

# THEA Code of Governance for Institutes of Technology

**1st January 2018**



## Preface

Good governance arrangements are essential for organisations large and small and whether operating in the public or private sector. Governance comprises the systems and procedures under which organisations are directed and controlled. A robust system of governance is vital in order to enable organisations to operate effectively and to discharge their responsibilities as regards transparency and accountability to those they serve. Given their pivotal role in society and in national economic and social development, as well as their heavy reliance on public as well as private funding, good governance is particularly important in the case of Institutes of Technology.

Institutes of Technology have a strong track record in relation to governance and accountability. The various Regional Technical Colleges Acts 1992 through to 2001 were proactive in setting out a framework of accountability for the effective governance of Institutes of Technology. The Institutes of Technology Act 2006 underscores the autonomy of Institutes of Technology particularly in section 7 which also amends the 1992 Act by inserting a new section 5A, subsection (1) of which provides that an Institute of Technology shall “have the right and responsibility to preserve and promote the traditional principles of academic freedom in the conduct of its internal and external affairs”. The approach to governance set out in this document seeks to preserve the balance between accountability and autonomy which is struck in the Institutes of Technology (IOT) Acts 1992 to 2006.

The Government introduced a Code of Practice for the Governance of State Bodies in 2001 and the Institutes implemented a Code in compliance with this in 2008. Following the introduction of the revised Code of Practice for the Governance of State Bodies in 2009, the Institutes adopted a revised Code of Practice for the Governance of Institutes of Technology in 2012. In addition the Institutes also developed and implemented Good Practice Guidelines for Governing Body in 2010. In 2017, THEA established a Project Working Group, which engaged THEA’s Internal Auditors, PwC, to draft the revised Code for the Governance of Institutes of Technology, bringing the original Code of Practice in line with the revised 2016 Code of Practice for the Governance of State Bodies. The HEA have been consulted at various stages of the project and provided an initial analysis of the 2016 Code sections which were not relevant to the educational sector. The Code has been drafted taking the original 2016 Code of Practice for the Governance of State Bodies as its starting point. This document was localised for the Institutes while tracking all changes to the original and keeping a log of all removed sections. In some cases, sections have been adapted or expanded to bring the Code in line with IOT Legislation. A consultation process was completed with various stakeholders through THEA. The fully tracked document has been presented to and agreed with the HEA prior to becoming effective.

The THEA Code of Governance of Institutes of Technology is hereafter referred to as “the Code”. This revised Code now replaces the previous Code of Governance and the Good Practice Guidelines.

The high level principles of the Code of Practice for the Governance of Institutes of Technology are set out at the beginning of each section of this Code.

It should be noted that:

- this Code should be read in conjunction with the legislative provisions which govern the Institutes of Technology. Existing legislative provisions<sup>1</sup> applying to the Institutes of Technology on matters that are also the subject of this Code, continue to apply and for the avoidance of doubt, in the event of any conflict or inconsistency, the legislative provisions prevail. The Code includes legislative references where relevant.
- provisions contained in this Code, including financial thresholds, may be amended from time to time by the Minister for Public Expenditure and Reform, having consulted with relevant Ministers;
- the Minister for Public Expenditure and Reform may issue circulars and/or guidance notes, from time to time, in relation to this Code; and
- this Code does not intend to address academic governance matters which is subject to separate QQI legislation.

It is noted that the *Code of Practice for the Governance of State Bodies, which forms the basis of this Code*, will be a living document which will evolve in line with best practice. The most recent version of the *Code of Practice for the Governance of State Bodies* is available on the Department of Public Expenditure and Reform Government Accounting website ([govacc.per.gov.ie/governance-of-state-bodies](http://govacc.per.gov.ie/governance-of-state-bodies)). Similarly it is intended that this document will also be a living document and evolve over time in line with both best practice and legislative changes. The most recent version of this Code is available on the THEA website.

**This Code is effective from the 1<sup>st</sup> of January 2018**

<sup>1</sup> Any reference contained in this Code of Practice, whether a reference to any enactment or otherwise, should be construed as a reference to such provision as amended, adapted or extended from time

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## Introduction

Corporate governance comprises the systems and procedures by which organisations are directed, controlled and managed. The Institutes of Technology, should serve the interests of Government as shareholder, the taxpayer, students and all other stakeholders, and pursue value for money in their endeavours, including managing risk appropriately. Institutes of Technology should act prudently, ethically and with transparency as public entities and should conduct their activities consistent with their statutory responsibilities.

As outlined in section 3(5) of the IOT Acts, 1992-2006, each Institute is a “...body corporate with perpetual succession and power to sue and be sued in its corporate name and to acquire, hold and dispose of land.”

Also outlined in section 5A (1) of the IOT Acts, 1992-2006, each Institute “...in performing its functions, shall have the right and responsibility to preserve and promote the traditional principles of academic freedom in the conduct of its internal and external affairs.”

High standards of corporate governance in Institutes of Technology are critical to ensuring a positive contribution to the State’s overall economic efficiency, competitiveness, social cohesion and regional development.<sup>2</sup>

The Governing Body and Management of the Institute of Technology are accountable for the proper management of the organisation. Governing Body members and employees of the Institutes of Technology and their subsidiaries should be strongly guided by the principles set out in this Code in meeting their responsibility to ensure that all activities, whether covered specifically or otherwise in this document, meet the highest standards of corporate governance.

Good governance encourages better informed and longer term decision-making as well as the efficient use of resources. It strengthens accountability for the stewardship of resources and is characterised by robust scrutiny which places ongoing emphasis on improving public sector performance.<sup>3</sup>

The corporate governance framework typically comprises elements of legislation, regulation, self-regulatory arrangements, voluntary codes, commitments and business practices that have evolved within the organisation.

This Code is a sectoral Code and in the process of implementation Model Documents should be replaced by

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<sup>2</sup> Adapted from the “Guidelines on Corporate Governance of State-Owned Enterprises” (OECD, 2015) page 11

<sup>3</sup> “International Framework: Good Governance in the Public Sector” (IFAC/CIPFA, July 2014) page 6

actual localised Institute documents.

## About this Code

The Code provides a framework for the application of best practice in corporate governance by Institutes of Technology. Institutes of Technology should demonstrate their commitment to achieving the highest possible standards of corporate governance.

Institutes of Technology and their subsidiaries are required to confirm to the Minister of Education & Skills, and the HEA, as appropriate, that they comply with the *Code of Practice for the Governance of State Bodies, as encapsulated by this Code*, in their governance practices and procedures. A separate Code of Governance for Subsidiaries has been developed and is being updated to reflect the requirements of this Code. The requirements should be applied in all trading subsidiaries and, as appropriate, in joint ventures of the Institute of Technology. Appropriate confirmation should be provided to the relevant Minister in relation to these.

The Code concerns both the internal practices of the Institutes of Technology and their external relations with Government, the Minister of Education & Skills, the Minister for Public Expenditure and Reform, and. Reference is made to ethics in public office obligations that apply to all designated Governing Body members and designated office holders.

The Code of Practice for Governance of State Bodies recognises that all aspects of that Code may not necessarily be appropriate for some smaller State bodies. Accordingly, certain requirements have been identified as proportionately applicable to the Institutes of Technology and reflected in this Institute specific Code, which has been approved by the HEA.

The provisions of this Code do not override existing statutory requirements and other obligations imposed by the Companies Act 2014, Ethics in Public Office legislation, the specific statutory provisions relating to the Institutes of Technology themselves and any other relevant legislation (e.g. equality legislation, employment legislation).

## Oversight Agreements

Clear accountability underpins effective relations between Government Departments and the State bodies under their aegis. Effective accountability depends upon respective roles and responsibilities being clearly defined and understood on both sides of the agreement.

The starting point for clarity of accountabilities is the oversight agreement between the Minister/ Department



of Education and Skills / HEA as their representative agency and the Institute. The oversight agreement is a written statement between the Minister/Department of Education and Skills / HEA as their representative agency and the Institute which clearly defines the terms of the Department of Education & Skills relationship with the Institute.

The oversight agreement should reflect the Institute of Technology legal framework; the environment in which the Institute operates (e.g. commercial, non-commercial, regulatory body); the purpose and responsibilities of the Institute; the Institute's level of compliance with this Code; details of the Performance Delivery Agreement (e.g. outputs to be delivered); and arrangements for oversight, monitoring and reporting on conformity with Government policy including those actions and areas of expenditure where prior sanction from the Department of Education & Skills and/or the Department of Public Expenditure and Reform is required.

The details of the Oversight Arrangements and Agreements are set out in Section 8.

## Compliance Requirements

All Institutes have a responsibility to implement good corporate governance standards.

The Institute should reach agreement and formally document with the Minister/Department of Education & Skills/ the HEA as their representative the extent to which the compliance requirements in this Code might be suitably adapted in their case. The Institutes should then note the agreement reached in its annual report and explain whether the requirements are to be phased-in over a longer period of time, or otherwise varied in some way.

## Comply or Explain

As outlined, exemptions from specific provisions in this Code may be justified in certain situations provided the objectives of those provisions can be achieved by other governance measures. Any Institute with derogations from the provisions of this Code should also have explanatory notes written into their oversight agreements with the Minister / Department of Education and Skills with reasons for the exemptions clearly explained.

## Legislative References

The Institutes of Technology Acts 1992 to 2006 impose a number of considerable governance requirements on Institutes of Technology. These will be referenced where appropriate throughout this document.

This document includes references to legislative provisions in the above Acts, as applicable to each section of

this Code. The referenced provisions can be accessed via the hyperlinks inserted into this document.



## Governance Framework

The Governance Framework schematic on the previous page shows the main features of the governance framework relationship between Government and the Institutes. The diagram does not purport to cover all aspects of this relationship which will vary depending on the differing nature, scale and responsibilities of the Institute and the governing legislation establishing the Institute.

Institutes have governing legislation which provides for, inter alia, the appointment (by the Minister) of the Governing Body and the Chairperson, for the approval of the form of the annual report and financial statements, and for the furnishing of such information as the Minister may require. The Chairperson and Governing Body are ultimately responsible to the Minister (who is responsible to Government) for the operation and proper functioning of the Institute.

The functions and duties of the Governing Body are set out in the governing legislation of the Institutes of Technology. The Governing Body should, using their high level functions and duties as a guide, prepare customised /standing orders for the Governing Body.

The President shall, whenever required to do so by the Public Accounts Committee (PAC) of the Oireachtas, give evidence on the regularity and propriety of the Institutes accounts, economy and efficiency of use of resources, effectiveness of operations and any other matters referred to the committee by C&AG.

# 1.Role of the Governing Body

## Guiding Principles

Each Institute of Technology should be clear about its mandate and from that identify the various functions, roles and responsibilities entailed in the delivery of that mandate.

The Governing Body is collectively responsible for leading and directing the Institutes' activities. While the Governing Body may delegate particular functions to management the exercise of the power of delegation does not absolve the Governing Body from the duty to supervise the discharge of the delegated functions.

The Governing Body should fulfil key functions, including: reviewing and guiding strategic direction and major plans of action, risk management policies and procedures, annual budgets and business plans, setting performance objectives, monitoring implementation and Institute performance, and overseeing major capital expenditure and investment decisions.<sup>4</sup>

The Governing Body should act on a fully informed and ethical basis, in good faith, with due diligence and care, and in the best interest of the Institute, having due regard to its legal responsibilities and the objectives set by Government.

The Governing Body should promote the development of the capacity of the Institute including the capability of its leadership and staff.

The Governing Body is responsible for holding the President and senior management to account for the effective performance of their responsibilities.

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<sup>4</sup> Adapted from the "G20/OECD Principles of Corporate Governance" (OECD, September 2015) page 53

## IOT Legislative References

The relevant IOT legislative provisions for this section are listed below:

[Section 5 of the IOT Acts 1992-2006- Functions of Colleges](#)

[Section 6 of the IOT Act,1992 to 2006- Governing Bodies](#)

[Section 7 of the IOT Act,1992 to,2006 - Functions of governing bodies](#)

[Section 9 of the IOT Act,1992 to 2006- Director](#)

[Section 10 of the IOT Act,1992 to 2006- Academic council](#)

[Section 11 of the IOT Act,1992 to 2006- General provisions in relation to staff](#)

[Section 11A of the IOT Act,1992 to 2006 - Provisions in relation to certain staff](#)

[Section 12 of the IOT Act, 1992 to 2006- Provisions in relation to existing staff.](#)

[Section 13 of the IOT Act, 1992 to 2006- Budgets](#)

[Section 14 of the IOT Act, 1992 to 2006 - Annual Report and Information](#)

[Section 16 of the IOT Act, 1992 to 2006- Keeping of Accounts and Records](#)

[Section 21A of the IOT Act,1992 to 2006- Reserved functions of the Governing Body](#)

[Section 21B of the IOT Act,1992, as amended by Section 22 of IOT Act, 2006- Executive functions, which are to be performed by the Chief Officer](#)

[Section 21C of the IOT Act, 1992 to 2006 - Strategic development plan](#)

[Section 21D of the IOT Act, 1992 to 2006 - Equality Policy](#)

[Section 21E of the IOT Act, 1992 to 2006- Dispute Resolution](#)

[Section 21F of the IOT Act, 1992 to 2006 An tÚdarás may review](#)

[Second Schedule to the IOT Act, 1992 to 2006- The Governing Body](#)

## Provisions

- 1.1 Leadership:** The Governing Body's role is to provide leadership and direction of the Institute within a framework of prudent and effective controls which enables risk to be assessed and managed. The strategic aims of the Institute of Technology should be aligned with the System Performance Framework, to the extent relevant, and ensure optimal use of resources to meet its objectives.
- 1.2 Ethical Standards:** The Governing Body has a key role in setting the ethical tone of the Institute not only by its own actions but also in overseeing senior management and staff. High ethical standards are in the long term interests of the Institute and a key means to make it credible and trustworthy.<sup>5</sup> It is important that the Governing Body sets the correct 'tone from the top'. The Governing Body should lead by example and ensure that good standards of governance and ethical behaviour permeate all levels of the organisation.
- 1.3 Compliance:** The Governing Body should review the controls and procedures adopted by the Institute to provide itself with reasonable assurance that such controls and procedures are adequate to secure compliance by the Institute with its statutory and governance obligations.

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<sup>5</sup> Adapted from "G20/OECD Principles of Corporate Governance" (OECD, September 2015) page 53

**1.4 Collective Responsibility:** The collective responsibility and authority of the Governing Body should be safeguarded. All members of the Governing Body should be afforded the opportunity to fully contribute to Governing Body deliberations, and where necessary to provide constructive challenge, while excessive influence on the Governing Body decision-making by one or more individual members should be guarded against.

**1.5 Governing Body Oversight Role:** The management of the Institute has a duty to provide the Governing Body with all necessary information to enable the Governing Body perform their duties to a high standard. The Governing Body of the Institute should take all necessary steps to make themselves aware of any relevant information and access all information as necessary.

While the Governing Body of an Institute may establish an Audit and Risk Committee to assist with its consideration of issues relating to audit, governance and risk management, the Governing Body of the Institute maintains responsibility for and makes the final decisions on all of these areas.

**1.6 Advice to Minister:** The Governing Body should ensure that the Minister is advised of matters arising in respect of the Institute.

## Matters for Decision of the Governing Body

**1.7 Matters for Decision of the Governing Body:**

The Governing Body should meet sufficiently regularly to discharge its duties effectively.<sup>6</sup> The Governing Body should have a formal schedule of matters specifically reserved for it for decision to ensure that the direction and control of the Institute is firmly in its hands (some of these matters may require Ministerial approval).

a) Statutory Functions

The formal schedule should include the various statutory functions reserved to the Governing Body as set out in the 1992 Act, as amended:

Section 5 (1) (a) to (j)

Section 7 - Functions of a Governing Body;

Section 9 – Appointment of a Director

Section 10 - Academic Council;

Section 11, 11A and 12 (Section 12 in the case of the DIT Act) - Staff;

Section 13 - Budgets;

Section 14 - Annual Report;

Section 21 C - Strategic Development Plan;

Section 21 D - Equality Policy

Section 21 E - Dispute Resolution

b) Code functions

In addition to the statutory and reserved functions included in the Appendix B the schedule should include, at least, the following:

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<sup>6</sup> Taken from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 7

- Significant acquisitions, disposals and retirement of assets of the Institute or its subsidiaries. The schedule should specify clear quantitative thresholds for contracts above which Governing Body approval is required;
- major investments and capital projects;
- delegated authority levels, treasury policy and risk management policies;
- approval of terms of major contracts;
- assurance of compliance with statutory requirements in relation to public sector pay and approval of the appointment of all staff
- approval of annual budgets and corporate plans;
- approval of annual reports and financial statements;
- appointment, and assessment of the performance of, and succession planning for, the President; and
- Significant amendments to the pension benefits of the President and staff.

The Code of Practice for the Governance of State Bodies 2016 stipulates that the Board of a State Body should meet twice a year without members of the Executive present to discuss any matters deemed relevant.

The underlying principle being that the Governing Body has a role in measuring the performance of the President and, in order to do that, the members involved need to be independent. Therefore, the Governing Body should meet at least twice a year without Governing Body members formally connected with the Institutes present to discuss any matters deemed relevant. Persons deemed connected include, but are not limited to, the President, staff members and student members.

**1.8 Annual Confirmation:** The Governing Body has responsibility for ensuring that effective systems of internal control are instituted and implemented. The Governing Body is required to confirm annually to the Minister that the Institute has an appropriate system of internal and financial control in place, which is effected by the Annual Governance Statement and Statement of Internal Control.

**1.9 Expenditure and Performance:** Decision on major items of expenditure should be aligned with medium to long-term strategies so as to ensure that such expenditure is focused on clearly defined objectives and outcomes. A performance measurement system should be put in place to assess the effectiveness/outcome of such expenditure and this should be reported to the Governing Body.

**1.10 Post Resignation/Retirement:** The Governing Body should, in a manner most effective to the Institute, deal with the issue of post resignation/retirement employment, appointment and/or consultancy of its Governing Body members and employees by the private sector and should ensure that any procedures that it may have put in place in this regard are monitored and enforced to guard against conflicts of interest or inappropriate disclosure of information that might otherwise arise. Such procedures could include the return of Governing Body papers at the end of a Governing Body member's term.

**1.11 Conflict of Interest:** The Governing Body should have procedures in place to monitor and manage potential conflicts of interest of Governing Body members and management (See paragraph 5.5.)

**1.12 External Auditors:** The Governing Body should establish procedures for maintaining an appropriate



relationship with the Comptroller and Auditor General as designated external auditors of the Institute.

- 1.13 Terms of Reference:** The Audit and Risk Committee and other Governing Body committees should each have a written terms of reference. The Governing Body should agree the intervals within which the terms of reference should be reviewed by the main Governing Body and updated as appropriate.
- 1.14 Protected Disclosures:** In line with the legal requirement under section 21 of the Protected Disclosures Act 2014, every Institute shall establish and maintain procedures for the making of protected disclosures by workers who are or were employed by the Institute and for dealing with such disclosures. The Institute shall provide to workers employed by it written information relating to the procedures as set out above. Guidance for the purpose of assisting Institutes in the performance of their functions published by the Minister for Public Expenditure and Reform can be found [here](#).

## Statement of Strategy

- 1.15 Strategic Plan:** In accordance with [Section 21C of the IOT Act, 1992 to 2006](#), the Governing Body shall require the President to develop a strategic plan and the Governing Body will approve such plan with regard to the resources available to the Institute. Such plans should set appropriate objectives, goals and relevant indicators and targets against which performance can be clearly measured. All Institutes should have a formal process in place for setting strategy including consultation with Governing Body.
- 1.16 Strategy statement:** The Governing Body should adopt a statement of strategy for a period of 3-5 years ahead. The statement should be aligned to national objectives and the system performance framework of the Department of Education and Skills. The Statement of Strategy should contain a mission statement, high level objectives and target outputs and outcomes in the key strategic areas of Institute activity, as well as a statement on the resources to be deployed to meet the targets. Refer to section 8 of this Code for further requirements.
- 1.17 Implementation:** In addition to the requirements of Institutes of Technology Act 1992 to 2006, implementation of the strategy by the management of the Institute should be supported through an annual planning and budgeting cycle. The Governing Body should approve annual programmes and budgets and should formally undertake an evaluation of actual performance by reference to the programme and/or budget on an annual basis.
- 1.18 Annual Report and Financial Statements:** The Governing Body should explain in the annual report the Institute's responsibility for the preparation of the annual report and financial statements whether they consider the financial statements to be a true and fair view of the Institute's financial performance and its financial position at the end of the year.

The Governing Body should state in the annual accounts that they are responsible for approving the accounts. There should also be a statement by the Comptroller and Auditor General about the Governing Body's reporting responsibilities.

**1.19 Secretary of the Governing Body:** The secretary of the Governing Body in the Institutes of Technology is normally the Secretary/Financial Controller or other employee designated in accordance with the agreed structure of the Institute. The Individual must have the skills necessary to discharge their statutory and legal duties and such other duties as designated by the Governing Body.

**1.20 Role of Secretary of the Governing Body:** The role of the Secretary of the Governing Body should be seen as a support to the Governing Body. The scale and scope of the role will depend on the size, nature and responsibilities of the Institute.

The Secretary of the Governing Body may be assigned such functions and duties as may be delegated by the Governing Body. The duties can be classified as follows:

- statutory duties;
- duty of disclosure;
- duty to exercise due care, skill and diligence; and
- administrative duties.

**1.21 Governance:** The Secretary of the Governing Body should report to the Chairperson on all governance matters and should assist the Chairperson in ensuring relevant information is made available to the Governing Body and its committees.

The Secretary of the Governing Body is responsible for advising the Governing Body through the Chairperson on all governance matters. The Governing Body should have a list of statutory obligations and regulations that are required to be complied with and the execution of which depends on the Secretary of the Governing Body.

## Division of Responsibilities

### Guiding Principles

There should be a clear division of responsibilities between leading and managing the Governing Body and the executive responsibility for running the Institute. No one individual should have unfettered powers of decision.<sup>7</sup>

### Code Provision

**1.22 Separation of Roles:** The roles of the Chairperson and President are governed by the Second and Third Schedules to the Institutes of Technology Act 1992 to 2006. The role of Chairperson and President cannot be combined.

- i) Section 21A of the Institutes of Technology Act 1992 to 2006 set out the statutory responsibilities of the Governing Body defined as Reserved Functions.
- ii) Section 21B (i) provides that “every function that is not a reserve function shall be an executive function...”
- iii) Section 21B (ii) states that “executive functions shall be performed by the President.”

For convenience Appendix A provides an example of Governing Body Standing Orders and Appendix B details the Reserved Functions of the Governing Body, whether derived directly from the Acts or other instruments.

**Appendix A: Governing Body Standing Orders**

**Appendix B: Reserved Functions of the Governing Body**

<sup>7</sup> Taken from the Financial Reporting Council’s “UK Corporate Governance Code” (2016) page 8

## 2.Role of the Chairperson

### Guiding Principles

The Chairperson is responsible for leadership of the Governing Body and ensuring its effectiveness on all aspects of its role.<sup>8</sup>

The Chairperson should display high standards of integrity and probity and set expectations regarding culture, values, and behaviours for the Institute and for the tone of discussions at Governing Body level.

### IOT Legislative References

The relevant IOT legislative provisions for this section are listed below:

Section 9 of the IOT Acts 1992 to 2006 - Director

Section 21B of the IOT Acts 1992 to 2006 - Executive functions, which are to be performed by the Chief Officer

Second Schedule of the IOT Acts 1992 to 2006 - The Governing Body

Third Schedule of the IOT Acts 1992 to 2006- Director

### Code Provisions

- 2.1 Governing Body's Agenda:** The Chairperson and the President are responsible for the effective management of the Governing Body's agenda and ensuring that adequate time is available for discussion of all agenda items, in particular strategic issues. The Chairperson and the President should meet in advance of the Governing Body meeting to agree the agenda. All Governing Body members are entitled to propose to the Chairperson matters which may be included on the Agenda.
- 2.2 Openness and Debate:** Essential to the effective functioning of The Governing Body is dialogue which is both constructive and challenging. The Chairperson should promote a culture of openness and debate by facilitating the effective contribution of key management and all Governing Body members.
- 2.3 Timely Information:** The Chairperson is responsible for ensuring that the Governing Body receive accurate, timely and clear information. The Chairperson should ensure effective communication with all relevant stakeholders.<sup>9</sup>

<sup>8</sup> Taken from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 5

<sup>9</sup> Taken from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 8

**2.4 Governing Body Skills:** Where a Chairperson is of the view that specific skills are required on the Governing Body, he/she should advise the Minister of this view for his/her consideration sufficiently in advance of a time when Governing Body vacancies are due to arise.

**2.5 Information Flows:** Under the direction of the Chairperson, the responsibilities of the Secretary of the Governing Body include ensuring good information flows within the Governing Body and its committees and between senior management and members of the Governing Body, as well as facilitating induction, mentoring and assisting with ongoing professional development as required.<sup>10</sup>

**2.6 Annual Reporting Requirements:**

The Chairperson is responsible for ensuring that the Governing Body meets its Annual Reporting Requirements, as further identified in Section 6 and as follows:

- **Annual Report:** In accordance with Section 14 of the IOTI Acts 1992-2006 as amended, an Annual Report of the proceedings of the Institute shall be published in such form as may be determined by the HEA.
- **Statutory Financial Statements:** In accordance with Section 16 of the IOTI Acts 1992- 2006 as amended, the statutory financial statements shall be submitted to the Comptroller and Auditor General and, together with a copy of a report of the Comptroller and Auditor General, shall be presented to the HEA and to the Minister.
- **Annual Governance Statement:** The Chairperson of each Institute should furnish the annual report, financial statements of the Institute, and an Annual Governance Statement to the HEA and the Minister for Education and Skills covering the Institute (See paragraph 6.10). Refer to Annual Governance Statement (Appendix J).
- **Statement of Internal Control:** The Statement of Internal Control should be included in the annual report of the Institute. This statement should be reviewed by the external auditors, the Comptroller and Auditor General, to confirm that it reflects the Institute's compliance with the requirements of paragraph 6.10(v) and is consistent with the information of which they are aware from their audit of the financial statements. The Comptroller and Auditor General should include their report on this matter in their audit report on the financial statements. Refer to Section 6.10 and Appendix I Statement of Internal Control of this Code for further details.

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<sup>10</sup> Adapted from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 13

## 3. Role of Members of the Governing Body

### Guiding Principles

The Institute should be headed by an effective Governing Body which is collectively responsible for the long-term sustainability of the Institute.

All Governing Body members should bring an independent judgement to bear on issues such as strategy, performance, resources, key appointments, and standards of conduct.

### IOT Legislative References

The relevant IOT legislative provisions for this section are listed below:

Second Schedule of the IOT Acts 1992 to 2006 - The Governing Body  
Section 6 of the IOT Acts 1992 to 2006- Governing Bodies

### Code Provisions

**3.1 Fiduciary Duty:** All Governing Body members have a fiduciary duty to the Institute in the first instance (i.e. the duty to act in good faith and in the best interests of the Institute).

The principle fiduciary duties generally are:

- to act in good faith in what the Governing Body member considers to be the interest of the Institute;
- to act honestly and responsibly in relation to the conduct of the affairs of the Institute;
- to act in accordance with the IOT Acts 1992-2006 and exercise his or her powers only for the purposes allowed by law;
- not to benefit from or use the Institute's property, information or opportunities for his or her own or anyone else's benefit unless the Institute's constitution permits it or a resolution is passed in a general meeting;
- not to agree to restrict the Governing Body member's power to exercise an independent judgment;
- to avoid any conflict between the Governing Body member's duties to the Institute and the Governing Body member's other interests unless the Governing Body member is released from his or her duty to the Institute in relation to the matter concerned;
- To exercise the care, skill and diligence which would be reasonably expected of a person in the same position with similar knowledge and experience as a Governing Body member. A Governing Body member may be held liable for any loss resulting from their negligent behaviour; and
- To have regard to interests of the Institute's members.

The powers of governance and management of an Institute are delegated by the members of the Institute to the Governing Body and the Governing Body owe their duties, first and foremost, to the Institute.

**3.2 Subsidiary Boards & the Companies Act 2014:** Under the Companies Act 2014 there is specific statutory recognition for the fiduciary duties of directors of companies incorporated under the Companies Act, 2014 or the Companies Acts, 1963-2013. While the Institutes are not incorporated under the Companies Act 2014, Boards of the Institute subsidiaries formed under the Companies' Acts must adhere with the specific duties and obligations they have under the Companies Act 2014. It is the responsibility of each Board member to act in conformity with applicable provisions.

A Board member, as a company director, shall comply with the notification requirement to the Registrar of Companies upon becoming a Board member with a signed statement in the following terms:

*"I acknowledge that, as a director, I have legal duties and obligations imposed by the Companies Act, other statutes and common law".*

Part 5 of the Companies Act 2014 consolidates the duties and responsibilities of directors in one unified code for clarity and transparency. The Companies Act, 2014 applies to all company directors, incorporated under the provisions of the Companies Act, 2014 or under any former company law enactment including those directors that have been formally appointed and to de facto directors.

The Companies Act 2014 also includes a number of general duties for directors:

- Directors must ensure compliance with the Companies Act and the various tax acts.
- Directors must ensure that the company secretary is suitably qualified.
- Directors must acknowledge the existence of their duties by signing a declaration to that effect.
- Directors must take into account the interests of the members of the company and have regard to the interests of the employees.
- Restrictions on loans, quasi loans, credit transactions and certain guarantees and security exist for directors, but will be subject to the new summary approval procedure.
- Directors must disclose any interests in contracts made by the company.
- Directors must notify the company of any interests in shares in the company, its parent or subsidiary but no obligation arises if the shares held represent less than 1% of the share capital of the company or the shares do not have voting rights.

Directors who are found to be in breach of their duties will be liable to account for any gains accrued and must indemnify companies for losses resulting from any breaches of duties. A court may grant relief from liability where it is satisfied that a director acted honestly and reasonably at all times.

**3.3 Non-compliance:** If a Governing Body member finds evidence that there is non-compliance with any statutory obligations that apply to the Institute or its subsidiaries, he/she should immediately bring this to the attention of their fellow members of the Governing Body with a view to having the matter rectified.

The matter should also be brought to the attention of the HEA by the Chairperson indicating (i) the consequences of such non-compliance and (ii) the steps that have been or will be taken to rectify the position. It is the Chairperson's responsibility to make such issues known to the Minister.

The HEA must be notified without delay where:

- i) there are serious weakness in controls that have not been addressed despite being drawn to the attention of the Governing Body or the Chairperson;
- ii) there is a significant strategic or reputational risk to the Institute that is not being addressed; and/or
- iii) there are serious concerns about possible illegality or fraud occurring in an Institute. A Governing Body member may have obligations under company law (if it applies) in situations where an Institute or its subsidiary is not being conducted in accordance with law.

**3.4 Professional Advice:** The Governing Body should, in a Governing Body resolution, lay down formal procedures whereby Governing Body members, in the furtherance of their duties, may take independent professional advice, if necessary, at the reasonable expense of the Institute where they judge it necessary to discharge their responsibilities as Governing Body members. The Governing Body should have in place a procedure for recording the concerns of Governing Body members that cannot be resolved.

**3.5 Letter of Appointment:** A formal standard letter of appointment should be issued to new Governing Body members from the Minister for Education and Skills. The letter of appointment should include the following:

- role of the Governing Body and that of a Governing Body member;
- the Governing Body's terms of reference;
- duration of appointment and renewal provisions;
- support and training to be provided;
- the time commitment involved;
- level of remuneration;
- conflict of interest rules;
- termination arrangements; and
- Rules on confidentiality.

The letter is to be provided to the Secretary of the Governing Body for record.

## Appendix C: Outline of Obligations under Ethics in Public Office Acts



## Briefing for New Members of the Governing Body

- 3.6** On the appointment of new members of the Governing Body, the Secretary of the Governing Body should provide them with the following information:
- a formal schedule of matters reserved to the Governing Body for decision (see paragraph 1.7);
  - procedures for obtaining information on relevant new laws and regulations
  - procedures to be followed when, exceptionally, decisions are required between Governing Body meetings;
  - a schedule detailing the composition of all Governing Body committees and their terms of reference;
  - a statement explaining the Governing Body members' responsibilities in relation to the preparation of the financial statements, the Institute's system of internal control and audit and for reporting on the business as a going concern with supporting assumptions or qualifications as necessary;
  - a statement informing Governing Body members that they have access to the advice and services of the Secretary, who is responsible to the Governing Body for ensuring that procedures are followed and that these procedures comply with the applicable rules and regulations;
  - a copy of the code of ethics/conduct for Governing Body members, including requirements for disclosure of members' interests and procedures for dealing with conflict of interest situations;
  - specific information on the role and responsibilities of the Institute;
  - a copy of relevant legislation (or excerpts thereof) together with the most up to date version of this Code and any relevant circulars and/or guidance notes; and
  - a listing of the statutory requirements relating to the Institute.
- 3.7** **Independent judgement:** All members of the Governing Body should bring an independent judgement to bear on issues such as strategy, performance, resources, key appointments, and standards of conduct. Section 3 of this Code sets out the approach to dealing with any business or other interests of a Governing Body member that could affect his/her independence.
- 3.8** **Attendance Requirement:** Members of the Governing Body are appointed as they bring specific knowledge, skills, experiences and expertise to the deliberations of the Governing Body and its committees and this is only possible if members attend all meetings and contribute as appropriate. The Governing Body should clarify an expectation of 100% attendance at all Governing Body meetings and, as part of the assignment of a new Governing Body member, evaluate attendance where the member may be re-appointed.
- 3.9** **Access to Secretary of the Governing Body:** All members of the Governing Body should have access to the advice and services of the Secretary of the Governing Body, who is responsible to the Governing Body for ensuring that Governing body procedures are complied with. The Secretary of the Governing Body is also responsible for the formal induction of new Governing Body members and organising mentoring for members where required.

## 4. Governing Body Effectiveness

### Guiding Principles

The Governing Body and its committees should have the appropriate balance of skills and knowledge to enable them to discharge their respective roles and responsibilities effectively.<sup>11</sup>

Governing Body members should receive formal induction on joining the Governing Body and should regularly update and refresh their skills and knowledge.<sup>12</sup>

The Governing Body should be supplied in a timely manner with information in a form and of a quality appropriate to enable it to discharge its duties.<sup>13</sup>

Governing Body members need to be able to allocate sufficient time to discharge their responsibilities effectively.<sup>14</sup>

The Governing Body should undertake an annual self-assessment evaluation of its own performance and that of its committees. Evaluation of the Governing Body should consider the balance of skills, experience, independence and knowledge of the Institute on the Governing Body, its diversity, including gender, how the Governing Body works together as a unit, and other factors relevant to its effectiveness.<sup>15</sup>

The Chairperson should act on the results of the performance evaluation by addressing any weaknesses identified through the Governing Body self-assessment evaluation.

### IOT Legislative References

The relevant IOT legislative provisions for this section are listed below:

Section 6 of the IOT Acts 1992 to 2006- Governing Bodies

Section 7 of the IOT Acts 1992 to 2006 - Functions of governing bodies

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<sup>11</sup> Taken from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 10

<sup>12</sup> Taken from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 13

<sup>13</sup> Taken from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 13

<sup>14</sup> Taken from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 12

<sup>15</sup> Adapted from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 14

## Code Provisions

**4.1 Governing Body Appointments:** Governing Body appointments must be made in compliance with the requirements of Section 6 of the IOT 1992-2006 Act.

**4.2 Skills and Knowledge:** Governing Body members should have the appropriate skills and knowledge, updated as required, appropriate to the activities of the Institute, to enable them to discharge their respective duties and responsibilities effectively. This should include the identification by the Governing Body of any gaps in competencies and ways these gaps could be addressed through future appointments.

Skill gaps present on the Governing Body should be brought to the attention of the Minister by the Chairperson of the Governing Body sufficiently in advance of a time when vacancies are due to arise , as outlined in paragraph 2.4.

**4.3 Specific Skills:** In compliance with the Guidelines on Appointments to State Boards, in preparing a specification for a role on a Governing Body the Minister for Education & Skills will consult with the Chairperson of the Governing Body to seek his or her view on the specific skills that are required on the Governing Body.

**4.4 Diversity:** Appointments to the Institute Governing Body should be made against objective criteria with due regard for the benefits of diversity on the Governing Body. The Chairperson of the Governing Body should have due regard for the benefits of diversity on the Governing Body including gender and advise the Nominating Body accordingly.

Section 6(5) of the IOT Act 1992-2006 applies here and provides that:

*In making appointments to a governing body pursuant to subsection (4) of this section the Minister shall have regard to the extent to which each sex is represented and shall ensure an appropriate gender balance as determined by the Minister from time to time.*

**4.5 Terms of Appointment:**

The terms of appointment of Governing Body members are made in line with Schedule Two (3,4) of the IOT ACT 1992-2006:

3.

*(1) Every ordinary member of a governing body shall be appointed by the Minister on the recommendation of the Education and Training Board and may be removed from office by the Minister on the recommendation of the Education and Training Board.*

*(2) An ordinary member may, at any time, resign from office as such member by letter addressed to the Education and Training Board and the resignation shall take effect from the date on which the letter is received. The Education and Training Board shall forthwith notify the Minister of the receipt of the letter.*

*(3) -*

*(4) A member of the governing body who is absent from all meetings of the governing body for a period of six consecutive months, unless such absence was due to illness or was approved by the governing body, shall be disqualified at the expiry of such period from continuing to be a*

*member of the said governing body for the remainder of that person's term of office.*

*(5) A member (including the chairman) whose term of office expires by effluxion of time shall be eligible for reappointment.*

4.

*(1) A member (including the chairman but excluding an ordinary member who is a registered student of the college) shall hold office for a period not exceeding five years.*

*(2) An ordinary member who is a registered student of the college shall hold office for a period of one year.*

**4.6 Performance Review:** Monitoring of effective corporate governance by the Governing Body includes continuous review of the internal structure of the Institute to ensure that there are clear lines of accountability for management throughout the Institute. In addition to requiring the monitoring and disclosure of corporate governance practices on a regular basis, the Governing Body should undertake an annual self- assessment evaluation of its own performance and that of its committees. An external evaluation proportionate to the size and requirements of the Institute should be carried out at least once in the term of every Governing Body.

**4.7 Statement of How the Governing Body Operates:** The annual report should include a statement of how the Governing Body operates. Reserved functions of Governing Body are set out in the IOT Legislation (included in Appendix B).

**4.8 Appointment of President as Chairperson:** In general, the President should not go on to be the Chairperson of the same Institute. Chairperson appointments are a matter for the Minister.

The roles of the Chairperson and President are governed by the 1992 Act (as amended). The role of the Chairperson is governed in particular by the Second Schedule to the 1992 Act (see paragraph 1.2.5 above) and in particular paragraphs 10 and 11 of the Second Schedule.

A President shall not hold any other office or position without the consent of the Governing Body.

**4.9 Frequency of Governing Body Meetings:** The frequency of meetings of the Governing Body and its committees and the attendance of each Governing Body member at Governing Body meetings should be reported in the annual report.

The Governing Body should meet at least twice a year without Governing Body members formally connected with the Institute present to discuss any matters deemed relevant. Persons deemed connected include, but not limited to, the President, staff members and student members.

Under Section 9 (a) of the 1992 Act:

*9. ( a ) A governing body shall hold such and so many meetings as may be necessary for the performance of its functions.*

A model Governing Body Self-assessment Evaluation Questionnaire is provided for use by the Governing Body to self-assess/promote discussion regarding Governing Body performance. The questionnaire can be found in Appendix N of this Document.

## 5. Codes of Conduct, Ethics in Public Office, Additional Disclosure of Interests by Governing Body Members and Protected Disclosures

### Guiding Principles

To ensure continued integrity and transparency, and to avoid public concern or loss of confidence, the Governing Body should ensure that appropriate policies are in place so that members and staff take decisions objectively and steps are taken to avoid or deal with any potential conflicts of interest, whether actual or perceived.<sup>16</sup>

These policies should ensure that any potential or actual conflicts of interest arising in the case of decision-making by Governing Body members and the Institute's employees are addressed.

The Ethics in Public Office Acts 1995 to 2001 set out statutory obligations which apply to Governing Body members and employees separately from the provisions of this Code.

### Code Provisions

**5.1 Codes of Conduct:** All Institutes should have published Codes of Conduct for their Governing Body and employees. The codes should be developed via a participative approach and should be approved by the Governing Body taking into account the implications of all the relevant provisions of the Institutes of Technology Acts 1992 to 2006 as well as the Ethics in Public Office Act 1995 and Standards in Public Office Act 2001. A suggested framework for such a code is contained in Appendix D. The Code of Conduct, a copy of which should be made available to all members of Governing Body and Employees for their retention, should embrace such matters as duty to the Institute, principles for addressing conflict of interest, limits on outside activities, acceptance of gifts and honesty in dealings. The up-to-date codes of conduct should also be available upon request with a copy of each such code being accessible through the Institute's website and brought to the attention of all Governing Body members, management and employees.

**5.2 Scope of Application:** The Code of Conduct should contain a description of nature, intent and scope of application of the Code and a statement of the guiding principles and obligations.

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<sup>16</sup> Adapted from "International Framework: Good Governance in the Public Sector" (IFAC/CIPFA, July 2014) pages 13-14

- 5.3 Compliance Requirements:** The Code of Conduct should refer to the need for the Governing Body and staff to comply with relevant legislative and regulatory requirements. The Code of Conduct for Subsidiaries should also refer to the need for the Governing Body and staff to comply with relevant legislative and regulatory requirements. It should identify the relevant provisions regarding conduct/conflicts of interest in the governing legislation of the Institute.
- 5.4 Ethics in Public Office:** The Code of Conduct should refer to the need for each member of the Governing Body holding a Designated Governing Body membership and each person occupying a Designated Position of employment with the Institute to ensure his/her compliance with relevant provisions of the Ethics in Public Office Acts 1995 and 2001. Each Governing Body member, whether he/she holds a designated directorship under the Ethics in Public Office Acts 1995 and 2001 or not, is required to follow the obligations set out in Appendix C regarding disclosure of interests.  
As a matter of best practice, this Code requires each Governing Body member to submit, under the Ethics in Public Office Acts, an Annual Return including a nil return of interests where applicable. This ensures that there is evidence that each member has considered their obligations.
- 5.5 Conflicts of Interest:** The Code of Conduct should set out procedures for addressing conflicts of interest. In particular the Code of Conduct should recommend that the acceptance of further employment where the potential of conflict of interest arises should be restricted during a reasonable period of time after the exercise of a function in the Institute has ceased. This should be brought to the attention of Governing Body members on their appointment to the Governing Body.
- 5.6 Non-disclosure of Information:** The Code of Conduct should make clear that obligations of the Governing Body and employees regarding the non-disclosure of privileged or confidential information do not cease when their membership or employment in the Institute has ended. This should be brought to the attention of employees and of Governing Body members on their appointment to the Governing Body. Former Governing Body members should treat commercial information received while acting in that capacity as confidential.
- 5.7 Document Retention:** Governing Body members should not retain documentation obtained during their terms as members and should return such documentation to the Secretary of the Governing Body or otherwise indicate to the Secretary of the Governing Body that all such documentation in their possession has been disposed of in an appropriate manner. In the event that former Governing Body members require access to Governing Body papers from the time of their term on the Governing Body, this can be facilitated by the Secretary of the Governing Body.

## Appendix C: Outline of Obligations under Ethics in Public Office Acts

## Appendix D: Framework for a Code of Conduct

# Additional Disclosure of Interests by Governing Body Members

## Code Provisions

### 5.8 Disclosure of Interests by Governing Body Members

i) **Periodic Disclosure of Interests:** On appointment and annually thereafter, each member of the Governing Body should furnish to the Secretary of the Governing Body or other nominated person a statement in writing of:

- (a) the interests of the Governing Body member;
- (b) the interests, of which the Governing Body member has actual knowledge, of his or her spouse or civil partner, child, or child of his/her spouse or civil partner;

which could materially influence the Governing Body member in, or in relation to, the performance of his/her official functions by reason of the fact that such performance could so affect those interests as to confer on, or withhold from, the Governing Body member, or the spouse or civil partner or child, a substantial benefit.

For the purposes of this disclosure, interests has the same meaning as that contained in the Ethics in Public Office Act 1995. The statement of interests form used for annual statements under the 1995 Act could be utilised for this purpose on an administrative basis. Where the Governing Body member is also a designated director for the purposes of the Ethics Acts, the annual statement of interests furnished in January each year under section 17 of the Ethics in Public Office Act 1995 will suffice for the purposes of the annual disclosure of interests under this Code.

ii) **Disclosure of interest relevant to a matter which arises:** In addition to the periodic statements of interest required under (i) above, members of the Governing Body are required to furnish a statement of interest at the time where an official function falls to be performed by the Governing Body member and he/she has actual knowledge that he/she, or a connected person as defined in the Ethics Acts, has a material interest in a matter to which the function relates. For the purposes of this disclosure, material interests has the same meaning as that contained in the Ethics in Public Office Act 1995.

iii) **Doubt:** If a Governing Body member has a doubt as to whether an interest should be disclosed pursuant to this Code, he/she should consult with the Chairperson of the Governing Body and/or the nominated person in the Institute for dealing with such queries.

iv) **Confidential Register:** Details of interests disclosed under this Code should be kept by the Secretary of the Governing Body or other nominated person in a special confidential register. Access to the register should be restricted to the Chairperson and Secretary of the Governing Body and other members of the Institute on a strictly need to know basis.

v) **Chairperson's Interests:** Where a matter relating to the interests of the Chairperson arises, the other members attending the meeting shall choose one of the members present at the meeting to chair the meeting. The Chairperson should absent himself/herself when the Governing Body is deliberating or deciding on a matter in which the Chairperson or his/her connected person has an interest.

vi) **Documents withheld:** Governing Body or Institute documents on any deliberations regarding any matter in which a member of the Governing Body has disclosed a material interest should not be made available to the Governing Body member concerned.

vii) **Early return of documents:** As it is recognised that the interests of a Governing Body member and persons connected with him/her can change at short notice, a Governing Body member should, in cases where he/she receives documents relating to his/her interests or of those connected with him/her, return the documents to the Secretary of the Governing Body at the earliest opportunity.

viii) **Absent:** A member of the Governing Body should absent himself/herself when the Governing Body is deliberating or deciding on matters in which that member (other than in his/her capacity as a member of the Governing Body) has declared a material interest. In such cases consideration should be given as to whether a separate record (to which the Governing Body member would not have access) should be maintained. (NB. Members of the Governing Body who are designated directors should note the separate requirements under the Ethics in Public Office Acts 1995 and 2001 regarding a 'material interest').

ix) **Uncertainty:** Where a question arises as to whether or not an interest declared by a Governing Body member is a material interest, the Chairperson should determine the question as to whether the provisions of this Code apply. Where a Governing Body member is in doubt as to whether he or she has an obligation under the Ethics in Public Office Acts 1995 and 2001, he or she should seek advice from the Standards in Public Office Commission under section 25 of the Ethics in Public Office Act 1995.

**5.9 Other Membership Conditions:** Section 6 of the Second Schedule of the IOT Acts, 1992-2006 provides for the following:

- 6 (1) Where a member of a Governing Body—*
- (a) is nominated as a member of Seanad Éireann, or*
  - (b) is elected as a member of either House of the Oireachtas or as a representative in the European Parliament, or*
  - (c) is regarded pursuant to section 13 (inserted by the European Assembly Elections Act, 1984) of the European Assembly Elections Act, 1977, as having been elected to the European Parliament to fill a vacancy, or*
  - (d) is adjudged bankrupt or makes, under the protection or procedure of a court, a composition or arrangement with creditors, or*
  - (e) is sentenced to a term of imprisonment by a court of competent jurisdiction, that member shall thereupon cease to be a member of the Governing Body.*
- or*
- (f) who was appointed on foot of an election by the academic staff or by the non-academic staff of the college, ceases to be a member of such staff.*
- that member shall thereupon cease to be a member of the governing body.*

Where any of the above applies, the Governing Body member must inform the Chairperson immediately and tender their resignation from the Governing Body.



## Protected Disclosures Legislation

- 5.10**     **Protected Disclosures Act 2014:** Section 21 of the Protected Disclosures Act 2014 requires that every Institute shall establish and maintain procedures for the making of protected disclosures by workers who are or were employed by the Institute and for dealing with such disclosures. Written information in relation to those procedures must be provided to workers employed by the Institute.
- 5.11**     **Guidance:** The Minister for Public Expenditure and Reform has published Guidance for the purpose of assisting public bodies in the performance of their functions under section 21(1) of [Protected Disclosures Act 2014](#) (available on the Department of Public Expenditure and Reform website). Institutes shall have regard to this Guidance when establishing and maintaining their own protected disclosures procedures under the Act.
- 5.12**     **Annual Report:** Institutes shall publish a report on protected disclosures in accordance with section 22 of the Protected Disclosures Act 2014 not later than 30 June in each year.

## 6. Business and Financial Reporting

### Guiding Principles

Taking account of public accountability and the special considerations which attach to the Institute in relation to their management and operation, the annual report and financial statements, taken as a whole, should be fair, balanced and understandable and provide the information necessary for an assessment of the Institute's financial performance, financial position, business model and strategy.<sup>17</sup>

A fundamental duty of the Governing Body is to ensure that a balanced, true and fair view of the Institute's financial performance and financial position is made when preparing the annual report and financial statements of the Institute and when submitting these to the HEA and Minister for Education and Skills.

The Governing Body should ensure that timely and accurate disclosure is made to the Minister on all material matters regarding the Institute, including the business context, financial performance and position, and governance of the Institute.<sup>18</sup>

### THEA Legislative References

The relevant IOT legislative provisions for this section are listed below:

[Section 13 of the IOT Act, 1992 to 2006- Budgets](#)

[Section 14 of the IOT Act, 1992 to 2006 - Annual Report and Information](#)

[Section 16 of the IOT Act, 1992 to 2006- Keeping of Accounts and Records](#)

### Code Provisions

The publication of an annual report and audited financial statements is a primary expression of public accountability for the Institute. The objective of financial statements is to provide information about the financial performance, position and cash flows of the Institute that is useful for economic decision-making for a broad range of stakeholders.<sup>19</sup>

The Governing Body of an Institute is required to arrange for the preparation of the financial statements in respect of each financial year. The annual financial statements are prepared from the information contained in the Institute's accounting records and other relevant information and in accordance with the accounting standards applicable to the Institute in a form as may be approved by the HEA.

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<sup>17</sup> Adapted from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 16

<sup>18</sup> Adapted from "G20/OECD Principles of Corporate Governance" (OECD, September 2015) page 41

<sup>19</sup> Adapted from "FRS 102" (Financial Reporting Council, September 2015) page 28

The Governing Body must present an Institute's financial statements that give a true and fair view of the income, expenditure (financial performance), assets, liabilities and capital (financial position) of the Institute as at the financial year end.

Reference to financial statements giving a "*true and fair view*" means in the case of an entity and group financial statements, that the financial statements present fairly the income and expenses (financial performance), assets, liabilities and capital (financial position), and cash flows of the Institute or group concerned.

In order for a set of financial statements to give a true and fair view they should<sup>20</sup>:

- comply with the accounting standards applicable to the Institute;
- incorporate judgment as to valuation, disclosure, and materiality that aim to give a true and fair view;
- be prudent in the consideration of matters of judgment in the financial statements, especially where there is uncertainty; and
- ensure that the financial statements reflect the commercial substance of transactions, and not just their legal form.

In accordance with the IOT Acts, the Governing Body is required to arrange for the financial statements to be audited by the Comptroller and Auditor General as the Institute's independent auditor.

An audit is an independent examination of the financial statements. The purpose of an audit is to enhance the degree of confidence of intended users in the financial statements. Having conducted an examination of the financial statements, the Comptroller and Auditor General is required to report to the Governing Body of the Institute. In that report, the Comptroller and Auditor General is required to form an opinion on a number of matters including, for example whether the financial statements give a true and fair view and whether the financial statements are in agreement with the underlying accounting records.

The annual report, comprising the financial statements and commentary thereon, is a comprehensive report of the Institute's activities throughout the preceding year. Annual reports are intended to give stakeholders information regarding the Institute's activities and financial performance.

The annual report is to be submitted to the HEA within one month from the receipt by the Institute of the Audit Certificate from the Comptroller and Auditor General.

The Chairperson of the Governing Body is required to submit an Annual Governance Statement to the Minister for Education and Skills/HEA in accordance with the specific reporting requirements set out in paragraph 6.10 of this Code. It includes items such as affirmation that Government policy is being complied with, significant post balance sheet events, a statement on the system of internal control and an outline of all commercially significant developments affecting the Institute in the preceding year.

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<sup>20</sup> Adapted from the "The Principal Duties and Powers of Company Directors under the Companies Act" (ODCE, 2015)

# Annual Report and Financial Statements

- 6.1 Audited Financial Statements:** All Institutes of Technology are required to publish audited financial statements. As set out above the financial statements are a formal record of the financial performance and financial position of the Institute.
- 6.2 Preparation of Annual Report and Financial Statements:** Each Institute is required to produce an Annual report and Financial Statements. The Governing Body is responsible for the preparation of the annual report and financial statements in accordance with relevant legislation and accounting standards. The Governing Body is required to:
- ensure consistent application of accounting policies;
  - make judgements and estimates that are reasonable and prudent; and
  - ensure the preparation of the financial statements on a going concern basis unless it is inappropriate to presume that the entity will continue in existence for the foreseeable future.

Financial statements should be subject to external audit by Comptroller and Auditor General before inclusion in the Institute's annual report. It is important that every effort is made not to delay the presentation of the financial statements before the Houses of the Oireachtas while completing other elements of the annual report.

- 6.3 Annual Report and Financial Statements:** In addition to disclosure requirements of the Institute's governing legislation, applicable accounting standards and other regulations applying to the Institutes, specific elements to be disclosed in the annual report and financial statements include:
- A Statement of how the Governing Body operates, including a statement of types of decisions to be taken by the Governing Body and which are to be delegated to management.<sup>21</sup>
  - The names of the Chairperson, the deputy Chairperson (if any), the President and members of the Governing Body and Governing Body committees.
  - Termination/Severance Payments and Agreements – "The financial statements should disclose details of payments and agreements with an aggregate value in excess of €10,000 made in the reporting period. This includes severance/ termination payments, granting of added years for pension purposes or early retirement without normal actuarial reductions. The value of the latter can be determined in accordance with guidance to be issued by the Department of Public Expenditure and Reform from time to time. Given the policy underlying the Freedom of Information Acts, in concluding settlements the Institute should not enter into confidentiality agreements which preclude it from disclosing details of the settlement reached in the financial statements,

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<sup>21</sup> Taken from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 7

save in exceptional circumstances and on foot of legal advice that they are necessary in the circumstances of the case. When, in those circumstances, confidentiality agreements are entered into, parties to the agreements should be given prior notice that they may be subject to disclosure in any case where an overriding public interest is identified or when required by law.

- **Travel and Subsistence** - The financial statements should disclose the total costs incurred in relation to travel and subsistence for the Institute analysed between national and international travel.
- **Hospitality Expenditure** - The financial statements should disclose the aggregate total expenditure incurred in relation to hospitality in the period. (This includes Christmas parties, retirement parties, expenditure on staff wellbeing, contribution to sports and social clubs, One4all vouchers, retirement/leaving gifts, flowers, etc.)
- **Legal Costs/Settlements** – in cases where cumulative legal costs incurred in the year of account exceed €50,000, a note should be included in the financial statements with a breakdown of the total costs as between legal fees and compensation paid.

#### 6.4 Reporting Requirements: Reporting requirements should be adhered to as follows:

*It is important to note that Departments of Education & Skills/HEA may choose to seek additional financial information at more frequent intervals than those outlined below*

- i. **Draft Unaudited Financial Statements:** In line with Section 16 of the IOT Acts, 1992-2006 Draft unaudited financial statements<sup>22</sup> for each Institute should be furnished to the Comptroller and Auditor General by such date as the Comptroller and Auditor General may from time to time determine. A copy will be furnished at the same time to the HEA.
- ii. **Publication of Annual Report and Statutory Financial Statements:** The Institute should publish (or where publication is not required, submit to the Government) its annual report and/or statutory financial statements **not later than one month** following completion of the audit of the financial statements of the Institute by the Comptroller and Auditor General.
- iii. **Board Fees:** In the interests of transparency and good governance, the Institutes are required to publish in their annual report and/or financial statement details of non-salary-related fees paid in respect of Governing Body members analysed by category of fees, and the salary of the President.
- iv. **Board Meetings and Attendance:** The number of meetings of the Governing Body and its committees and the attendance of each Governing Body member at Governing Body

<sup>22</sup> Draft unaudited financial statements refer to draft financial statements and notes thereon (in accordance with applicable accounting standards) and not management accounts.

meetings should be reported in the annual report.

- v. **Disclosure of Key Management Personnel Compensation:** The Institute should disclose in their annual report and/or financial statements aggregate details of the salary scale of their executive members analysed by the following categories:

- a. Salaries and short term employee benefits by reference to salary grades
- b. Post-employment benefits; and
- c. Termination benefits;

An Institute shall also disclose key management personnel compensation in total. Compensation includes all employee benefits.

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any Governing Body members (whether executive or otherwise) of that entity who report directly to President. This would normally be the senior leadership team of the Institute.

The following arrangements should also apply:

- a) The Institutes should disclose in their financial statements the aggregate amount of total compensation paid to employees including employee numbers in whole time equivalent format.
- b) The aggregate total compensation paid to employees should be split between salary, overtime and allowances.
- c) A separate note on President's salary and benefits (and termination payment if relevant) should also be included.
- d) A separate note on termination benefits to all staff should be included. President's termination benefits should be kept separate, as set out above.

- vi. **Employee Benefits:** In addition to disclosing the aggregate pay bill and total number of employees, the Institute should publish details of the number of employees whose total employee benefits (excluding employer pension costs) for the reporting period fell within each pay band of €10,000 from €60,000 upwards and an overall figure for total employer pension contributions in their annual report and/or financial statements.

- vii. **Pension Liabilities:** The standard conventions setting out how public service superannuation liabilities are reflected should be followed in all cases.

- 6.5 **Consultancy Costs:** The Institute should disclose details of expenditure on external consultancy/adviser fees in their annual report and/or financial statements for each accounting year for each entity.

For this purpose consultancy fees mean fees paid to external parties providing advisory services of any nature. Such fees should be itemised by category as stated below or as the Institute considers appropriate having regard inter alia to its size and competitive position and to the extent to which information is already disclosed:

- Legal (legal fees across all areas to be included here e.g. for pension, HR etc.);
- Tax and financial advisory (e.g. due diligence, accounting, corporate finance);
- Public relations/marketing; and
- Pensions and human resources; and
- Other.

Note that financial advisory excludes what is currently required to be disclosed in respect of fees paid to the auditors.

In procuring the services of external consultants, the Institute should comply with all applicable laws and Code guidelines regarding competitive tendering.

**6.6 Annual Governance Statement:** The Annual Governance Statement (paragraph 6.10) should be sent directly to the HEA and should not be included in the Annual Report of the Institute.

**6.7 Statement on Internal Control:** The Statement of Internal Control (paragraph 6.10(v)) should be included in the annual report of the Institute. This statement should be reviewed by the Comptroller and Auditor General to confirm that it reflects the Institute's compliance with the requirements of paragraph 6.10(v) and is consistent with the information of which they are aware from their audit work on the financial statements. The Comptroller and Auditor General should include their report on this matter in their audit report on the financial statements.

**6.8 Deadlines:** Where the audit has been unavoidably delayed and fulfilling the requirements in paragraph 6.4 would cause unjustifiable difficulties for the Institute, the relevant deadline can be extended, subject to the consent of the HEA.

**6.9 Web Publication:** Annual reports should be published on the Institute's website.

## Additional Reporting Requirements

**6.10 Annual Governance Statement:** The Chairperson must furnish to the HEA/Minister for Education and Skills, in conjunction with the Institute's annual report and financial statements, a comprehensive report covering the Institute, in a format as agreed annually with the HEA. The current requirements include:

- i) confirming that the 2018 Code of Practice for the Governance of Institutes of Technology, as amended to reflect the 2016 Code of Practice for the Governance of State Bodies, has been adopted and the extent to which the Institute is in compliance with the Code;
- ii) outlining all commercially significant developments affecting the Institute in the preceding year, including the establishment of subsidiaries or joint ventures and share acquisitions, and major issues likely to arise in the short to medium term;
- iii) providing summary details of all off-balance sheet financial transactions<sup>23</sup> of the Institute that are not disclosed in the Institute's annual report and financial statements, including information on the nature, purpose and financial impact of the off-balance sheet financial transactions. The contents and format of this section of the report should be agreed in advance with the HEA.
- iv) affirming that all appropriate procedures for financial reporting, internal audit, travel, procurement and asset disposals are being carried out;
- v) including a statement on the system of internal control in the format set out in Appendix I and including, in cases where a breach of this system has been identified, an outline of the steps that will be taken to guard against such a breach occurring in future;
- vi) affirming that Codes of Conduct for the Governing Body and employees have been put in place and adhered to;
- vii) affirming that Government guidelines on the payment of Board members' fees are being complied with; A note on the schedule of fees and aggregate expenses payable to external governing body members should be included;
- viii) affirming that Government policy on the pay of the President and all Institute employees is being complied with;
- ix) affirming that the Guidelines for the Appraisal and Management of Capital proposals are being adhered to where appropriate;
- x) affirming that the Guidelines on Achieving Value for Money in Public Expenditure are being followed;
- xi) outlining significant post balance sheet events;
- xii) confirming that the appropriate requirements of the Department of Public Expenditure and Reform Public Spending Code are being complied with;
- xiii) confirming that procedures are in place for the making of protected disclosures in accordance with section 21(1) of the Protected Disclosures Act 2014 and confirmation that the annual report required under section 22(1) of the Act has been published;
- xiv) confirming that Government travel policy requirements are being complied with in all respects;
- xv) confirming that the Institute has complied with its obligations under tax law;
- xvi) Confirming that an appropriate child protection policy is in place;
- xvii) providing details of/information on legal disputes involving other State bodies;
- xviii) stating that any subsidiary of the Institute (or subsidiary thereof) continues to operate solely for

<sup>23</sup> As a guide, off-balance sheet transactions are arrangements that give rise, or may give rise, to an asset or liability in excess of €10m, or 2% of the total assets of the company, whichever is the smaller that is not recognised on the State body's own balance sheet (or the State body's consolidated group balance sheet), including, for example, leases, letters of credit, guarantees, derivatives, sale of receivables, debt or debt-like instruments of non-consolidated equity interests or joint ventures.



the purpose of which it was established, remains and continues to remain in full compliance with the terms and conditions of the consent under which it was established;

- xix) Outlining details of the engagement and associated costs of external consultancy firms and investigators contracted to carry out investigations and enquiries on internal matters;
- xx) Confirming that foundations and trusts (if applicable) have been or will be incorporated into the financial statements of the institution or included as an appendix to the financial statements;
- xxi) Confirming the number of Audit Committee meetings held during the financial year in question and attendance record of members;
- xxii) Confirming that the Governing Body reviews its own performance and that it commissions an external review at the middle and end of each term of the Governing Body. Confirmation should also be provided on when both internal and external reviews were last carried out and when both will be carried out again;
- xxiii) Confirming that the Institute has satisfied itself as to the integrity and robustness of any data on student numbers provided to the HEA for the purpose of calculating and allocating the core grant.
- xxiv) Confirming that fees and/or expenses paid to members of Governing Body are in accordance with the guidelines from the Department of Finance;
- xxv) Confirming that fees and/or expenses paid to members of Governing Body are presented in the Institute's Annual Report;
- xxvi) A note on the schedule of fees and aggregate expenses payable to external Governing Body members should be included;
- xxvii) Confirmation that an appropriate 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 Body and the Board has received a formal report of compliance from the Chairperson of the Board of each subsidiary;
- xxviii) Description of other governance and accountability issues that the Institute may wish to bring to the attention of the HEA; and
- xxix) In the event that the Institute fails to comply with any of the above the Institute of Technology shall report such matters of non-compliance in the Annual Governance Statement and to the HEA providing an explanation for same and stating any corrective action taken or contemplated.

**6.11 Commercially Sensitive Developments:** In line with the HEA Financial Memorandum Requirements, the President of the Institute must inform the HEA without delay of any circumstance that is having or is likely to have material adverse effect on the financial position of the Institute or its ability to maintain its capacity to deliver relevant education programmes, research and related activities.

The Chairperson should report to the HEA on significant commercially sensitive developments in the preceding 12 months and likely developments for the rest of the year as part of the Annual Governance Statement.

**6.12 Subsidiary Reporting:** The Chairperson of the Board of each subsidiary should formally report to the main Governing Body in a similar manner as the Governing Body Chairperson reports to the Minister for Education and Skills/HEA. This report should be received prior to the main Governing Body reporting.

**Reporting requirements for the Institute required under (a) the annual report, (b) the financial statements, and (c) the Annual Governance Statement to the Minister for Education and Skills are set out in tabular format in Appendices G, H, and J. Appendix I and K provide templates for the Statement on System of Internal Control and the HEA Financial Memorandum.**

**Appendix G: Annual Report**

**Appendix H: Financial Statements**

**Appendix I: Annual Governance Statement**

**Appendix J: Statement on System of Internal Controls**

**Appendix K : HEA Financial Memorandum**

## 7. Risk Management, Internal Control, Internal Audit and Audit and Risk Committees

### Guiding Principles

The Governing Body should have formal and transparent arrangements for governance, risk management and internal control and for maintaining an appropriate relationship with the Comptroller and Auditor General, the external auditors.

Risk management and internal control are important and integral parts of a performance management system and crucial to the achievement of outcomes. They consist of an ongoing process designed to identify and address significant risks involved in achieving an entity's outcomes.<sup>24</sup>

Advising on key risk is a matter for the Governing Body. The Audit and Risk Committee should support the Governing Body in this role.

### IOT Legislative References

The relevant IOT legislative provisions for this section are listed below:

[Section 21C of the 1992 IOT Act](#)

### Code Provisions

**7.1 Risk Management Policy:** Each Institute should develop a Risk Management Policy and the Governing Body should approve the risk management framework and monitor its effectiveness. The Governing Body should review material risk incidents and note or approve management's actions, as appropriate.

**7.2 Risk Management:** Key elements of the Governing Body's oversight of risk management include:

- establishing an Audit and Risk Committee to give an independent view in relation to risks and risk management systems;
- making risk management a standing item on the Governing Body meeting agenda;
- advising the Minister for Education and Skills of the need to include risk management experience/expertise in the competencies of at least one Governing Body member. Where composition of the Governing Body does not allow for this, expert advice should be sought

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<sup>24</sup> "International Framework: Good Governance in the Public Sector" (IFAC/CIPFA, July 2014) page 27

externally;

- appoint a Chief Risk Officer or empower a suitable management alternative, and provide for a direct reporting line to the Governing Body to identify, measure and manage risk and promote a risk management culture in the Institute;
- approve the risk management policy, set the Institute's risk appetite, and approve the risk management plan and risk register at least annually;
- review management reporting on risk management and note/approve actions as appropriate;
- require external review of effectiveness of risk management framework on a periodic basis; and
- confirmation in the annual report that the Governing Body has carried out an assessment of the Institute's principal risks, including a description of these risks, where appropriate, and associated mitigation measures or strategies.

## Internal Control

- 7.3 Internal Control:** The Governing Body is responsible for ensuring that effective systems of internal control are instituted and implemented in the Institute including financial, operational and compliance controls and risk management and the Governing Body should review the effectiveness of these systems annually.

The following are the key internal control procedures designed to provide effective internal control including:

- i) the steps taken to ensure an appropriate control environment (such as clearly defined management responsibilities and evidence of reaction to control failures);
- ii) processes used to identify business risks and to evaluate their financial implications;
- iii) details of the major information systems in place such as budgets, and means of comparing actual results with budgets during the year;
- iv) 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);
- v) the procedures for monitoring the effectiveness of the internal control system which may include: Audit and Risk Committees, management reviews, consultancy, inspection and review studies, the work of internal audit, and quality audit reviews; and
- vi) Confirmation in the annual report that there has been a review of the effectiveness of the system of internal control.

## Review of Effectiveness of Internal Control

- 7.4 Effectiveness of Internal Control:** The existence of risk management policies and internal control systems do not on their own constitute effective risk management. Effective and on-going monitoring and review are essential elements of sound systems of risk management and internal control. Reviewing the effectiveness of internal control is an essential part of the Governing Body's responsibilities. The

Governing Body is required to form its own view on effectiveness of internal control systems based on the information and assurances provided.

**7.5 Annual Review of Effectiveness of Internal Control:** The Governing Body should undertake an annual review of the effectiveness of internal control systems to ensure that it has considered all aspects of risk management and internal control for the year under review and up to the date of approval of the annual report and financial statements.

The annual review of effectiveness should consider the following<sup>25</sup>:

- changes since the last review in the nature and extent of significant risks and the ability of the Institute to respond effectively to changes in its business and external environment;
- the scope and quality of management's ongoing monitoring of risks and the system of internal control and, where applicable, the work of its internal audit unit and other providers of assurance
- the extent and frequency of the communication of the results of the monitoring to the Governing Body, or its committees, which enables it to build up a cumulative assessment of the state of control in the Institute and the effectiveness with which risk is being managed;
- the incidence of significant control failings or weaknesses that have been identified at any time during the period and the extent to which they have resulted in unforeseen outcomes or contingencies that have had, could have had, or may in the future have, a material impact on the Institute's financial performance or condition; and
- the effectiveness of the Institute's public reporting process.

The annual review of effectiveness should conclude on the extent to which controls are adequate, and were operating and should outline actions required to address any deficiencies arising.

**7.6 Timely Completion of Review:** Timely completion of the annual review is critical if it is to fulfil its objectives of providing assurance in relation to the operation of controls in the reporting period. The annual review should be conducted close to the end of the period under review or as soon as possible after the end of the financial period under review, and no later than three months after the period end.

## Internal Audit

### Principle

Internal auditing is an independent, objective, assurance and consulting activity designed to add value and improve the Institute's operations. It helps Institutes accomplish their objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.<sup>26</sup>

<sup>25</sup> Adapted from "Internal Control: Revised Guidance for Directors on the Combined Code" (FRC, October 2005) paragraph 31

<sup>26</sup> Definition from the Institute of Internal Auditors UK and Ireland (<http://www.theiia.org/guidance/standards-and-guidance/ippf/definition-of-internal-auditing/?search%C2%BCdefinition>)

## Code Provisions

**7.7 Internal Audit Unit:** Each Institute should have a properly constituted independent internal audit unit or engage appropriate external expertise which should operate in accordance with the provisions set out below. The current arrangement is a sectoral collaboration among 13 Institutes, on the appointment of an appropriately qualified professional services firm to provide internal audit services through a public procurement process.

**7.8 Independence:** The internal audit unit shall be independent of the activities it audits. This is to provide it with an environment in which it can make unbiased judgements and provide impartial advice to management.

**7.9 Internal Audit Universe:** The internal audit unit should have the right to review all the management and control systems both financial and operational. The internal audit unit shall have unrestricted access to all functional areas, records (both manual and electronic), property, and personnel in the performance of its audits.

Specifically, the internal audit unit shall be responsible for the effective review of both internal control and risk management.

**7.10 Annual Programme of Audits:** The head of the internal audit unit shall be responsible for drawing up an annual programme of audits having regard to the organisation's Statement of Strategy and Risk Management policy in consultation with the Audit and Risk Committee.

The internal audit unit shall demonstrate objectivity, comprehensiveness and relevance to management, the Audit and Risk Committee and the Board in respect of the areas to be audited and the respective priorities for these audits within the programme.

The existence of the internal audit unit does not relieve line management of its responsibility for effective control of the activities for which it is responsible.

**7.11** The internal audit unit shall function professionally, adhering to the Code of Ethics and International Standards of the Institute of Internal Auditors or equivalent professional standards.

The operation of the internal audit unit should follow the principles below:

i) **Charter:** The internal audit unit should have a formal charter, which has been approved by the Governing Body. The reporting structure for internal audit should be clear and formally documented.

- ii) **Head of Internal Audit:** The head of the internal audit unit should have considerable seniority within the Institute and the content of all internal audit reports should be entirely at his/her discretion. The head of internal audit should report directly to the Audit and Risk Committee and should also have access to the Chairperson of the Governing Body and the Chairperson of the Audit and Risk Committee. Functionally, the head of internal audit should report within the Institute to such person as the Governing Body decides and to the President.
- iii) **Compliance Tests:** In carrying out its on-going work, the internal audit unit should assess, using a risk based approach, the areas within its terms of reference (as set out in the audit charter), and report its findings to the Audit and Risk Committee.
- iv) **Resources:** The internal audit unit should be appropriately resourced consistent with its responsibilities under this Code with the necessary skills including the ability to deal with non-financial aspects.
- v) **Comptroller and Auditor General and Internal Audit:** The internal audit unit should liaise with the Comptroller and Auditor General so that the potential for co-operation between the two is maximised. The work carried out by these two entities can frequently be complementary and effectiveness can be increased through regular consultation.
- vi) **Value for Money Auditing:** In planning, executing and reporting its work, the internal audit unit should ensure that value-for-money auditing receives adequate attention based on the principles and provisions of the Public Spending Code, where relevant.

**Procurement and Disposal:** The internal audit unit in each Institute should review compliance with procurement and disposal procedures as required by the Audit and Risk Committee, from time to time, and report to the Audit and Risk Committee on these matters.

## Appendix E: Model Internal Audit Activity Charter

# Audit and Risk Committee

## Code Provisions

- 7.12 Audit and Risk Committee:** The Governing Body of the Institute should establish an Audit and Risk Committee of, at least three, independent non-executive members, with written terms of reference which deal clearly with its authority and duties.

It is recommended for an Audit and Risk Committee to have members drawn from outside the

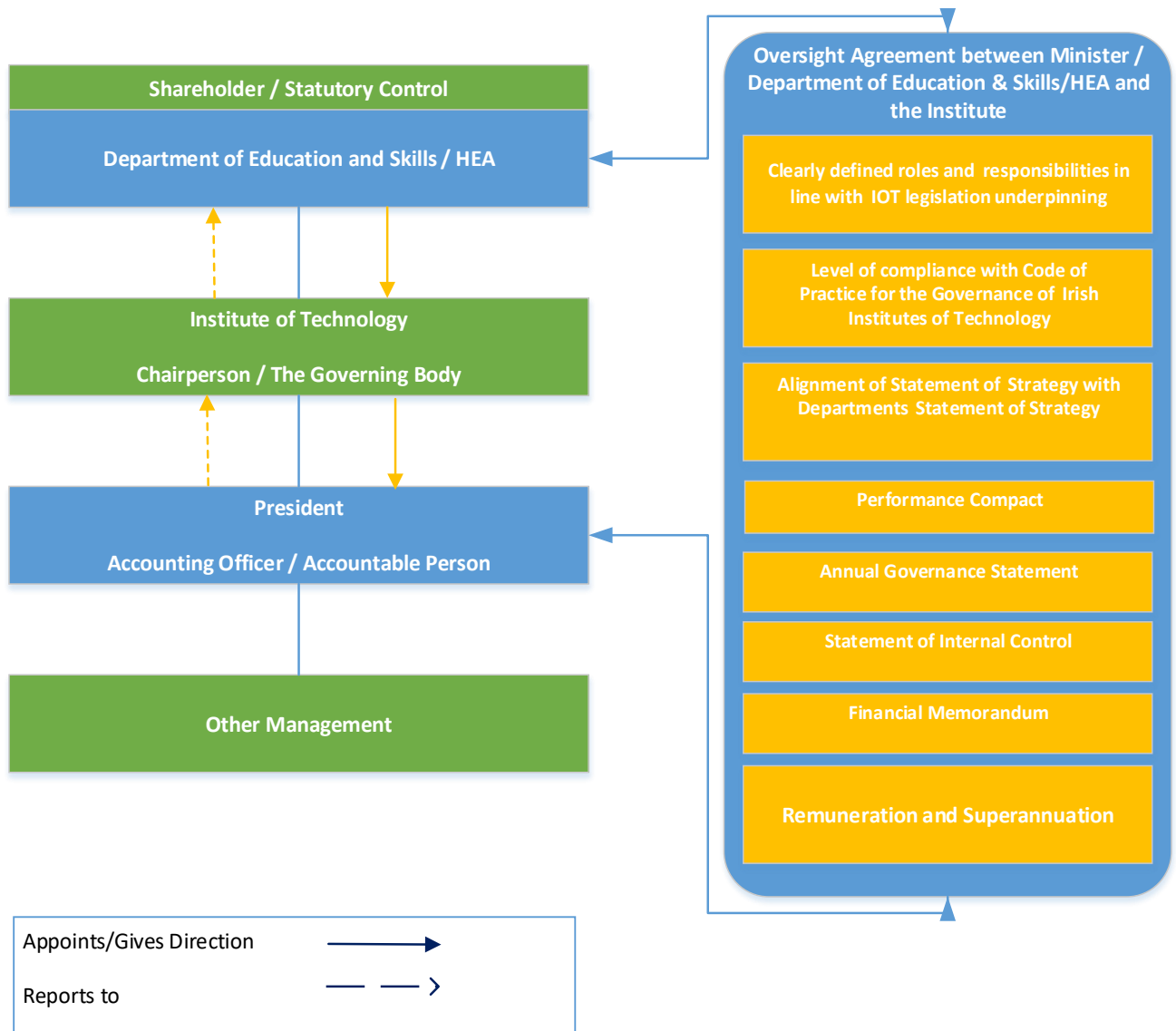
Governing Body. An Audit and Risk Committee is more likely to have the broad range of skills and experience necessary where its membership is not restricted to the Governing Body. The Audit and Risk Committee may procure specialist skills and specialist advice at a particular time at reasonable and approved expense to the organisation to assist the committee with specific areas of committee business.

In general, the Audit and Risk Committees should be combined, however, in some larger entities there may be a requirement for separate Audit and Risk Committees.

**The Audit and Risk Committee Guidance associated with this Code is contained in Appendix M.**



## Department Oversight Role



The Minister/Department of Education and Skills/HEA should have written oversight arrangements with the Institutes appropriate to the scale, nature, responsibilities and functions of the Institute.

The oversight agreement is a written statement between the Minister/Department of Education and Skills/HEA and the Institute which clearly defines the terms of the Minister's /Department's/HEA's relationship with the Institute.

## 8 Relations with the Oireachtas, Minister and Department of Education and Skills and HEA

### Guiding Principles

Good governance in the public sector is to ensure that entities achieve their intended outcomes as defined in their governing legislation and Statements of Strategy while acting in the public interest. This requires effective arrangements for defining outcomes in terms of sustainable economic, social, and environmental benefits which should be included in the Institute's oversight agreement with the Minister/Department of Education and Skills/HEA.<sup>27</sup>

Good governance requires effective procedures for the definition of responsibility and accountability, allocation of budgets, defining expected outputs and outcomes and clear procedures for monitoring performance.

The Department of Education and Skills/HEA should have written oversight agreements with the Institute. Any Institute having derogations from provisions of this Code should have such explanatory notes written into their oversight agreements. Reasons for exemptions should be clearly explained in the oversight agreement with the Minister/Department of Education and Skills/HEA.

There should be an ongoing dialogue between the Department of Education and Skills/HEA and the Institute based on a common understanding of the objectives of the Institute and the actions through which it seeks to achieve those objectives.

### IOT Legislative References

The relevant IOT legislative provisions for this section are listed below:

[Section 5 of the IOT Acts 1992 to 2006- Functions of Colleges](#)

### Code Provisions

The statutory basis for Irish Institutes of Technology set out in the IOT legislation defines the parameters for the level of operational autonomy and independence under which each Institute operates in pursuit of its objectives. Irrespective of the degree of autonomy and independence applying to any Institute, it must be subject to sufficient oversight and accountability to ensure that it is performing effectively and delivering its objectives to ensure that public resources are used efficiently and effectively.

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<sup>27</sup> "International Framework: Good Governance in the Public Sector" (IFAC/CIPFA, July 2014) page 10

Institutes have certain functional independency under the IOT Acts, as provided for by Section 3(5) and Section 5 of the 1992 to 2006 Acts. Functional independence can be achieved and is fully compatible with statutory and financial oversight by the Minister/ Department OF Education and Skills and with proper and effective accountability. Effective accountability is strongly dependent on establishing clearly defined roles and responsibilities in accordance with the State bodies governing legislation which are clearly understood and observed in practice by both parties.

## Parent Department Oversight Role

- 8.1 Comply or Explain:** Institutes and their subsidiaries are required to confirm to the HEA and Minister for Education and Skills that they comply with this Code in their governance, practices and procedures.

This Code makes provision for certain requirements to be applied proportionately, subject to the written agreement of the Minister/Department/HEA. In such cases, the Institute should reach agreement with the Minister/Department/HEA on the extent to which the compliance requirement might be suitably adapted in their case. The Institute should then note the agreement reached in its annual report and explain whether the requirements are to be phased-in over a longer period of time, or otherwise varied in some way.

## Oversight Agreements

- 8.2 Oversight Agreements:** The Department of Education and Skills and the HEA should ensure that they have written oversight agreements with the Institute which clearly define the terms of the Institute's relationship with the Minister/Department of Education and Skills and the HEA.

- 8.3 The Oversight agreements in place with the Institutes of Technology comprise:**

- 1) **Performance Compacts:** The National Strategy for Higher Education performance based framework for the system governance of higher education in Ireland sets out the areas of responsibility for setting national priorities of Government and related short to medium term objectives for the higher education system. The HEA mandate encompasses the responsibility to create a well-coordinated system of higher education institutions which is capable in its totality of delivering on national objectives set for the system by the Minister.

This aspect of the role requires the HEA:

- To focus on outputs and the performance of each Institute and the higher education system as a whole.

- To negotiate a performance compact with each Institute reflecting its distinct mission.
- To monitor performance against agreed deliverables, and
- To provide funding based on performance

The HEA utilises this framework as the context for conducting a process of strategic dialogue with individual institutions where institutions will agree performance compacts with the HEA with institutional key performance indicators reflecting their contribution to overall system objectives.

Performance against the compacts is monitored via a system of annual reporting and the strategic dialogue process, whereby the HEA meets with each individual institute to review performance and confirm good ongoing governance and accountability of the public funding distributed in each case.

- 2) **Annual Governance Statement:** Institutes of Technology are required to submit an Annual Governance Statement to the HEA in accordance with the specific reporting requirements set out in section 6 of this Code. The statement includes items such as affirmation that Government policy is being complied with, significant post balance sheet events, a statement on the system of internal control and an outline of all commercially significant developments affecting the Institute in the preceding year. The statement must be submitted to the HEA within 6 months of completion of the financial year. In addition, Institutes are expected to flag all major governance issues to the HEA on an ongoing basis. The template statement for Institutes of Technology is set out as Appendix I and Appendix J.
- 3) **Financial Memorandum:** The ongoing responsibilities and arrangements between the HEA and the Institutes are set out in a financial memorandum which is signed by each institution on an annual basis (See Appendix K). The financial memorandum requires:
  - Agreement on budgets and financial plans
  - Provision of required Recurrent Grant Allocation Model (RGAM) returns
  - Compliance with public pay policy
  - Adherence to the borrowing and departures frameworks (if applicable)
  - Compliance with public sector capital expenditure requirements
  - Compliance with public sector procurement requirements
  - Compliance with the process for land purchases

#### 8.4 Oversight agreements should reflect the:

- legal framework of the Institute;
- environment in which it operates;
- purpose and responsibilities of the Institute;
- Institute's level of compliance with Code;
- details of the Performance Delivery Agreement; and
- arrangements for oversight, monitoring and reporting on conformity with the oversight agreement including those actions and areas of expenditure where prior sanction from the Minister/Department of Education and Skills, the HEA and/or the Department of Public Expenditure and Reform is required. Absent clear authority to make payments, an Institute should seek prior sanction from the Department of Education and Skills.

Given the policy underlying the Freedom of Information Acts, in concluding settlements the Institute should not enter into confidentiality agreements which preclude it from disclosing details of the settlement reached in the financial statements, save in exceptional circumstances and on foot of legal advice that they are necessary in the circumstances of the case. When, in those circumstances, confidentiality agreements are entered into, parties to the agreements should be given prior notice that they may be subject to disclosure in any case where an overriding public interest is identified or when required by law.

The oversight agreement should be a dynamic document insofar as it should be modified in light of changing circumstances. The oversight agreement should be reviewed annually and updated as required.

## Roles and Responsibilities

**8.5 Roles:** It is recommended that the Department of Education sets out in writing the respective roles and responsibilities of its Accounting Officer, as well as the Chairperson of the Governing Body and the President of the Institute. The roles and responsibilities of the Chairperson of Governing Body and the President of the Institute are set out in the IOTI Acts 1992 - 2006.

**8.6 Accounting Officer:** The Accounting Officer of the Department of Education and Skills should satisfy him/herself that the requirements of this Code are being properly implemented and observed. In support of this role, the Accounting Officer or the Department may also request further information/evidence that the Institute is in compliance with the Code and the Institute should comply with all such reasonable requests.

If information available to the Department indicates to the Accounting Officer that problems or difficulties exist, the Accounting Officer should ensure that appropriate action is taken as soon as possible.

**8.7 Accountable Person:** Under Section 9(8) of the Third Schedule of the 1992 to 2006 IOT Acts, the President of the Institute is the "Accountable Person" to the Oireachtas and his/her accountability to

the Oireachtas should be differentiated from the general responsibility to the Governing Body. Please see detail below.

*8. A Director 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 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 college is required by this Act to prepare,*
- ( b ) the economy and efficiency of the college in the use of its resources,*
- ( c ) the systems, procedures and practices employed by the college for the purpose of evaluating the effectiveness of its operations, and*
- ( d ) any matter affecting the college referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) 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.*

## The System Performance Framework

Institutes should agree Performance Delivery Agreements with the HEA on behalf of the Minister for Education and Skills and report on progress against targets to the HEA and Minister. These agreements will act as a performance contract between the Department of Education and Skills and the Institutes in which an agreed level of performance / service is formalised and which will ultimately result in improved efficiency and effectiveness in the delivery of educational services.

The agreements allow for the adoption of both annual and multi-annual targets, and the development of output and outcome indicators, including milestones to measure performance against targets.

The system performance framework defined by the Minister for Education and Skills, is the anchor document to the content and objectives of the Performance Delivery Agreement taking account of the Institute's legal framework. The performance compact agreed between the HEA and the Institute aligned to specific objectives in the Department of Education and Skills' System Performance Framework, and consistent with the Institute's legal mandate, and with any Government policies for the reform and modernisation of the Education Sector.

The Governing Body of the Institute should ensure that this Performance Delivery Agreement and the Institute's Statement of Strategy are communicated to all employees and that they have a clear understanding of their role in achieving these objectives.

**8.8 Performance Delivery Agreements:** The Strategic Dialogue process, Performance Compact and Financial Memorandum outlined in section 8.3 of this Code together with the system of multi-annual budgeting and management reporting constitute the performance delivery agreement between the HEA and with the Institutes, and include:

- high level goals and objectives;
- identify the key programmes of activity for the Institute including for each individual

expenditure programme;

- set out the key outputs specified in quantitative, measurable terms;
- identify the targets for that output in annual and multi annual targets with clear milestones;
- identify the cost of delivery of that programmes of activity; and
- set out the process for the formal review of the performance agreement.

**8.9 High Level Goals and Objectives:** In stating High Level Goals and Objectives, the Performance Delivery Agreements in aggregate:

- set out relevant, quantitative metrics of impacts and/or results that will support examination of the effectiveness of the programme; and
- include annual and multi-annual targets that set out clear milestones to measure progress toward a goal.

**8.10 Key Outputs:** In stating Key Outputs, the Performance Delivery Agreement will:

- set out relevant, quantitative metrics of outputs that will support examination of the efficiency of the programme; and
- include annual and multi-annual targets that set out clear milestones to measure delivery.

**8.11 Review of Performance Delivery Agreement:** There should be at least one formal meeting per annum between the HEA and the Chairperson or non-executive nominees of the Governing Body and top management of the Institute to review the Performance Delivery Agreement and to strengthen the relationship between the two organisations.

## Periodic Critical Review

- 8.12 Periodic Critical Review:** The System Performance Framework and the associated strategic compact and dialogue process agreed with the HEA outlined in section 8.3. of this Code, provides a system of periodic critical review over a cycle of four years. This includes annual system performance reporting to the Minister for Education and Skills and review of overall achievement of objectives and targets at the end of each four year period.

The periodic critical reviews themselves should be:

- **Proportionate.** Reviews must not be overly bureaucratic, administratively burdensome and should be appropriate for the size of the Institute.
- **Timely.** Reviews should be completed quickly in order to minimise disruption and reduce uncertainty about the Institute's future.
- **Challenging.** Reviews should be robust and rigorous and examine and evaluate as wide a range as possible of delivery options.
- **Open and Inclusive.** Key stakeholders should have the opportunity to contribute to reviews.
- **Transparent.** Reviews should be routinely published.

## Procedures for Procurement

### Code Provisions

- 8.13 Public Procurement:** It is the responsibility of the Governing Body to satisfy itself that the requirements for public procurement are adhered to and to be fully conversant with the current value thresholds for the application of EU and national procurement rules.

The Governing Body should satisfy itself that procurement policies and procedures have been developed and published to all staff. It should also ensure that procedures are in place to detect non-compliance with procurement procedures. Institutes should have a contracts database/listing for all contracts/payments in excess of €25,000 with monitoring systems in place to flag non-competitive procurement. Non- competitive procurement should be reported to the HEA in the Annual Governance Statement and Statement of Internal Control.

- 8.14 Procedures:** Similarly, the Governing Body should ensure that competitive tendering should be standard procedure in the procurement process of the Institute. Management, and ultimately the Governing Body, should ensure that there is an appropriate focus on good practice in purchasing and that procedures are in place to ensure compliance with procurement policy and guidelines.

- 8.15 Legal Obligations:** EU Directives and national regulations impose legal obligations on public bodies in regard to advertising and the use of objective tendering procedures for awarding contracts above certain value thresholds. Even in the case of procurement which 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 must be observed.

**8.16 EU Treaty Principles:** The essential Treaty principles include non-discrimination, equal treatment, transparency, mutual recognition, proportionality, freedom to provide service and freedom of establishment. There is a strongly implied requirement to publicise contracts of significant value to a degree which allows parties in other Member States the opportunity to express an interest or to submit tenders.

**8.17 Corporate Procurement Plan:** The Office of Government Procurement Policy framework requires that all non-commercial State bodies, including the Institutes, complete a Corporate Procurement Plan. This plan is underpinned by analysis of expenditure on procurement and the procurement and purchasing structures in the organisation. The plan should set practical and strategic aims, objectives for improved procurement outcomes and appropriate measures to achieve these aims should be implemented.

The Chairperson should affirm adherence to the relevant procurement policy and procedures and the development and implementation of the Corporate Procurement Plan in the Annual Governance Statement.

**8.18 Procurement Information:** Information on procurement policy and general guidance on procurement matters is published by the Office of Government Procurement. This can be viewed or downloaded from the [Office of Government Procurement website](#).

## Property Acquisition and Disposal of Surplus Property

### Code Provisions

**8.19 Acquisition or Disposal of Assets:** The Chairperson of the Governing Body should seek the approval of the HEA/ Minister for Education and Skills and the Minister for Public Expenditure and Reform in advance of any material acquisition or disposal of land, buildings or other material assets proposed by the Institute. This also includes long term leases or purchase of right to use (rather than own) an asset.

**8.20 Circulars and Guidelines:** In addition to any specific guidelines which apply to the Institute, all acquisitions, disposals or proposals to share property should be conducted in accordance with current Department of Public Expenditure and Reform circulars and guidelines as follows:

- [11/2015 – Protocols for the Transfer and Sharing of State Property Assets](#);
- [17/2016 – Policy for Property Acquisition and for Disposal of Surplus Property](#); and
- [02/2016 – Arrangements for Digital and ICT-related Expenditure in the Civil and Public Service](#).

Department of Public Expenditure and Reform Circular 02/2016 must be complied with by Institutes considering expenditure on IT and telecommunications projects, systems and infrastructures.

## Acquisition of Land, Buildings or other Material Assets

**8.21 Procedures:** In addition to the requirements set out in Department of Public Expenditure and Reform circulars, as amended from time to time, the following procedures should apply:

- (i) **Independent Valuation:** Where land or property is being considered for acquisition an independent valuation must be obtained. These valuations should be obtained before any decision is taken by the Governing Body to purchase/acquire or sell/dispose lands. The valuations should be obtained from professional property valuation surveyors.
- (ii) **Listing of Parties to Transaction:** All parties to land and property transactions should be clearly reported to the Governing Body when transactions are being considered. Any Governing Body resolution related to the purchase of land or property should state the party or parties the asset is being purchased from.
- (iii) **Options by Others to Purchase:** Where a third party developer has obtained an option to purchase land and is selling this option to the Institute any profit margin, where it can be determined, being charged by the developer should be reported to the Governing Body.
- (iv) **Board Resolutions:** Any Governing Body resolutions regarding the purchase or sale of an asset should state the price the asset has been purchased or sold for.
- (v) **Transparency:** Purchase of land or property should be conducted in as transparent a manner as possible without compromising the negotiating position of the Institute.
- (vi) **Due diligence:** A full due diligence report should be prepared for land or property that are being considered for acquisition.
- (vii) **Nominated Staff Member:** A staff member should be nominated to have responsibility for the acquisition, management and sale of land or property. This staff member should report directly to the President regarding property issues.
- (viii) **Legal Matters:** When dealing with the acquisition or sale of land or property there should be an active engagement with the solicitors involved and the nominated staff member shall ensure that the commercial and technical aspects of the transaction are fully addressed.

- (ix) **Title Registration:** There should be a planned follow up with the solicitors involved to ensure that the title to any land or property acquired are properly registered with the Property Registration Authority.
- (x) **Legal Obligations:** There should be a planned follow up to ensure that any undertakings, obligations and other matters are completed following the acquisition or sale of land or property. The Institute should instigate periodic (depending on the size of the property portfolio) reviews with their solicitors, and any internal staff dealing with property management, to audit the current status of title registration, way leave agreements, leases, bonds, planning permissions and any other matters which affect their property portfolios.

## Capital Investment Appraisal

**The Public Spending Code:** [The Public Spending Code](#) is the comprehensive set of expenditure appraisal and value for money requirements and related guidance covering all public expenditure.

- 8.22** The Governing Body should ensure that robust and effective systems and procedures are in place in the Institute concerned to ensure compliance as appropriate, with the relevant principles, requirements and guidelines of the Public Spending Code. The Chairperson of each Institute should confirm in the Annual Governance Statement that the Institute is adhering to the relevant aspects of the Public Spending Code.
- 8.23** **Investment Appraisal:** In addition, the Governing Body should ensure that the Institute should have regard to appropriate models for investment appraisal in their sectors and seek to apply the best practice financial and economic appraisal principles contained in the Public Spending Code for the appraisal and management of all investment proposals.

## Diversification, Establishment of Subsidiaries and Acquisitions by the Institutes

- 8.24** **Governing Body and Ministerial Approval:** The Chairperson should seek the approval of the Minister for Education and Skills, together with the consent of the Minister for Public Expenditure and Reform for any intended action which would extend or change significantly the nature, scope or scale of the activities in which it (or any subsidiary) engages (including through any joint venture). This provision requires Ministerial consent for any significant change in the (agreed) scope or function of the Institute. Any intended action covers anything that the Institute may be contemplating doing that would involve it straying (significantly) into a new area which it had never envisaged that it would be involved in or significantly changing the scale of its operations.

The financial consequences of such actions and their consistency with the existing remit of the Institute (if any), notably its statutory remit, should be clearly set out by the Governing Body.

- 8.26 Subsidiaries:** The establishment or acquisition of subsidiaries is subject to the legal capacity to do so and requires appropriate approval.

For subsidiaries that meet the requirements of Section 5(1)(e) of the 1992 Act as amended by Section 6 of 2006 Act i.e. if the objects of the company or undertaking include the carrying on of such business, trading or other activities, as the college thinks fit, for the purpose of promoting or assisting in the performance of, or in connection with, the functions of the college”, then Governing Body approval only is required.

For all other subsidiaries, joint ventures and the acquisition of shares by any Institute, by its subsidiaries or by joint ventures in which either a State body or its subsidiaries participate (“Institute joint ventures”) is subject to the legal capacity to do so and, in respect of a Institute and its subsidiaries, to the prior written approval of the relevant Minister, given with the consent of the Minister for Public Expenditure and Reform. If a Institute or its subsidiaries plans a shareholding offering or to acquire shares the offer/application must refer expressly to such legal capacity and approval requirements.

- 8.27 Ministerial Approval:** The Ministerial consent requirements applicable to an Institute joint venture should be considered and determined in the context and at the time of consideration and approval of the formation of the joint venture in the first instance.

- 8.28 Approval Process:** When seeking such approval, the Chairperson should supply the Minister for Education and Skills with complete details of such proposed subsidiaries, joint ventures or acquisitions and should do so at the earliest opportunity in order to avoid delays. The Minister should respond to the Chairperson in a timely manner.

- 8.29 Details:** Such details should include, the following (which is not an exhaustive list) together with such other information as may be requested:

- the full business case for the proposal;
- cash flows and projections;
- risk analysis of proposal;
- the amount of share capital proposed to be acquired compared with the entire issued share capital of the company concerned;
- details of any shares held in such company by any other State body, its subsidiaries or State body joint ventures;
- data on the financial commitment and exposure of the parent body, whether by way of equity, loans, guarantee or otherwise;
- other potential liabilities that may have a negative impact on the company;
- outstanding borrowings of such company from all sources, whether guaranteed or not, and any commitments by them which could involve financial exposure for the Institute; and
- in seeking approval for the establishment or acquisition of subsidiaries, the proposed approach to the remuneration and conditions of employment of the CEO/Managing Director and, where appropriate, other employees of the subsidiaries should be outlined.

- 8.30 Shareholdings (30%+):** Where Institutes, their subsidiaries and/or any Institute’s joint ventures have a combined holding in any company exceeding 30% of the entire issued share capital of such company, the Institute should notify the Minister for Education and Skills and the Minister for Public Expenditure and Reform of such shareholdings.

**8.31 Borrowing Limits:** Section 13 of the RCT Act, 1992 provides:

*(7) Where, notwithstanding this section, a college incurs expenditure in excess of its budget that is not met from the income of the college other than the money allocated to it by An tÚdarás, that excess shall be a first charge on the budget for the next succeeding financial year.*

*(8) A college 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 a body of persons.*

*(9) Borrowing, guaranteeing and underwriting under subsection (8) shall be in accordance with arrangements entered into from time to time between the colleges and An tÚdarás; An tÚdarás shall consult the Minister for Public Expenditure and Reform and the Minister for Finance before entering into such arrangements.*

- 8.32 State Guarantees:** State guarantees cannot be given without explicit statutory authority and may only be given by the Minister for Education and Skills with the consent of the Minister for Finance and the Minister for Public Expenditure and Reform. State guarantees may also be subject to approval by the EU Commission under the Treaty rules on State Aid. As a general rule, current policy is not to issue new State guarantees to State bodies due to the potential impact on the State's Balance Sheet and to allow outstanding guarantees to expire as the relevant borrowings are repaid.

## Disposal of State Assets

- 8.33 Disposal:** The Governing Body should ensure that arrangements are in place such that the disposal of assets of the Institute or the granting of access to property or infrastructure for commercial arrangements, e.g. joint ventures with third parties, are at a fair market-related price. Disposals or grants of access with an anticipated value at or above a threshold level of €150,000 should be by auction or competitive tendering process, other than in exceptional circumstances. The method used should be both transparent and likely to achieve a fair market-related price. The anticipated value may be determined either by a reserve price recorded in advance in the Institute's records or by a formal sign-off by the Governing Body on the advice of the Secretary /Financial Controller or, if delegated by the Governing Body, sign-off by the Secretary/ Financial Controller, that, in its view, the anticipated value is likely to be less or greater than €150,000. Valuations should be carried out by a qualified unconnected valuer.

## Compliance with use of Auction or Tendering Requirements

- 8.34 Governing Body Approval - Use of Competitive Process:** If an auction or competitive tendering process takes place and the highest bid is not the bid accepted, then specific Governing Body approval is required before the disposal of the asset or granting of access to property or infrastructure for commercial arrangements with third parties can be completed. The Governing Body must ensure that

the provisions of the [EU Commission Communication on State Aid](#) elements in sales of land and buildings by public authorities are complied with fully. Any such approvals together with the reason why a lower bid was permitted to be accepted should be noted in the minutes of the Governing Body.

- 8.35 State Aid:** A measure constituting State aid shall not be implemented before it has been approved by the EU Commission. The EU Commission *Guidance Paper on State aid-compliant financing, restructuring and privatisation of State-owned enterprises* sets out EU State aid rules, which must be complied with when carrying out or financing, restructuring and/or privatisation of State-owned enterprises and provides clarifications on the way the Commission applies the main State aid principles.
- 8.36 Governing Body Approval – Non-Use of Competitive Process:** Where an auction or competitive tendering process is not used and the agreed price is €150,000 or more, then specific Governing Body approval is required before negotiations start and also before the disposal of the asset or granting of access to property or infrastructure for commercial joint venture arrangements with third parties can be completed.
- 8.37 Formal Certification:** No disposal of an asset or grant of access to property or infrastructure for commercial arrangements with third parties should be completed until the officer authorising the disposal or grant of access has certified formally that (i) Governing Body approval is not necessary, with the reasons, or (ii) Governing Body approval, where necessary, has been obtained.
- 8.38 Disposal of Assets to Governing Body Members, Employees or their Families:** Disposal of assets to Governing Body members, employees or their families or connected persons should, as with all disposals, be at a fair market-related price. Where the Governing Body is considering a proposal for any such disposal, the Governing Body member connected to the potential purchase should absent him or herself from the Governing Body deliberations on the issue. A record of all such disposals to such persons (to include details of the asset disposed of, price paid and name of the buyer) should be noted in a register kept for this purpose (minor disposals below €5,000, may be omitted from the register). This register should be available for inspection, if requested, by the Governing Body or by any Governing Body member. The Governing Body may specify that any disposal above an approved threshold should be formally endorsed by the Governing Body who may impose specific restrictions with regard to any such disposal.
- 8.39 Reporting Disposals to the Governing Body:** Details of all disposals of assets or grants of access to property or infrastructure for commercial arrangements with third parties (save for connected third parties which is dealt with in paragraph 8.38) below the threshold value of €150,000 without auction or competitive tendering process should be formally reported to the Governing Body, including the paid price and the name of the buyer, on an annual basis
- 8.40 Reporting Disposals to the Minister:** Details of and explanations for the disposals of assets or grants of access to property or infrastructure for commercial arrangements with third parties above the threshold of €150,000 which have not been subject to auction or competitive tendering process should be included in the Annual Governance Statement (see paragraph 6.10 of this Code).
- 8.41 Compliance:** The Chairperson should affirm in the Annual Governance Statement, that the disposal

procedures, as outlined, have been complied with.

## Tax Compliance

- 8.41 Tax Clearance:** It is the responsibility of the Governing Body to satisfy itself that any Tax Clearance requirements regarding the payment of grants, subsidies and similar type payments, and regarding Public Sector Contracts, are fully adhered to. The Institutes must have a valid tax clearance certificate when a contract is entered into and should maintain a valid tax clearance certificate or, where the contract is a relevant contract<sup>28</sup>, demonstrate satisfactory subcontractor tax compliance at the time of each payment.
- 8.42 Taxation:** The Institute should be exemplary in their compliance with taxation laws and should ensure that all tax liabilities are paid on or before the relevant due dates. The Governing Body must take cognisance of any proposed corporate restructuring plans submitted for their approval and should ensure that they are being undertaken for bona fide commercial reasons and not as part of any tax avoidance scheme.
- 8.43 Tax Avoidance:** The Institutes while availing of all legitimate taxation arrangements, should not engage in unacceptable 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 Institute or some other party to a transaction in which the Institute participates. Where a doubt arises in a particular instance, the Institute should consult the Revenue Commissioners.

Where the approval of the Minister for Education and Skills with the consent of the Minister for Public Expenditure and Reform is required under legislation for any financial transaction, the Chairperson should provide confirmation from the Revenue Commissioners that the tax treatment of the financial transaction is compliant with Irish tax law.

- 8.44 Report to Department:** A report on the Institute's compliance with tax laws should be furnished each year to the Department of Education and Skills/HEA. The report should confirm that the Institute has complied with its obligations under tax law.

## Legal Disputes Involving Other State Bodies

- 8.45 Legal Disputes:** Where a legal dispute involves another State body, unless otherwise required by statute, every effort should be made to mediate, arbitrate or otherwise resolve before expensive legal costs are incurred. The Institute should pursue the most cost effective course of action in relation to legal disputes.

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<sup>28</sup> A relevant contract is a contract to carry out, or supply labour for the performance of relevant operations in the construction, forestry or meat processing industry. Source: (<http://www.revenue.ie/en/tax/rct/>)



In addition to the annual reporting requirement concerning details of legal disputes with other State bodies, the Institute is required to provide details of such legal disputes involving expenditure of €25,000 or over to the HEA and to the relevant Vote section of the Department of Public Expenditure and Reform, once a year by 30<sup>th</sup> June of each year including an estimate of the legal costs incurred up to the date of such information.

## 9 Remuneration and Superannuation

This section addresses the following areas:

- Remuneration and Superannuation
- Fees to Governing Body Members
- Travel and Office Entertainment

### Guiding Principles

Chairpersons and the Governing Bodies of the Institutes are required to implement Government policy in relation to the total remuneration package (including basic salary, allowances, and all other benefits in cash or in kind), and in relation to other provisions for superannuation and termination benefits, of the President of the Institute.

Chairpersons and the Governing Bodies of the Institutes are also required to implement any relevant Government policy, as expressed from time to time, with regard to remuneration of the Governing Body and other staff. This role is essential to maintaining public trust in as well as the credibility and reputation of the Institute concerned.

The Governing Body should adhere to Government policy on the payment arrangements for the President as well as any conditions of sanction issued by the Department of Public Expenditure & Reform and/or the Department of Education and Skills.

The Institute is required to publish in its annual report details of non-salary-related fees paid in respect of the Governing Body, analysed by category, and the salary of the President.

### IOT Legislative References

The relevant IOT legislative provisions for this section are listed below:

[Section 11 of the IOT Acts 1992 to 2006- General provisions in relation to staff](#)  
[Section 11A of the IOT Acts 1992 to 2006- Provisions in relation to certain staff](#)  
[Section 12 of the IOT Acts 1992 to 2006- Provisions in relation to existing staff.](#)  
[Schedule 3 of the IOT Acts 1992 to 2006- Director](#)

## Code Provisions

### Remuneration and Superannuation

- 9.1** The Chairperson and the Governing Body of the Institute are required to implement Government policy in relation to the total remuneration package (including basic salary, allowances, and all other benefits in cash or in kind), and in relation to other provisions for superannuation and termination benefits of the President of the Institute.

The relevant legislative provision is Schedule 3 of the Institutes of Technology Act 1992-2006.

- 9.2 Departmental Arrangements:** Arrangements put in place by the Department of Education and Skills or the Department of Public Expenditure and Reform for determining and approving the remuneration of the President of the Institute should also be adhered to and implemented.

- 9.3 Other Staff:** The Chairperson and the Governing Body are required to implement Government pay policy as expressed from time to time, in relation to other staff including, as appropriate, the President, CEO or equivalent and other staff of any subsidiary, as relevant.

The relevant legislative provision is Section 11 of the Institutes of Technology Act 1992-2006

*11. — (1) A college may perform such of its functions as the governing body may deem proper through or by any member of its staff.*

*(2) Subject to section 12, there shall be paid by a college to its staff, 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.*

*(3) The payment of any remuneration, fees, allowances or expenses by a company or undertaking referred to in section 5(1) (e) (as amended by the Institutes of Technology Act 2006) to the staff of a college shall be in accordance with arrangements in that behalf entered into between the colleges and An t Údarás.*

*(4) The Education Sector Superannuation Scheme (referred to in Article 2 of the Education Sector Superannuation Scheme (Transfer of Departmental Administration and Ministerial Functions) Order 2001 (S.I. No. 14 of 2001)) shall apply to a college and the members of its staff.*

- 9.4 Departmental Consultation:** The Department for Public Expenditure and Reform should be consulted in good time prior to the implementation of any pay proposals, and of any likely developments, which could have significant implications for:

- general Government pay policy;
- the Institute's finances;
- charges for goods or services provided; and/or
- other areas of the public sector.

- 9.5 Public Service Standards:** Compliance with Government pay policy or with any particular Government decision should not be effected in ways which cut across public service standards or integrity or conduct or involve unacceptable practices which result in a loss of tax revenue to the Exchequer.

**9.6 Appointment of the President:** Procedures for the appointment of the President (including a standard employment contract template) are available from the HEA. The Governing Body must seek the approval of the Minister for the duration of the term of office of the President, as per the QQI Act 2012.

**9.7 Single Pension Scheme:** Pension provision for all persons in pensionable posts, including senior management and the President, who are recruited on or after 1 January 2013 shall consist solely of membership of the Single Public Service Pension Scheme. This provision applies in all cases except where exempted under law (Public Service Pensions (Single Scheme and Other Provisions) Act 2012), and notwithstanding the existence in place of any private voluntary pension scheme for staff recruited on or prior to 31 December 2012.

## Fees to Governing Body Members

### Guiding Principles

As outlined in the Code, Governing Body members play a number of critical roles in setting the strategic direction and overseeing the performance of the Institute which are discharging key responsibilities laid down in legislation.

Inherent in the role of Governing Body is that of public value in seeking to ensure that the Institute carries out its responsibilities as effectively and efficiently as possible and maximises its contribution to outcomes for citizens.

The reformed system of appointments to State Board highlights the objective to attract high calibre individuals from all walks of life to serve on State Boards. Remuneration arrangements for Governing Body members of Institutes reflect the ethos of public value.

Public Servants and Public Sector employees cannot receive fees for their duties as a member of the Governing Body. Therefore this section in respect of fees is relevant to external members of the Governing Body and the Board of Subsidiaries only.

### Code Provisions

**9.8 Authorised Fee Levels:** In general, for fees to be payable to the Chairperson or members of a Board an enabling provision in the legislation governing the State body concerned is required. Such a provision typically specifies that members may be paid such remuneration (if any) which the relevant Minister, with the consent of the Minister for Public Expenditure and Reform, may determine. Current fee rates for Category 1 - 4 State Boards are available from the Remuneration, Industrial Relations and Pensions Division of the Department of Public Expenditure and Reform.

The Second Schedule, paragraph 8 of the IOT Acts, 1992-2006 provides that:

*The chairman and ordinary members of the governing body of a college shall be paid out of funds at the disposal of the governing body such remuneration (if any) and such allowances for expenses as the Minister, with the approval of the Minister for Finance, may decide.*

**9.9 One Person One Salary Rules:** Since 1 November 2011 under the One Person One Salary principle it has been a requirement of that principle that public servants and public sector employees who sit on State Boards may not be paid Board fees. The criteria previously used to determine the eligibility of public servants and public sector employees to receive Board/Governing Body fee payments no longer applies in any such cases. This applies to all Governing Body members, including those in place prior to 2011, and also to full-time executive Board members who operate on a salaried basis. The implementation of and adherence to these arrangements is the responsibility of the Institute concerned.

**9.10 Option to Waive Board Fee:** All existing Governing Body members of Institute, and any members that

may be appointed in the future to such Governing Bodies, are to be given the option by the Minister for Education & Skills to waive the related Governing Body fee on a discretionary basis as a matter of formal protocol. The implementation of the arrangements necessary to ensure adherence to this requirement is a matter for the Department of Education.

- 9.11 Authorised Fee Rates:** The Governing Body of the Institute must ensure that the fees paid to Chairpersons and the Governing Body member are at the rates sanctioned and approved by the Minister for Public Expenditure and Reform and that no fees are paid to public servants or public sector employees under the One Person One Salary rules.
- 9.12 PRSI:** In general, fees paid to a Chairperson, Governing Body Members of an Institute are exempt from PRSI. Such persons are deemed to be Office Holders, provided the Institute was created by an Act of the Oireachtas or by statutory regulation and provided the holder of the Office may be removed if the instrument creating the Office authorises it. (Scope Section, Department of Social Protection provides direction and information on the insurability of employment in accordance with law).
- 9.13 Tax:** Governing Body members fees are subject to taxation. The requirements are set out in Statement of Practice SP-IT/1/04 (Revised April 2011) *'Tax Treatment of Remuneration of members of State and State Sponsored Committees, Boards, Commissions and other Bodies'*, available from the Office of the Revenue Commissioners. Any queries in this regard should be directed to the Office of the Revenue Commissioners.
- 9.14 Subsidiaries:** The fees paid to the Chairperson or Board members/Directors of any subsidiary or associated body will not exceed the rates applying to the Chairperson or Governing Body member, respectively, of the Institute and will, as a general rule, be significantly less. Any such fees must be at the rates sanctioned and approved by the Minister for Public Expenditure and Reform.
- 9.15 Single Fee:** Only one fee will be payable to a person in respect of (a) service on the main Governing Body of the Institute and Boards of subsidiary or associated bodies or (b) service on subsidiary or associated State Boards only.
- 9.16 External Boards:** An executive other than the President of the Institute will, subject to Governing Body approval, be allowed to hold membership of the Boards of State funded bodies which are not subsidiary to or associated with the main Institute, but may not receive a Board fee under the One Person One Salary rules.
- 9.17 Annual Governance Statement:** As part of the Annual Governance Statement, the Chairperson should affirm that Government Pay Guidelines is being complied with in respect of such appointees who serve on the Governing Body and any subsidiaries of Institute. The Annual report should also include a schedule of the fees paid to each Governing Body/Board member.

## Travel and Official Entertainment

### Guiding Principles

The Institute should be cognisant of the need to achieve economy and efficiency in expenditure on travel and official entertainment.

### Code Provisions

**9.18 Travel Circulars:** The Institute should adopt, and comply in all respects with, the Department of Public Expenditure and Reform circulars and office notices regarding travel and subsistence, as amended from time to time.

The Governing Body members and employees must claim travel and subsistence only in respect of official business and not personal travel or accommodation and must not make a claim from more than one State body for the same journey. All Travel and Subsistence claims must have a clear stated business purpose.

The Department of Public Expenditure and Reform [Circular 5/2017 Motor Travel Rates](#), [Circular 6/2017: Domestic Subsistence Allowances](#), and [Circular 7/2017 Subsistence Allowances Abroad](#) set out rates of subsistence allowance, which apply where applicable.

**9.19 International Travel:** Institutes that incur significant expenditure on international travel by employees or members of the Governing Body should put in place appropriate monitoring and control procedures to ensure compliance with relevant Department of Public Expenditure and Reform circulars and requirements.

**9.20 Official Entertainment:** Department of Finance [Circular 25/2000: Official Entertainment](#) sets out the entertainment allowances, the limits on expenditure on official entertainment, and the numbers that can be accommodated at any given event (dependent on the grade or position of the host).



# 10 Quality of Service Charter

## Principle

In their dealings with the public, the Institute should publish a quality of service charter which outlines the nature and quality of service which customers and stakeholders, including learners, can expect.

The remit of the Quality of Service Charter does not extend to issues of quality assurance that are governed by the Institute's relationship with QQI and covered by the relevant legislation such as the QQI Act as amended.

## Code Provisions

**10.1 Quality of Service Charter:** The Institute should have a quality of service charter setting out the quality of education learners can expect and the level of service the general public and other stakeholders can expect of the organisation.

**10.2 Charter Cycle:** The 4 step cycle of the quality of service charter involves:

- Consultation with learners and stakeholders;
- Commitment to quality standards;
- Evaluation of performance; and
- Reporting on results

**10.3 Display and Content:** Quality of service charters should be displayed prominently (on websites and at the points of service). The charter should state the Institute's commitment to providing:

- education and services in accordance with the legislative requirements established in the relevant Acts, (specifically the IOTI Acts 1992-2006 as amended, Qualifications and Quality Assurance Act 2012 and associated legislation); and
- the principles of quality assurance and enhancement of academic activities set down by the relevant State quality assurance agencies (specifically, Quality and Qualifications Ireland [QQI]).

In addition, with regard to service provision, the charter should take account of the twelve Principles of Quality Customer Service for Customers and Clients of the Public Service (see Appendix F). The charter should define service standards in clear terms and simple language and should inform students and other stakeholders of contact and feedback mechanisms.

**10.4 Action Plan:** The charter should be supported by an action plan, which describes in detail how the commitments and standards set out in the charter, and other enhancements, will be delivered and evaluated by the Institute.

**10.5 Charters and Action Plans:** Charters and action plans should be produced as part of the same process and have separate but complementary roles. While the charter is a short, easy to read, accessible document which acts as a public commitment to students and others on what they can expect to receive when dealing with the Institute, the action plan is a more detailed document which describes how the charter commitments will be delivered and evaluated by the Institute. Both documents

should share the same timeframe (ideally 5 years).

- 10.6 Complaints Procedures:** Each Institute should have published procedures for the management of complaints both in respect of students and of other stakeholders. Such processes should, where relevant, make reference to the role of Ombudsman and the Ombudsman for children.

## Appendix F: Principles of Quality Customer Service for Customers and Clients of the Public Service

# Glossary

For the purpose of this Code, the terms below shall have the following meaning:

- **Accounting Officer** – the Comptroller and Auditor General (Amendment) Act, 1993 defines an Accounting Officer as “an officer referred to in section 22 of the [Exchequer and Audit Department’s Act of 1866] to whom the duty of preparing the appropriation accounts of a Department is assigned under that section”.
- **Annual Report** – A report detailing the Institute’s activities and financial performance during the preceding year. It includes the financial statements and may generally also include reports from those charged with governance (for example, the Chairperson of the Governing Body), a review of the Institute’s strategy and performance, information on risk management and governance, alongside other information for stakeholders
- **President**– Chief Officer of the Institute. For ease of reference the term President (as used in the Institutes) is used throughout the document
- **Annual Governance Statement** –The Chairperson must furnish to the HEA/Minister for Education and Skills, in conjunction with the Institute’s annual report and financial statements, a comprehensive report covering the Institute, in a format as agreed annually with the HEA.
- **CIPFA** – Chartered Institute of Public Finance and Accountancy.
- **Connected Person<sup>29</sup>** – Companies Act 2014, Section 220 specifies that a person is connected with a director of a company if, but only if, the person (not being himself or herself a director of the company) is:
  - a. that director’s spouse, civil partner, parent, brother, sister or child;
  - b. a person acting in his or her capacity as the trustee of any trust, the principal beneficiaries of which are that director, the spouse (or civil partner) or any children of that director or any body corporate which that director controls; or
  - c. in partnership with that director.

The term “child” referred to above is deemed to include the child of the director’s civil partner who is ordinarily resident with the director and the civil partner.

- **Fiduciary Duty** – A legal obligation of one party to act in the best interest of another. The principal fiduciary duties of a company director are set out in section 228 of the Companies Act 2014.
- **Financial Statements** – A formal record of the financial activities and position of the Institute for the previous financial year, including disclosures, intended to communicate the Institute’s economic resources or obligations at a point in time or the changes therein for a period of time in accordance with a financial reporting framework.

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<sup>29</sup> See Section 220 of the Companies Act, 2014.

- **FRC** – Financial Reporting Council (United Kingdom).
- **IFAC** – International Federation of Accountants.
- **Joint Venture** – A joint venture is a business entity created by two or more parties, generally characterised by shared ownership, shared returns and risks, and shared governance
- **Letter of Representation** – Letters of representation are letters from Governing Body members addressed to the Comptroller and Auditor General. The letter makes representations concerning amounts in the financial statements and aspects of the audit. The letter is drafted by the Comptroller and Auditor General at the end of the audit and is submitted to the Governing Body for signature, often by the Chairperson and the President.
- **Management Letter** – Management letters are letters from the Comptroller and Auditor General to management setting out the failings / weaknesses found during the audit. Unless these weaknesses or failings are material, the Comptroller and Auditor General will issue a clean/unqualified/unmodified report. Management are required to prepare responses to the management letter points made. The Audit and Risk Committee needs to oversee implementation of the Comptroller and Auditor General's management letter recommendations which the Comptroller and Auditor General will follow up on the following year.
- **ODCE**- Office of the Director of Corporate Enforcement
- **OECD**- Organisation for Economic Co-operation and Development
- **Oversight Agreement** – A written statement between the Minister/Department of Education and Skills/HEA and the Institute which clearly defines the terms of the relationship between the Minister/Department of Education and Skills/HEA and the Institute.
- **Parent Department** – Department of Education and Skills.
- **Performance Delivery Agreement** – An agreement between the Minister/Department of Education and Skills and the Institute in which an agreed level of service is formalised. A performance delivery agreement comprises part of an oversight agreement.
- **Regulatory Body** – See definition on page 8 of this document.
- **Subsidiary** – A subsidiary is a company that is controlled by the holding or parent company – often indicated by holdings of more than 50% of the voting share capital of the company. A wholly owned subsidiary is 100% owned by a holding or parent company



## Appendix A      Model Governing Body Standing Orders

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**Note:** This is an illustrative example of a model Governing Body standing orders setting out what typically should be included. The requirements included below are not exhaustive. The Governing Body standing orders should be tailored in accordance with the particular circumstance of the Institute. The Second Schedule, paragraph 13 of the IOT Acts, 1992-2006 provides:

*“Subject to the provisions of this Act a Governing Body shall regulate, by standing orders or otherwise, its procedure and business.”*

### [Entity] Governing Body Standing Orders

[Entity] was established under the [insert act] Act 20xx with effect from 1st January 20xx. [Entity] has adopted a corporate governance regime in accordance with best practice.

The purpose of this document is to set out the standing orders of the Governing Body of [entity]. These standing orders approved by the Governing Body on [day month year] are effective from [day month year].

#### 1.      Membership

- Governing Body members are appointed by the Minister for Education and Skills in accordance with the Institute of Technology Acts 1992 - 2006.
- Appointments to the Governing Body shall be for a period of up to [5] years, which may be extended for one further [5] year period.
- The Chairperson of the Governing Body is also appointed by the Minister for Education and Skills. If at any meeting the Chairperson is not present, the deputy-Chairperson if present shall be Chairperson of the meeting. Where the position of deputy-Chairperson is vacant, the Governing Body members present at the meeting shall choose a member to chair the meeting.
- Only members of the Governing Body have the right to attend Board meetings. The President is a member of the Governing Body and is expected to attend governing body meetings. Other individuals from the Institute and external advisers, may be invited to attend for all or part of any meeting, as and when appropriate as necessary.

#### 2.      Secretary of the Governing Body

- The Secretary of the Governing Body will ensure that the Governing Body receives information and papers in a timely manner to enable full and proper consideration to be given to the issues.
- The Secretary of the Governing Body is also responsible for the formal induction of new members of the Governing Body and organising mentoring for members where required.

#### 3.      Quorum

- The quorum necessary for the transaction of business shall be 6 members (section 9C of the Second Schedule of the IOT Acts, 1992-2006). A duly convened meeting of the Governing Body at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Governing Body.

**4. Voting**

- As provided for by section 11 of the Second Schedule of the IOT Acts, 1992-2006, every question at a meeting of a Governing Body shall be determined 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 chairman of the meeting shall have a second or casting vote.

**5. Frequency of Meetings**

- The Governing Body shall meet at least [x] times a year, and as otherwise required.

**6. Notice of Meetings**

- Meetings of the Governing Body shall be summoned by the Secretary of the Governing Body at the request of the Chairperson of the Governing Body
- Unless otherwise agreed, notice of each meeting confirming the venue, time and date together with an agenda shall be forwarded to each member of the Governing Body and any other person required to attend no later than five working days before the date of the meeting. Supporting papers shall be sent to Governing Body members and to other attendees as appropriate, or be made available electronically, at the same time.

**7. Minutes of Meetings**

- The Secretary of the Governing Body shall minute the proceedings and resolutions of all meetings of the Governing Body, including recording the names of those present and in attendance.
- Minutes of Governing Body meetings shall be circulated to all members of the Governing Body other than where specific exclusions apply e.g Conflict of Interest items

**8. Duties**

The duties of the Governing Body are set out in the Reserved Functions (see Appendix B) and the Governing Body must operate in accordance with the Second Schedule of the IOT Acts, 1992-2006.

In addition to the duties set out in legislation, the following duties apply to the Governing Body:

- Monitoring of performance – the Governing Body shall receive regular reports from the Institutes management team and Governing Body sub-committees.
- The Governing Body shall advise and support the Chairperson, and management.
- The Governing Body shall satisfy themselves that financial controls and systems of risk management are robust and defensible.
- The Governing Body shall keep itself up to date and fully informed about strategic issues and changes affecting the Institute and the environment in which it operates.
- The Governing Body shall ensure that on appointment to the Governing Body, non-executive Governing Body members receive a formal letter of appointment setting out clearly what is expected of them in terms of time commitment, committee service and involvement outside Governing Body meetings.
- The Governing Body may, from time to time, establish such committees of the Governing Body as are necessary to assist it in the performance of its duties. They may include members who are not members of the Governing Body if specialist skills are required. Where a committee is put in place:
  - the standing orders shall be specified in writing and approved by the Governing Body and reviewed annually;
  - the Governing Body, on the nomination of the Chairperson, shall appoint its members;
  - the Governing Body shall receive regular reports from the committee;

- all protocols concerning the operation of the Governing Body shall be applied to a committee;
  - minutes of committee meetings shall be circulated to all Governing Body members.
- The Governing Body shall review the results of the Governing Body performance evaluation process that relate to the composition of the Governing Body and corporate governance generally.
- The Governing Body shall keep under review corporate governance developments (including ethics-related matters) that might affect the Institute, with the aim of ensuring that the Institutes corporate governance policies and practices continue to be in line with best practice.
- The Governing Body shall ensure that the principles and provisions set out in the Code of Governance for Institutes of Technology (and any other corporate governance codes that apply to the Institute) are adhered to.

## 9. Reporting Responsibilities

The Governing Body shall keep the Minsiter/HEA informed of matters arising within the Institute in accordance with the reporting arrangements set out.

The Governing Body shall, at least once a year, review its own performance, constitution and standing orders to ensure it is operating at maximum effectiveness and implement any changes it considers necessary.

## 10. Authority

The Governing Body is authorised to seek the information it requires from the Institute in order to perform its duties.

The Governing Body is authorised to obtain, at the Institute's reasonable expense, outside legal or other professional advice where they judge it necessary to discharge their responsibilities as Governing Body members.



## Appendix B Reserved Functions, Statutory and Regulatory Requirements

### SCHEDULE OF MATTERS FOR GOVERNING BODY DECISION

#### A. RESERVED FUNCTIONS MUST BE EXERCISED ONLY BY RESOLUTION OF THE GOVERNING BODY (SECTION 21A(1) RTC ACT 1992, AS AMENDED)

1.	Deciding what courses of study are appropriate (Section 5(1)(a) RTC Act 1992 as amended).
2.	Entering into arrangements with (or approved by) HETAC/FETAC and/or such other authority approved by NQAI for the purpose of having higher education and training awards made (Section 5(1)(b) RTC Act 1992 as amended) .
3.	Deciding on appropriate research, consultancy and development work and related services (Section 5(1)(c) RTC Act 1992, as amended).
4.	Entering into arrangements with other institutions in or outside Ireland for the purpose of offering joint courses of study and of engaging jointly in programmes of research, consultancy and development work (Section 5(1)(d) RTC Act 1992, as amended).
5.	Deciding on the promotion/formation/shareholding and management participation in companies for promoting or assisting in the performance by the Institute of its functions. (Section 5(1)(e) RTC Act 1992 as amended).
6.	Approval of award of scholarships, prizes and awards (Section 5(1)(f) RTC Act 1992, as amended).
7.	Maintain, manage, administer and invest all the money and assets of the college (Section 5 (1)(g), RTC Act 1992 as amended).
8.	Accept gifts of money, land or property upon such trusts and conditions specified by the donor provided that nothing in the conditions is contrary to the provisions of the Institutes of Technology Acts 1992- 2006 (Section 5 (1)(h), RTC Act 1992 as amended).
9.	Acquisition of land subject to an tÚdarás' approval (Section 5 (1)(i), RTC Act 1992 as

	amended).
10.	To act as necessary to further the objects and development of the college (Section 5 (1) (j) RTC Act 1992 as amended).
11.	To control and administer the land and other property of the college (Section 7(1), RTC Act 1992, as amended).
12.	Appoint and select the Director in accordance with procedures including the formation of a selection board as determined by an tÚdarás (Section 9 (1), RTC Act 1992 as amended).
13.	Appoint and terminate the appointment of an Acting Director (Section 9(4) RTC Act 1992 as amended).
14.	Appointment of staff as necessary (Section 7, RTC Act 1992 as amended).
15.	Appointing and directing as many committees (consisting wholly or partly of governing body members) as necessary to assist in the performance of its functions (Section 7, RTC Act 1992 as amended).
16.	Performing such other functions as are conferred by statute (Section 7(1)(c) RTC Act 1992, as amended).
17.	Appointing an Academic Council and to provide for its membership and terms of office. (Section 10, RTC Act 1992 as amended).
18.	Approval of the functions and confirmation of the acts of the committees of the Academic Council (Section 10 (4)(b) & 10 (5), RTC Act 1992 as amended).
19.	Approval of a strategic development plan and provision of a copy of the approved plan to an tÚdarás and the Minister. (Section 21, RTC Act 1992 as amended).
20.	Approval of Policies in relation to access to education and equality (Section 21, RTC Act 1992 as amended).
21.	Establishment of dispute resolution procedures for disputes (other than industrial relations disputes) (Section 21(e), RTC Act, as amended).

**B. OTHER STATUTORY REQUIREMENTS (IOT Acts 1992 – 2006 as amended)**

22.	Preparation of (and submission to an tÚdaras on the 1 <sup>st</sup> day of March each year) a statement of proposed expenditure and expected income of the college (RTC Act 1992 Section 13 (1) as amended).
23.	<p>Preparation and publication of a report of its proceedings within 3 months of the end of each academic year (with copy to an tÚdarás and the Minister) (Section 14(1) RTC Act 1992 as amended).</p> <p>The report of the governing body should normally refer to specific aims and targets proposed by the institute in its strategic plan, the expected outputs and outcomes and the key performance indicators by which the achievement of the aims and targets is assessed [Code of Governance January 2012 Section 2.14.2]</p>
24.	Provision of such information as is required to an tÚdarás and the VEC regarding the performance of its functions (Section 14(2) RTC Act 1992 as amended).
25.	Provision and retention of a seal of the college (Second Schedule RTC Act 1992, as amended).
26.	Appointment of deputy chairman of governing body as occasion requires (Second Schedule section 5 (1) RTC Act 1992, as amended).
27.	Appointment of acting chairman for governing body meeting in the absence of a chairman and deputy chairman (Second Schedule RTC Act 1992, as amended).
28.	Hold meetings as necessary for the performance of its functions (Second Schedule RTC Act 1992, as amended).
29.	The determination of a procedure for student admissions (Second Schedule RTC Act 1992, as amended).
30.	The determination of a procedure for the exclusion of students. (Second Schedule RTC Act 1992, as amended).
31.	Engage such consultants or advisors as is considered necessary for the performance of its functions (Second Schedule RTC Act 1992, as amended).
32.	Make regulations regarding the conduct of the affairs of the college (RTC Act 1992

	Schedule 2, 14 (f))
33.	Agree regulations for the election of student members of governing body (RTC (Amendment) Act 1994 Section 4 (1) (e)).
34.	Agree regulations for the election for staff members of governing body (RTC (Amendment) Act 1994 Section 4 (1) (c) & (d)).
35.	Agree nominations of organisations from whom nominees to the governing body should be sought. (RTC (Amendment) Act 1994 Section 4 (1) (g)).
36.	Agreement to the president holding offices or positions outside of the Institute. (Third Schedule RTC Act 1992 as amended).

#### C. MATTERS DERIVED FROM CODE OF GOVERNANCE/BEST PRACTICE

37.	Approval of risk management policies. (Code of Governance, Section 7.1)
38.	Approval for the operation of bank accounts (Banking Requirement).
39.	Approval of bank authorised signatories (executive / management) authority (Banking Requirement).
40.	Approval of significant disposals and retirement of assets (including land) of the Institute or any of its subsidiaries (value at or above €150,000) (Code of Governance, Section 8.33)
41.	Approval for granting of access to property or infrastructure for commercial arrangements with third parties with an anticipated value at or above €150,000 (Code of Governance, Section 8.36)
42.	Approval where competitive tendering for disposal of assets have taken place and the highest bid was not accepted. (Code of Governance, Section 8.34)
43.	The disposal of assets over €150,000 to a charitable organisation or which are not put to a competitive tendering process (Code of Governance, Section 8.36)

44.	Approval for disposals to staff or persons connected (Code of Governance, Section 8.38)
45.	Approval of all significant financial procedures (Code of Governance, Section 1.7)
46.	Approval for the establishment of subsidiaries and any diversification from teaching and research (Code of Governance, Section 8.26)
47.	To put in place appropriate arrangement that ensures that management and employees are not involved in outside employment/ business that is in conflict with business of the Institute. (Code of Governance, Section 3.1.2)
48.	Approval of the institutes' financial statements and accounts (Code of Governance, Section 2.6)
49.	Annual governance statement to be approved prior to the being signed by the chairperson
50.	Statement on the system of internal control to be approved prior to the being signed by the chairperson

Details of References:

Code of Governance refers to the *Code of Governance for Irish Institutes of Technology – as amended to reflect 2016 Code of Governance for State Bodies – January 2018*

Acts refers to The Regional Technical Colleges Act 1992 as amended by the IOT Act 2006.

## Appendix C Ethics in Public Office

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### Obligations under the Ethics Legislation

All those who hold designated directorships (Board memberships) or occupy designated positions of employment in public bodies, prescribed by regulation for the purposes of the Ethics legislation (i.e. the Ethics in Public Office Acts 1995 and 2001), must comply with the relevant provisions of the legislation. Compliance with the Ethics Acts is deemed to be a condition of appointment or employment. While the summary below is provided for information, detailed guidelines on compliance with the Ethics Acts has been published by the Standards in Public Office Commission (the Standards Commission) on their [website](#).

All persons who have obligations under the Acts are obliged to act in accordance with the guidelines and any advice given by the Standards Commission, unless by so doing they would be contravening another provision of the legislation.

This Code further requires all individuals who occupy designated positions to make an Annual Return including a nil return where applicable.

### Disclosure of Registrable Interests

The Ethics in Public Office Act 1995 provides for the disclosure of registrable interests by holders of designated Board memberships and occupiers of designated positions of employment in public bodies prescribed for the purposes of the Ethics legislation. Briefly, the requirements are:

**Designated Board Members:** Are required in each year, during any part of which they hold or held a designated Board membership of a public body prescribed by regulations made by the Minister for Public Expenditure and Reform, to prepare and furnish, in a form determined by that Minister, a statement in writing of their registrable interests, and the interests, of which a person has actual knowledge, of his or her spouse or civil partner, a child of the person or a child of the person's spouse or civil partner, which could materially influence the person in, or in relation to, the performance of the person's official functions by reason of the fact that such performance could so affect those interests as to confer on, or withhold from, the person, his or her spouse or civil partner, a child of the person or a child of the person's spouse or civil partner, a substantial benefit. The statement must be furnished to the Standards Commission and to such an officer of the body as determined by the Minister for Public Expenditure and Reform.

**Designated Positions of Employment:** Are required in each year, during any part of which they occupy or occupied a designated position of employment in a public body, prescribed by regulations made by the Minister for Public Expenditure and Reform, to prepare and furnish, in a form determined by that Minister, a statement in writing of their registrable interests, and the interests, of which a person has actual knowledge, of his or her spouse or civil partner, a child of the person or a child of the person's spouse or civil partner, which could materially influence the person in, or in relation to, the performance of the person's official functions by reason of the fact that such performance could so affect those interests as to confer on, or withhold from, the person, his or her spouse or civil partner, a child of the person or a child of the person's spouse or civil partner, a substantial benefit. The statement must be furnished to the relevant authority for

the position as determined by the Minister for Public Expenditure and Reform.

**Material Interests:** The holder of a designated Board membership or the occupier of a designated position of employment is required to furnish a statement of a material interest where a function falls to be performed, and where the Board member or the employee or a “connected person” (e.g. a relative or a business associate of the Board member or employee) has a material interest in a matter to which the function relates. Such a statement must be furnished to the other Board members of the public body by a designated Board member or to the relevant authority by the occupier of a designated position of employment. The function must not be performed unless there are compelling reasons to do so. If a designated Board member or the occupier of a designated position of employment intends to perform the function, he or she must, either before doing so, or if that is not reasonably practical, as soon as possible afterwards, prepare and furnish a statement in writing of the compelling reasons to the other Board members and to the Standards in Public Office Commission if a designated Board member, or to the relevant authority if an employee. This obligation applies whether or not the interest has already been disclosed in a statement of registrable interests.

### **Tax Clearance Obligations of Appointees to “Senior Office”**

The tax clearance provisions of the Standards in Public Office Act 2001 apply to persons appointed to “senior office”, i.e. to a designated position of employment or to a designated Board membership in a public body under the 1995 Ethics Act, in relation to which the remuneration is not less than the lowest remuneration of a Deputy Secretary General in the civil service. All persons appointed to a designated Board membership “senior office” must provide to the Standards in Public Office Commission not more than nine months after the date on which he or she is appointed:

- a tax clearance certificate that is in force and was issued to the person not more than nine months before, and not more than nine months after, the appointment date; or
- an application statement that was issued to the person and was made not more than nine months before, and not more than nine months after, the appointment date; and
- a statutory declaration, made by the person not more than one month before, and not more than one month after, the date of appointment, that he or she, to the best of his or her knowledge and belief, is in compliance with the obligations imposed on him or her by the Tax Acts and is not aware of any impediment to the issue of a Tax Clearance Certificate.

### **Investigations**

The Board and employees of public bodies can be subject to investigation by the Standards Commission, either where it considers it appropriate to do so, or following a complaint, or where there is contravention of the tax clearance requirements, and there is nothing that precludes the Standards Commission from taking into account this Code in such an investigation.

### **Additional Information and Advice**

This appendix is provided for information purposes only and does not constitute a legal interpretation of the Ethics Acts. Regard should be had in the first instance to the Standards Commission’s guidelines. Requests for advice on compliance with the legislation should be referred to the Standards Commission.

## Appendix D Framework for a Code of Conduct

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The Code of Governance for State Bodies has a suggested framework for development of a Code of Conduct. This has been implemented at sectoral level through the adoption of the following two model Codes of Conduct (one for Governing Body members and one for employees). These will be reviewed in line with future revisions to the State Body framework and any changes to the provisions of the Ethics legislation.

### Appendix D1 Code of Conduct for the Governing Body

#### 1.1 Introduction

[Name] Institute of Technology has developed this Code of Conduct for members of Governing Body pursuant to Section 2.2 of the Code of Governance for Irish Institutes of Technology. This Code of Conduct takes account of the implications of the Ethics of Public Office Acts, 1995 and the Standards in Public Office Act 2001, the Protected Disclosures Act 2014, as well as the IOT Acts 1992 - 2006 as amended. A copy of the Code will be available upon request and be placed on the Institute of Technology's website.

#### 1.2 Intent and scope

The purpose of the Code is to provide guidance to the Governing Body of [Name] Institute of Technology in performing their duties as governors.

#### 1.3 Objectives

The objectives of the Code are

- To set out an agreed set of ethical principles;
- To promote and maintain confidence and trust in the governing body of the Institute;
- To prevent the development or acceptance of unethical practices;
- To promote the highest legal, management and ethical standards in all the activities of the Institute;
- To promote compliance with best current governance and management practices in all the activities of the Institute.



## 1.4 General Principles

All Governing Body members are required to observe the following fundamental principles as set out in the guidelines for the Code of Conduct.

### 1.4.1 Integrity

Members of Governing Body are required to disclose outside employment/business interests which they consider may be in conflict or in potential conflict with the business of [Name] Institute of Technology, or may be perceived as such.

Governing body 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 Institute. It will put in place appropriate arrangements to give effect to this;

Governing Body members will avoid giving or receiving gifts, hospitality, preferential treatment or benefits which might affect or appear to affect the ability of the donor or the recipient to make independent judgement on business transactions;

Governing Body members must be committed to having the Institute compete vigorously and energetically but also ethically and honestly with other educational institutions, commercial and other providers of research and advisory services;

The Institute is committed to conducting its purchasing activities of goods/services in accordance with public policy and best business practice and its purchasing regulations reflect this;

The Institute is also committed to ensuring that its engagement of consultancy and other services is in compliance with public policy guidelines;

The Institute is committed to ensuring that the accounts/reports accurately reflect the operating performance of the Institute and are not misleading or designed to be misleading;

Governing Body members are required to avoid the use of Institute resources or time for personal gain, for the benefit of persons/organisations unconnected with the institutions or its activities or for the benefit of competitors; and

The Institute is committed not to acquire information or business secrets by improper means.

### 1.4.2 Information

The Institute is committed to providing access to general information relating to its activities in a way that is open and enhances its accountability to the general public;

Governing Body members are required to respect the confidentiality of sensitive information held by the Institute. This would constitute material such as:

- personal information;
- information received in confidence by the Institute;
- any commercially sensitive information or other information sensitive to the reputation of the Institute.

The Institute will observe appropriate prior consultation procedures with third parties where,

exceptionally, it is proposed to release sensitive information in the public interest;

The Institute will comply with all relevant statutory provisions (e.g. Data Protection legislation and Freedom of Information legislation);

Members of Governing Body will observe due confidentiality in relation to all discussions and decisions taken at meetings of the governing body.

#### **1.4.3 Obligations**

The Institute will fulfil all regulatory and statutory obligations imposed on it by the Institute of Technologies Act 2006;

The Institute will comply with detailed tendering and purchasing procedures, as well as complying with prescribed levels of authority for sanctioning any relevant expenditure;

The Institute has introduced measures to prevent fraud and to ensure compliance with the prescribed levels of authority for sanctioning any relevant expenditure;

Members are required to use their reasonable endeavours to attend all governing body meetings.

It is acknowledged that the acceptance of positions following employment and/or engagement by a third level institution can give rise to the potential for conflicts of interest and to confidentiality concerns. The governing body of the Institute will consider any cases in which such conflicts of interest or confidentiality concerns may arise and will take appropriate steps to deal with such matters in an effective manner. The governing body will also ensure that any procedures that it may put in place in this regard are monitored and enforced.

#### **1.4.4 Loyalty**

Governing Body members acknowledge the responsibility to be loyal to the Institute and to be fully committed to all its activities, with due respect to the tenets of academic freedom, while mindful that The Institute itself must at all times take into account the interests of its students and providers of funds including taxpayers;

The Governing Body of the Institute acknowledge the duty of all to conform to highest standards of business ethics.

#### **1.4.5 Fairness**

The Institute is committed to complying with employment equality and equal status legislation;

The Institute is committed to fairness in all business dealings; and

The Institute values its students, suppliers, employees and customers and treats all its students, suppliers, employees and customers equally.

#### **1.4.6 Work/External Environment**

The Governing Body of the Institute place the highest priority on promoting and preserving the health and safety of its employees and students;

The Institute will ensure that community concerns are fully considered in its activities and operations;

The Institute will minimise any detrimental impact of its operations on the environment.

#### **1.4.7 Responsibility**

The Institute will circulate this Code of Conduct (and a policy document on disclosure of interests) to all

Governors for their attention and the Code of Conduct will be placed on the Institute's website;

The Institute will provide practical guidance and direction as required on such areas as gifts and entertainment and on other ethical considerations which may arise.

***1.4.8 Review***

The Institute will review this Code of Conduct as appropriate.

# Appendix D2 Code of Conduct for Employees

## 1. Introduction

- 1.1 [Name] Institute of Technology is charged with maintaining best practice behaviour in all our interactions and has developed this Code of Conduct as a way of ensuring that appropriate standards of conduct are adhered to by our employees. The Institute encourages the highest standard of conduct to ensure that our actions are lawful, ethical, honourable and transparent. Everyone to whom this Code applies is expected to operate at all times in all settings in a manner that positively reflects on and enhances the reputation of themselves and the Institute.
- 1.2 This Code is principle-based. It sets out the minimum requirements with which everyone within its scope is expected to abide in performing his/her duties in a lawful, ethical and professional manner and in compliance with the policies and procedures of the Institute and the Code of Governance of Irish Institutes of Technology.
- 1.3 This Code takes account of the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001 and the Protected Disclosures Act 2014, as well as the Institutes of Technology Acts 1992 to 2006 as amended. This Code has been approved by the Governing Body<sup>30</sup>. There is a requirement for each Institute to develop a Code of Conduct, to comply with the Code of Governance of Irish Institutes of Technology (2018) and report on this to the HEA as part of the Annual Governance statement by the President and the Chair of the Governing Body.
- 1.4 This Code applies to employees of [Name] Institute of Technology and its subsidiaries.
- 1.5 Employees must comply with the requirements of the IOT Acts and all other applicable legislative and regulatory requirements.
- 1.6 Employees will comply with all policies and procedures put in place for employees generally by the Institute from time to time.
- 1.7 This Code does not address all possible situations that may arise in the Institute but is a set of principles that provide guidance to Employees on acceptable and unacceptable behaviour.

## 2. Objectives

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<sup>30</sup> The Governing Body of each Institute is required to approve this Code of Conduct

## 2.1 The objectives of the Code are:

- To set out an agreed set of ethical principles;
- To promote and maintain confidence and trust in the Institute and its Employees;
- To prevent the development or acceptance of unethical practices and behaviours;
- To promote the highest legal, professional and ethical standards in all the activities of the Institute;
- To promote compliance with best current governance and management practice in all the activities of the Institute.

These objectives can be achieved through adherence to the fundamental principles set out in this Code. The general principles of this Code of Conduct which Employees are expected to comply with are:

- Integrity
- Honesty
- Transparency
- Confidentiality
- Loyalty
- Fairness

## 3. General Principles

### 3.1 Integrity

- 3.1.1 Employees have a duty to conduct themselves in accordance with the highest standards of business and professional ethics. This will include full compliance with the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001 including any amendments to these Acts.

<http://www.irishstatutebook.ie/1995/en/act/pub/0022/index.html>

<http://www.irishstatutebook.ie/2001/en/act/pub/0031/index.html>

- 3.1.2 Employees (other than hourly paid part-time employees) must obtain written approval in advance from the President of the Institute for outside employment/ and comply with such policies or procedures around same as may apply from time to time.

- 3.1.3 Employees must disclose to the President of the Institute (or person(s) delegated by the President) any conflict of interest with the interests of the Institute. A conflict of interest can occur when personal interests, activities, investments or associations compromise an employee's

judgment or ability to act with integrity and/or in the best interests of the Institute or may be perceived as such.

Matters relating to conflict of interest in relation to academic activities are dealt with in [Institutes] Policy on Conflict of Interest (Relating to the Academic Activities of [Institute]). This document also outlines relevant reporting and other procedures.

Situations that may give rise to conflict of interest are typically:

- financial interest in matters the Institute deals with - Employees may find themselves in a position in which fulfilment of their functions and duties may confer material benefits to themselves, their families, relatives or close associates;
- personal relationships with students - staff should avoid and must disclose to the Institute any situations which may require them to supervise or assess a student with whom they have or have had a personal, commercial, familial or other significant relationship;
- personal relationships with other employees-
  - Employees must disclose to the Institute any situations which may require them to supervise another member of staff with whom they have or have had a personal, commercial, familial or other significant relationship;
  - Employees must disclose to the Institute any personal relationships with a current or prospective employee which may give rise to a conflict of interest;
- personal relationships with people the Institute is dealing with e.g. contractors or tenderers;
- secondary employment that compromises the integrity of the Institute or exposes the Institute to risk arising from the Double Employment provisions set out in the Organisation of Working Time Act 1997 or any replacement thereof (i.e. outside work must not be accepted where it may cause a conflict between the employee's private interests and duties to the Institute).
- secondary employment that compromises the integrity of the Institute or exposes the Institute to risk arising from Health & Safety legislation and related [Institute] policies or which affects the employee's ability to undertake full duties in a safe manner.

Where an employee is unhappy with any decision in relation to outside employment of a conflict of interest, they may utilise the individual grievance procedure.

- 3.1.4 Employees must conduct their purchasing of goods/ services for the Institute in accordance with public policy, best business practice and the Institute's procurement policies and procedures, as

well as complying with prescribed levels of authority for the sanctioning and monitoring of any relevant expenditure. Employees must ensure that the engagement of consultancy and other services is in compliance with public policy guidelines and Institute policy.

- 3.1.5 Employees must not solicit contracts with the Institute for the supply of goods or services either for their own benefit, or for any partnership or company with which they have an involvement in their private capacity, or on behalf of other persons or organisations.
- 3.1.6 The Institute is committed to not acquiring information or business secrets by improper means.
- 3.1.7 Employees must ensure that the accounts/reports of their area of responsibility within the Institute accurately reflect the operating performance of the Institute and are not misleading or designed to be misleading.
- 3.1.8 Employees must avoid the unapproved use of the Institute's resources or time for personal gain or for the benefit of competitors and/or other education providers.
- 3.1.9 Employees should communicate to the appropriate level of management if they suspect or are aware of dishonest or other improper activity, [as per the Institute's Disclosure Policy.]<sup>31</sup>

## **3.2 Honesty**

- 3.2.1 Employees must use the resources of the Institute in a proper, effective and efficient manner and must take proper and reasonable care of Institute property and must not knowingly use or permit its use for unauthorised purposes.
- 3.2.2 Employees are required to attend work, perform their duties in a diligent and efficient manner and not absent themselves from duty without proper authorisation, in accordance with the Institute's Leave Management Policy.
- 3.2.3 Employees must carry out official directions and policies in good faith and in an impartial and transparent manner.
- 3.2.4 Employees must ensure that expenses, such as travel and subsistence payments, are not unnecessarily incurred either by themselves or by staff reporting to them and must comply with Government Guidelines (Department of Finance Circular 11/82 and subsequent amendments).

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<sup>31</sup> This part of the sentence only becomes applicable once an Institute has adopted a Disclosure Policy

### 3.3 Transparency

- 3.3.1 Employees must comply with the following guidelines in relation to giving and receiving gifts and entertainment, in order to ensure that Institute decisions are made on fair and objective criteria.
- 3.3.2 Employees must not solicit gifts or hospitality for personal gain. The receipt of gifts and hospitality by employees from individuals or organisations will be governed by the highest standards. The term “gift” includes any benefit which is given to an employee free of charge or at less than its commercial price.
- 3.3.3 The exchange of official gifts (e.g. gifts exchanged with dignitaries and officials) to and from the Institute is acceptable and in such circumstances gifts received remain the property of the Institute. Receipt of hospitality that constitutes normal courtesies in student, business and community relations (e.g. attendance at a community/civic/cultural function) is acceptable. Employees may only accept personal gifts of a reasonable value, as defined from time to time by the Institute.
- 3.3.4 Employees must not accept cash, gift cheques or any vouchers that may be exchanged for cash, regardless of the amount, from external individuals or organisations.
- 3.3.5 Employees must make themselves aware of any Institute guidelines, which may be issued from time to time in respect of the above, including the appropriateness of gifts.

### 3.4 Confidentiality and Intellectual Property

- 3.4.1 Employees are required to comply with relevant statutory provisions under the Freedom of Information Acts, 2014, the Data Protection Acts, 1988 and 2003 and the Institute’s Records Management Policies and Procedures and any amendment thereof. The Institute is committed to managing access to general information relating to activities of the Institute in a way that is open and transparent and enhances the Institute’s accountability to the general public.
- 3.4.2 Employees must respect and maintain confidentiality in relation to staff, students and commercially sensitive Institute business. Employees are required to respect the value and ownership of information they receive and not disclose information without appropriate authority unless there is a legal or professional obligation to do so, having regard to the principle of academic freedom, as set out in the Institutes of Technology Acts.



- 3.4.3 Employees must take reasonable steps to ensure compliance with the Institute's Intellectual Property Policy.
- 3.4.4 Employees are required at all times to respect the confidentiality of sensitive information held by and processed by the Institute. Such information includes, but is not limited to:
- personal information;
  - information received in confidence by the Institute;
  - any commercially sensitive information or other information sensitive to the reputation of the Institute.
- 3.4.5 Employees will observe appropriate prior consultation and decision-making procedures where, exceptionally, it is proposed to release sensitive information in the public interest.
- 3.4.6 Employees must respect the confidentiality of information received in the performance of their duties as employees. Additionally, employees must respect the confidentiality of the deliberations of any Institute Boards/ Committees where advised that such confidentiality is required.
- 3.4.7 Employees must ensure that appropriate care is taken to guarantee the security of sensitive information (in paper or electronic form) whether stored on or off Institute property.
- 3.4.8 Employees must ensure that confidential records are subject to appropriately restricted access procedures in accordance with Institute guidelines. Where clarification is required as to the appropriate restricted access requirements for records in their direct control, the onus is on the Employee to follow-up with the responsible owner to ensure this is effectively controlled. Advice in this regard may also be requested from [Institute's] Freedom of Information Officer.
- 3.4.9 The obligations of an employee to the Institute with regard to the non-disclosure of privileged or confidential information do not cease when his/her relationship with the Institute has ended.

### **3.5 Loyalty**

- 3.5.1 Employees are expected to be faithful to their commitments and obligations at the Institute, including those set out in their contract of employment. Employees must carry out their duties in a professional, responsible and conscientious manner and to the highest possible standard.

- 3.5.2 Employees are also required to act in accordance with Institute's goals, policies and procedures and to respond positively to any lawful instructions and reasonable directions given by persons who are authorised by the Institute to give such instructions and direction.
- 3.5.3 Employees must uphold the good name and reputation of the Institute and exercise judgment in the best interests of the Institute. This obligation does not detract from the exercise of academic freedom, within the law, as set out in the Institutes of Technology Acts.
- 3.5.4 Employees will act responsibly and fairly with the due care, diligence, loyalty and the prudence of a reasonable individual whose duty of care is to the Institute.

### **3.6 Fairness**

- 3.6.1 Employees will treat each other and all members of the Institute community in accordance with dignity and respect policies which includes:
- respect a colleague's work space and personal space;
  - value the constructive contributions made by others;
  - respect the rights of others with different views;
  - not make inappropriate jokes or comments which may be offensive, insulting, intimidating or degrading to others;
  - criticise, demean or dismiss others via any public forum;
  - respect each other's knowledge and experience;
  - show an understanding towards others when they are facing personal or work-related difficulties and, where appropriate, provide reassurance, guidance and support;
  - acknowledge and give credit to those deserving of it
- 3.6.2 Employees must comply with applicable employment rules, standards and contract provisions.
- 3.6.3 This Code places an onus on employees to ensure compliance with employment equality and equal status legislation, a commitment to fairness in all business dealings, and the valuing and equal treatment of all those with whom the Institute interacts. This will include, inter alia, compliance with the Institute's Bullying and Harassment Policies and Procedures and such other such policies that will be brought to the attention of staff by the Institute from time to time.

- 3.6.4 The Institute values its students, suppliers, employees and customers and employees must treat all students, suppliers, other employees and customers fairly.
- 3.6.5 Employees must treat other persons equitably, irrespective of gender, family status, sexual orientation, race, disability, religion, civil status, age or traveller community membership.
- 3.6.6 Employees must be responsive and courteous in dealing with other employees, students and members of the Institute and wider public community.
- 3.6.7 Employees should communicate openly, honestly and directly. In doing so, employees should:
- listen carefully with an open mind;
  - frame responses in a thoughtful and considered way;
  - use all communication tools including e-mail, text messages, social media etc. appropriately and carefully ensure that messages do not give offense, offer and accept constructive feedback to and from others in an appropriate manner;
  - not communicate aggressively at any time;
  - not communicate in a way that demeans or insults others;
  - not initiate or spread rumours or gossip that may be damaging to others;
  - not use inappropriate behavior or language at meetings or in public, which may cause others to feel criticized, humiliated or embarrassed.

#### **4. Reporting Breaches of the Code of Conduct**

- 4.1 Employees should report suspected breaches of applicable laws, regulations and/or this Code through normal management structures or, if appropriate, under the Institutes Protected Disclosures Reporting Policy. This reporting should normally be made initially through standard management channels, beginning with immediate supervisor or manager. If, for any reason, it is not appropriate to report suspected breaches to the immediate supervisor or manager, individuals may go to the next level of management as appropriate.<sup>32</sup>

#### **5. Responsibility**

- 1.1 The Institute will ensure that this Code is circulated to all employees for their understanding and retention. It will also be available on the Institute's website

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<sup>32</sup> This paragraph may change following the adoption of an Institute Disclosure Policy

1.2 All Employees are required to make themselves aware of this Code (and any subsequent amendments or guidelines) and must adhere to the principles set out above. Breach of this Code may lead to disciplinary action in accordance with the Institute's Disciplinary Procedures.

1.3 The Institute will provide practical guidance and direction as required by employees in such areas as gifts and entertainment and on other ethical considerations which may arise from time to time.

## **2. Consultation on the Code**

6.1 This Code has been finalized following a consultation process under the aegis of the Public Service Agreement 2010-2014 involving representatives of IMPACT, SIPTU, UNITE and TUI.

## Appendix E Model Internal Audit Activity Charter<sup>33</sup>

### Introduction

Internal Auditing is an independent and objective assurance and consulting activity that is guided by a philosophy of adding value to improve the operations of the [insert name of entity]. It assists [insert name of entity] in accomplishing its objectives by bringing a systematic and disciplined approach to evaluate and improve the effectiveness of the Institute's governance, risk management, internal control.

The Internal Audit function is outsourced to an appropriately qualified professional services firm, [insert name of firm], hereafter referred to as the Internal Audit Service Provider. The Appointment of the Internal Audit Service Provider is a sectoral collaboration performed through public procurement processes.

### Governing Body Policy Statement

The Institute recognises the significant contribution to good governance and effective internal control made by an efficient and effective internal audit function.

The Institute pledges its full support to the Internal Audit Service Provider in discharging the authorities and responsibilities contained in this Charter and undertakes to provide adequate resources to the Internal Audit Service Provider to properly discharge its function.

### Role

The Internal Audit activity is established by the Governing Body, Audit and Risk Committee, or highest level of governing body. The Internal Audits activity's responsibilities are defined by the Governing Body as part of their oversight role.

### Authority

The Internal Audit activity, with strict accountability for confidentiality and safeguarding records and information, is authorised full, free, and unrestricted access to any and all of [insert name of entity] records, physical properties, and personnel pertinent to carrying out any engagement. All employees are requested to assist the Internal Audit Service Providers activity in fulfilling its roles and responsibilities. The Internal Audit Service Providers activity will also have free and unrestricted access to the Governing Body.

### Organisation

The Internal Audit Service Provider reports functionally to the Audit and Risk Committee and administratively (i.e. day to day operations) to the President or their designate. The Internal Audit Service Provider should also have direct access to the Chairperson of the Governing Body and the Chairperson of the Audit and Risk Committee.

The Audit and Risk Committee will:

- Approve the internal audit charter.
- Approve the risk based internal audit plan.
- Approve the internal audit budget and resource plan.

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<sup>33</sup> Adapted from The Institute of Internal Auditors – Model Internal Audit Activity Charter

- Receive communications from the Internal Audit Service Provider on the internal audit activity's performance relative to its plan and other matters.

### Independence and Objectivity

The Internal Audit Service Provider will remain free from interference by any element in the organisation, including matters of audit selection, scope, procedures, frequency, timing, or report content to permit maintenance of a necessary independent attitude.

The Internal auditor Service Provider will have no direct operational responsibility or authority over any of the activities audited. Accordingly, they will not implement internal controls, develop procedures, install systems, prepare records, or engage in any other activity that may impair the internal auditor's judgment.

The Internal Auditor Service Provider will exhibit the highest level of professional objectivity in gathering, evaluating, and communicating information about the activity or process being examined. The Internal Audit Service Provider will make a balanced assessment of all the relevant circumstances and not be unduly influenced by their own interests or by others in forming judgments.

### Responsibility

The scope of audit activities will be determined using appropriate risk assessment tools to ensure adequate coverage of risks and exposures, and will consider the special needs of management. Specifically, Internal Audit Service Providers scope of activities is to ascertain that the processes for controlling operations, as they have been designed and represented by management, are adequate and functioning. The Internal Audit Service Provider has responsibility to:

- Develop and maintain a strategic audit plan covering a three-year period based on significant exposures to loss or failure and submit that plan to the Audit and Risk Committee for approval.
- Develop annual audit plans based on significant exposures identified in the strategic audit plan and submit such annual plans to the Audit and Risk Committee for approval.
- Consider the scope of work and liaise with external auditors for the purpose of providing optimal audit coverage.
- Implement the audit plans as approved, including any value for money auditing and special projects assigned by the Audit and Risk Committee or requested by senior management.
- Disseminate Best Practice Guidelines.
- Report significant issues relating to the processes for controlling the activities of the Institute arising from the internal audit work undertaken.
- Issue reports to the Audit and Risk Committee addressing the results of audits conducted summarising observations and recommendations made.
- As part of findings follow-up reviews, Internal Audit will monitor and report to management and the Audit and Risk Committee on progress towards the implementation of agreed audit recommendations.
- Meet with the Audit and Risk Committee twice a year, first to obtain approval for the annual audit plan and secondly to present reports to the Audit and Risk Committee on audits carried out.
- Evaluate and assess controls coincident with the introduction of major changes to systems.
- Provide technical assistance to management to assist in the investigation of suspected fraudulent activity within the Institute.

### Internal Audit Plan

At least annually, the Internal Audit Service Provider will submit to the Audit and Risk Committee an internal audit plan for review and approval. The internal audit plan will consist of a work schedule as well as budget and

resource requirements for the next fiscal/calendar year.

The internal audit plan will be developed based on a prioritisation of the audit universe using a risk-based methodology, including input of senior management and the Governing Body. The Internal Audit Service Provider will review and adjust the plan, as necessary, in response to changes in the Institute's business, risks, operations, programs, systems, and controls. Any significant deviation from the approved internal audit plan will be communicated to senior management and the Audit and Risk Committee through periodic activity reports.

### Reporting and Monitoring

A written report will be prepared and issued by the Internal Audit Service Provider or designee following the conclusion of each internal audit engagement and will be distributed as appropriate. Internal audit results will also be communicated to the Audit and Risk Committee.

The internal audit report may include management's response and corrective action taken or to be taken in regard to the specific findings and recommendations. Management's response, whether included within the original audit report or provided thereafter (i.e. within thirty days) by management of the audited area should include a timetable for anticipated completion of action to be taken and an explanation for any corrective action that will not be implemented.

The Internal Audit Service Provider will periodically report to senior management and the Audit and Risk Committee on the internal audit activity's purpose, authority, and responsibility, as well as performance relative to its internal audit plan. Reporting will also include significant risk exposures and control issues, including fraud risks, governance issues, and other matters needed or requested by senior management and the Governing Body.

### Quality Assurance

The Internal Audit Service Provider is fully committed to quality and conducts its business within the framework of applicable professional standards, laws, regulations and internal policies. It also recognise that these standards, laws, regulations and policies cannot govern all types of behaviour. As a result, it also has its own Code of Conduct which applies to all of its people and all of its work. This code provides a broad range of guidance about the standards of quality, integrity and professional behaviour it continually strives to deliver. In performing its Internal Audit work the Internal Audit Service provider take into account the following standards:

- The Institute of Internal Auditors' (IIA) International Standards for the Professional Practice of Internal Auditing (Standards); and
- Applicable International Auditing Standards and the supporting Institute of Chartered Accountants Ireland (ICAI) bulletins.

### Internal Audit Activity Charter

Approved this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Internal Audit Service Provider

\_\_\_\_\_  
Chairperson of the Governing Body /  
and Risk Committee

\_\_\_\_\_  
President      Audit





## Appendix F Principles of Quality of Service for Customers and Clients of the Institute

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In their dealings with the public, the Institute will:

### Quality Service Standards

Publish a statement setting out the quality of education learners can expect and the level of service the general public and other stakeholders can expect of the organisation.

### 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 Traveler 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 the Institute's websites follows the guidelines on web publication. Continue the drive for simplification of rules, regulations, forms, information leaflets and procedures.

### Timeliness and Courtesy

Deliver quality services with courtesy, sensitivity and the minimum delay, fostering a climate of mutual respect between the Institute and the learner/ stakeholder. 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.

The Institute may be subject to complaints at both the level of the official and the organisation. These may relate to the quality of the service itself or the manner in which the service was delivered. The scope for student or other stakeholder dissatisfaction can be reduced by provision of appropriate information to the student or other stakeholder regarding the available service and training to staff in how to deliver the service.

In setting up systems to deal with student or other stakeholder dissatisfaction, organisations should ensure that all complaints are dealt with objectively in a consistent, open and fair manner.

Some elements to be included in Comments/Complaints systems include:

- information regarding complaints procedures should be freely available to the public at all points of service delivery and should be publicised by organisations;
- complaints procedures should be straightforward and access should be conveniently available to student or other stakeholder and clients at no cost wherever possible;
- all complaints should be directed to, and acknowledged, by a named officer of appropriate grade;
- appropriate training should be provided to all staff dealing with complaints . complaints should be addressed as quickly as possible and the customer should be kept informed of progress;
- complaints procedures should be subjected to regular review; and
- provisions should be made for speedy correction of errors and, where required, the making of appropriate redress to the complainant.

### **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 student or other stakeholder 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 student or other stakeholder 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 Institute's services.

### **Internal Customer**

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

## Appendix G Annual Report

### Reporting requirements for the Annual Report include the following:

1. Each Institute should note the agreement reached with the HEA in its annual report regarding their level of compliance with this Code. This should explain whether certain requirements are to be phased-in over a longer period of time, or otherwise varied in some way. **(Compliance Requirements)**
2. The Governing Body of each Institute should approve an Annual Programmes and Budgets and should formally undertake an evaluation of actual performance by reference to the plan and/or budget on an annual basis and reflect this, as appropriate, in the annual report. **(1.17 –Code of Practice)**
3. It must be stated in the annual report that the Governing Body are responsible for preparing the annual report and financial statements and whether they consider the financial statements to be a true and fair view of the Institute's financial performance and its financial position at the end of the year. **(1.18 – Code of Governance)**
4. The Governing Body should state in the annual report and financial statements how the performance evaluation of the Governing Body and its committees has been conducted. An external evaluation proportionate to the size and requirements of the Institutes should be carried out at least once during the term of every Governing Body. **(4.6 – Code of Governance)**
5. The annual report should include a statement of how the Governing Body operates, including a high level statement of which types of decisions to be taken by the Governing Body and which are to be delegated to management. **(4.7 Code of Governance)**
6. The Audit and Risk Committee should meet at least four times a year and invite outsiders with relevant experience to attend meetings if necessary. In the event that four meetings is not considered necessary the Chairperson of the Institute should make a statement in the Institute's annual report that the he/she is satisfied that the Audit and Risk Committee discharged its role with fewer than four meetings in a year. **(1.13 – Audit and Risk Committee Requirements)**
7. The names of the Chairperson, the deputy Chairperson (if any), the President and members of the Governing Body and its committees. **(6.3 Code of Governance)**
8. The number of meetings of the Governing Body and its committees and the attendance of each Governing Body member at Governing Body meetings should be reported in the annual report. **(6.4(iv) Code of Governance)**
9. Each Institute should publish (or where publication is not required, submit to the Minister and HEA) its annual report and financial statements not later than one month following completion of the audit of the financial statements by the Comptroller and Auditor General. **(6.4(ii)Code of Governance)**
10. Confirmation that the Governing Body has carried out an appropriate assessment of the Institute's principal risks, including a description of these risks, where appropriate and associated mitigation measures or strategies. **(7.2 – Code of Governance)**
11. The Chairperson of each Institute should confirm in the annual report that the Institutes adhering to the relevant aspects of the Public Spending Code. **(8.22 – Code of Governance)**

12. The Annual Governance Statement and the Statement of Internal Control (paragraph 6.10(v) – Code of Practice should be included in the annual report of the Institute. This statement should be reviewed by the Comptroller and Auditor General to confirm that it reflects the Institute’s compliance with the requirements of paragraph 6.5(v) and is consistent with the information of which they are aware from their audit work on the financial statements. The Comptroller and Auditor General should include their report on this matter in their audit report on the financial statements. **(6.10-**

**– Code of Governance)**

## Appendix H Financial Statements

Reporting requirements for the Financial Statements include the following:

*Note: The Department of Education and Skills/HEA may choose to seek additional financial information at more frequent intervals than those outlined here.*

1. In line with Section 16 of the IOT Acts, 1992-2006, Draft unaudited financial statements<sup>34</sup> for each Institute should be furnished to the Comptroller and Auditor General in a timeframe determined by them, currently not later than three months after the end of the relevant financial year. **(6.4(i) - Code of Governance)**
2. The Institute should publish its annual report and/or financial statements not later than one month following completion of the audit of the financial statements of the said body by the Comptroller and Auditor General. **(6.4(ii) – Code of Governance)**
3. The Institute should submit to the HEA its annual report and/or financial statements not later than one month following completion of the audit of the financial statements of the said body by the Comptroller and Auditor General. **(6.4(ii) – Code of Practice)**
3. In the interests of transparency and good governance, the Institutes are required to publish in their annual report and/or financial statements details of non-salary-related fees paid in respect of Governing Body members analysed by category, and the salary of the President. **(6.4(iii) – Code of Governance)**
4. Institute should disclose details of expenditure on external consultancy/adviser fees in their annual report and/or financial statements for each accounting year for any given entity.  
  
For this purpose consultancy fees mean fees paid to external parties providing advisory services of any nature. Such fees should be itemised by category as stated below or as the Institute considers appropriate having regard inter alia to its size and competitive position and to the extent to which information is already disclosed:
  - Legal (legal fees across all areas to be included here e.g. for pension, HR etc.);
  - Tax and financial advisory (e.g. due diligence, accounting, corporate finance);
  - Public relations/marketing;
  - Pensions and human resources; and
  - Other. **(6.5 – Code of Practice)**
5. Employee Benefits: In addition to disclosing the aggregate pay bill and total number of employees, the Institutes should publish details of the number of employees whose total employee benefits (excluding employer pension costs) for the reporting period fell within each pay band of €10,000 from €60,000 upwards and an overall figure for total employer pension contributions in their annual report and/or financial statements. **(6.4(vi) – Code of Governance)**

<sup>34</sup> Draft unaudited financial statements refer to draft financial statements and notes thereon (in accordance with applicable accounting standards) and not management accounts

6.	<p>The Institutes should disclose in their annual report and/or financial statements aggregate details of the compensation of their key management level broken down by the following categories:</p> <ul style="list-style-type: none"> <li>a. Salaries and short term employee benefits by reference to salary grades and scales</li> <li>b. Post-employment benefits; and</li> <li>c. Termination benefits.</li> </ul> <p>Institute shall also disclose key management personnel compensation in total. <b>(6.4(v) –Code of Governance)</b></p>
7.	<p>Termination/severance payments and agreements - The financial statements should disclose details of payments and agreements (with a value in excess of €10,000) made in the reporting period. These would include severance/termination payments, granting of added years for pension purposes or early retirement without normal actuarial reductions. <b>(6.3 – Code of Governance)</b></p>
8.	<p>Travel and subsistence - The financial statements should disclose the total costs incurred in relation to travel and subsistence broken down between national and international travel. <b>(6.3 – Code of Governance)</b></p>
9.	<p>Hospitality expenditure - The financial statements should disclose the aggregate total expenditure incurred in relation to hospitality in the period. (This would include Christmas parties, retirement parties, expenditure on staff wellbeing, contribution to sports and social clubs, One4all vouchers, retirement/leaving gifts, flowers, etc.) <b>(6.3 – Code of Governance)</b></p>
10.	<p>Legal Costs/settlements – in cases where cumulative legal costs incurred in the year of account exceed €50,000, a note should be included in the financial statements with a breakdown of the total costs as between legal fees and compensation paid. <b>(6.3 – Code of Governance)</b></p>

## Appendix I Checklist for Annual Governance Statement and Statement of Internal Control

Items for inclusion in the Annual Governance Statement to the Minister/HEA include the following:

1. The Annual Governance Statement regarding the system of internal control (**paragraph 6.10(v) – Code of Governance**) should be included in the Institute’s annual report. This statement should be reviewed by the Comptroller and Auditor General to confirm that it reflects the Institute’s compliance with the requirements of paragraph 6.9(v) and is consistent with the information of which they are aware from their audit work on the financial statements. The Comptroller and Auditor General should include their report on this matter in their audit report on the financial statements.
2. The Annual Governance Statement should include a statement on the system of internal control in the format set out in Appendix J and include, in cases where a breach of this system has been identified, an outline of the steps that will be taken to guard against such a breach occurring in future. **(6.10(v) - Code of Governance)**
3. Outlining all commercially significant developments affecting the Institute in the preceding year, including the establishment of subsidiaries or joint ventures and share acquisitions, and major issues likely to arise in the short to medium term. **(6.10(ii) - Code of Governance)**
4. The Annual Governance Statement should provide summary details of all Institute’s off-balance sheet financial transactions<sup>35</sup> that are not disclosed in the annual report and financial statements of the Institute, including information on the nature, purpose and financial impact of the off-balance sheet financial transactions. The contents and format of this section of the report should be agreed in advance with the Minister for Education and Skills /HEA. **(6.10(iii) - Code of Governance)**
5. Affirming that all appropriate procedures for financial reporting, internal audit, travel, procurement and asset disposals are being carried out. **(6.10(iv) - Code of Governance** For example, details of and explanations for the disposals of assets or grants of access to property or infrastructure for commercial arrangements with third parties above the threshold of €150,000 which have not been subject to auction or competitive tendering process should be included. **(8.36- Code of Governance)**
6. Affirming that Codes of Conduct for the Governing Body and Employees have been put in place and adhered to. **(6.10(vi) - Code of Governance)**
7. Affirming that Government pay guidelines on the pay of President and all Institute’s employees are being complied with. **(6.10(viii) - Code of Governance)**

<sup>35</sup> As a guide, off-balance sheet transactions are arrangements that give rise, or may give rise, to an asset or liability in excess of €10m, or 2% of the total assets of the company, whichever is the smaller that is not recognised on the State body’s own balance sheet (or the State body’s consolidated group sheet), including, for example, leases, letters of credit, guarantees, derivatives, sale of receivables, debt or debt-like instruments of non-consolidated equity interests or joint ventures.

8. Affirming that Government guidelines on the payment of Governing Body members' fees are being complied with. <b>(6.10(vii) – Code of Governance)</b> The Annual Governance Statement should also include a schedule of the fees and aggregate expenses paid to each of the Board members. <b>(6.10(vii) – Code of Governance)</b>
9. As part of the Annual Governance Statement, the Chairperson should affirm that the Government pay guidelines are being complied with in respect of such appointees who serve on the main Board and any subsidiaries of State bodies. <b>(9.17 Code of Governance)</b>
10. Explaining failure to comply with any of the above and stating any corrective action taken or contemplated. <b>(6.10(xxix) - Code of Governance)</b>
11. Outlining significant post balance sheet events. <b>(6.10(xi) - Code of Governance)</b>
12. Confirming that the appropriate requirements of the Public Spending Code are being complied with. <b>(6.10(xii) - Code of Governance)</b>
13. Confirming that procedures are in place for the making of protected disclosures in accordance with section 21(1) of the Protected Disclosures Act 2014 and confirmation that the annual report required under section 22(1) of the Act has been published; <b>(6.10(xiii) - Code of Governance)</b>
14. Certifying that Government travel policy requirements are being complied with in all respects. <b>(6.10(xiv) - Code of Governance)</b>
15. The Annual Governance Statement should include the confirmation that the Institute has complied with its obligations under tax law. <b>(6.9(xvi) - Code of Governance)</b>
16. Providing details of/information on legal disputes involving other State bodies. <b>(6.10(xvii) - Code of Governance)</b>
17. Confirming that the 2018 Code of Governance for the Governance of State Bodies has been adopted and the extent to which the State body is in compliance with the Code. <b>(6.10(i) - Code of Governance)</b>
18. Stating that any subsidiary of the Institute (or subsidiary thereof) continues to operate solely for the purpose of which it was established, remains and continues to remain in full compliance with the terms and conditions of the consent under which it was established. <b>(6.10(xviii) – Code of Governance)</b>
19. The Chairperson should report to the Minister/HEA on significant commercially sensitive developments in the preceding 12 months and likely developments for the rest of the year. <b>(6.11- Code of Governance)</b>
20. The Chairperson should, in the Annual Governance Statement to the Minister affirm adherence to the relevant procurement policy and procedures and the development and implementation of the Corporate Procurement Plan. <b>(8.18 – Code of Governance)</b>
21. Non-competitive procurement should be reported in the Annual Governance Statement to Minister. <b>(8.14 – Code of Governance)</b>
22. Affirming that Government guidelines on the payment of Governing Body members' fees are being complied with. The Annual Governance Statement should also include a schedule of the fees and aggregate expenses paid to each of the Board members. <b>(9.16 – Code of Governance)</b>
23. Outlining details of the engagement and associated costs of external consultancy firms and investigators contracted to carry out investigations and enquiries on internal matters. <b>(6.10 xix- Code of Governance)</b>



24.	Confirmation that foundations and trusts (if applicable) have been or will be incorporated into the financial statements of the institution or included as an appendix to the financial statements. <b>(6.10 xx- Code of Governance)</b>
25.	Confirming the number of Audit Committee meetings held during the financial year in question and attendance record of members. <b>(6.10 xxi- Code of Governance)</b>
26.	Confirming that the Governing Body reviews its own performance and that it commissions an external review at the middle and end of each term of the Governing Body. Confirmation should also be provided on when both internal and external reviews were last carried out and when both will be carried out again. <b>(6.10 xxii- Code of Governance)</b>
27.	Confirming that the Institute has satisfied itself as to the integrity and robustness of any data on student numbers provided to the HEA for the purpose of calculating and allocating the core grant. <b>(6.10 xxiii- Code of Governance)</b>
28.	Confirming that fees and/or expenses paid to members of Governing Body are in accordance with the guidelines from the Department of Finance. <b>(6.10 xxiv- Code of Governance)</b>
29.	Confirming that fees and/or expenses paid to members of Governing Body are presented in the Institute's Annual Report. <b>(6.10 xxv- Code of Governance)</b>
30.	A note on the schedule of fees and aggregate expenses payable to external Governing Body members should be included. <b>(6.10 xxvi- Code of Governance)</b>
31.	Confirmation that an appropriate 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 Body and the Board has received a formal report of compliance from the Chairperson of the Board of each subsidiary. <b>(6.10 xxvii- Code of Governance)</b>
32.	Description of other governance and accountability issues that the Institute may wish to bring to the attention of the HEA. <b>(6.9 xxviii- Code of Governance)</b>
33.	In the event that the Institute fails to comply with any of the above the Institute of Technology shall report such matters of non-compliance to the HEA providing an explanation for same and stating any corrective action taken or contemplated. <b>(6.9 xxix- Code of Governance)</b>

**A statement on the system of internal controls should include the following items:**

1.	Acknowledgement by the Chairperson that the Governing Body is responsible for the Institute's system of internal control.
2.	An explanation that such a system can provide only reasonable and not absolute assurance against material error.
3.	<p>Description of the key control procedures tailored to reflect the size and complexity of the Institute in order to provide a full understanding of the procedures, which have been put in place by the Governing Body, to provide effective internal control.</p> <ul style="list-style-type: none"> <li>i) A statement in relation to when the annual review of the effectiveness of control was conducted or where such a review was not conducted, a statement that it was not conducted.</li> <li>ii) Disclosure of details regarding instances where breaches in control occurred – such breaches might include non-compliance with procurement rules or instances where other elements of the control system (e.g. internal audit, Audit and Risk Committee or other committees) were not operational.</li> <li>iii) Disclosure of details of any material losses or frauds.</li> <li>iv) Statement on System of Internal Controls is to be reviewed by the Audit and Risk Committee and the Governing Body to ensure it accurately reflects the control system in operation during the reporting period.</li> <li>v) Statement on System of Internal Controls is to be reviewed by the Comptroller and Auditor General to confirm that it reflects the Institute's compliance with the requirements of paragraph 6.10 (v) and is consistent with the information of which they are aware from their audit work on the financial statements and where this is not the case, the Comptroller and Auditor General should report on this in the audit report on the relevant financial statement.</li> <li>vi) the steps taken to ensure an appropriate control environment (such as clearly defined management responsibilities);</li> <li>vii) processes used to identify business risks and to evaluate their financial implications;</li> <li>viii) details of the major information systems in place such as budgets, and means of comparing actual results with budgets during the year;</li> <li>ix) 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</li> <li>x) the procedures for monitoring the effectiveness of the internal control system which may include: Audit and Risk Committees, management reviews, consultancy, inspection and review studies, the work of internal audit, quality audit reviews and statements from the heads of internal audit.</li> </ul>
4.	Confirmation that there has been a review of the effectiveness of the system of internal control.
5.	Information (if appropriate) about the weaknesses in internal control that have resulted in material losses, contingencies or uncertainties which require disclosure in the financial statements or the auditor's report on the financial statements.
6.	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 no action is considered necessary.
7.	Confirmation that the Institute is in compliance with current procurement rules and guidelines as set out by the Office of Government Procurement.

## Appendix J HEA Template's for Annual Governance Statement and Performance Compact

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### **Annual Governance Statement:**

Please see link below to the HEA template for the Annual Governance Statement:

<http://hea.ie/resources/publications/annual-governance-statement-template>

### **Performance Compact:**

Please see link below to the HEA template for the Performance Compact:

<http://hea.ie/resources/publications/mission-based-performance-compact-template>

## Appendix K HEA Financial Memorandum

### Financial Memorandum between the HEA and Higher Education Institutions

The financial memorandum has an effective date of 01 January 2017.

#### **Preamble**

1. This memorandum sets out the formal relationship between the Higher Education Authority ('the Authority') and each higher education institution ('the institution'). The foundation of the relationship is provision of funding by the Authority to the institution, in accordance with relevant legislation and public policy and accountability for this funding within statutory and other agreed accountability frameworks detailed in the covering statement from the HEA (Appendix)
2. The basis for the relationship is laid down in relevant legislation, statutes, charters, articles and instruments of governance, particularly those which establish the Authority and the institution and regulate their governance, and those which establish the degree of their autonomy and set out their powers and duties.
3. For these arrangements to be effective the Authority and the institution have to work in partnership to achieve agreed objectives for higher education and to secure best value for funds provided by the State.
4. The Authority recognises that the Institution may also undertake activities and have to comply with legislation and regulation which fall outside the scope of this partnership.

#### **Purpose of the memorandum**

Accordingly, this memorandum sets out the agreed expectations which the institution, in the spirit of constructive partnership, has a right to have of the Authority. It also sets out the Authority's expectations of the institution and the requirements which are a condition of the Authority's funding.

## What the Institution can expect of the Authority

1. The Authority will conduct its affairs at all times to the highest accepted standards for public sector bodies and in accordance with principles set out in the Code of Practice for the Governance of State Bodies. It will act reasonably on the basis of the fullest available evidence and objective analysis. Subject to any legal requirement to observe confidentiality, it will be open and transparent with the institutions it funds and other stakeholders, and will give or be prepared to give a public justification of all its decisions.
2. The Authority in line with the Code of Practice for State Bodies will maintain a policy of openness and transparency in relation to the work of the Authority and the services it aims to provide.
3. The Authority will maintain regular and frequent dialogue with institutions and their representative bodies where it seems appropriate In order to:
  - promote a shared understanding of the aspirations, needs and concerns of the various stakeholders;
  - support the beneficial impact of institutions' collaborative activities; and
  - better enable it to provide the information, advice and assistance required by the Department of Education and Skills, other government departments or agencies.
4. The Authority will not substitute its judgements for those which are properly at the discretion of institutions. In particular, the Authority will seek to maximise the autonomy of institutions to use block grants provided by the Authority.
5. In discharging its duty to monitor and publish the performance of the institution generally and on specific projects, the Authority will, as far as possible, rely on the data and information used by the institution for its own purposes or in formats that are most useful and most easily provided by the institutions, consistent with requirements. The Authority will not seek to collect the same data and information more than once from the institution.
6. The Authority will allocate and pay grants in a timely manner to the institution in accordance with current policies and procedures. The institution will be consulted in advance and given as much notice as possible of any significant change to these policies and procedures and of significant changes in overall funding levels.
7. The Authority needs to be satisfied that the institution has put in place the structures and procedures necessary to ensure compliance with this memorandum, including delivery on agreed outputs as specified in the compact agreed between the HEA and the institution and the achievement of best value from recurrent funding provided by the State.
8. The Authority will obtain evidence from the institution, which will include undertaking reviews as required (but only by prior arrangement), to provide the assurances required to discharge this responsibility as laid out in point 7 above.
9. Where the Authority has insufficient information to provide the assurance required, the Authority will in the first instance, seek to resolve matters with the President of the institution. Where this has not proved possible, the Authority will inform the chair of

the governing body and the institution's President in writing and without delay of any significant concern of the Authority about the conduct of the institution. Only after such notification and where the circumstances warrant it, the Authority may consider whether it is appropriate to hold back or suspend the payment of any or all grants to the institution. The Minister for Education and Skills will be kept informed.

### **What the Authority can expect of the Institution**

The following paragraphs state the Authority's expectations of the institution and the requirements which are a condition of the Authority's funding.

1. The Authority must be able to rely on the whole system of governance, management and conduct of the Institution to safeguard all funds of the Institution deriving from the Exchequer and to achieve the purposes for which those funds are provided. As a recipient of public funds, the institution will strive to achieve at all times good practice in the governance, management and conduct of the institution.
2. The governing body/ authority will ensure that it has in place and effectively implemented the proper arrangements for governance, leadership and management of the institution as required by statute, charter, its instrument and articles of governance and the agreed Codes of Governance in place for the universities and institutes of technology.
3. Respecting the primacy of the institution's own statutory obligations, the governing body/ authority will ensure that:
  - I. public funds are used in accordance with relevant legislation and only for the purposes for which they are given;
  - II. the institution strives to achieve best value from its use of public funds from all sources;
  - III. annual financial statements are provided in a timely manner for audit by the C &AG;
  - IV. there is effective planning and delivery of the institution's education programmes, research and related activities, which is consistent with the institution's mission and takes account of potential for collaboration with relevant partner Institutions/clusters;
  - V. the institution obtains sufficient data and information of a quality to enable it to determine how well the Institution is achieving its goals. Such information will be made available to the Authority on request as necessary for the exercise of its statutory functions;
  - VI. the institution takes appropriate account of the national objectives set out for the sector in the Higher Education System Performance Framework.
  - VII. the institution is actively engaged in seeking continuously to enhance the quality of its programmes and services and to involve students, students unions, employers, partner institutions/clusters and other stakeholders in these processes;
  - VIII. there are in place up-to-date and readily accessible procedures for handling complaints by students, staff and others;
  - IX. the governing body's and the institution's activities are conducted in an

appropriately open, transparent and fully accountable manner;

- X. the institution plans and manages the deployment of its resources in an efficient way
- XI. the governing body and the institution adheres to the Authority's mandatory requirements (as notified to the institution and set out below) and the institution takes account of relevant public policy and good practice in the management of all its activities and resources Including its:
  - XII. staff, human resources and industrial relations practices;
  - XIII. estates and equipment; and
  - XIV. finances, and risk and internal control procedures.

- 4. The President of the institution must inform the Authority without delay of any circumstance that is having, or is likely to have, a material adverse effect on the financial position of the institution or its ability to maintain its capacity to deliver relevant education programmes, research and related activities.
- 5. The President of the institution shall, when required, give evidence to the Committees of Dail Eireann on
  - The regularity and propriety of the institution's accounts
  - The economy and efficiency of the institution in the use of its resources
  - The systems, procedures and practices employed by the institution for the purpose of evaluating the effectiveness of its operations
- 6. Mandatory requirements (as appropriate) -
  - Agreement of compact with HEA specifying agreed outputs
  - Agreement on budgets/financial plans
  - Provision of required RGAM returns
  - Compliance with public pay policy
    - Compliance with relevant Codes of Governance and provision of Annual Statements of Governance and Internal Control
  - Compliance with the requirements of the Protected Disclosures Act
  - Adherence to Borrowing Framework
  - Adherence to Departures Framework
  - Compliance with public sector Capital Expenditure requirements
  - Compliance with public sector Procurement requirements
  - Adherence to approved Format of Accounts
  - Compliance with process for Land Purchases in the IoTs

In signing this memorandum, you are confirming on behalf of your institution

- (i) that the funds provided by the HEA as outlined in the grant allocation letter will be used for the purposes intended; and
- (ii) that the institution will comply with the Statement of Principles for Grantees (Appendix 2 of Circular 13/2014).

Chief Executive, HEA

President /Provost/Director

Date: \_\_\_\_\_

Date: \_\_\_\_\_



# Appendix L      Framework for a Travel Policy

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## Introduction

In matters of official travel and subsistence, Institutes should adhere to civil service procedures as set-out in guidance issued by the Department of Public Expenditure and Reform, either communicated directly or via the Department of Education and Skills.

The Institute's Governing Body should satisfy itself that the principles of its travel policy are adhered to and that the internal audit process is effective in ensuring that the Institute is fully complying with the policy.

Governing Body members should be advised of the details of the Institute's travel policy. Governing Body members and employees must only claim travel and subsistence allowances in respect of official travel and must not make a claim from more than one State body for the same journey.

## Intent and Scope

The purpose of the travel policy should be to ensure that value for money is obtained in respect of each official trip undertaken, consistent with the requirements of official business. Alternatives to frequent travel, such as use of video conferencing facilities, should also be considered.

### Domestic Travel

- 1.8.1.1 Maximum use to be made of public transportation options for official travel; the use of taxi services should be rationalised as much as possible.

### Air Travel

- 1.8.1.2 A statement of the practice to be followed e.g. the criteria to be applied in choosing either restricted internet fares or fully-flexible economy class fares, where this approach is cost-effective.
- 1.8.1.3 Outline of the exceptional circumstances in which more expensive Business Class options may be considered (the use of premium rates can rarely be justified).
- 1.8.1.4 Frequent flyer points should not influence decisions taken in relation to the carriers used for official business.

### Accommodation

- 1.8.1.5 A statement to the effect that if an employee is not required to stay in a particular hotel for business reasons, the standard of hotel used should not be extravagant e.g. that three or four star hotels should be used.

# Appendix M Audit and Risk Committee Guidance

## Introduction

The purpose of this document is to set out Audit and Risk Committee best practice guidance under the *Code of Practice for the Governance of State Bodies*, to provide guidance to Institutes of Technology in making appropriate arrangements for their Audit and Risk Committee, and to assist the Audit and Risk Committee in carrying out their role and responsibilities.

Best practice requires that the Governing Body should ensure that the Audit and Risk Committee arrangements in place are suited to the particular circumstances of the Institutes.

In general Audit and Risk Committees should be combined, however in some larger entities there may be requirement to have separate Audit and Risk Committees.

## Audit and Risk Committee

### Guiding Principles

While the Governing Body has a duty to act in the Institute's interest, the Audit and Risk Committee has a particular role, acting independently of the Institute's Management, to ensure that the interests of Government and other stakeholders are fully protected in relation to business and financial reporting and internal control.

### Code Provisions

- 1.1 Internal Controls:** The Governing Body should ensure that there are effective arrangements in place in the Institute for governance, risk management and internal control. The Governing Body should be supported by:
- an Audit and Risk Committee; and
  - an Internal Audit Unit operating to the International Standards of the Institute of Internal Auditors or equivalent professional standards.

- 1.2 Audit and Risk Committee:** The Governing Body should establish an Audit and Risk Committee of at

least 3 independent non-executive Governing Body members (excluding the Chair of the Governing Body) with written terms of reference which deals clearly with authority and duties.

The Governing Body should have due regard for the benefits of diversity on the Audit and Risk Committee including gender.

In general, the Audit and Risk Committees should be combined, however, in some Institutes it may be agreed that these are kept separate.

- 1.3 Terms of Reference:** The roles and responsibilities of the Audit and Risk Committee should be set out in a written terms of reference which should be communicated to all members of the Committee.

The terms of reference for the Audit and Risk Committee should be set by the Governing Body and should include provisions regarding:

- membership;
- reporting requirements;
- authority to investigate;
- meetings – timing, conduct and frequency;
- information requirements;
- value for money;
- governance; and
- responsibilities regarding:
  - risk management;
  - internal control;
  - internal audit;
  - external audit; and
  - reviewing its own effectiveness.

The Audit and Risk Committee should review on an annual basis their terms of reference and recommend any necessary changes to the Governing Body. It is important that a balance is struck during Audit and Risk Committee meetings between governance, risk management, internal control, and financial reporting items.

## **Exhibit A: Model Terms of Reference for Audit and Risk Committees**

- 1.4 Chairperson of the Governing Body:** The Audit and Risk Committee may invite appropriate persons (including the Chair of the Governing Body) to attend an Audit and Risk Committee for a specific purpose.
- 1.5 Appointments:** Appointments to the Audit and Risk Committee should be made by the Governing Body in consultation with the Chairperson of the Audit and Risk Committee. The Governing Body should satisfy itself that at least one member of the Audit and Risk Committee has recent and relevant financial experience.

- 1.6 Duration of Appointment:** The duration of appointment of Audit and Risk Committee members should be clearly set out at time of appointment. It is recommended that the first appointment be for the term of the Governing Body, which can be renewed for one further term.
- 1.7 Relevant Skills and Experience:** The Audit and Risk Committee should collectively possess an appropriate range of skills to perform its functions to the required standard. At least one member of the Audit and Risk Committee should have recent, relevant financial experience and other members should have experience in the core areas of its business including risk management, internal audit, governance, relevant technical or specialist issues, an understanding of the public sector environment, in particular the accountability structures, and current public sector reform initiatives.
- 1.8 Assessment Criteria:** There should be formal assessment criteria for the appointment of the Chairperson and other Audit and Risk Committee members. In addition to the skills mix issues outlined above, members should have, or acquire as soon as possible after their appointment, an understanding of:
- organisational culture, objectives and challenges;
  - organisational structure including key relationships e.g. the Institute's relationship with the Minister, Department of Education and Skills and the HEA; and
  - relevant legislation or other rules governing the Institute. Audit and Risk Committee Guidance
- 1.9 Letter of Appointment:** There should be a standard letter of appointment for each new Audit and Risk Committee member, where appropriate, including:
- role of the Audit and Risk Committee;
  - duration of appointment and renewal provisions;
  - support and training to be provided;
  - the time commitment involved;
  - level of remuneration (where appropriate);
  - rules regarding conflict of interests;
  - performance management arrangements; and
  - termination arrangements.

## Exhibit B: Model Letter of Appointment for an Audit & Risk Committee Member

- 1.10 Conflict of Interest:** The process for recording declarations of conflicts of interest in the Audit and Risk Committee should be the same used at Governing Body level. Each member of the Committee should take personal responsibility to declare any potential conflict of interest arising in relation to any items on the agenda for Audit and Risk Committee meetings.
- 1.11 Register of Members Interests:** A register of Audit and Risk Committee members' interests should be maintained by the Governing Body. Members should be required to declare any potential conflict of interest with any of the business items on the agenda for the Audit and Risk Committee meeting. The Committee should specify its procedures where a conflict of interest arises including

the requirement that the relevant member brings this to the attention of the Chairperson and, where necessary, leaves the room for the duration of the discussion and not take part in any decisions relating to the discussion. Similar arrangements should apply in relation to meeting documentation, where such documentation is not made available to the member. This should be noted in the minutes of the meeting.

- 1.12 Training and Development:** There should be a formal induction process in place (including individually tailored training) for new Audit and Risk Committee members. The Audit and Risk Committee and Chairperson should make recommendations to the Governing Body on the Committee's and individual member's training needs. The Audit and Risk Committee should keep up to date with best practice and developments in corporate governance.
- 1.13 Frequency of Meetings:** The Audit and Risk Committee should meet at least four times a year and invite outsiders with relevant experience to attend meetings if necessary. In the event that four meetings is not considered necessary the Chairperson of the Institute should make a statement in the annual report of the Institute that they are satisfied that the Audit and Risk Committee discharged its role with fewer than four meetings in a year.
- 1.14 Authority to Investigate:** The Audit and Risk Committee should have explicit authority to investigate any matters within its terms of reference, as well as the resources and outside professional advice it needs to do so, and full access to information.
- 1.15 Relationships:** As the business of the Audit and Risk Committee requires, the President, Secretary/ Financial Controller, Head of Internal Audit and the Comptroller and Auditor General should attend for specific meetings or agenda items at the Committee's request. Executive members of the Institute should be invited to attend Audit and Risk Committee meetings to participate in discussions and provide information as required. Executive members of the Institute should maintain an appropriate relationship with the Audit and Risk Committee.
- 1.16 Communications:** The Audit and Risk Committee should ensure that it communicates effectively with the Governing Body, the Head of Internal Audit, the Comptroller and Auditor General and other stakeholders. Any internal audit or audit items that relate to the Governing Body's areas of responsibilities should be communicated to the Governing Body as soon as they are identified.
- 1.17 Draft Financial Statements:** The Audit and Risk Committee should review the draft financial statements recognizing the role of the HEA and financial reporting standards, before recommending their adoption by the Governing Body and where possible, before submission for audit taking account of public accountability and the special considerations which attach to Institutes in relation to their management and operation, consider whether the annual report and financial statements, taken as a whole, is fair, balanced and understandable and provides the information necessary for an assessment of the Institute's financial position and financial performance, business model and strategy.<sup>36</sup>

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<sup>36</sup> Adapted from the Financial Reporting Council's "UK Corporate Governance Code" (2016) page 1

- 1.18 Comptroller and Auditor General:** The Audit and Risk Committee should annually consult with the Comptroller and Auditor General regarding the operation of the Internal Audit Unit with particular reference to the staffing of the Unit, the audit work programme being applied and the testing carried out in relation to the Institute's compliance with the requirements set out in this document.

The Audit and Risk Committee should meet with or otherwise engage with the Comptroller and Auditor General at least once a year without executive Governing Body members present to ensure there are no unresolved issues of concern and to make the Comptroller and Auditor General aware of any emerging risks or governance issues.

- 1.19 Annual Report:** The Audit and Risk Committee's annual report to the Governing Body should present its opinion on the adequacy of risk management and internal control systems, and the adequacy of sources of assurance to the Governing Body.

The annual report should include:

- governance issues;
- financial reporting; and
- quality of internal and external audit.

The Committee should also report its view of its own effectiveness with advice on how it can be strengthened and developed.

- 1.20 Chairperson of the Audit and Risk Committee:** The Chairperson of the Audit and Risk Committee has particular responsibility for ensuring:

- that the Audit and Risk Committee is appropriately resourced;
- the Committee reviews Internal Audit Reports and management responses and ensures that actions are followed up;
- reports to the Committee contain relevant information and are provided at the right time in an appropriate format;
- absent Committee members are briefed on meetings and attendance records are maintained and reviewed annually;
- they report at Board meetings and submit regular written reports to the Governing Body containing relevant information;
- matters arising are reported on at each subsequent meeting; and
- they are involved in the appointment of new Committee members.

- 1.21 Appraisal:** Appraisal of the Chairperson of the Audit and Risk Committee should be overseen by the Chairperson of the Governing Body.

- 1.22 Audit and Risk Committee Secretariat:** The secretariat to the Audit and Risk Committee should:

- commission papers as necessary and support the Chairperson in preparing reports;
- circulate documents and keep and circulate minutes of meetings to Committee members and to internal and external audit as necessary in good time for meetings;
- for any agreed actions, document the owner, deadline and any advice given by stakeholders and monitor between meetings;
- keep the Committee abreast of development in the Institute; and
- maintain a record of members' appointments and termination/renewal dates and ensure that appropriate appointment procedures are initiated when necessary.

# Audit and Risk Committee Work Programme

## Code Provisions

**2.1 Audit and Risk Committee Work Programme:** The Audit and Risk Committee's work programme should include:

- i) **Internal Audit Unit:** Monitoring and reviewing the effectiveness of the Institute's internal audit activities and consideration of the Internal Audit Unit's independence, expertise, experience and adherence to professional standards.
- ii) **Scope of Work:** The Audit and Risk Committee should consider the scope of the Internal Audit Unit's work and consider whether the available resources and access to people and information allow the Unit to address significant risks within the Institute.
- iii) **Audit Plan:** The Audit and Risk Committee should have an approval role in relation to the Internal Audit Unit audit plan, including the Committee making suggestions regarding risk and problem areas the audit plan should address. The Audit and Risk Committee should also receive regular progress reports from the Internal Audit Unit.
- iv) **Comptroller and Auditor General:** The Audit and Risk Committee should review Management Letters and Letter of Representations and should be given sight of the organisational responses to the Comptroller and Auditor General Management Letters and reports.
- v) **Views of the Comptroller and Auditor General:** The Audit and Risk Committee should request the views of the Comptroller and Auditor General on the work and effectiveness of the Audit and Risk Committee. The Audit and Risk Committee should engage with the Comptroller and Auditor General at least annually without executive Board members being present to ensure that there are no unresolved issues of concern and should make the external auditors aware of the corporate governance issues outlined in the 2018 Code of Governance for the Institutes of Technology with which the Institute is required to comply.
- vi) **Co-operation between the Comptroller and Auditor General and Internal Audit Unit:** The Audit and Risk Committee should encourage co-operation between the Comptroller and Auditor General and Internal Audit Unit and receive confirmation from the Comptroller and Auditor General and the Internal Audit Unit of the effectiveness of their working relationship. This involves a sharing of audit plans to prevent duplication of effort and Internal Audit Unit should provide the external auditor with copies of all completed Internal Audit Unit reports.
- vii) **Draft Financial Statements:** The Audit and Risk Committee should review draft financial statements before recommending their adoption by the Governing Body and consider whether:
  - accounting policies, completeness of financial statements, anti-fraud policy and losses

- are properly recorded and accounted for;
- suitable processes are in place to ensure regularity, probity and propriety is achieved;
- issues raised by the Comptroller and Auditor General have been comprehensively and appropriately dealt with;
- the financial statements present fairly the Institute's financial position;
- the comprehensiveness and meaningfulness of the Institute's Statement on Internal Control and review of the Letter of Representation before issue by the Institute.

viii) The Committee should also consider:

- the effectiveness and adequacy of the Institute's anti-fraud, anti-corruption and protected disclosure policies and staff awareness of them;
- whether financial control, including the delegation structure, enables the Institute to achieve its objectives on a value for money basis; and`
- whether the procedures for investment appraisal are fit for purpose and comply with best practice including the principles and relevant requirements of the Department of Public Expenditure and Reform [Public Spending Code](#).

ix) **Statement on Internal Control:** The Committee should also satisfy itself that the Institute's system of internal control operated effectively during the reporting period and that the system of internal reporting gives early warning of internal control failures and emerging risks.

## Exhibit C: Checklist for the Effectiveness of Audit and Risk Committees



# Exhibit A Model Terms of Reference for Audit and Risk Committees

The Governing Body has established an Audit and Risk Committee as a Committee of the Governing Body to support them in their responsibilities for issues of risk, control and governance by reviewing the comprehensiveness of assurances in meeting the Governing Body's and Accounting Officer's assurance needs and reviewing the reliability and integrity of these assurances.

## Membership

The members of the Audit and Risk Committee are:

- non-executive members of the Governing Body: [list those who are appointed to the Audit and Risk Committee];
- independent external members: [list those who are appointed to the Audit and Risk Committee; (in all cases indicate the date of appointment and when the appointment is due to end / become eligible for renewal)];
- the Audit and Risk Committee will be chaired by [name]; and
- the Audit and Risk Committee will be provided with a secretariat function by [name].

## Reporting

- the Audit and Risk Committee will formally report in writing to the Governing Body; and
- the Audit and Risk Committee will provide the Governing Body with an Annual Report, timed to support finalisation of the annual report and financial statements, summarising its conclusions from the work it has done during the year.

## Responsibilities

The Audit and Risk Committee will advise the Governing Body on:

- the strategic processes for risk, internal control and governance;
- the accounting policies, the financial statements, and the Institute's annual report and the annual operating programmes and budgets, including the process for review of the financial statements prior to submission for audit, levels of error identified, and management's letter of representation to the Comptroller and Auditor General;
- the planned activity and results of both internal and external audit;
- adequacy of management response to issues identified by audit activity, including Comptroller and Auditor General's management letter of representation;
- assurances relating to the management of risk and corporate governance requirements for the Institute;
- proposals for tendering for internal audit services or for purchase of non-audit services from contractors who provide audit services;
- anti-fraud policies, protected disclosure processes, and arrangements for special investigations; and
- the Audit and Risk Committee will also periodically review its own effectiveness and report the results of that review to the Governing Body.

## Rights

The Audit and Risk Committee may:

- co-opt additional members to provide specialist skills, knowledge and experience; and
- procure specialist ad-hoc advice at the reasonable expense of the Institute, subject to budgets agreed by the Governing Body.

## Access

The Head of Internal Audit or the Internal Audit Service Provider and the representative of the Comptroller and Auditor General will have free and confidential access to the Chairperson of the Audit and Risk Committee.

### Meetings

- The Audit and Risk Committee will meet at least four times a year. The Chairperson of the Audit and Risk Committee may convene additional meetings, as they deem necessary;
- a minimum of [number] members of the Audit and Risk Committee will be present for the meeting to be deemed quorate;
- as the business of the Audit and Risk Committee requires the Chief Executive, the Secretary/ Financial Controller, Head of Internal Audit, and a representative of the Comptroller and Auditor General should attend for specific meetings or agenda items at the Committee's request [add any others who may routinely attend];
- the Audit and Risk Committee may ask any other officials of the Institute to attend to assist it with its discussions on any particular matter;
- the Audit and Risk Committee may ask any or all of those who normally attend but who are not members to withdraw to facilitate open and frank discussion of particular matters; and
- The Governing Body may ask the Audit and Risk Committee to convene further meetings to discuss particular issues on which they seek the Committee's advice.

### Information Requirements

For each meeting the Audit and Risk Committee will be provided, in accordance with Governing Body standing order provisions, with:

- a report summarising any significant changes to the Institute's strategic risks and a copy of the strategic/corporate Risk Register;
- a progress report from the Head of Internal Audit summarising:
  - work performed (and a comparison with work planned);
  - key issues emerging from the work of internal audit;
  - management response to audit recommendations;
  - changes to the agreed internal audit plan; and
  - any resourcing issues affecting the delivery of the objectives of internal audit.
- a progress report (written/verbal) from the Comptroller and Auditor General representative summarising work done and emerging findings (this may include, aspects of the wider work carried out by the Comptroller and Auditor General, for example, Value for Money reports and good practice findings);
- management assurance reports; and
- reports on the management of major incidents and lessons learned.

As and when appropriate the Committee will also be provided with:

- proposals for the terms of reference of internal audit / the internal audit charter;
- the internal audit strategy;
- Internal Audit Reports;
- quality assurance reports on the Internal Audit Unit;
- the draft financial statements of the organisation;
- the draft governance statement;
- a report on any changes to accounting policies;
- Comptroller and Auditor General's management letter;
- a report on any proposals to tender for audit functions, where appropriate;
- a report on co-operation between internal and external audit; and

- the Institute's risk management strategy.

The list provided suggests minimum requirements for the inputs which should be provided to the Audit and Risk Committee. In some cases more may be provided. For instance, it might be agreed that Audit and Risk Committee members should be provided with a copy of the report of every internal audit assignment.

# Exhibit B    Model Letter of Appointment for an Audit & Risk Committee Member

It is recommended that the following issues be included in the Letter of Appointment of an Audit and Risk Committee member:

## **Appointment and Purpose**

You are hereby appointed by the [Governing Body] as a member of the Audit and Risk Committee of [Insert name of entity]. As a member of the Audit and Risk Committee you are accountable to the [Governing Body] through the Chairperson of the Committee. Your appointment is for [number] years from (date)]. This appointment may be renewed [number] times (by mutual agreement) after the duration of this appointment.

The Audit and Risk Committee is a Committee of the Governing Body of [Insert name of entity] and the purpose of the Audit and Risk Committee is set out in the attached terms of reference.

A copy of the Audit and Risk Committee's terms of reference is enclosed. The Committee is chaired by [name] and the other members are [names]. [It is recommended that the new member be provided with a list of their contact details]

## **Support and Training**

The Secretary of the Audit and Risk Committee is [name / contact details] and they will shortly be in touch with you to discuss and arrange appropriate induction training.

To help you understand the governance arrangements and the role of the Audit and Risk Committee in the Institute, a copy of the suite of documents entitled the "2018 THEA Code of Governance for Institutes of Technology" is enclosed with this letter of appointment.

## **Commitment and Remuneration**

The Committee normally meets [number] times each year, but additional meetings may be required from time to time. [Include, if appropriate, details of amount of remuneration].

Your duties as an Audit and Risk Committee member include time to read papers in preparation for meetings and a programme of activity to keep you in touch with the organisation's activities and priorities.

## **Conflicts of Interest**

If during your period of appointment to the Audit and Risk Committee your personal circumstances change in any way that may provide a conflict of interest for you in your Audit and Risk Committee role, you are to declare the circumstances to the Chairperson of the Audit and Risk Committee.

## **Appraisal**

As a member of the Audit and Risk Committee you may be subject to appraisal by the Audit and Risk

Committee Chairperson [\[include brief details of the appraisal process\]](#).

### **Conduct**

Although your appointment does not make you a Public Servant, you are expected to conduct yourself in your role in the Institute in accordance with the [Code](#) of Conduct for Governing Body Members adopted by the Institute.

### **Termination**

If you choose to resign from this appointment you will be expected to give [\[number\]](#) months' notice, unless your circumstances have changed in a way that make it appropriate for you to resign immediately. If your performance as an Audit and Risk Committee member is decided to be unacceptable or if your conduct (including conflicts of interests) is unacceptable your appointment may be terminated by the Governing Body.

## Exhibit C Checklist for the Effectiveness of Audit and Risk Committees

The Role of the Audit and Risk Committee				
The Audit and Risk Committee fulfils an important role in the governance framework of an entity by assisting the Governing Body monitor the internal control environment, risk management and financial reporting and internal and external audit unit. The Committee does not undertake management responsibilities and is not a substitute for entity management controls and accountabilities.	Y	N	N/A	Comment / Action Required
1. Is there a written terms of reference, setting out the roles and responsibilities of the Audit and Risk Committee and its members, and has it been communicated to all members?				
2. Do the terms of reference include the provisions as set out in paragraph 1.3 of this document?				
3. Do the terms of reference require the Audit and Risk Committee to regularly review its own effectiveness? If so, when was the last time such a review was carried out?				
4. Does the Audit and Risk Committee meet at least four times a year?				
Membership, Independence, Objectivity and Understanding				
The Audit and Risk Committee should be independent and objective. In addition, each member should have a good understanding of the objectives and priorities of the Institute and of their role as a Committee member.	Y	N	N/A	Comment / Action Required
Membership and Terms of Appointment				
5. Does the Audit and Risk Committee have at least three, or in the case of smaller entities such as subsidiaries of the Institutes, two, independent non-executive Governing Body/Board members?				
6. For what duration are Audit and Risk Committee members appointed?				
7. Is there a standard letter of appointment for new Audit and Risk Committee members and does it include: <ul style="list-style-type: none"> <li>role of Audit and Risk Committee?</li> <li>duration of appointment and renewal provisions?</li> <li>the support and training to be provided?</li> <li>the time commitment involved?</li> <li>level of remuneration (where appropriate)?</li> <li>rules regarding conflicts of interest?</li> <li>performance management arrangements</li> <li>termination arrangements?</li> </ul>				

Independence				Y	N	N/A	Comment / Action Required
8. What is the breakdown of Audit and Risk Committee members and Chairperson in terms of executive Governing Body members, non-executive Governing Body members and external members?							
9. Is the Audit and Risk Committee Chairperson different to the Chairperson of the Governing Body?							
Relationship with the Executive and Other Participants				Y	N	N/A	Comment / Action Required
10. Are the executive members of the organisation invited to attend Audit and Risk Committee meetings, participate in discussions and provide information to the Audit and Risk Committee as required?							
11. Do the President, Secretary /Financial Controller, Head of Internal Audit and the Comptroller and Auditor General routinely attend all Audit and Risk Committee meetings? If not, do they attend for specific meetings or specific agenda items, at the request of the Committee?							
Managing Conflicts of Interest				Y	N	N/A	Comment / Action Required
12. Is there a register of Audit and Risk Committee members' interests?							
13. Are members regularly required to declare any potential conflict of interest with any of the business items on the agenda for Audit and Risk Committee meetings?							
14. In instances where a member declares an interest in an agenda item, what action is taken?							
Skills and Experience				Y	N	N/A	Comment / Action Required
The Audit and Risk Committee should collectively possess an appropriate range of skills (skills mix) to perform its functions to the required standard.							
15. Are there formal assessment criteria for the appointment of the Audit and Risk Committee Chair?							
Does the assessment criteria for Audit and Risk Committee members include (or expect members to acquire as soon as possible after appointment) an understanding of: <ul style="list-style-type: none"> <li>the Institute's culture, objectives and challenges?</li> <li>the Institute's structure, including key relationships such as that with the Minister and Department of Education and Skills?</li> <li>relevant legislation or other rules governing the Institutes?</li> </ul>							

<p>17. Does the Audit and Risk Committee corporately possess knowledge, skills and experience of:</p> <ul style="list-style-type: none"> <li>▪ accountancy/finance – with at least one member having recent and relevant financial experience?</li> <li>▪ governance, assurance and risk management?</li> <li>▪ audit?</li> <li>▪ technical or specialist issues pertinent to the Institute’s business?</li> <li>▪ the wider environments, including the Government and accountability structures, in which the Institute of Technology operates?</li> </ul>				
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Access to Additional Skills	Y	N	N/A	Comment / Action Required
18. Is the Audit and Risk Committee empowered to co-opt members on a short-term basis to provide specialist skills needed at a particular time? When was the last time this was done?				
19. Can the Audit and Risk Committee procure specialist advice (at reasonable and approved expense to the Institute) on an ad-hoc basis, to assist the members with specific areas of Committee business? When was this last done?				
Training and Development	Y	N	N/A	Comment / Action Required
20. Is there a formal induction process (including individually tailored training) for new Audit and Risk Committee members?				
21. Does the Audit and Risk Committee and the Chairperson make recommendations to the Governing Body on the Committee's and individual members training needs?				
22. Does the Audit and Risk Committee keep up to date with best practice and developments in corporate governance? How is this done?				
Scope of Work	Y	N	N/A	Comment / Action Required
The scope of the Audit and Risk Committee's work should be defined in the terms of reference, and encompass all of the assurance needs of the Governing Body or the President, including particular engagement with the work of the internal and external audit and financial reporting issues.				
Relationship with Internal Audit	Y	N	N/A	Comment / Action Required
23. Does the Audit and Risk Committee monitor and review the effectiveness of the Internal Audit Unit?				
24. Does the Audit and Risk Committee consider that the independence, experience, expertise and professional standard of the internal audit team are appropriate for the Institute?				
25. Does the Audit and Risk Committee consider whether the scope of internal audit work, the resources at its disposal and their access to information and people allow it to address significant risks within the Institute?				
26. Does the Audit and Risk Committee receive regular progress reports on work undertaken by the Internal Audit Unit?				
27. Does the Audit and Risk Committee review internal audit reports and management responses to issues raised, and monitor the progress made on internal audit recommendations?				
28. Does the Head of Internal Audit have direct access to the Chairperson of the Audit and Risk Committee?				

Relationship with the Comptroller and Auditor General	Y	N	N/A	Comment / Action Required
29. Does the Audit and Risk Committee periodically request the views of the Comptroller and Auditor General on the work and effectiveness of the Audit and Risk Committee?				
30. Does the Audit and Risk Committee consider the Comptroller and Auditor General management letter and other relevant reports and the management response, and monitor the progress made on the recommendations?				
31. Does the Audit and Risk Committee meet the Comptroller and Auditor General at least once a year, without executive Governing Body members being present, to discuss any issues of concern?				
Relationship between Internal and External Audit	Y	N	N/A	Comment / Action Required
32. Does the Audit and Risk Committee seek confirmation from internal audit and the Comptroller and Auditor General on the effectiveness of their relationship?				
Fraud	Y	N	N/A	Comment / Action Required
33. Does the Audit and Risk Committee consider whether anti-fraud and corruption policies and procedures are in place and operating effectively?				
34. Does the Audit and Risk Committee consider whether there is an anti-fraud policy and code of conduct and its distribution to employees?				
Internal Control	Y	N	N/A	Comment / Action Required
35. Does the Audit and Risk Committee satisfy itself that the system of internal control has operated effectively throughout the reporting period and that the system of internal reporting gives early warning of control failures and emerging risk?				
36. Does the Audit and Risk Committee consider whether the Statement on Internal Control is sufficiently comprehensive and meaningful?				
37. Does the Audit and Risk Committee consider whether financial control, including the structure of delegations, enables the Institute to achieve its objectives and achieve good value for money?				
Financial Reporting	Y	N	N/A	Comment / Action Required
38. Does the Audit and Risk Committee review the draft of the financial statements?				

39. Before the Accounting Officer/President signs off the financial statements, does the Audit and Risk Committee consider whether:				
<ul style="list-style-type: none"> <li>▪ accounting policies, completeness of financial statements, anti-fraud policy and losses are properly recorded and accounted for?</li> <li>▪ there has been a robust process in preparing the financial statements to ensure completeness and whether appropriate processes are in place to ensure accurate accounting records are maintained?</li> <li>▪ suitable processes are in place to ensure regularity, probity and propriety are achieved?</li> <li>▪ issues raised by the Comptroller and Auditor General have been given appropriate attention?</li> <li>▪ the comprehensiveness and meaningfulness of the Institute's Statement on Internal Control and review of the Letter of Representation before issue by the Institute?</li> </ul>				
<p style="text-align: center;"><b>Communication</b></p> <p>The Audit and Risk Committee should ensure it has effective communication with the Governing Body, the Head of Internal Audit, the Comptroller and Auditor General, and other stakeholders.</p>	<b>Y</b>	<b>N</b>	<b>N/A</b>	<b>Comment / Action Required</b>
40. Does the Audit and Risk Committee provide an annual report to the Governing Body?				
41. Does the annual report of the Audit and Risk Committee present the Committee's opinion about: <ul style="list-style-type: none"> <li>▪ the adequacy of risk management and internal control systems?</li> <li>▪ the adequacy of sources of assurance for same?</li> <li>▪ governance issues and concerns?</li> <li>▪ financial reporting for the year?</li> <li>▪ quality of internal and external audit?</li> <li>▪ the Audit and Risk Committee's view of its own effectiveness, including advice on ways in which it considers it needs to be strengthened or developed?</li> </ul>				
42. Does the Chairperson of the Audit and Risk Committee have open lines of communication with the Governing Body, the Head of Internal Audit and the Comptroller and Auditor General?				
43. Do reports to the Audit and Risk Committee communicate relevant information at the right frequency, time and format to be effective?				

<b>The Role of the Audit and Risk Committee Chairperson</b> The Chairperson of the Audit and Risk Committee has responsibility for ensuring that the work of the Committee is effective, that the Committee is appropriately resourced, and that it is maintaining effective communication with stakeholders.				<b>Y</b>	<b>N</b>	<b>N/A</b>	<b>Comment / Action Required</b>
<b>Monitoring Actions</b>							
44. Does the Chairperson of the Audit and Risk Committee ensure that members who have missed a meeting are appropriately briefed on the business conducted in their absence?							
<b>Appraisal</b>				<b>Y</b>	<b>N</b>	<b>N/A</b>	<b>Comment / Action Required</b>
45. Are records of attendance maintained and reviewed annually by the Governing Body? What was average attendance over the three preceding years?							
46. Does the Audit and Risk Committee Chairperson ensure that Committee members are provided with an appraisal of their performance as a Committee member?							
47. Does the Audit and Risk Committee Chairperson seek appraisal of their performance from the Accounting Officer or Chairperson of the Governing Body?							
<b>Appointments</b>				<b>Y</b>	<b>N</b>	<b>N/A</b>	<b>Comment / Action Required</b>
48. Is the Chairperson involved in the appointment of new Audit and Risk Committee members, including providing advice on the skills and experience required of the new individual?							
<b>Audit and Risk Committee Support</b> The Institute should provide its Audit and Risk Committee with appropriate secretariat support to enable it to be effective. This is more than a minute-taking function, it involves providing active support for the work of the Committee and helping its members to be effective in their role.				<b>Y</b>	<b>N</b>	<b>N/A</b>	<b>Comment / Action Required</b>
49. Is the Audit and Risk Committee supported by a secretariat?							

<p>50. Does the Audit and Risk Committee secretariat:</p> <ul style="list-style-type: none"> <li>▪ commission papers as necessary to support agenda items?</li> <li>▪ circulate meeting documents and meeting minutes to all Committee members, internal audit and C&amp;AG in good time before each meeting?</li> <li>▪ for any agreed actions, document the owner, deadline and any advice given by stakeholders and monitor between meetings?</li> <li>▪ keep the Committee abreast of development in the Institute?</li> <li>▪ maintain a record of when members' terms of appointment are due for renewal or termination?</li> <li>▪ ensure that appropriate appointment procedures are initiated when required?</li> </ul>				
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# Appendix N      Governing Body Self-Assessment Evaluation      Questionnaire

## **Governing Body Self-Assessment Evaluation Questionnaire**

**To be completed by the Chairperson and each Governing Body member of the Institute of Technology**

### **Instructions for Completion:**

The intention is that each Governing Body member will complete this self-assessment questionnaire independently. The Chairperson of the Governing Body, after collating and reviewing the responses, should lead a discussion on the key issues arising from the questionnaire. The focus of the discussion should be on areas where improvement is required or where there is a wider variation in responses to the issues raised in the questionnaire.

The results of the self-assessment questionnaire and any actions arising should be reported to the Governing Body for further discussion. The Institute may wish to tailor this self-assessment questionnaire to the particular circumstances of the Institute giving more weight to certain aspects of the questionnaire depending on the nature, scale and responsibilities of the Institute. This will be influenced by the following factors:

- The Institute's governing legislation;
- The Governing Body's terms of reference;
- The environment within which the Institute operates.
- The maturity of the Governing Body; and
- The Institute's corporate governance arrangements and performance.

### **Scoring is as follows:**

**1 = Very Dissatisfied**

**2 = Dissatisfied**

**3 = Neither Satisfied nor Dissatisfied**

**4 = Satisfied**

**5 = Very Satisfied**

Governing Body Self-Assessment Evaluation Questionnaire						
Role of the Governing Body	Dissatisfi		Sc or	Satisfie		What could be done differently?
1. Are you satisfied that the Governing Body has clearly documented its role and responsibilities, such as compiling a formal schedule of matters specifically reserved to it for decision? <b>(1.7)</b>	1	2	3	4	5	
2. Are you satisfied that the formal schedule of matters reserved for decision by the Governing Body is up-to-date and reviewed regularly?	1	2	3	4	5	
3. Are you satisfied that the Governing Body, as a group, understands its role and responsibilities including its stewardship role?	1	2	3	4	5	
4. Are you satisfied that the Governing Body has ensured that the Chairperson keeps the Minister advised of matters arising in respect of the Institute? <b>(1.6)</b>	1	2	3	4	5	
5. Are you satisfied that the Governing Body has fulfilled its key role in setting the ethical tone of the Institute, not only by its own actions, but also in overseeing senior management and staff at all levels of the Institute? <b>(1.2)</b>	1	2	3	4	5	
6. Are you satisfied that the Governing Body has reviewed the controls and procedures adopted by the Institute to provide itself with reasonable assurance that such controls and procedures are adequate to secure compliance by the Institute with statutory and governance obligations? <b>(1.3)</b>	1	2	3	4	5	
7. Are you satisfied that the Governing Body has taken all necessary steps to make themselves aware of, and accessed all relevant information relating to, the Institute, Government and the public sector as necessary? <b>(1.5)</b>	1	2	3	4	5	
8. Are you satisfied that Governing Body members have a sufficient understanding of the Institute and the sector within which it operates?	1	2	3	4	5	



9.	Are you satisfied that the Governing Body has put in place a formal process for setting strategy including the preparation and adoption of a strategic plan? <b>(1.15)</b>	1	2	3	4	5	
10.	Are you satisfied that the Institute's mission and vision have been defined and communicated to all levels within the organisation?	1	2	3	4	5	

Governing Body Self-Assessment Evaluation Questionnaire						
Oversight Agreement	Score					What could be done differently?
	Dissatisfied				Satisfied	
11. Are you satisfied that the Institute has a robust written oversight agreement with the Minister/ Department of Education and Skills which clearly defines the terms of the Institute's relationship with the Minister/ Department? <b>(8.3)</b>	1	2	3	4	5	
Division of Responsibilities	Score					What could be done differently?
	Dissatisfied				Satisfied	
12. Are you satisfied that the respective roles of the Chairperson and President of the Institute have been established and documented by the Governing Body? <b>(1.22)</b>	1	2	3	4	5	
Board Effectiveness	Score					What could be done differently?
	Dissatisfied				Satisfied	
13. Are you satisfied that Governing Body members have the time and appropriate skills and knowledge, updated as required and appropriate to the activities of the Institute, to enable them to discharge their respective duties and responsibilities effectively? <b>(4.2)</b>	1	2	3	4	5	
14. Are you satisfied that Governing Body members are provided with appropriate inductions, mentoring and assistance with ongoing professional development by the Secretary of the Governing Body, as required? <b>(3.9)</b>	1	2	3	4	5	
15. Are you satisfied that a culture of openness and debate is promoted in the Institute and that all Governing Body members are afforded the opportunity to fully contribute to Governing Body deliberations and meetings, including affording non- executive Governing Body members an opportunity to bring an independent judgement to bear on issues? <b>(1.4) (3.7)</b>	1	2	3	4	5	
16. Are you satisfied that the Governing Body meets sufficiently regularly, that the duration of meetings is sufficient, and that the meeting format is adequate to enable the Governing Body to discharge its duties effectively? <b>(1.7)</b>	1	2	3	4	5	
17. Are you satisfied that Governing Body meeting agendas and other related material are circulated in a timely manner to enable full and proper consideration to be given to important issues?	1	2	3	4	5	

18. Are you satisfied with the quality of the Governing Body papers and minutes (e.g. not overly lengthy, clearly explain the key issues and priorities, consistent, timely)?	1	2	3	4	5	
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19. Are you satisfied that the Governing Body spends the majority of its time on strategic issues and not day-to-day management responsibilities?	1	2	3	4	5	
<b>Codes of Conduct and Conflicts of Interests</b>	<b>Score</b> Dissatisfied Satisfied					<b>What could be done differently?</b>
20. Are you satisfied that updated Codes of Conduct are approved by the Governing Body and circulated to all Governing Body members, management and employees? <b>(5.1)</b>	1	2	3	4	5	
21. Are you satisfied that the procedures relating to the disclosure of the Governing Body members interests are complied with? <b>(5.7)</b>	1	2	3	4	5	
22. Are you satisfied that the Governing Body has adequate procedures in place to monitor and manage potential conflicts of interest and confidential information of management and Governing Body members? <b>(1.11)</b>	1	2	3	4	5	
<b>Business and Financial Reporting</b>	<b>Score</b> Dissatisfied Satisfied					<b>What could be done differently?</b>
23. Are you satisfied the Governing Body ensures that a balanced, true and fair view of the Institute's financial performance and financial position is made when preparing the annual report and financial statements of the Institute and when submitting these to the Minister? <b>(6)</b>	1	2	3	4	5	
24. Are you satisfied that the Governing Body ensures timely and accurate disclosure is made to the Minister for Education and Skills on all material matters regarding the Institute? <b>(6)</b>	1	2	3	4	5	
<b>Risk Management, Internal Control, Audit and Risk</b>	<b>Score</b> Dissatisfied Satisfied					<b>What could be done differently?</b>
25. Are you satisfied that the Governing Body approves the risk management policies/framework and monitors its effectiveness including reviewing material risk incidents, noting or approving management's actions and maintaining oversight of risk management and high risk issues relating to the Institute? <b>(7.1 – 7.2)</b>	1	2	3	4	5	
26. Are you satisfied that the Governing Body fulfils its responsibility for ensuring that effective systems of internal control are instituted and implemented in the Institute including financial, operational and compliance controls and risk management? <b>(7.3)</b>	1	2	3	4	5	

Governing Body Self-Assessment Evaluation Questionnaire							
27. Are you satisfied that the Governing Body undertakes an annual review of the effectiveness of internal control systems, including such items as presented in paragraph 7.5 of the 2016 Code of Practice? <b>(7.5)</b>		1	2	3	4	5	
Performance Evaluation		Score				What could be done differently?	
		Dissatisfied		Satisfied			
28.	Are you satisfied that the Governing Body undertakes an annual self-assessment evaluation of its own performance and its committees? <b>(4.6)</b>	1	2	3	4	5	
29.	Are you satisfied that issues arising from the evaluation are followed up and that the evaluation process enhances the Governing Body effectiveness?	1	2	3	4	5	
The Governing Body's Relationship with Management		Score				What could be done differently?	
		Dissatisfied		Satisfied			
30.	Are you satisfied that there are appropriate delegation authorities in place for management and that they are regularly reviewed?	1	2	3	4	5	



