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MAY 2017

TUI NEWS BALLOT SPECIAL

NATIONAL BALLOT RE: TECHNOLOGICAL UNIVERSITIES

TEACHERS' UNION OF IRELAND / AONTAS MÚINTEOIRÍ ÉIREANN

What are you being balloted on?

You are being balloted on whether or not you wish to accept the proposed TUI, DES and THEA Agreement, May 2017, on Technological Universities. If members vote to accept the proposed agreement, the current industrial action, (that is, not to cooperate with any merger activities relating to the proposed Technological Universities) will be suspended and implementation of the proposed agreement will proceed as set out once TUI has received confirmation of Government approval of the Agreement.

Full text of proposed Agreement is included in this TUI News Ballot Special.

Background

Following the publication of the Heads of the Technological Universities Bill (2014) and the Draft Technological Universities Bill (2015), the TUI raised a range of issues of serious concern with the Department of Education and Skills (DES), the Presidents of the Institutes of Technology and with the Technological Higher Education Association (THEA - formerly IOTI). The Union also made a detailed presentation to the Oireachtas Joint Committee on Education and Skills as well as undertaking a sustained lobbying and media campaign.

Key concerns

One of the key concerns of members related to the lack of meaningful consultation with TUI. A number of issues arising from the failure to consult were referred as disputes to the Labour Relations Commission (now WRC). In some cases, individual branches balloted for and engaged in industrial action.

Other key concerns related to:

- the protection of terms and conditions of employment
- the requirement that 2 or more Institutes merge prior to application being made for Technological University designation
- system capacity for such significant change at a time of deep cuts to funding for the sector
- the risk of increased geographic inequality

Mandate

In order to secure a negotiated, national resolution of these issues, the Union balloted members in February 2016. The question on the ballot paper was as follows:

"In view of the failure of government to address the deep concerns of members of the TUI in relation to mergers of institutes of technology and the serious implications of such mergers, and to secure a negotiated, national resolution of these issues, do you agree to engage in a campaign of industrial action, up to and including strike action, as directed by the Executive Committee."

By a margin of 85% to 15% members provided this mandate. A directive took effect from 4th April 2016 instructing all members in the IoT sector not to cooperate with any merger activities associated with the proposed Technological Universities.

Why is the Union balloting members on this issue now?

In February 2017, the Union held a national conference on TUs at which the key concerns of members were addressed directly to the DES, the Higher Education Authority (HEA) and THEA. Following this conference, the DES engaged meaningfully with the Union and there were intensive discussions that concluded in May 2017. These discussions resulted in the detailed proposals which issued on the 12th May 2017 and which are the subject of this ballot. These proposals address many of the concerns of members and also provide for the establishment of a National Negotiation Forum and set out the terms of reference for this forum.

The Executive Committee of the TUI is of the view that these proposals represent a significant advance for the Union and substantially address most of our concerns. The Executive is satisfied that the proposals represent the best that can be achieved through negotiations. Therefore, the Executive Committee has decided to ballot members in the IoT sector on the **TUI, DES and THEA Agreement, May 2017, on Technological Universities.**

When will the ballot take place?

Ballot papers will be posted from TUI Head Office on 30th May 2017.

Completed ballot papers must be returned, in the envelopes provided, to the Union's auditors, Deloitte, by 5pm on Tuesday, June 13th 2017.

A Word from the President – Joanne Irwin

Dear Colleagues,

Following an intensive campaign by the TUI, that included industrial action, we secured meaningful engagement with the DES and THEA in relation to the key concerns of members regarding the establishment of Technological Universities and the establishment of a National Negotiation Forum. That engagement resulted in the development of the proposed agreement about which you are now being balloted.

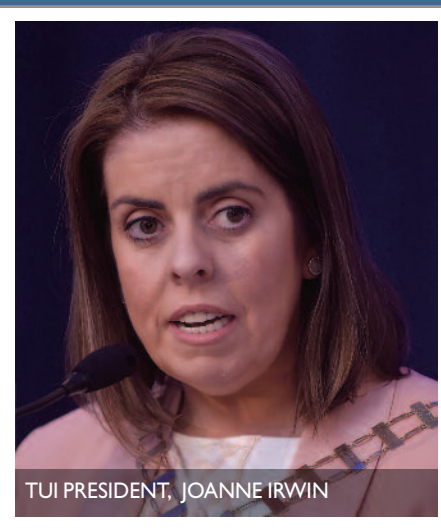
Although we have not secured, in full, all of our objectives, significant advances have been made since (the ballot of) February 2016.

The mandate you provided for industrial action, the extensive lobbying campaign and the representation of our concerns through the media have paid dividends, not least in the offer of a national forum to which we can bring key concerns of members on a collective basis, thus avoiding the fragmentation that could occur in the absence of such a forum.

Your active engagement in our campaign has persuaded the Department to offer the proposed agreement now before you for acceptance or otherwise. Improvements set out in the agreement include:

- Full protection of existing terms and conditions of employment and superannuation schemes
- A significant change in relation to mergers
- A commitment that a member's place of work will not be changed beyond the campus/es of her/his existing IoT
- An enhanced commitment to regional provision
- A commitment to an increase in funding

Significantly, while mergers of institutes must still take place before Technological University status can be designated, the risk of constituent institutes being denied TU status but being left in a merged limbo has been eliminated.



TUI PRESIDENT, JOANNE IRWIN

Please take time to read the full set of proposals in this document along with the arguments both for and against acceptance of the proposals.

Whatever your view might be, please make sure to vote so that it is heard.

Joanne Irwin

What are the key Union concerns and how have they been addressed?

The Union had 7 areas of concern:

- | | | |
|---------------------------------|----------------------------------|---------------------------------|
| 1. Conditions of service | 4. Merger as prerequisite | 6. Funding and resources |
| 2. Pensions | 5. Governance structure | 7. Consultation |
| 3. Regional mission | | |

The following shows the main advances secured on these issues since the Technological Universities Heads of Bill was published in 2014

TUI issues	2014	2017 – outlined in the proposed Agreement & subsequent clarifications received
Conditions of service	To be determined by the management of new TUs	The Bill will explicitly protect existing terms and conditions of staff
Pensions	Uncertainty existed around potential change to pensions	TUI has received clarifications from the DES that pensions will not be threatened in any way by the Bill
Regional mission	The establishment of TUs could result in reduced provision of programmes in a region or campus	There is now an assurance that provision will be protected in all of the regions and campus/es of a TU
Merger as prerequisite	This was set out as a two-step process – institutes were required to merge first before applying for TU designation. Potentially, institutes could merge but ultimately be denied TU designation	No merger will now take place unless TU designation occurs on the same day - a one-step process. There is a joint application and evaluation. If approved, then designation and merger take place at the same time (i.e. there is no risk of institutes merging but not attaining TU status)
Governance structure	There would be a reduced number of academic, non-academic and external members on the governing body	Enhanced representation for academic staff on Governing Bodies of TUs (by contrast with the previous version of the Bill). TUI has also secured additional Ministerial appointments to the Governing Body of TUs increasing the likelihood of broader regional representation and increasing the level of democratic accountability
Funding and resources	The Union believed that much of the rationale behind the move towards TUs was related to rationalisation and cost-saving	The DES has committed to significantly increased funding for the process
Consultation	Initially, there was a marked absence of meaningful consultation and engagement around the process	The Union has secured a meaningful consultation and engagement process that will continue

What additional protections and assurances have been gained?

Additional protections secured by the Union

- No compulsory redundancies as a result of TUs.
- Collective agreements will be enshrined in and enforced by circular letter. They will have a national currency.
- Establishment of a National Negotiation Forum for addressing issues in relation to existing and future staff.
- The DES and THEA will ensure that at least one academic staff member, or a representative of the academic staff body selected by the academic staff body, will be co-opted on to the initial Governing Body of each Technological University at the first meeting of the Governing Body of each Technological University. There will be no delay.
- Meaningful consultation with a 'No surprises' clause.
- Financial support for both pre & post designation.
- Resources for staff development and upskilling.

What are the main arguments for and against accepting the proposed TUI, DES and THEA Agreement, May 2017, on Technological Universities?

Arguments for voting 'Yes'

The Bill will explicitly protect the existing terms and conditions of staff

Where a TU is formed from merging two or more IoTs, there is a commitment that existing staff will not be reassigned to another of the merging IoTs unless procedures for such reassignments have been agreed by TUI

TUI has received clarifications from the DES that pensions will not be threatened in any way by the Bill

No merger will now take place unless TU designation occurs on the same day

Ministerial orders dissolving existing IoTs (in order to merge into TUs) will now be voted on by both Houses of the Oireachtas

The Bill (explicitly under Functions of a Technological University - 22 (1) (a) (ii)) provides that TUs will operate across all levels of higher education in the QQI Framework (i.e. from 6 to 10). While the Head of Bill included this provision in the eligibility criteria for TU designation, moving it to the Functions section guarantees an ongoing commitment which had been absent

Arguments for voting 'No'

TUI can engage in industrial action to try and protect terms and conditions in the event that the legislation proceeds through the houses of the Oireachtas

TUI can engage in industrial action to try and protect superannuation schemes in the event that the legislation proceeds through the houses of the Oireachtas

It is still a requirement that two or more IoTs must merge in order to form a TU. This has been consistently opposed by TUI but remains as a necessary element of the TU process

The establishment of TUs risks the creation of a three-tier third level system where the IoTs which do not merge to form TUs may be seen as the lowest tier

The TUI could lobby the relevant Minister and political parties to ensure that Ministerial Orders for dissolution of IoTs were not tabled

In spite of assurances, mergers may pose a threat to regional provision

Arguments for voting ‘Yes’

Under Sections 22 (Functions of a TU), 30 (Strategic Development Plan), and 38 (Eligibility Criteria), TUI has secured amendments to the Bill which will protect the regional mission and regional provision of education in TUs. This enhanced recognition of the key importance of regional provision and equity is to be welcomed

The Bill (explicitly under Functions of a Technological University 22 (1) (i)) provides for apprentice education and training in TUs. TUI successfully lobbied for this after it was excluded from the functions of a TU in the Head of Bill (indeed apprentice education was entirely absent from the Head of Bill)

TUI will continue to negotiate the terms and conditions of academic staff both in IoTs and in TUs in a single national forum

TUs, as well as IoTs, will be required to abide by the terms of national agreements as embodied in circular letters in exactly the same way as IoTs do now

TUI has secured enhanced representation for academic staff on Governing Bodies of TUs, by contrast with the previous version of the Bill

In addition, TUI has ensured and has DES/THEA agreement that “at least one and not more than three” academic staff on Governing Bodies in sections 25 (TUs) and 109 (IoTs) will be interpreted to allow academic staff to elect three members. This will also increase the academic staff representation on Governing Bodies of IoTs which do not seek TU status

TUI can develop election procedures for TUI candidates in Governing Body elections so that constituent IoTs which merge to form a TU will be represented on a Governing Body

The DES and THEA will ensure that at least one academic staff member, or a representative of the academic staff body selected by the academic staff body, will be co-opted on to the initial Governing Body of each Technological University at the first meeting of the Governing Body of each Technological University. There will be no delay

TUI has secured agreement that there will be additional Ministerial appointments to the Governing Bodies of TUs, increasing the likelihood of broader regional representation and increasing the level of democratic accountability

TUI has secured commitments regarding local and national consultation and negotiation regarding TUs. The TU National Negotiation Forum will ensure a consistent approach regarding terms and conditions nationally (for existing and future employees) and will provide a mechanism to resolve what cannot be dealt with locally. This Forum will merge with the IoT IR Forum upon the establishment of TUs which will provide a bulwark against fragmentation of terms and conditions across the sector

The establishment of TUs may provide improved opportunities for staff and students in the constituent IoTs. The DES has clarified unambiguously that rationalisation is not the purpose and that the diversity of mission provided by TUs will enhance their capacity to compete internationally, to attract international students, staff and funding, and thereby further enhance the quality of the Irish HE system

Arguments for voting ‘No’

The Bill still imposes a “one size fits all” approach to the establishment of TUs, instead of recognising that different geography, in particular, should give rise to different proposals

It is not guaranteed that all disciplines currently offered by an IoT will be protected after it merges to form a TU. Smaller IoTs in a merger may be faced with disciplines being discontinued either entirely or at higher QQI levels in favour of other locations in the TU

The IoT IR forum will continue to negotiate nationally the terms and conditions of IoT staff

IoT already adhere to collective agreements

Following a merger, a single Governing Body and Academic Council will be responsible for campuses across what may be an extended geography. There is a possibility that decision-making will be dominated by the larger/largest constituent IoT in the merger with consequent dangers for the other partners

While the representation in proportional terms of academic staff on the Governing Body of a TU is slightly increased from that for existing IoTs, there is a diminution of the representation available for each individual IoT in the merger

The Bill reiterates Government’s policy of moving to a “competency based” approach to governance, which reduces or removes representation from democratically accountable bodies and favours the business community

Negotiations and consultation can take place locally without limitations

Could lead to decreased student applications for IoTs

TUI, DES and THEA Agreement, May 2017, on Technological Universities.

Joanne Irwin
President
Teachers' Union of Ireland
73 Orwell Road
Rathgar
Dublin 6

12 May 2017

Re: Technological Universities

Dear Joanne,

I refer to the detailed consultation process that has taken place between the TUI, THEA and the Department of Education and Skills regarding Technological Universities.

This letter and the enclosed Appendices should now be taken together and treated as the final document which has emerged from the conclusion of this consultation process. The Appendices detail:

- 1) Potential amendments to the Technological Universities Bill (Appendix A);
- 2) Terms of Reference for the national negotiation forum relating to Technological Universities (Appendix B).

A number of issues were also raised during the process which I will clarify as follows:

1. A commitment that there will be no compulsory redundancies of TUI members arising from this process:

The Department has already given commitments in relation to protection for conditions of service as outlined in the relevant section of this document. I should also point out that the Department of Education and Skills does not envisage any compulsory redundancies arising from the development of Technological Universities.

As you will be aware, under the terms of the Croke Park Agreement and its successors (Haddington Road Agreement and Lansdowne Road Agreement), the Government has given a commitment that compulsory redundancy will not apply to permanent staff within the public service, save where existing exit provisions apply. This commitment is subject to compliance with the terms of these Agreements.

Accordingly, the issue of compulsory redundancies is a central matter that is controlled by Government and as such the Department of Education and Skills will be bound by the terms of any future collective agreements that emerge in this regard.

2. A commitment that TUI members will maintain their current location/place of work

The Department of Education and Skills recognises the seriousness of this issue for your members. The Department guarantees that staff will not be re-assigned to one of the other constituent IOTs of a Technological University unless procedures for such re-assignments have been agreed with the Trade Union.

3. A commitment to maintaining levels 6 to 10 programmes across the range of disciplines and programmes in all the regions of a Technological University

The Department fully agrees that safeguarding and strengthening diversity in the HE system is an important policy objective that should be maintained and enhanced by having a coherent approach to implementation of existing policy, consistency in future policy development, system configuration and the steering and funding of the system over time.

This approach will ensure that the HE system continues to provide access across the full range of HE provision and is responsive to the diverse range of needs of all stakeholders: local, regional and national. It will strengthen overall system performance and support the enhancement of the international status of Irish higher education.

Technological Universities will provide programmes from levels 6 to 10 on the National Framework of Qualifications. A Technological University will also be expected to play a pivotal role in facilitating access and progression particularly through relationships with the further education and training sector.

4. Provisions relating to proposed Head 55 of TU Bill:

Provisions based on Heads 55 to 57 inclusive have not been included in the TU Bill. Those Heads reflected the content of the Universities (Amendment) Bill as it was

drafted at the time of the preparation of the General Scheme of the TU Bill. It is now intended that once the Universities (Amendment) Bill is legislated for then that primary legislation will make the necessary amendments to the TU legislation to reflect the changes that will be brought about by the enactment of the Universities (Amendment) Bill.

5. Implementation of Collective Agreements in Technological Universities:

The current method of implementing collective agreements in the Institute of Technology sector will remain the method of implementing collective agreements in Technological Universities.

6. Orders in respect of the Bill (Section 3 of TU Bill as currently constituted):

The Department can confirm that Section 3 of the TU Bill will remain in the legislation. As section 18 of the TU Bill will no longer exist the revised provision will read (subject to obvious numbering changes to the revised Bill)

“Orders

3. Where an order under section ~~18~~, 46 or 53 is proposed to be made, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.”

As outlined to you during our discussions, the Department will require Government approval to make significant changes to the legislation. Accordingly, it is our intention to seek Government approval in the coming weeks to make changes to the Technological Universities Bill. There will then follow a process of drafting amendments to the legislation prior to the re-introduction of the legislation to the Dáil at Committee stage. For clarification, I can confirm that the Department will consult with TUI in relation to this revised legislation.

Yours sincerely,

Micheál Lenihan
Higher Education – Research and Policy
Division

cc. Dr. Joseph Ryan, THEA

Appendix A

Potential amendments to the Technological Universities Bill:

During our process of consultation the TUI have raised a number of concerns regarding the draft legislation. Amongst the main concerns raised were:

- 1) Protection for Conditions of Service;
- 2) Protection in respect of superannuation;
- 3) Protection of the regional mission of the IOTs;
- 4) Removal of the merger requirement for Technological Universities;
- 5) Governance Structures;
- 6) Funding and Resourcing of TUs;
- 7) Communication and Consultation.

I would now like to clarify the position in respect of each of these issues. I will also outline those aspects of the legislation which, subject to political approval, will be amended in the Technological Universities Bill prior to its re-introduction at Dáil Committee Stage, with a view to addressing the concerns expressed by TUI during our consultation process.

1) Protection for Conditions of Service:

TUI provided us with text from the Water Services (No. 2) Act 2013 which you believe would strengthen the text of the TU Bill. The Department have fully examined this text and have now determined that, subject to political approval, it will be possible to incorporate this text into the draft legislation.

The Department would point out for clarity here that the TUPE Regulations are not referenced in the Water Services (No. 2) Act 2013 and will not be referenced in the TU Bill.

Accordingly, the Department will commit to altering the draft legislation prior to the Bill's re-introduction at Committee Stage in the Dáil to make the necessary amendments to give effect to this proposal.

2) Protection in respect of superannuation:

The text contained in the TU Bill 2015 in terms of Superannuation is standard text which has been utilised on a number of occasions in respect of the transfer of staff from one entity to another or for the merging of one or more entities e.g. Education and Training Boards Act 2013.

DES Pensions Unit advise that the wording in the draft legislation (TU Bill 2015 as passed Committee Stage) provides clearly at Section 83 (1) that a person will remain a member of the relevant superannuation scheme that a person was a member of on the day of the transfer, in accordance with the terms and conditions of the relevant superannuation scheme. Once the legislation has passed this will become primary legislation copper-fastening this position.

You also sought clarification on the following section of the legislation: "s. 82(3) In subsection (2), a reference to conditions of remuneration does not include conditions in relation to superannuation."

This is standard legal wording to highlight that superannuation is not dealt with in section 82 of the Bill but is instead dealt with in section 83 of the Bill which follows directly after that.

For clarity, I should also point out that the TU Bill will need to be amended when it resumes its passage through the Oireachtas to reflect the fact that a new Statutory Instrument (Education Sector Superannuation Scheme 2015 - S.I. No. 290 of 2015) has been introduced since the legislation was introduced. These changes had been listed amongst the amendments to the legislation to be introduced by the Minister at the report Stage for the draft legislation but were not dealt with due to the dissolution of the last Dáil in February 2016.

At previous meetings you expressed a concern with the wording at Section 83 (3) of the TU Bill which stated "Nothing in this section prevents the relevant superannuation scheme being varied in accordance with its terms and conditions".

The relevant superannuation scheme is defined at sub section 4 of Section 83 as being the Education Sector Superannuation Scheme (referenced in the TU Bill as ESSS Transfer Order 2001 but now ESSS SI 290 of 2015 as pointed out above). Your concern centred on whether this would allow the scheme to be changed at a later date to the detriment of their members. This is not the purpose of the clause as it generally a term used in pensions to give the flexibility required to the original schemes to make changes necessary to support policy amendments such as for

example in 2005 part time workers were allowed access to pension schemes. Obviously, if you could not change earlier schemes to accommodate the part time workers then they would have denied pension rights. For that reason we are not in a position to change or remove this clause.

Finally, you expressed a concern that there were other pension schemes which TUI members might be in (apart from ESSS 2015 and the Single Scheme 2012). On this point we believe that ESSS 290 of 2015 has brought together all of the schemes which were previously in existence in the education part of the Local Government (such as Local Government Superannuation Consolidation Scheme 1988) and has provided for those terms and conditions within the ESSS 2015. (ESSS 2015 excludes certain provisions of a 1956 scheme but they are catered in Section 2 of ESSS 2015).

However, if you can identify any particular category of employee or individual employee who they think is not covered by the schemes referenced in ESSS 2015 or Single Scheme 2012, the Pensions Unit have agreed to investigate the matter further. As you know, our Pensions Unit meet every 6 weeks with the IOTs on Pension issues and no-one has ever raised a concern regarding categories of employees/individuals in schemes other than those we have referenced.

3) Protection of the regional mission of the IOTs:

The Department fully agrees that technological universities also have a broader responsibility to their regions. We also recognise that higher education providers, particularly those outside the capital, play a vitally important role in their surrounding economies and have a key function to support and drive regional, social and community development. They provide the skills and talent required by a diverse range of employers in their regions and act as a hub for innovation and entrepreneurship. In that context, we see the development of Technological Universities has the potential to be a catalyst for creating new dynamic and vibrant regional development opportunities and for institutions to underpin a co-ordinated investment and development strategy to strengthen Ireland's 'next tier' cities and their associated regions.

For that reason the TU Bill already provides

that a technological university will “provide programmes...that reflect the needs of citizens...and other stakeholders in the regions in which the campuses of the technological university are located”. It also requires each technological university to “serve the community and public interest” and foster “close and effective relationships” with a wide range of regional stakeholders.

To further underpin this broader responsibility the previous Minister tabled a number of Report Stage amendments in the Dáil, the effect of which would be to insert an overarching requirement on technological universities to “serve the community and public interest by...fostering close and effective relationships with...organisations representing social, cultural community and related interests in the regions in which the campuses of the technological university are located”.

These amendments will be introduced into the functions (currently section 22 of the TU Bill) of a Technological University by the Minister when the Bill is returned to Committee Stage in the Dáil.

Furthermore, based on the concerns expressed by TUI and other stakeholders the Department is proposing, again subject to political approval, to make the following amendments to the segments of the TU Bill dealing with the Functions of a Technological University (currently S. 22), the Strategic Development Plan (currently S. 30) and the eligibility criteria for a Technological University (currently S. 38).

Functions of a Technological University:

Amend S. 22 (1) (b) as follows:

22. (1) The functions of a technological university, having particular regard to the needs of the regions in which the campuses of the technological university are located, shall be to—

(b) provide programmes of education and training that reflect the needs of citizens, business, enterprise, the professions, communities and other stakeholders in the regions in which the campuses of the technological university are located and facilitate learning by flexible means

Insert a new segment at S. 22 (1) (k) (i), as outlined below, which would essentially outline that:

(k) serve the community and public interest

by-

(i) developing and promoting strong social, cultural, community and related links to the activities of the University in the regions in which the campuses of the technological university are located.

Strategic Development Plan:

Insert two new sections to the segment of the TU Bill dealing with the Strategic Development Plan (currently S. 30 of the TU Bill) of a Technological University which would essentially outline that:

(A strategic plan shall specify)

“(c) in particular how the Technological University will provide programmes of education and training that meet the needs of citizens, business, enterprise, the professions, communities, and other stakeholders in the regions in which the campuses of the technological university are located.

d) in particular how the Technological University will develop and promote strong social, cultural, community and related links to the activities of the University in the regions in which the campuses of the technological university are located.”

Eligibility Criteria:

Amend S. 38 (1) (k) (iv) and insert new section to go directly after that in the legislation as outlined below:

(iv) that it develops and has procedures in place for the development of programmes that respond to the needs of business, enterprise, the professions, communities, and other stakeholders in the regions in which the campuses of the proposed Technological University are located,

(v) that it develops and has procedures in place for how the Technological University will develop and promote strong social, cultural, community and related links to the activities of the University in the regions in which the campuses of the technological university are located.

4) Removal of the merger requirement for Technological Universities:

The Department have consistently articulated the Government position, arising from the National Strategy for Higher Education to 2030, that mergers between institutes of technology provide the opportunity to increase capacity to deliver greater institutional scale, which will

increase their strategic coherence, enhance their capacity to provide high quality education and research, safeguard their diversity of mission and allow those institutions to deliver an exceptional service to their students and the regions in which they are situated, and to compete at an international level.

The TU Bill provides that applications for technological university designation can only be made by merged institutes of technology. The Department is committed to the policy that the establishment of a Technological University is only possible via an application by a consortium consisting of two or more Institutes.

However, concerns have been raised by both the TUI and other stakeholders with regard to the possibility that institutes of technology could merge and subsequently fail to achieve technological university designation. While the TU Bill does not envisage this as a possibility, we have acknowledged that the concerns expressed in relation to this matter are genuine.

Subject to political approval, the Department will commit to altering the draft legislation at Committee Stage in the legislative process with a view to moving the merger requirement to the final stage of the process to ensure that there is no possibility that institutes of technology could merge and subsequently fail to achieve technological university designation.

Essentially, the methodology envisaged to ensure that this happens is that the process of merger and the process of designation as a Technological University occurs simultaneously.

The outline fall-on effects of this for the process and the legislation are as follows:

1. Applications are still only accepted from two or more colleges who are intending to merge and become a Technological University.
2. There is only one examination by an International Panel because the merger process occurs at the time of designation as a Technological University there is no requirement for an International Panel examination to determine whether two or more IOTs should merge.
3. Following the International Panel examination a recommendation will be made to the Minister on whether the consortium can meet the criteria to

become a Technological University. Following receipt of the recommendation from the International Panel, the Minister will then make a determination as to whether or not the consortium have met the criteria to become a Technological University. This may include some recommendations as to the final preparatory work necessary to achieve Technological University designation. Once the Minister is satisfied that all is in order for a successful consortium then the Minister makes an Order dissolving all of the Constituent Colleges and making a Technological University in their place on the same date which becomes establishment date.

As this is a substantial change, it will require significant amendments to be made to the draft legislation prior to the Bill being re-introduced at Committee Stage in the Dáil.

5) Governance Structures:

The National Strategy recommended that the governance structures of all higher education institutions should be reformed to ensure that they are fit for purpose and have the expertise relevant to the governance of a modern higher education institution. The TU Bill 2015 sets out a detailed and appropriate legislative framework for the reform of the institute of technology sector and for the establishment of a new type of higher education institution, technological universities.

A number of proposals have been made for the inclusion on the governing body of a technological university of more undergraduate representatives, more non-academic staff representatives, local authority representatives and union representatives.

Government policy, as set out in the National Strategy and in line with international practice, is for the governing authorities of higher education institutions to be smaller and more effective, and for a competency-based approach to be taken when appointing governing body members.

The proposals for increased representation from other groups as highlighted above would result in a larger governing body and dilute the use of specific competencies to appoint members and as such cannot be taken on board in the context of the draft legislation.

The Department have outlined that a single governing authority is a requirement in addition to a single Academic Council in order to ensure that a TU functions as a coherent single entity. The Department highlighted that the draft legislative provisions for academic council already provide significant flexibility in terms of organisation and membership.

However, based on the concerns expressed by TUI and other stakeholders the Department is proposing, again subject to political approval, to make the following amendments to the segments of the TU Bill dealing with the Governing Body of a Technological University (currently S. 25 of TU Bill).

Membership of Governing Body of a Technological University:

The Department is now proposing that an element of the Governing Body membership will be determined based on the number of Institutes of Technology that are being merged to become a Technological University. Where 2 or 3 Institutes of Technology are merging to become a Technological University then the legislation will allow for the Governing Body to have not fewer than 13 and not more than 22 members. The additional members will be made up of:

- One additional member of the overall (academic and non-academic) staff of the technological university, to be elected by the overall staff of the technological university;
- One additional external member nominated by the Minister bringing the total from 2 to 3 external members.

Where 4 or more Institutes of Technology are merging to become a Technological University then the legislation will allow for the Governing Body to have not fewer than 14 and not more than 26 members. The additional members will be made up of:

- At least one but not more than 3 members of the overall staff of the technological university, to be elected by the overall staff of the technological university;
- Two additional external members nominated by the Minister bringing the total from 2 to 4 external members.
- An increase by one in the maximum amount of external members (currently S.25(1)(g) of the Bill) which would

change that section of the legislation to read “at least 3 but not more than 9 external members.....”

Furthermore, the Department are willing to examine proposals to ensure that sub-structures of the Governing Bodies can have full regard to regional stakeholders to ensure that agile responses and flexibility can be maintained at campus level. These matters would not require specific legislative enabling powers but instead would be developed in the context of the Implementation plans for the establishment of each Technological University.

Finally, in respect of this matter the Department were asked to clarify the meaning of Section 25(1)(c) of the Technological Universities Bill as it currently stands. The Department will clarify who is responsible for determining whether there should be one, two or three staff members on the Governing Body of the Technological University as part of the process of drafting the revised legislation. However, the Department and THEA confirmed that it is not our intention to circumscribe the academic staff membership of the Governing Body to one by virtue of a narrow interpretation of this section of the legislation.

6) Funding and Resourcing of Technological Universities:

The TUI have expressed significant concern over the level of investment in Higher Education and specifically in Institutes of Technology over the past ten years both in terms of current spending and also in relation to capital investment.

The Department pointed out that the Report of the Expert Group on Future Funding for Higher Education (the Cassells Report), published in July 2016, outlined that the State needs to invest significantly more resources but that society also needs to demand that we get higher quality and better outcomes for that investment.

As committed to in the Programme for Government, the Minister has referred the report to the Oireachtas Education Committee and this engagement will form part of the process for formulating a plan for the future funding of the sector.

While Cassells deals with the medium and long term funding needs of higher education, the Minister has also sought to

address immediate challenges and in that context it was important that a particular emphasis was placed on higher education in Budget 2017 with an additional €36.5 million secured for 2017 and an additional €160 million over the next three years.

Specifically in relation to Technological Universities, the HEA provided a ring-fenced sum of €4.7 Million in 2016 to the four consortiums that are involved in merger processes with the ultimate aim of becoming Technological Universities. Furthermore, additional funding of €4 Million has been provided to support the development of Technological Universities as part of Budget 2017 which will underpin the next phase of engagement for the four consortiums or to support the development of any future Technological University projects that emerge given their critical importance to the development of the sector. The HEA will ensure that the funding model for Technological Universities will take into account the constituent IOTs of a Technological University for a period of time following the establishment of a Technological University.

The Department have also highlighted the ongoing public consultation process on a proposed Exchequer-Employer investment mechanism for higher education and further education and training. The consultation on the design of an Employer-Exchequer Investment mechanism is being undertaken as part of the overall response to meeting the anticipated skills needs in the economy over the coming years. The consultation paper proposes an incremental annual increase of 0.1% in the National Training Fund levy to increase it from 0.7% to 1% in the three year period to 2020, delivering up to €200million in additional funding from employers.

Furthermore, a series of reviews are being carried out including:

- a review of the funding model in higher education, to ensure that funding mechanisms are aligned at delivery of key goals-including in areas of skills, research and disadvantage;
- a review of Further Education and Training programmes funded by the National Training Fund to ensure that spending is optimally targeted at enterprise objectives-including the balance between “for employment” and “in employment” at a time of 6.6% unemployment and falling; and

- the Oireachtas Committee is considering the Cassells report, including the issue of possible additional funding from students.

In this context it is important that the IOT sector is in a position to demonstrate the willingness to embrace change which it has shown throughout the past number of years in dealing with increased student numbers and reduced resources.

The Department have outlined during our discussions that, if the TUI are in a position to suspend their industrial action in relation to Technological Universities, then the Department will be in a more favourable position to put forward a request for significant additional investment during the current Estimates process in the context of Budget 2018 with a view to ensuring that consortia can meet all of the eligibility criteria for designation as a TU as soon as practicable following the implementation of the legislation.

In relation to capital investment, a Mid-Term Review of the Capital Plan is currently underway with a final report and recommendations to be presented to Government in the third quarter of 2017. The Department provided a detailed submission in early March to the Department of Public Expenditure and Reform reflecting the on-going capital requirements of the education sector, including in the Institute of Technology sector.

The Department have made the point during discussions with the TUI that the ongoing Industrial Action in the sector makes it difficult for the Department to seek additional resources for the sector in general, and for the development of Technological Universities, given the continuous questions being raised as to the necessity and priorities for expenditure in all areas.

Accordingly, the Department believe that it is now incumbent upon all stakeholders to outline at all opportunities the willingness of all stakeholders to embrace change, the urgent necessity for investment in Higher Education as a whole and the benefits that will be derived from increased investment.

7) Communication and Consultation: The Department and respective Ministers have repeatedly stated that good communication between the leadership of

any institute of technology entering into a merger and the staff and students of that IOT is vital, so that a shared vision and understanding of the new institution can be developed.

A significant amount of work has been done on both Union and Management sides as this process has evolved and it is vital that good open communications channels are maintained between Management and Unions as the process towards the development of Technological Universities advances.

We hope that recent engagements can be the pre-cursor to a renewed positive engagement in the process following the clarifications which have now been provided to TUI. The Department and THEA firmly believe that the formation of the national negotiation forum will assist in this regard.

The Department and THEA will also emphasise to local Management that all communications in respect of Technological Universities should operate, as much as practicable, on the basis of a “No Surprises” policy. Accordingly, where local management are preparing significant communication engagements with staff in respect of Technological Universities, then there will be consultation and engagement with local Trade Union representatives, in advance.

Furthermore, project management structures and related documentation for the development of Technological Universities will be subject to consultation and engagement with local Trade Union representatives, in advance of finalisation.

Appendix B

The Department acknowledges that there will be a requirement for ongoing engagement to address issues arising from the development of Technological Universities. As part of our clarification process with TUI, and in subsequent correspondence, the Department has outlined that we are very much minded to agree to the establishment of the suggested national negotiation forum and we believe that issues of concern to TUI can be examined quickly upon the establishment of such a forum.

Accordingly, please find attached the finalised Terms of Reference for the proposed national negotiation forum relating to Technological Universities.

National Negotiation Forum in respect of Technological Universities Terms of Reference

1. Parties to the Forum:

The parties to the Forum will be:

- (i) TUI
- (ii) THEA
- (iii) Department of Education and Skills;

The parties listed at (i) above shall be known as the Staff side. The parties listed at (ii) and (iii) above shall be known as the Official Side.

2. Scope:

The Forum is available to provide means acceptable to both sides concerned for dealing with issues arising in the course of the development of Technological Universities. The Forum will only deal with matters relating to Academic staff. The purpose of the Forum is to provide an acceptable means for dealing with claims and proposals relating to the salaries and other emoluments and the conditions of service of these staff, and to secure the fullest co-operation between the parties in maintaining and improving the quality of the service provided by these staff.

It is recognised by all parties that there is merit in developing an Initial list of issues which will require a common sectoral approach to be taken. This Initial list of issues will be examined by this national negotiation forum rather than locally. To this end, both parties will provide their own list of issues that they believe will require a common sectoral approach to be taken to the chairperson of the forum. It will be a matter for the Chairperson to decide on the final make-up of the Initial list of issues to be examined by this national negotiation forum and which therefore will not be subject to local discussions.

Outside of this Initial list of issues, every effort will be made by the parties to resolve issues arising locally, however where agreement is not reached locally then one or other of the parties may refer the matter for consideration by this national forum, subject to the issue falling within the subjects for discussion of the forum as outlined in paragraph 9.

3. Participation:

Only the parties listed in paragraph 1 above will be eligible to take part in the operation of the Forum. The Staff side shall be entitled to a maximum representation of 8 people at each meeting of the Forum. The Official side shall be entitled to a maximum representation of 8 people at each meeting of the Forum.

4. Forum Representation:

Each side will determine their own representation at the Forum subject to the representational limits detailed in paragraph 3.

5. Chairperson:

It has been agreed between the parties that an approach will be made to the WRC to provide an independent chairperson. If the WRC are not in a position to provide or nominate an independent chairperson then the two sides shall agree on an independent chairperson.

6. Secretarial Services:

The Department of Education and Skills shall provide a Secretary to the Forum who will also be the official side secretary to the forum.

7. Procedures:

- (i) Four meetings per annum.
- (ii) The Chairperson shall, at the request of one of the sides, call further meetings to discuss a matter / matters which s/he feels is/are urgent and relevant to the work of the Forum.
- (iii) The Staff Side will agree on a Staff Side secretary. The Staff Side secretary will act as the direct point of contact for the Official Side in respect of the operation of this Forum. It will be open to the Staff Side to request the placing of any matter which they believe to be within the province of the Forum on the agenda for the next meeting of the Forum. This should be done by the Staff Side secretary at least one week prior to each meeting of the forum. The Staff Side secretary will co-ordinate the Agenda Items for

each meeting to be put forward by the Staff Side. The Staff Side secretary will then notify the Official Side secretary of the agreed Staff Side items to be put on the Agenda of the meeting.

- (iv) It will be open to the Official Side to request the placing of any matter which they believe to be within the province of the Forum on the agenda for the next meeting of the Forum. This should be furnished to the Official Side secretary before the meeting.
- (v) The question of whether items put forward are appropriate for discussion by the Forum will be a matter for the Chairperson to decide, but before any such item is excluded, the Forum will be given an opportunity of expressing its views as to whether it should be included or excluded.
- (vi) An agenda will be circulated 5 working days in advance of each meeting.
- (vii) Where discussions have been completed, agreed reports will be prepared where appropriate, which may record agreement or disagreement on issues raised. Where any doubt has arisen as to the interpretation of a recommendation or an agreement of the Forum, the matter may be re-submitted to the Forum for clarification. A sub-committee of the Forum may be established to deal with such matters.
- (viii) The Forum will endeavour to resolve the issues before it and conclude an agreement. However, at the request of one or more of the sides, disagreement may be recorded.
- (ix) The parties agree to operate these procedures in as efficient and timely manner as possible.

8. Sub-committees:

The Forum may establish sub-committees to consider and report to it on any subject which is appropriate for discussion by the Forum. Such sub-committees will be chaired by the Chairperson or by another official of the Department of Education and Skills agreed by the sides. Sub-committee membership will reflect the membership of the Forum. The sides will select their own nominees to such sub-committees.

9. Subjects for Discussion:

The subjects appropriate for discussion at the Forum will be:-

- a) Transitional Issues of an Industrial Relations nature arising from the development of Technological Universities;
- b) Issues relating to the development of Governance structures for Technological Universities, which are not required to be laid out in legislation;
- c) Industrial relations matters relating to Technological Universities and the resolution of interpretation and implementation difficulties arising from the development of Technological Universities;
- d) Geographical / Locational issues relating to existing and future members of academic staff¹ in the context of the development of Technological Universities;
- e) principles governing and claims relating to salaries, allowances, expenses and other emoluments of existing and future members of academic staff in Technological Universities, where they are not being dealt with, or have not been dealt with, in another Forum or fashion i.e. no duplication of work;
- f) principles governing and claims relating to the express terms and conditions of employment of existing and future members of academic staff in Technological Universities, where they are not being dealt with, or have not been dealt with, in another Forum or fashion;
- g) Superannuation issues relating to existing and future members of academic staff in Technological Universities, where they are not being dealt with, or have not been dealt with, in another Forum or fashion i.e. no duplication of work;
- h) principles governing and claims related to the recruitment, promotion and grading of existing and future members of academic staff in Technological Universities, where they are not being dealt with, in another Forum or fashion;
- i) Staff development including resources for upskilling and time allowances for staff;
- j) Future appointees to Technological Universities;
- k) Clarification of where (location) the Governing Body and Academic Council will meet in a Technological University and clarification on travel and subsistence payments for members of the Governing Body;
- l) Appointment policies in Technological Universities;
- m) Transfer Policy in Technological Universities;
- n) any subject, which both sides agree, is appropriate for discussion at the Forum.

10. Individual cases:

Claims by or on behalf of individuals are excluded from the scope of the Forum. An individual serving in a grade covered by the Forum will continue to have the right to submit in writing through the normal channels, any statement s/he may wish to make to his or her employer on any matter affecting his/her official position, or, if appropriate to have the matter pursued through appropriate grievance, appeal or disciplinary procedures.

11. Mechanism to resolve disagreements:

Both sides agree that they will seek to resolve disagreements where they arise promptly. Where the sides involved cannot reach agreement in discussions on any

matter under the terms of this Forum the matter will be referred on an ad hoc basis by either side to the WRC and if necessary to the Labour Court.

12. Industrial Relations:

Both sides recognise the importance of stable industrial relations and are committed to maintaining a well-managed industrial relations environment to minimise disputes affecting the level of service to the public. A stable industrial relations climate has important benefits for the general public and the public service itself. Accordingly, the Trade Union shall not sponsor, support or resort to strike, industrial action, including work to rule or other restrictive practices as a means of furthering claims in relation to matters which are appropriate for processing through this industrial relations Forum where all provisions of this Forum have not been exhausted.

13. Resolution:

Both sides are committed to the effective functioning of the Forum, to promoting industrial harmony and to using the Forum to successfully resolve issues arising in Technological Universities.

14. Confidentiality:

The proceedings of the Forum and its sub-committees will be confidential and no statements concerning them will be issued except with the permission of the Forum.

15. Alterations

These Terms of Reference may be altered by agreement of both sides. In this regard, it is noted that the intention is for the pre-existing IOT Academic Staff Forum to merge with this National Negotiation forum for Technological Universities, following the enactment of the Technological Universities Bill. The precise modalities of how this will occur will be worked out and agreed between the parties at the appropriate juncture.

¹Existing and Future members of academic staff wherever listed in these terms of reference excludes any retired or former academic staff of Technological Universities.



AONTAS MÚINTEOIRÍ ÉIREANN Teachers' Union of Ireland

BALLOT PAPER

Ballot on the Proposed TUI, DES and THEA Agreement, May 2017, on Technological Universities

Do you agree to accept the proposed TUI, DES and THEA Agreement, May 2017, on Technological Universities?

Place "X" in the appropriate box

YES	<input type="checkbox"/>
NO	<input type="checkbox"/>

SAMPLE BALLOT PAPER

DIRECTIONS TO VOTERS

1. Vote by placing "X" in the appropriate box.
2. Place the completed ballot paper in the envelope marked Páipéar Vótála/Voting Paper.
3. Place this envelope in the second, larger white envelope, seal and sign across the flap.
4. **YOUR NAME** and the **NAME OF THE BRANCH** should be clearly written in full in the space provided on the envelope. **FAILURE TO DO SO WILL MEAN YOUR VOTE WILL NOT BE COUNTED.** If you are unsure of the name of your branch, please check with your college/workplace representative or head office. **A list of Branches is on the back of this ballot paper for reference.**
5. The completed ballot envelope to be placed in the brown pre-paid envelope addressed to Deloitte, Deloitte House, Earlsfort Terrace, Dublin 2, to reach that address **no later than 5.00 p.m. on Tuesday 13th June 2017.**
6. Failure to comply with these instructions will render your vote void.