall at the expiration of that period cease to be a member of the Governing Authority [*Act, 3<sup>rd</sup> Schedule, 3(3)*]. This provision also applies to those members of Governing Authority who avail of sabbatical/professional leave.

## **5.7 Filling of Vacancies**

5.7.1 If a member of the Governing Authority dies, resigns, is removed from office or for any other reason ceases to hold office, the Governing Authority shall arrange for the filling of the casual vacancy so occasioned as soon as practicable [*Act, 3<sup>rd</sup> Schedule, 5(1)*].

5.7.2 A person who becomes a member of the Governing Authority to fill a casual vacancy shall hold office for the remainder of the term of office of the member whose death, resignation, removal from office or ceasing for other reasons to hold office occasioned the casual vacancy and shall be eligible for re-appointment [*Act, 3<sup>rd</sup> Schedule, 5(2)*].

5.7.3 Where the office of Chancellor is to be filled as a casual vacancy, the person so appointed shall hold office for the remainder of that Governing Authority's term of office and shall be eligible for re-appointment.

5.7.4 Casual vacancies may remain unfilled at the discretion of Governing Authority if the vacancy arises within eighteen months of the end of its term of office.

## **5.8 Resignation of Members and Chancellor**

5.8.1 A member of the Governing Authority may, at any time, resign from office as a member by letter addressed to the Chancellor and the resignation shall take effect on the date on which the letter is received [*Act, 3<sup>rd</sup> Schedule, 3(2)*].

5.8.2 The Chancellor may, at any time, resign from office as Chairperson by letter addressed to the Governing Authority and lodged with the Corporate Secretary, and the resignation shall take effect on the date on which the letter is received [*Act, 3<sup>rd</sup> Schedule, 2(2)*].

## **5.9 Committees and Working Parties**

5.9.1 The Governing Authority may, from time to time, appoint such and as many committees, consisting either wholly or partly of members of the Governing Authority, as it thinks necessary to assist it in the performance of its functions and may assign to those committees such of its functions as it thinks fit [*Act, Section 18(4)*].

The President shall be entitled to be a member of and preside over any and every committee appointed by the Governing Authority [*Act, 4<sup>th</sup> Schedule, 5*] and may delegate such powers to other members of these committees.

5.9.2 A committee of the Governing Authority shall operate in such manner as the Governing Authority may direct and its acts shall be subject to confirmation by the Governing Authority unless the Governing Authority otherwise directs [*Act, Section 18(5)*]. These committees should report on a regular basis to the Governing Authority.

## **5.10 Participation in Decisions**

5.10.1 Any member of Governing Authority involved in making a recommendation to the Governing Authority in relation to appointments, promotions or review requests should exclude themselves from the relevant Governing Authority decision on the recommendation. The intent of this regulation is to those involved in making the recommendation may partake fully in related discussions.

## APPENDIX 1: Full Relevant Extracts from 1997 Act

### 18 – Functions of Governing Authority

- (1) *The functions of the governing authority of a university shall be, in pursuance of the objects of the university under section 12 but within the constraints of its budget under section 37:*
  - (a) *to control and administer the land and other property of the university,*
  - (b) *to appoint the chief officer and such other employees as it thinks necessary for the purposes of the university,*
  - (c) *subject to this Act and its charter, if any, statutes and regulations, to determine the membership from time to time of the governing authority, and*
  - (d) *to perform such other functions as are imposed on it by or under this or any other Act or by its charter, if any, statutes and regulations.*
- (2) *For the purposes of the performance of its functions under subsection (1)(b), the governing authority shall develop such interview and other procedures as in its opinion will best ensure participation in the selection process by high quality candidates from both within and outside of the employees of the university and specify those procedures in a statute or regulation.*
- (3) *A governing authority has, subject to this or any other Act or its charter, if any, such powers as are necessary for the purposes of performing its functions.*
- (4) *A governing authority may, from time to time, appoint such and as many committees, consisting either wholly or partly of members of the governing authority, as it thinks necessary to assist it in the performance of its functions and may assign to those committees such of its functions as it thinks fit.*
- (5) *A committee appointed under subsection (4) shall operate in such manner as the governing authority may direct and its acts shall be subject to confirmation by the governing authority unless the governing authority otherwise directs.*
- (6) *In performing its functions a governing authority, or a committee where appropriate, shall—*
  - (a) *have regard to the promotion and use of the Irish language as a language of general communication and promote the cultivation of the Irish language and its associated literary and cultural traditions;*
  - (b) *have regard to the attainment of gender balance and equality of opportunity among the students and employees of the university and shall, in particular, promote access to the university and to university education by economically or socially disadvantaged people and by people from sections of society significantly under-represented in the student body; and*
  - (c) *ensure as far as it can that the university contributes to the promotion of the economic, cultural and social development of the State and to respect for the diversity of values, beliefs and traditions in Irish society.*

### 21 – Suspension of Governing Authority

- (1) *Where the Minister, after considering the report of an inquiry by a Visitor made in pursuance of a request under section 20(1)<sup>5</sup>, is of the opinion that the functions of a university or its governing authority are being performed in a manner which constitutes a breach of the laws, statutes or ordinances of or applicable to the university, the Minister shall so inform the chief officer and give to the chief officer a copy of the report of the Visitor.*
- (2)
  - (a) *if the Minister is still of the opinion that the functions are being performed in a manner which constitutes a breach of the laws, statutes or ordinances of or applicable to the university; and*
  - (b) *is of the opinion that, because of the report, the governing authority should be suspended and the Visitor concurs, recommend to the Government the suspension of the governing authority and of the membership of its members.*

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<sup>5</sup> Section 20(1) states, "Where the Minister is of the opinion that there are reasonable grounds for contending that the functions of a university are being performed in a manner which prima facie constitutes a breach of the laws, statutes or ordinances applicable to the university, the Minister may, after first advising the governing authority of his or her opinion and with the concurrence of the Government, request the Visitor to the university to inquire into any matter giving rise to the Minister's opinion."

- (3) *On receiving the recommendation of the Minister the Government may, by order but subject to subsection (8), suspend the governing authority.*
- (4) *Where the Government makes an order under section (3), the Visitor to the university shall, following consultation with the Minister and such persons within the university as the Visitor considers appropriate, appoint such person or body of persons as the Visitor thinks fit to perform the functions of the governing authority and that person or body shall perform those functions until the commencement of the first meeting of the governing authority after the appointment of its members in pursuance of subsection (6).*
- (5) *The remuneration, if any, of a person or member of a body appointed under subsection (4) shall be paid out of moneys provided by the Oireachtas.*
- (6) *The Visitor shall, as soon as practicable, but in any case not later than 12 months, after the suspension of a governing authority, following consultation with such persons within the university as the Visitor considers appropriate, determine the composition of the new governing authority and, by notice in writing, inform the Minister of the composition as so determined.*
- (7) *On the Minister being informed as provided in subsection (6), the governing authority shall be so constituted as so determined, in accordance with Chapter II.*
- (8) *Where the Government proposes to make an order under subsection (3), it shall cause a draft of the proposed order to be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by both Houses.*

#### 25 – Staff

- (1) *Subject to subsection (2), a university may, in accordance with procedures specified in a statute or regulation, appoint such and so many persons to be its employees as it thinks appropriate, having regard to:*
  - (a) *the efficient use of its available resources, the requirements of accountability for the use of moneys provided to it by the Oireachtas and the policy relating to pay and conditions in the Public Service as determined from time to time by the Government,*
  - (b) *the implications of the appointments for its budget and for subsequent budgets, and*
  - (c) *the guidelines, if any, issued under section 50.*
- (2) *A governing authority may, subject to such conditions as it thinks fit, delegate to the chief officer any of the functions of the governing authority or the university relating to the appointment of employees of the university and the determination of selection procedures.*
- (3) *Except as otherwise provided by this section, the employees of a university shall be employed on such terms and conditions as the university from time to time determines.*
- (4) *Subject to subsection (5), there shall be paid by a university to the employees of that university, such remuneration, fees, allowances and expenses as may be approved from time to time by the Minister with the consent of the Minister for Finance.*
- (5)
  - (a) *A university may depart from levels of remuneration, fees, allowances and expenses approved under subsection (4) where the governing authority is satisfied that it is necessary to meet the objects of the university, but may do so only in accordance with a framework which shall be agreed between the universities and An tÚdarás.*
  - (b) *A corporation referred to in section 13(2)(c)<sup>6</sup> may pay to employees of a university remuneration, fees, allowances and expenses only in accordance with a framework which shall be agreed between the universities and An tÚdarás.*

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<sup>6</sup> Section 13(2)(c) states, "A university may establish by incorporation in the State or elsewhere, or participate in the establishment of, such trading, research or other corporations as it thinks fit for the purpose of promoting or assisting, or in connection with the functions of the University."

- (6) *A university may suspend or dismiss any employee but only in accordance with procedures, and subject to any conditions, specified in a statute made following consultation through normal industrial relations structures operating in the university with recognised staff associations or trade unions, which procedures or conditions may provide for the delegation of powers relating to suspension or dismissal to the chief officer and shall provide for the tenure of officers.*
- (7) *A university or the National University of Ireland shall determine the terms and conditions of any superannuation scheme for its employees in accordance with the Fifth Schedule and that Schedule shall apply to an amendment to an existing scheme in the same way as it applies to a new scheme.*
- (8) *For the removal of doubt, it is hereby declared that—*
- (a) *the rights and entitlement in respect of tenure, remuneration, fees, allowances, expenses and superannuation enjoyed on the commencement of this section by persons who are employees, and in the case of superannuation, former employees, of a university to which this Act applies shall not, by virtue of the operation of this Act, be any less beneficial than those rights and entitlements enjoyed by those persons as employees of the university or corresponding constituent college or Recognised College immediately before that commencement, and*
- (b) *the conditions of service, restrictions and obligations to which such persons were subject immediately before the commencement of this Act shall, unless they are varied by agreement, continue to apply to such persons and shall be exercised or imposed by the university or the chief officer as may be appropriate, while such persons are employed by the university.*

#### *34 - Strategic development plan*

- (1) *A governing authority shall, as soon as practicable after its appointment and at such other times as it thinks fit, require the chief officer to prepare a plan which shall set out the aims of the governing authority for the operation and development of the university and its strategy for achieving those aims, and for carrying out the functions of the university, during the period, being not less than three years, to which the plan relates.*
- (2) *A governing authority may, having regard to the resources available to the university, either approve a strategic development plan prepared under subsection (1) without modification or, after consultation with the chief officer, approve the plan with such modifications as it thinks fit.*
- (3) *As soon as practicable after it approves the strategic development plan under subsection (2), the governing authority shall provide a copy of the plan to An tÚdarás and to the Minister.*

#### *35 - Quality assurance Repealed by Qualifications & Quality Assurance (Education & Training) Act, 2012 with saving provisions set out at section 84 of the Qualifications and Quality Assurance (Education and Training) Act 2012, that are set out below:*

84. (1) *Where a relevant provider, other than a previously established university, has established and agreed quality assurance procedures under section 18, 28, 39 or 42 of the Act of 1999, and those procedures were in force immediately before the coming into operation of section 28 , then, on that coming into operation, those procedures shall continue in force as if they had been established under that section and this Act shall apply accordingly.*
- (2) *Where a previously established university has established quality assurance procedures under section 35 of the Act of 1997, and those procedures were in force immediately before the coming into operation of section 28 , then, on that coming into operation, those procedures shall continue in force as if they had been established under that section and this Act shall apply accordingly.*

- (3) A review under—
- (a) section 18(4), section 28(4), section 39(4) or section 42(4) of the Act of 1999, or
- (b) section 35(4) of the Act of 1997,
- which is in the process of being conducted, shall, on the coming into operation of section 34, be a review for the purposes of that section and this Act shall apply accordingly.
- (4) Where a programme of education and training has been validated by the Further Education and Training Awards Council or the Higher Education and Training Awards Council under section 15 or 25 of the Act of 1999, as the case may be, and that validation has not been withdrawn before the coming into operation of section 45 , then on that coming into operation—
- (a) *the programme shall be taken to have been validated by the Authority under section 45 , and*
- (b) *any conditions imposed under subsection (4) of section 15 or subsection (4) of section 25, of the Act of 1999, shall be taken to be conditions imposed under section 45 (2),*
- and this Act shall apply accordingly.*
- (5) *Where an application for validation of a programme of education and training has been made under section 15(1) or section 25(1) of the Act of 1999 but on the coming into operation of section 44 no decision has been made by the Further Education and Training Awards Council or the Higher Education and Training Awards Council in respect of the application, that application shall continue under section 44 and this Act shall apply accordingly.*
- (6) *After the coming into operation of section 44 , and until the Authority establishes the policies and criteria for the validation of programmes of education and training under that section, the policies and criteria for validation established under section 14(1)(a)(ii) or section 23(1)(a)(ii) of the Act of 1999, as the case may be, shall continue to apply in relation to an application for validation under section 44 .*
- (7) *A review under section 16 or 26 of the Act of 1999 which is in the process of being conducted, shall, on the coming into operation of section 46 , be a review for the purposes of that section and this Act shall apply accordingly.*
- (8) *A further education and training award made by the Further Education and Training Awards Council under section 14(1)(c) of the Act of 1999 before the coming into operation of section 50 shall, on the coming into operation of that section, be taken to be an award made by the Authority under that section.*
- (9) *A higher education and training award made by the Higher Education and Training Awards Council under section 23(1)(c) of the Act of 1999 before the coming into operation of section 50 shall, on the coming into operation of that section, be taken to be an award made by the Authority under that section.*
- (10) *After the coming into operation of section 50 , and until the Authority in accordance with section 49 (1) determines the standards of knowledge, skill or competence to be acquired, and where appropriate, demonstrated, by a learner before an award may be made by the Authority or by a provider to whom authority to make an award has been delegated, standards of knowledge, skill or competence to be acquired by a learner determined under section 14(1)(b) or section 23(1)(b) of the Act of 1999, as the case may be, shall continue to apply before an award may be made by the Authority under section 50 or by a provider to whom authority to make an award has been delegated.*
- (11) *After the coming into operation of section 50 , and until the Authority in accordance with subsection (1) of that section establishes policies and criteria for the making of awards by the Authority and a provider to whom authority to make an award has been delegated, policies and criteria for the making of awards established under section 14(1)(a)(i) or 23(1)(a)(i) of the Act of 1999, as the case may be, shall continue to apply to the making of an award by the Authority under section 50 .*
- (12) *Where authority to make a further education and training award or a higher education and training award has been delegated to a provider under section 19(5) or 29(5) of the Act of 1999 and—*

- (a) *the authority has not been withdrawn under section 20 or section 30 of that Act as the case may be, or*
- (b) *a decision to withdraw the authority has been overturned by the National Qualifications Authority of Ireland on appeal under the Act of 1999,*

*before the coming into operation of section 53 , then, on that commencement—*

- (i) *that authority shall be taken to have been delegated under section 53 ,*
- (ii) *any conditions imposed under section 19, other than conditions referred to in paragraphs (a) to (d) of subsection (6) of that section, or section 29, other than conditions referred to in paragraphs (a) to (d) of subsection (6) of that section, of the Act of 1999 shall be taken to be conditions imposed by the Authority under section 53 (4)(b), and*
- (iii) *any conditions referred to in paragraphs (a) to (d) of subsection (6) of section 19, or in paragraphs (a) to (d) of subsection (6) of section 29, of the Act of 1999, shall be taken to be conditions imposed by the Authority under section 53 (4)(a),*

*and this Act shall apply accordingly.*

(13) *Where a request has been made under section 19(1) or section 29(1) of the Act of 1999 for delegated authority to make an award but on the coming into operation of section 52 no decision has been made by the Further Education and Training Awards Council or the Higher Education and Training Awards Council in respect of that request, that request shall be taken to be a request under section 52 and this Act shall apply accordingly.*

(14) *After the coming into operation of section 53 , and until the Authority establishes procedures and criteria for the determination of a request for delegation of authority to make an education and training award, then—*

- (a) *procedures agreed under section 19(4) and criteria determined under section 19(3) of the Act of 1999 shall apply to a request by a provider specified in paragraph (b), (c) or (d) of section 52 (2), and*
- (b) *procedures agreed under section 29(4) and criteria determined under section 29(3) of the Act of 1999 shall apply to a request by a provider specified in paragraph (a) of section 52 (2),*

*except in so far as the procedures agreed under section 19(4) or 29(4), or the criteria determined under section 19(3) or 29(3), of the Act of 1999 may be inconsistent with this Act.*

(15) *After the coming into operation of section 56 , and until the Authority establishes policies and criteria for access, transfer and progression of learners, a provider to whom that section applies shall establish procedures for access, transfer and progression of learners under subsection (2) of that section, in accordance with procedures established by the National Qualifications Authority of Ireland under section 8(2)(d) of the Act of 1999.*

(16) *A review under section 20 or 30 of the Act of 1999 which is in the process of being conducted, shall, on the coming into operation of section 54 be a review for the purposes of that section and this Act shall apply accordingly.*

(17) *After the coming into operation of section 54 , and until the Authority establishes procedures for review under that section, procedures for review established under section 20(4) or under section 30(4) of the Act of 1999, as the case may be, shall apply to a review under section 54 .*

(18) *A charter recognised under section 31 of the Act of 1999 that was in force immediately before the coming into operation of section 82 shall be, on the coming into operation of that section, in so far as the charter does not conflict with this Act or the Institutes of Technology Acts 1992 to 2006, a charter recognised under section 82 and this Act shall apply accordingly.*

### 36 - Equality policy

- (1) *A governing authority shall, as soon as practicable but not later than 12 months after it is established under this Act and at such other times as it thinks fit, require the chief officer to prepare a statement of the policies of the university in respect of:*

- (a) *access to the university and to university education by economically or socially disadvantaged people, by people who have a disability and by people from sections of society significantly under-represented in the student body; and*
  - (b) *equality, including gender equality, in all activities of the university, and the chief officer, in preparing the statement, shall have regard to such policies on those matters as may from time to time be determined by the Minister.*
- (2) *A governing authority may, having regard to the resources available to the university, either approve the statement prepared under subsection (1) without modification or, after consultation with the chief officer, approve the statement with such modifications as it thinks fit.*
- (3) *A university shall implement the policies set out in the statement as approved under subsection (2).*

#### *41 - Report and information*

- (1) *The chief officer shall, with the approval of the governing authority and having regard to the strategic development plan under section 34, as soon as practicable after the end of each period, not exceeding three years commencing on the commencement of this Part or at the end of the previous such period, whichever is the later, as the governing authority thinks fit, prepare a report on the operations and the performance of the university during that period.*
- (2) *The governing authority shall publish the report in such form as it thinks fit and shall provide the Minister with a copy and the Minister shall cause a copy of the report to be laid before each House of the Oireachtas as soon as practicable after it is received by him or her.*

## Appendix 2

### **The Universities Act, 1997 - Agreed Framework between the Universities and the Higher Education Authority for Departures from Approved Levels of Remuneration, Fees, Allowances and Expenses for University Employees (Revised version endorsed by Governing Authority in October 2011)**

#### **1 Introduction**

##### **1.1 Section 25(1) of the Universities Act, 1997 provides as follows:**

*“subject to subsection (2), a university may, in accordance with procedures specified in a statute or regulation, appoint such and so many persons to be its employees as it thinks appropriate, having regard to—*

*(a) the efficient use of its available resources, the requirements of accountability for the use of moneys provided to it by the Oireachtas and the policy relating to pay and conditions in the Public Service as determined from time to time by the Government,*

*(b) the implications of the appointments for its budget and for subsequent budgets, and*

*(c) the guidelines, if any, issued under section 50.”*

##### **1.2 Section 25(4) of the Universities Act, 1997 provides as follows:**

*“Subject to subsection (5), there shall be paid by a university to the employees of that university, such remuneration, fees, allowances and expenses as may be approved from time to time by the Minister with the consent of the Minister for Finance.”*

##### **1.3 Section 25(5)(a) of the Act, allows for departures from levels of remuneration etc. as follows:**

*“A university may depart from levels of remuneration, fees, allowances and expenses approved under subsection (4) where the governing authority is satisfied that it is necessary to meet the objects of the university, but may do so only in accordance with a framework, which shall be agreed between the universities and An tÚdarás”.*

##### **1.4 For the purposes of the framework set out hereunder the term remuneration shall cover all forms of remuneration, including fees, allowances and expenses.**

## **2 Provisions of the Framework**

### **2.1 General Provisions**

#### **2.1.1 The universities and the Higher Education Authority (HEA) (the parties) agree that the purpose of the framework provided for in the Act is to lay down principles to which the parties subscribe regarding the exercise of discretion on the part of a university to depart from levels of remuneration etc. approved by the Minister. The purpose of Section 25(5)(a) is to provide a discretion to a university where necessary to meet the objects of the university, in particular the advancement of knowledge through teaching, scholarly research and scientific investigation, the promotion of learning in its student body and in society generally and the promotion of the highest standards in, and quality of, teaching and research. It will enable universities to attract a person to its academic and research staff, who would, because of exceptional or scarce expertise and/or qualifications, command remuneration higher than the norm and who would not be prepared to work for the university unless so rewarded.**

The parties agree that the provisions of the framework will be used in exceptional circumstances only, for academic and research posts, and that its application shall have regard to avoiding any damage to the morale of staff in the universities. This framework shall not be used for administrative or technical appointments. Where a university wishes to make such an appointment outside approved levels of remuneration it shall make a submission to the HEA who shall forward the proposals, together with its observations, for consideration of the Ministers for Education and Skills and Finance, in accordance with section 25(4) of the Universities Act.

- 2.1.2 It is agreed by the parties that the implementation of this framework by a university should not have any repercussive effects in the university sector or in the public service generally deriving for example, from pay relativities or linkages or other conditions of employment which could form a basis for comparative claims from other groups. The parties agree that any employee who is paid as a result of an agreement under this framework shall be red circled and that any claims from university employees for improved conditions which are based on, or refer to, agreements made under this framework shall be opposed on that ground (without prejudice to any other grounds the university may have).
- 2.1.3 It is agreed by the parties that, subject to paragraph 2.2.3 following, the provisions of the framework should not be used to provide additional remuneration to existing staff.
- 2.1.4 The parties shall have regard to the IUA co-operation agreement in operating this framework with recruitment of staff being open and transparent and on the basis of best international practice.

## **2.2 Specific provisions and criteria**

- 2.2.1 Subject to the general provisions set out above a departure as envisaged in Section 25(5)(a) of the Universities Act, 1997 shall take place only if:
- (a) The Chief Officer confirms that the Governing Authority is satisfied and so certifies, that there is clear and documented justification that the departure is necessary to meet the objects of the university and that, in so far as its best endeavours can ascertain, it will have no adverse implications within the university sector or in the public sector generally;
  - (b) it is limited to a contract appointment in accordance with the following principles:
    - A separate individual contract must be drawn up;
    - It must be a specified purpose or fixed-term contract, not normally exceeding five years. It may be renewed by one further period of up to five years after which a permanent appointment may be made using scales approved by the Ministers. Alternatively a university may seek prior approval of the Ministers for a salary outside approved limits;
    - The post must bear a unique title, duties and responsibilities, which differentiates it from an established post or grade;

- The contract should include stated performance objectives for the post holder, provisions for performance review in the light of these stated objectives, and for reduction in remuneration and/or for early termination of contract in the event of failure to meet the stated objectives;
  - (c) It is used as a means of recruiting a new staff member (but see 2.2.2 below);
  - (d) Any costs arising are met within agreed budgets, in accordance with Section 37(2) of the Universities Act.
- 2.2.2 The framework shall not, in line with the statement of general purpose in paragraph 2.1.1 (above), be used to change the conditions of existing permanent employees of the universities. However, the parties acknowledge that there may be a limited number of specific instances where a departure is required in order to retain key academic/research personnel because of their outstanding existing and potential contribution to the capacity of the university to meet its objects. In such cases a university may, with the prior agreement of the HEA, apply the provisions of the framework to existing staff. Any such appointments would be on a contract basis and would require the member of staff to be formally seconded from his or her existing position and would be subject to the conditions for the appointment being agreed in advance by the university and the HEA.
- 2.2.3 In the case of all departures under this framework the Chief Officer, as Accounting Officer, shall arrange for the documentation of all supporting considerations, including the conditions applying in appropriate comparable employments, and shall make such documentation available to the HEA in accordance with paragraph 2.2.4 (below).
- 2.2.4 Each university shall provide to the Higher Education Authority before end July and end January of each year details of, and detailed justifications for any departures made by it under this framework. The justification will include the rationale for the proposed remuneration package. A template will be issued to the universities.
- 2.2.5 The framework shall not apply to the senior academic posts above the grade of Professor.

### **2.3 Duration and Review**

- 2.3.1 The revised framework shall have effect when it has been approved by the HEA and when the Higher Education Authority and when the HEA has been notified by the Chief Officers that it has been approved by the universities.
- 2.3.2 It will be subject to review by both parties after a period of four years or sooner if deemed necessary by either party.
- 2.3.3 The framework shall cease to have effect with regard to any further appointments following notice in writing by either the HEA or by any of the universities that they no longer, for stated reasons, subscribe to the

framework. Such a notice shall be preceded by consultations between the parties and shall not affect any agreements made with specific individuals during the period when the framework was in force.

## APPENDIX 3

### FRAMEWORK FOR BORROWING AND LOAN GUARANTEES (Revised version endorsed by Governing Authority in October 2011)

#### 1.1 Provision in the Universities Act

*“38 (1) A university may borrow money by means of a bank overdraft or otherwise and may guarantee or underwrite a loan taken or borrowing undertaken by a person or body of persons.*

*(2) Borrowing, guaranteeing and underwriting under subsection (1) shall be in accordance with a framework which shall be agreed from time to time between the universities and An tÚdarás, following consultations by An tÚdarás with the Minister [for Education and Skills] and the Minister for Finance”.*

#### 1.2 Purposes of Framework

As stated in the Department of Education letter dated 16th December, 1996 to Dr. Michael Mortell, Chairman, Conference of Heads of Irish Universities, the intent of the framework is

- That a university can engage in borrowing, underwriting and guaranteeing activities provided that they impose no threat to, and do not create any contingent liabilities for, the public purse
- To ensure that the capacity of a university to function effectively is not endangered
- That advanced approval by An tÚdarás or the ministers, of individual instances of borrowing, underwriting or guaranteeing by a university would not be required.

#### 1.3 Understanding

The framework is set in the context of the current scheme operated by An tÚdarás for the funding of universities.

#### 1.4 Budgetary Context

The wider budgetary arrangements which set the financial context for this framework are outlined in Section 37 of the Universities Act, 1997. This section requires a university to operate within an annual budget agreed with the HEA and stipulates that where a university incurs expenditure in excess of its budget that excess shall be a first charge on the budget for next succeeding financial year.

#### 1.5 Framework Criteria

A university shall not be required to obtain prior consent from An tÚdarás to engage in borrowing, underwriting, and guaranteeing activities if the exercise of its powers under Section 38 (1) of the Universities Act, 1997 involves either:

- (1) short-term activities by way of overdraft or otherwise within existing arrangements and practices established by the university; or
- (2) long-term activities for capital purposes only.

In either case the activities must comply with the following conditions:

- I the purpose of the transaction is in accordance with the objects and functions of the university;
- II any new capital investment is in accordance with the university's strategic plan;
- III the university is able to demonstrate the benefit of the transaction, whether it be refinancing or new investments;
- IV the university is able to meet annual servicing costs without recourse to additional grants from An tÚdarás;
- V the university's ability to maintain financial and academic viability and structural and general service is not impaired;
- VI the university has ensured that the servicing costs of the transaction represent value for money;
- VII the level of charge against the core teaching and research funds of the university in respect of the annual servicing cost of capital, defined as the cost of capital repayment and total interest costs spread evenly over the period of the borrowing, based on a ten year repayment period, shall not exceed 4% of the university's annual income, as defined at paragraph 8 below;
- VIII borrowing to finance additional student capacity where such capacity gives rise to the need for additional exchequer funding may only take place with the prior approval An tÚdarás;
- IX borrowing arising from fully financed or tax financed projects approved under the Finance Acts, are not subject to the borrowing limit established under this framework and may take place provided the servicing of these borrowings has no impact on the annual income of the university, as defined in paragraph 8;
- X the borrowing capacity of an individual university under this framework may not be transferred to another university.

## **1.6 Reporting/Recording Requirements**

Full details of borrowing, underwriting and guaranteeing arrangements (including repayment periods and interest rates) and implications for recurrent expenditure, as certified by the Accounting Officer for the university, must be submitted with the annual budget to An tÚdarás. Although excluded from the calculation of the 4% limit the annual borrowing report should include borrowings in respect of fully financed and tax financed projects. Recording in the audited accounts should be in accordance with standard reporting practice and in accordance with the openness, transparency and accountability obligations of a publicly funded institution.

## **1.7 Review**

The framework shall be reviewed by An tÚdarás and the universities every three years, or earlier as may be required by either side.

## **1.8 Annual Income**

For the purpose of this Framework, a university's annual income is defined as core teaching income – comprising recurrent State grant, student fees and

sundry income – and research income as reported in the university's funding statements. Income derived from self-funded ancillary operations is excluded from this definition of annual income for the purposes of calculating the borrowing limit as are the related borrowings.

## **APPENDIX 4: PRINCIPLES OF QUALITY CUSTOMER SERVICE**

**In their dealings with the public, Civil Service Departments and Public Service offices will:**

### **Quality Service Standards**

Publish a statement, in both Irish and English, that outlines the nature and quality of service which customers can expect, and display it prominently at the point of service delivery.

### **Equality/Diversity**

Ensure the rights to equal treatment established by equality legislation, and accommodate diversity, so as to contribute to equality for the groups covered by the equality legislation (under the grounds of gender, marital status, family status, sexual orientation, religious belief, age, disability, race and membership of the Traveller Community).

Identify and work to eliminate barriers to access to services for people experiencing poverty and social exclusion, and for those facing geographic barriers to services.

### **Physical Access**

Provide clean, accessible public offices that ensure privacy, comply with occupational and safety standards and, as part of this, facilitate access for people with disabilities and others with specific needs.

### **Information**

Take a proactive approach in providing information that is clear, timely and accurate, is available at all points of contact, and meets the requirements of people with specific needs. Ensure that the potential offered by Information Technology is fully availed of and that the information available on public service websites follows the guidelines on web publications.

Continue the drive for simplification of rules, regulations, forms, information leaflets and procedures.

Ensure that information is available in both Irish and English.

### **Timeliness and Courtesy**

Deliver quality services with courtesy, sensitivity and the minimum delay, fostering a climate of mutual respect between provider and customer.

Give contact names in all communications to ensure ease of on-going transactions.

### **Complaints**

Maintain a well-publicised, accessible, transparent and simple-to-use system of dealing with complaints about the quality of service provided.

## **Appeals**

Similarly, maintain a formalised, well-publicised, accessible, transparent and simple-to-use system of appeal/review for customers who are dissatisfied with decisions in relation to services.

## **Consultation And Evaluation**

Provide a structured approach to meaningful consultation with, and participation by, the customer in relation to the development, delivery and review of services. Ensure meaningful evaluation of service delivery.

## **Choice**

Provide choice, where feasible, in service delivery including payment methods, location of contact points, opening hours and delivery times. Use available and emerging technologies to ensure maximum access and choice, and quality of delivery.

## **Official Languages Equality**

Provide quality services through Irish and/or bilingually and inform customers of their right to choose to be dealt with through one or other of the official languages.

## **Better Co-Ordination**

Foster a more co-ordinated and integrated approach to delivery of public services.

## **Internal Customer**

Ensure staff are recognised as internal customers and that they are properly supported and consulted with regard to service delivery issues.