

Document Information

1. Document Details

Title:	State Aid Policy
Author(s):	Finance Manager
Version No:	1.1
Status:	Final

Important Note: If the 'Status' of this document reads 'Draft', it has not been finalised and should not be relied upon.

2. Revision History

Version	Revision Date	Summary of Changes	Changes tracked?
1	Sep 2024	Creation of the State Aid Policy	-

3. Relevant Existing/Related Documents

A schedule of reference is provided at the end of this policy

4. Consultation History

This document has been prepared in consultation with the following bodies:

VP Research & Innovation, Research Office, Innovation & Enterprise Office

5. Approvals

This document requires following approvals (in order where applicable):

Name	Date	Details of Approval Required
Executive	17/09/2024	Review of the Policy
Finance Committee	17/09/2024	Review & Recommendation of the Policy
Governing Body	03/10/2024	Approval of Policy

State Aid Policy

1. Basis for Policy

The purpose of this policy is to ensure that State aid granted to the university by the Irish government complies with European Union (EU) rules regarding the separation of economic and non-economic activities. This is to prevent the distortion of competition and trade within the EU by ensuring that public funds are used appropriately and do not provide unfair advantages to entities engaged in economic activities

2. Definitions

State Aid: Any advantage granted by public authorities through state resources on a selective basis to any organization or business engaged in economic activity.

Economic Activities: Activities that involve offering goods or services on a market, regardless of whether the activity is profit oriented.

Non-Economic Activities: Activities that do not involve offering goods or services on a market, typically those of a public nature such as education, public health, and social welfare services. The provision of educational programmes by the University is considered a non-economic activity under this definition.

3. Policy Objectives

The objective of this policy is to ensure clear delineation between economic and non-economic activities within entities receiving State aid, to prevent cross-subsidization between economic and non-economic activities and to ensure compliance with EU State aid rules, particularly regarding transparency and the avoidance of distortion of competition.

4. Compliance

The University is responsible for ensuring compliance and must provide a declaration of that compliance to funding agencies.

Where the University is in receipt of State aid, the funding agency may conduct regular audits to verify the university's compliance with the separation of economic and non-economic activities. This audit may examine financial records, cost allocation methodologies, and the overall functioning of the university to ensure that State aid is not used to support economic activities.

5. Sanctions and Penalties

If the university is found to have misused State aid by failing to maintain the separation between economic and non-economic activities, the aid may be subject to recovery with interest. The university will also be required to implement corrective measures to prevent future non-compliance. In cases of serious or repeated non-compliance, the university may face fines or legal action. This could include the imposition of sanctions or exclusion from future programs.

6. Periodic Review

This policy will be reviewed periodically to ensure it remains aligned with EU State aid regulations and addresses any emerging challenges or changes in the regulatory environment.

7. Approval and Modification of this Policy

Any modification to the State Aid Policy shall require the approval of the Governing Body.

Separation of Economic & Non-Economic Activities

8. Legal & Functional Separation

The University performs both economic and non-economic activities and therefore must maintain separate legal or functional operations for these activities. This can include separate accounting records, management, to ensure that economic activities do not benefit from State aid intended for non-economic activities. This is achieved in two main ways.

- a. Separate Legal Entity – where the activities take place in a subsidiary or joint venture company with its own board, management and accounting records
- b. Separate Cost Centre – where the activity cannot be managed in a separate legal entity, it is assigned a separate cost centre to isolate the accounting records and it is recorded as an economic activity on the University's financial management system

9. Identification of Economic Activities

The University shall on commencement of a new project, contract or activity, create a new cost centre, where applicable. Part of the setup process shall include the recording of the activity under one of the following categories:

- EU Funded (Non Economic)
- State Funded (Non Economic)
- Private Funded (Non Economic)
- Private Funded (Economic)

10. Schedule of Economic & Non-Economic Activities

The university shall set out in a Schedule to this policy the main funding agencies and programme and determination as to whether they constitute economic or non-economic activities and may include assumptions or references supporting those decisions

11. Cost Allocation

Where the activity takes place in the university clear and transparent methods for allocating costs between economic and non-economic activities should be established. The allocation should be based on objective criteria such as time spent, resources used, and personnel involved in each activity. Cross-subsidization of economic activities by non-economic activities is strictly prohibited.

12. Overheads

The university will on an annual basis, either on its own or in aggregate with similar institutions will calculate an overhead rate to be applied to relevant economic activities to ensure that those activities bear the full economic cost. The methodology used to calculate the overhead rate(s) in addition to the rate(s) applicable for the following year will be included in an Appendix to this Policy

13. Reporting

The university will on an annual basis, based on its draft Financial Statements in December each year provided an analysis of its account into economic and non-economic activities and provide this to the Finance Committee of Governing Body.

This policy was approved by the Governing Body on 3rd October 2024

References

1. European Commission - State Aid Rules

Website: European Commission - Competition: State Aid

Description: This page provides an overview of the EU's state aid rules, which are crucial for understanding how state aid is regulated across member states, including Ireland. It includes guidelines, frameworks, and key documents.

2. Department of Public Expenditure and Reform (Ireland) - State Aid

Website: Irish Department of Public Expenditure and Reform - State Aid

Description: This page from the Irish government provides information on the application of state aid rules in Ireland, including guidance and policy documents relevant to the country's compliance with EU rules.

3. European Commission - Notice on the Notion of State Aid (2016)

Document: Notice on the Notion of State Aid

Description: This document explains the concept of state aid under Article 107(1) TFEU, which is central to understanding how state aid rules are applied in the EU and, by extension, in Ireland.

4. Accounting Separation Guidelines - European Commission

Document: Commission Recommendation on Accounting Separation and Cost Accounting

Description: This recommendation sets out guidelines on the separation of accounts in situations where companies engage in both economic and non-economic activities. It is essential for understanding how economic activities must be separated for transparency in state aid situations.

5. OECD Guidelines on Corporate Governance of State-Owned Enterprises (2015)

Document: OECD Guidelines

Description: These guidelines include principles for the governance of state-owned enterprises, including the importance of maintaining accounting separation between commercial and non-commercial activities to avoid cross-subsidization that could distort competition.

6. Court of Justice of the European Union (CJEU) Case Law

Database: CURIA Case Law

Description: You can use the CURIA database to find relevant cases on state aid and accounting separation. The rulings of the CJEU provide precedents that shape the interpretation and application of state aid rules in Ireland.

7. Irish Government's Guidelines on Accounting Separation

Document: Specific guidelines or directives related to accounting separation in Ireland might be found on sectoral regulators' websites (such as energy, telecommunications, etc.), depending on the industry.

8. EU State Aid Modernisation (SAM) Package

Document: State Aid Modernisation (SAM)

Description: The SAM package outlines reforms to state aid policy, including improved procedures for assessing the separation of activities and the avoidance of undue competition distortion.

9. Knowledge Transfer Ireland

Website: <https://www.knowledgetransferireland.com/Model-Agreements/Practical-Guides/Practical-Guide-to-State-Aid-Considerations-in-Research-Development-and-Innovation-for-RPOs-and-Industry.pdf>

Description: Useful to refer to to support the identification of economic and non-economic activities. The decision trees is very useful.

Appendix A

Overheads

1. Overhead Calculation Methodology

The Methodology for the calculating the overhead rate is to be agreed at a sector level and this Appendix will be updated thereafter.

2. Overhead Rate

The following rate XXXX is to be applied to all economic activities from the period commencing XXXX

Appendix B

Schedule of Economic & Non-Economic Activities

1. Funding Agencies & Programmes

To be populated