



The Scottish Parliament
Pàrlamaid na h-Alba

Education and Culture Committee

2nd Report, 2013 (Session 4)

Stage 1 Report on the Post-16 Education (Scotland) Bill

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The Scottish Parliament
Pàrlamaid na h-Alba

Education and Culture Committee

Remit and membership

Remit:

The remit of the Committee is to consider and report on further and higher education, lifelong learning, schools, pre-school care, skills and other matters falling within the responsibility of the Cabinet Secretary for Education and Lifelong Learning and matters relating to culture and the arts falling within the responsibility of the Cabinet Secretary for Culture and External Affairs.

Membership:

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Colin Beattie
Neil Bibby
Neil Findlay (Deputy Convener)
Stewart Maxwell (Convener)
Joan McAlpine
Liam McArthur
Liz Smith

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Senior Assistant Clerk

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The Scottish Parliament
Pàrlamaid na h-Alba

Education and Culture Committee

2nd Report, 2013 (Session 4)

Stage 1 Report on Post-16 Education (Scotland) Bill

The Committee reports to the Parliament as follows—

INTRODUCTION

1. The Post-16 Education (Scotland) Bill¹ was introduced in the Scottish Parliament on 27 November 2012. It introduces provisions covering six areas, which are discussed in detail below.

The wider context of reform

2. According to the Policy Memorandum published alongside the Bill², the legislation would provide “a technical and administrative underpinning”³ for some aspects of the Scottish Government’s wider programme of post-16 education reform. The Policy Memorandum sets out various benefits that the Scottish Government expects to result from this broader reform, for example, that the revised system will—

- better support jobs and growth;
- improve life chances, especially for young people;
- fundamentally change the provision of skills and other forms of post-16 education by aligning learning to labour market demand;
- contribute to the Scottish Government’s purpose targets on improving economic participation and productivity, and, ultimately, increasing economic growth.

¹ Post-16 Education (Scotland) Bill, as introduced (SP Bill 18, Session 4 (2012)). Available at: http://www.scottish.parliament.uk/S4_Bills/Post-16%20Education%20Bill/b18s4-introd.pdf.

² Post-16 Education (Scotland) Bill. Policy Memorandum (SP Bill 18-PM, Session 4 (2012)). Available at: http://www.scottish.parliament.uk/S4_Bills/Post-16%20Education%20Bill/b18s4-introd-pm.pdf.

³ Policy Memorandum, paragraph 2.

3. Overall, the Policy Memorandum states that the aim of the reforms “is to make post-16 education more responsive to the needs of learners and employers”⁴.

4. While certain aspects of the wider reform agenda have been discussed in the course of evidence-taking, this report does not provide a full assessment of these developments. Rather, it focusses on the overall merit of the provisions contained in the Bill, with reference to the broader reforms where relevant.

The general principles of the Bill

5. At Stage 1 the Committee’s task is to report on the Bill’s general principles and this report discusses the general principles of each provision in some detail. The Committee makes clear from the outset its support for the Bill’s underlying aims and the general direction of policy. The Committee’s support, however, is qualified. As the remainder of this report demonstrates, the Committee has some concerns about aspects of the proposed legislation and requires further information before amendments to the Bill can be considered at Stage 2.

6. Various organisations expressed reservations about the pace of change. The Committee accepts the Scottish Government’s right to make reforms in this area and the need to establish a clear timetable for doing so. However, the Committee also notes the Policy Memorandum’s statement that the reforms “represent an unprecedented level of change to the system and, in particular, to our colleges”⁵. It is therefore critical that the Bill, which underpins many of these fundamental changes, is subject to a detailed level of scrutiny. The Committee hopes that this will allow all interested parties to understand how the proposed changes will work and how they will help to deliver better outcomes for learners.

7. The Committee has taken a considerable amount of evidence at Stage 1 from a wide range of bodies representing all the key interest groups. The input of these organisations has been essential and the Committee thanks all those who participated for ensuring that its Stage 1 scrutiny was conducted in a well-informed manner.

8. Before considering the specific provisions in more detail, the Committee considers that it would be helpful to set out a number of over-arching observations on its Stage 1 scrutiny and the Bill as a whole. These comments provide some context for the more detailed analysis that follows and aim to assist other members’ consideration of the Bill during the Stage 1 debate—

- There is broad and strong support for the general direction of policy, but also a considerable number of concerns and questions about the specific approach being adopted in some cases;
- Several organisations, particularly in the higher education sector, have disputed that legislation is actually needed in certain areas – for example, on governance and access – and have argued instead that existing, non-

⁴ Policy Memorandum, paragraph 4.

⁵ Policy Memorandum, paragraph 5.

statutory measures could achieve the same end. Universities are particularly concerned about the Bill's potential threat to their 'responsibility autonomy', a concept that is discussed in more detail below;

- For each provision in question, the Committee therefore sought to understand why legislation would be preferable to relying on non-statutory measures. In doing so, the Bill can be seen as sending a clear message that on-going efforts to tackling issues such as access must improve.
- Various organisations considered that there is some imprecision in the Bill, or suggested differing interpretations of what the legislation would mean in practice. The report sets out some of these areas and invites the Scottish Government's response in the expectation that this may help to reduce the number of amendments at Stage 2;
- It is the Committee's role at Stage 1 to consider the Bill's Policy Memorandum (PM). Relevant comments on the PM are provided throughout this report. Taken together, the Committee considers that these comments demonstrate that the PM should have provided more detailed and much clearer information on certain provisions;
- While the consultation section of the PM describes the consultation that was undertaken on college regionalisation and college and university governance, it does not mention tuition fees, widening access, data sharing or the review of fundable further and higher education. Notwithstanding the Scottish Government's subsequent correspondence on this matter, the Committee considers that the consultation undertaken on these areas should have been described in the PM;
- It is also the Committee's role at Stage 1 to consider the reports it received from the Finance Committee on the Bill's Financial Memorandum, and from the Subordinate Legislation Committee on the Delegated Powers Memorandum. Specific comments on issues arising from the Finance Committee's report are provided throughout this report. The Cabinet Secretary for Education and Lifelong Learning, Michael Russell, has promised to respond to the substantive issues raised in the Subordinate Legislation Committee's report.
- Finally, the Committee and witnesses consider that the success of many measures in the Bill will only become clearer in the longer term. The Committee intends to monitor these issues over the remainder of this parliamentary session.

9. The rest of this report considers the six main provisions of the Bill in the order that they appear.

HIGHER EDUCATION GOVERNANCE (SECTION 2)

Background

10. According to the Policy Memorandum, the purpose of this provision is “to allow Ministers, when providing funding to the SFC [Scottish Funding Council], to impose conditions relating to the need for higher education institutions to adhere to good practice in governance”⁶. Specifically, the Bill states that institutions are to comply with any principles of governance or management which appear to the Scottish Ministers to constitute good practice.

Why is legislation on governance needed?

11. The Policy Memorandum does not explain what the problems with university governance are that have led the Scottish Government to consider legislating in this area.

12. Professor Ferdinand Von Prondzynski, the principal of Robert Gordon University, recently chaired a review of university governance for the Scottish Government⁷. In providing oral evidence to the Committee last year on his report, he noted that—

“I do not believe that there has been a systemic governance problem in Scottish higher education, nor do I believe that those who have been involved in the governance and management of universities have overwhelmingly been anything other than excellent ... but there are signs of issues that must be examined so that we do not have a significant problem to repair in future, which is always much more difficult.”⁸

13. University chairs who provided oral evidence to the Committee on the Bill, stated that “it is generally accepted that there is no particular problem with governance in Scotland to be solved”⁹.

14. The evidence presented to the Committee, however, suggests that this ‘general acceptance’ does not exist. The NUS and the University and College Union (UCU) Scotland provided examples of what they considered to be problems with university governance, which can be summarised as follows—

- UCU Scotland expressed concern that university courts – the governing bodies – were “rubber-stamping bodies that were not effectively scrutinising decisions that were being made in universities”¹⁰;

⁶ Policy Memorandum, paragraph 17.

⁷ Scottish Government. (2012) *Report of the Review of Higher Education Governance in Scotland chaired by Professor Ferdinand von Prondzynski*, available at: <http://www.scotland.gov.uk/Resource/0038/00386780.pdf> [Accessed 18 March 2013]

⁸ Scottish Parliament Education and Culture Committee, *Official Report*, 13 March 2012, Col 860-861.

⁹ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 2011.

¹⁰ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 1979.

- The NUS added that “the lack of transparency in a lot of what is being exercised is a huge problem.” “Far too often ... autonomy has not been exercised as responsibly as it should have been. For example, more than £4 million is spent each year on university principals’ salaries. That spend is out of control in comparison with the rest of the public sector.”¹¹;
- The NUS went on to highlight a lack of progress in terms of widening access and the diversity of people on university governing bodies.

15. Both trade unions reiterated their support for the von Prondzynski report and cautioned against unpicking its recommendations.

Legislating on governance

16. At the same time as the Committee was scrutinising the Bill at Stage 1, a draft code of governance was being devised for higher education institutions (HEIs). This is discussed in more detail below. While the Bill does not actually specify the particular principles of governance that are to be adopted by HEIs, Scottish Government officials confirmed that this code would effectively become the “principles of governance” that are referred to in the Bill.

17. There was unanimity in evidence that HEIs¹² should adhere to an appropriate code of governance; indeed, there is already a UK-wide code in existence that is followed by all Scottish HEIs¹³. However, those witnesses from the higher education sector who provided evidence to the Committee, representing principals and chairs, voiced strong concerns about this provision.

A threat to responsible autonomy?

18. The higher education sector’s main criticism is that section 2 of the Bill gives Scottish Ministers the power to impose any principles of governance or management which appear to them to constitute good practice i.e. there is no obligation to consult or to establish agreement with HEIs. Notwithstanding the current Scottish Government’s commitment to working with the sector to develop a code of governance, there is a worry that this potentially gives governments future control over universities’ management or governance.

19. Universities made clear to the Committee their concerns that such a situation could potentially jeopardise their “responsible autonomy”¹⁴. The principal of the University of Strathclyde noted that “the Shanghai tables of universities that perform best on the international stage show that those with greater autonomy

¹¹ Scottish Parliament Education and Culture Committee, *Official Report, 19 February 2013*, Col 1979.

¹² The terms ‘HEIs’ and ‘universities’ technically have different meanings but they are used interchangeably in this report for ease of reference.

¹³ Committee of University Chairmen. (2004) *Guide for Members of Higher Education Governing Bodies in the UK: Governance Code of Practice and General Principles*. Available at: <http://www2.bcu.ac.uk/docs/cuc/pubs/CUC-Summary-Guide-HEFCEFinal.pdf> [Accessed 19 March 2013].

¹⁴ Universities Scotland defined this as follows: “universities and other HEIs are responsible for delivering public benefit in return for public investment, but are best able to succeed in this and in their wider missions when they are operating within a framework of clear institutional autonomy.”

perform better”¹⁵. Principals also stated that observers saw the way in which Scottish universities discharge their responsible autonomy “to be one of the key reasons why Scotland’s university system is so disproportionately successful”¹⁶.

20. Universities fully accepted the principle that they should be held accountable for the proper execution of their responsibilities and expenditure, and pointed out that the university sector is already highly scrutinised. Rather than legislating on governance, principals considered that existing mechanisms – such as conditions of grant and outcome agreements with the SFC – already allowed for effective accountability.

21. This view was not shared by the SFC—

“The funding council has a direct interest in there being well-governed institutions because we are distributing £1.6 billion of public money and we need to be sure that it is being used effectively and efficiently. The statutory underpinning makes clearer the obligation of institutions to be well governed and well managed, which contributes to greater accountability for use of that resource. It will ensure that in all the institutions there is real compliance with the obligations that come with public funding.”¹⁷

22. Before considering the Cabinet Secretary’s position it is helpful to provide further background on the von Prondzynski report and the proposed new code of governance.

The von Prondzynski report

23. Professor von Prondzynski’s review was published in January 2012 and considered various areas of governance, for example, the role and composition of governing bodies and academic boards; and the role and appointment of university principals.

24. Recommendation 2.30 called on the Scottish Parliament to “enact a statute for Scotland’s higher education sector setting out the key principles of governance and management ...”¹⁸. Recommendation 7.4 stated that the Scottish Funding Council should commission the drafting of a Code of Good Governance for higher education institutions.¹⁹

25. After the report was published, the Cabinet Secretary told the Parliament that he “accepted virtually all Professor von Prondzynski’s recommendations”²⁰.

The steering group

26. Work on the new code of good governance is being carried out by a steering group set up by university chairs. A group of university chairs who provided oral

¹⁵ Scottish Parliament Education and Culture Committee, *Official Report*, 22 January 2013, Col 1839

¹⁶ Scottish Parliament Education and Culture Committee, *Official Report*, 22 January 2013, Col 1838

¹⁷ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2037.

¹⁸ Report of the Review of Higher Education Governance in Scotland, Page 27.

¹⁹ Report of the Review of Higher Education Governance in Scotland, Page 30.

²⁰ Scottish Parliament, *Official Report*, June 2012, Col 28 10730.

evidence to the Committee explained that “we checked with the funding council ...and it was content with our approach ... we met the cabinet secretary and discussed the membership of the steering group.”²¹

27. The steering group’s remit is to develop a new Scottish code of good higher education governance and it is to operate in an open, transparent and consultative manner.

28. A paper used by the steering group as the basis for its discussions notes that—

“Some of the proposed solutions [in the von Prondzynski Report] have proved controversial ... this paper addresses those aspects of the Report which have generated concern amongst different “stakeholder” groups.”²²

29. The discussion paper sets out several questions on twelve areas of the von Prondzynski report, which may give the impression that a fairly significant proportion of the report is being reconsidered by the steering group.

30. The content of the code is not known as it is not expected to be published until April, after the Stage 1 debate on the Bill. However, university chairs stated that the report “will go much further than the areas that he [von Prondzynski] covered”.²³

31. The Committee discussed with the Cabinet Secretary the issue of principals’ salaries, which was addressed in the von Prondzynski report. The Cabinet Secretary noted professor von Prondzynski’s view that there should not be continuing increases in salaries and that the bonus culture should be abolished. Mr Russell went on to say he was sure that some of these issues would be in the code currently being drafted.

32. The von Prondzynski report also recommended that each university governing body should be required to ensure that at least 40 per cent of its membership be female. The Cabinet Secretary said—

“I think that there is now considerable room for improvement on the matter. I will consider whether an amendment should be lodged at stage 2 to take that a step further. I know that the suggestion is that there should be a proportion or percentage of women, and I will actively consider that.”²⁴

33. The Committee would welcome clarification from the Cabinet Secretary on whether this issue is likely to be addressed in the code or in the Bill itself.

²¹ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 2012.

²² Committee of Scottish Chairs. (2012) *Consultation on the development of a new Scottish Code of Good HE Governance—Issues Paper*, available at : <http://www.scottishuniversitygovernance.ac.uk/wp-content/uploads/2012/11/Governance-issues-paper-finalvb-3.pdf> [Accessed 18 March 2013]

²³ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 2015.

²⁴ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2088.

Consultation and representation

34. The Committee has reservations – some of them shared by the Cabinet Secretary – about the means by which the chairs and the steering group undertook their work. In particular, the Committee was concerned to hear that no staff or students were represented on the steering group. UCU Scotland questioned how open and representative the review process had been, claiming that it had to make a “significant fuss”²⁵ before it could get any details about the steering group.

35. In oral evidence the university chairs confirmed that they had considered staff, trade union and student representation on the steering group “but the difficulty was with finding one or two representatives who would cover the complete range”. While they highlighted the difficulty of finding someone who could represent these groups, the chairs also said that “no one on the steering group is a representative. They are there as individuals.”²⁶

36. The chairs stressed that they were not running the steering group, which has three chairs on it, stating that it is “independent from us”; that the chairs “merely set it up”; and that “the steering group is not there to impose its views on what the code looks like at the end; it is there to make the thing happen. We believe that the real purpose is to consult fully in every institution.”²⁷ The Committee notes these statements but also highlights that the steering group’s remit is to “develop a new Scottish code of good higher education governance”²⁸, which suggests its role is more active than these quotations may suggest.

37. The Committee also notes with surprise the chairs’ comments that “when we produced the terms of reference [for the steering group], we had no idea that a bill covering governance would be running in parallel with the steering group.”²⁹ If this is the case, it raises questions about the effectiveness of communication between the chairs and the Scottish Government.

A voluntary code?

38. There was some confusion in evidence as to whether the new code will be voluntary or not. The SFC initially stated “as things stand, it will be a voluntary code that the autonomous institutions will sign up to”³⁰, then added—

“... we require good governance in the funding council as a condition of our grant, through our financial memorandum. There is an existing code in place

²⁵ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 1981.

²⁶ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 2017.

²⁷ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 2016 - 2017.

²⁸ Committee of Scottish Chairs. (2012) *Proposed Code of Practise for Higher Education Governance*, Section 4.1, Available at: <http://www.scottishuniversitygovernance.ac.uk/wp-content/uploads/2012/12/Terms-of-ReferenceWithLogo-final.pdf> [Accessed 18 March 2013]

²⁹ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 2012.

³⁰ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2042.

and, when there is a new code, we would, to all intents and purposes, require that all institutions are signed up to it. It is not voluntary; in other words, it is not a case of “I don’t think I’ll sign up to this code. I’ll go and do something else.” Once the code is in place, we will expect all institutions that we fund to abide by the terms of the code. If they do not, we will require them to explain why.”³¹

39. It is worth noting at this point, in light of the SFC’s comments above about compliance, that sanctions may be applied to higher education institutions if they fail to comply with the principles of good governance that are established. Scottish Government officials said “such matters would be part of an holistic assessment of the institution’s performance by the Scottish funding council”³² and later clarified that, in some circumstances, this could lead to an institution having its money reduced.

40. The Cabinet Secretary said the code would not be voluntary.

Further scrutiny of the code

41. Ideally, the new code of governance would have been available in advance of the Bill, which would have allowed for scrutiny of its contents by the Committee. **The Committee would welcome a detailed explanation of the process by which the code will be signed off.**

42. Given the fundamental importance of this provision, the Committee intends to take further evidence on the published code before considering any amendments at Stage 2.

43. In response to members’ questions about having to scrutinise this provision when the draft code was not available, the Cabinet Secretary said—

“The bill does not refer to the code. There is an existing code. The provision emphasises the need for good governance, which can involve the existing code or be improved by the better code. That code will come to and be discussed with the Committee, which will take evidence on it. Given that, I do not see the problem, to be frank.”³³

44. Irrespective of the content of the final code, the key issue is whether there is merit in the Scottish Government legislating on governance, particularly where the provision in question does not refer to HEIs themselves having any input. This issue may not be resolved even if the code currently being drafted by the steering group is agreed; the question of how any future code of governance would be agreed would still remain. Despite its misgivings, Universities Scotland has clearly signalled its willingness to compromise on this issue, and has proposed various amendments to the Bill to seek its desired changes. **The Committee invites the**

³¹ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2044.

³² Scottish Parliament Education and Culture Committee, *Official Report*, 15 January 2013, Col 1748.

³³ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2061.

Cabinet Secretary to state whether section 2 should be amended at Stage 2, in light of Universities Scotland's comments.

Management in HEIs

45. There is another important issue on which the Committee would welcome further information from the Scottish Government before Stage 2. The Bill states that HE institutions are to comply with any relevant principles of good governance and *management*. Principals were concerned about this wording, pointing out that “management is about delivery of a pre-approved strategy” and that “management is really inside the machinery of the institution”.³⁴ In short, they felt that management is not an issue over which political control should be exercised.

46. In oral evidence, Scottish Government officials said that the Scottish Government's interest is “absolutely in governance” ... “however, that flips into some strategic management issues, such as when the secretary of a chair of court has management responsibilities”.³⁵ Officials confirmed that they had discussed the precise wording of this provision with sector representatives and would consider suggestions made at Stage 2. **The Committee asks the Scottish Government to clarify how the legislation and new code will avoid straying into inappropriate areas of university management.**

Conclusion

47. The Committee has set out in some detail the evidence taken on this provision and has indicated that it will take further evidence before considering amendments at Stage 2. There is unanimous agreement that HEIs should continue to adhere to an appropriate code of governance and the Committee has invited the Cabinet Secretary to explain how universities' concerns about this being on a statutory basis can be addressed.

WIDENING ACCESS (SECTION 3)

48. According to the Policy Memorandum, the purpose of this provision is “to allow Ministers, when providing funding to the SFC, to impose conditions relating to access to higher education institutions for under-represented socio-economic groups”³⁶. Through this provision, the Scottish Ministers may impose a condition that higher education institutions are to comply with a widening access agreement.

49. Section 3(3) of the Bill states that a widening access agreement is “an agreement under which a higher education institution is to take actions for the purposes of enabling, encouraging or increasing participation in fundable higher education ... by persons belonging to socio-economic groups which are under-represented in fundable higher education”³⁷.

³⁴ Scottish Parliament Education and Culture Committee, *Official Report*, 22 January 2013, Col 1840.

³⁵ Scottish Parliament Education and Culture Committee, *Official Report*, 15 January 2013, Col 1747.

³⁶ Policy Memorandum, paragraph 17.

³⁷ Post-16 Education (Scotland) Bill, Section 3 (3).

50. In general, witnesses strongly supported the principle of this provision. However, there was some disagreement as to whether there is sufficient evidence to allow the Committee to come to a decision on this provision, and whether legislation is required to achieve the Scottish Government's aims.

What is meant by widening access?

51. "Widening access" is the term used to refer to activity involved in increasing the number of higher education entrants from disadvantaged or under-represented groups.³⁸

52. The Policy Memorandum contains examples of existing efforts to widen access, including schools promoting aspiration, summer schools, articulation agreements with partner colleges and targeted academic support for those who come from a background with a lesser academic tradition. However, the Policy Memorandum provides very little information on the current and historic levels of university attendance by under-represented groups. Neither does it indicate which initiatives have had more or less success in increasing representation from these groups. Such information would have provided the Committee with a greater understanding of the progress that, in the Scottish Government's view, requires to be made.

53. In discussing widening access, the policy memorandum does not make reference to "contextualised admissions". Contextualised admissions is a process that involves selecting students based not only on the qualifications they achieved, but also on factors such as their experience and socio-economic background.³⁹ According to Universities Scotland, all higher education institutions in Scotland are already using contextualised admissions or are planning to when processing applications for places for 2013/14.⁴⁰

54. On this subject, the Cabinet Secretary, when giving evidence to the Committee, noted that "decisions on whom to admit to university are a matter for the universities"—

"However, widening the context by ensuring, for example, that the concept of rich attainment, which exists in other parts of education, is understood will be something very positive."⁴¹

55. UCU Scotland, in its written evidence, raised concerns that the increased focus on contextualised admissions brings with it particular risks and said that

³⁸ Scottish Parliament Information Centre. (2010) *Barriers to Widening Access to Higher Education*. (SPICe Briefing 10/07). Available at:

http://www.scottish.parliament.uk/Research%20briefings%20and%20fact%20sheets/SB_10-07.pdf [accessed 18 March 2013]

³⁹ Scottish Parliament Information Centre. (2011) *Widening Access to Higher Education: Admissions*. (SPICe Briefing 11/07). Available at: http://www.scottish.parliament.uk/ResearchBriefingsAndFactsheets/S3/SB_11-07.pdf [accessed 18 March 2013]

⁴⁰ Universities Scotland. (2012) *Delivering for Scotland: university outcome agreements 2012/13*. Available at: <http://www.universities-scotland.ac.uk/uploads/OutcomeAgreementsSummary-final.pdf> [accessed 18 March 2013]

⁴¹ Scottish Parliament Education and Culture Committee, *Official Report, 26 February 2013*, Col 2064.

“there may be a need for a statutory duty to protect institutions and in particular admissions staff from libellous claims”⁴². **The Committee would welcome clarification from the Cabinet Secretary as to how this risk will be mitigated to protect institutions and staff from legal action in the operation of a contextualised admissions system.**

Who benefits from widening access?

56. The Bill refers to widening access by ‘under-represented socio-economic groups’, while the Policy Memorandum highlights that 11 per cent of students attending university in 2010/11 came from the 20 per cent most deprived areas. According to Scottish Government officials, “in the widening access agreements that have been developed voluntarily between the institutions and the funding council, the focus has been on the lowest 20 per cent and the lowest 40 per cent in the index of multiple deprivation”^{43 44}.

57. In oral evidence, the principal of the University of Edinburgh said that the SIMD 20 “is an imperfect measure because it is a postcode measure”. He went on to highlight other measures available, including whether residual family income is low; whether anyone from the family has attended university; and whether the student is at a low-achieving—in terms of university success—school.⁴⁵

58. The Scottish Children’s Services Coalition welcomed the widening access provisions in the Bill but recommended that socio-economic groups be defined and that they should “specifically include children and young people with complex needs, including learning difficulties”⁴⁶.

59. A number of the written submissions similarly highlighted the need to extend the focus of widening access activity, specifically to take account of the support needs of young people leaving care, those with complex needs and disabled young people. The Centre for Excellence for Looked After Children in Scotland stated—

“We strongly endorse the stated commitment to widening access to further and higher education for young people who may experience disadvantage. Young people in care, and care-leavers, are an under-represented group. Opportunities to continue education with practical, emotional and financial support which is well planned and easily accessible are paramount.”⁴⁷

60. In light of the comments above, **the Committee invites the Cabinet Secretary to state whether—**

⁴² University College Union Scotland. Written submission, paragraph 9.

⁴³ Scottish Parliament Education and Culture Committee, *Official Report*, 15 January 2013, Col 1751.

⁴⁴ This is commonly referred to as SIMD 20 or 40, from the Scottish Index of Multiple Deprivation.

⁴⁵ Scottish Parliament Education and Culture Committee, *Official Report*, 22 January 2013, Col 1843.

⁴⁶ Scottish Children’s Services Coalition. Written submission, Paragraph 6.

⁴⁷ Centre for Excellence for Looked After Children in Scotland. Written submission, paragraph 8.

- there is a need to establish a shared understanding across universities of exactly who would be considered to be part of an under-represented socio-economic group;
- there is merit in widening access to include groups who are under-represented other than as a result of their socio-economic status.

Has progress on access been satisfactory?

61. In oral evidence to the Committee, university principals and Universities Scotland provided evidence to demonstrate that progress had been made on access. For example, Universities Scotland noted—

“Over the past six years, there has been a 17 per cent increase in university students coming from the most deprived areas. Similarly, there has been a 26 per cent increase over that period in the number of people articulating from college to university and an improvement of nearly 38 per cent in those articulating with advanced standing. Progress is being made across the board.”⁴⁸

62. Principals strongly rejected a suggestion from the Committee that they had ‘failed miserably’ to effect an appropriate improvement. The principal of the University of Stirling pointed out—

“all of Scotland’s universities are making enormous efforts to ensure not only that we admit students but that they have a successful experience and exit university with a qualification.”⁴⁹

63. Principals also mentioned some of the inherent challenges in attracting disadvantaged students to university, pointing out, for example, that—

“Those are not easy wins. We need to recognise that, particularly in Glasgow, we are talking about schools in which 4 per cent of leavers enter higher education—that is a very low rate. All our work is about trying to work with partners in education and further education to increase the figure by increasing aspirations and the bridging activities that allow us to get people with higher aspirations into higher education, whatever that higher education might be.”⁵⁰

64. Other witnesses, particularly trade union and student representatives, were of the view that the rate of improvement had been far too slow. The EIS suggested that universities’ efforts to improve access may not always have been made at their own volition—

“There is a question about how far universities would have moved if they had thought that legislation would never be a possibility ... Unfortunately,

⁴⁸ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 1986.

⁴⁹ Scottish Parliament Education and Culture Committee, *Official Report*, 22 January 2013, Col 1845.

⁵⁰ Scottish Parliament Education and Culture Committee, *Official Report*, 22 January 2013, Col 1844.

however, if universities were left to themselves, the means of delivering wider access would not be applied consistently.”⁵¹

65. Scottish Government officials noted that there had only been “something like a 1 per cent improvement over the past nine years”⁵², while NUS claimed that “a year ago, it would have taken 40 years [to get fairer access] if things had carried on at the current rate”⁵³.

66. Access is another area on which principals, and other university representatives, considered legislation to be unnecessary, suggesting it may compromise universities’ responsible autonomy. The principal of the University of Stirling stated that—

“Admissions is a particularly complex area and it is exactly the sort of thing that we see the institutions having responsible autonomy and control over, rather than having something done to us.”⁵⁴

67. Principals pointed out that existing procedures, for example, SFC conditions of grant and outcome agreements, already provided a sufficient means through which accountability could be exercised and that legislation was an unnecessary step.

68. The SFC disagreed, succinctly setting out the benefits of legislating in this area—

“We can negotiate better results in widening access through our outcome agreement negotiations if there is an appropriate section in the bill than we can if there is not.”⁵⁵

How will access be improved?

69. The Policy Memorandum does not explain how the Bill would actually improve access, for example, whether the legislation is likely to result in universities undertaking measures that they had not previously been able to undertake. Neither does the Policy Memorandum state the rate of improvement being sought by the Scottish Government.

70. In oral evidence the Cabinet Secretary went into this area in some depth, making clear his expectation that universities should make significant and lasting improvements—

“The aim is at least to meet the percentage population share—perhaps 20 per cent—that would come from the lower socioeconomic communities.

⁵¹ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 1985-1986.

⁵² Scottish Parliament Education and Culture Committee, *Official Report*, 15 January 2013, Col 1753.

⁵³ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 1988.

⁵⁴ Scottish Parliament Education and Culture Committee, *Official Report*, 22 January 2013, Col 1854.

⁵⁵ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2049.

Actually, I would go further than that because ... I have campaigned for this for a long time and I believe that such a change is long overdue. Therefore, I do not think that there should be any limit to that. I think that we should be inspiring young people and older people to aim as high as they can.”⁵⁶

71. When pressed on what this aspiration would actually mean in practical terms for universities, the Cabinet Secretary said the Bill—

“makes it clear that the agreements [on access] will be with individual institutions, which will have different targets and methods. That it how it should be. There would something wrong if we were trying to do this in a one-size-fits-all way.”⁵⁷

72. Mr Russell said he did not expect there to be an overall target set—

“I am saying that there is a target that we should all have in our minds, but ... there will be individual agreements with each university.”⁵⁸

73. In discussing with Scottish Government officials the consequences of failure to meet any agreed targets, the Committee noted that fining a university would result in the institution having less money to support widening access measures.

74. Scottish Government officials downplayed the risk of financial penalties, confirming that they would not expect to see “significant failures against the widening access agreements”—

“although ministers will specify the existence of such agreements and the general form that they should take, each widening access agreement will be developed between the institution and the funding council. The institution should clearly express its intent on both the targets that it intends to reach and the actions and behaviours that it will demonstrate in achieving them, so there should be clarity on how the widening access targets will be reached as well as what the targets are.”⁵⁹

75. Officials then specified the exact process by which agreements would be signed off by institutions—

“There will be a team at the individual institution who have responsibility for the outcome and widening access agreements and who will draft the agreement. The writing of the agreement is undertaken by the institutions and signed off by the university court.”⁶⁰

⁵⁶ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2066.

⁵⁷ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2067.

⁵⁸ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2067.

⁵⁹ Scottish Parliament Education and Culture Committee, *Official Report*, 15 January 2013, Col 1756.

⁶⁰ Scottish Parliament Education and Culture Committee, *Official Report*, 15 January 2013, Col 1757.

76. The Committee shares the Cabinet Secretary's aspiration to widen access. However, given that officials have indicated that financial sanctions are unlikely, it **would welcome further detail on what the consequences would be for any university that failed to fulfil a widening access agreement that it agreed with the SFC.**

77. Further, given the Cabinet Secretary's statements on widening access targets, which go beyond the content of the Policy Memorandum, **the Committee would welcome his response to the risk that some universities could adopt relatively weak widening access targets.** While the Committee is strongly of the view that no university should adopt weak targets, the Scottish Government has acknowledged universities' on-going right to maintain autonomy in determining admissions.

Funding and displacement

78. The Policy Memorandum states that "improving participation amongst the most disadvantaged is not about displacing more able students"⁶¹ and the Financial Memorandum⁶² states that "There would be no new or additional budget required [for the Scottish Government] for widening access activity as a result of the Bill"⁶³.

79. Entry to university is commonly based on competition for limited places, with this traditionally decided on the basis of candidates' examination results. Universities retain autonomy in deciding what the entrance criteria are for any particular course. If the Bill is to increase access to university by members of particular socio-economic groups – which necessitates their being able to access publicly-funded university places – the Committee questioned whether that could risk displacing other students with the requisite grades. Members also sought to understand how on-going measures to widen access are to be funded given the statement in the Financial Memorandum.

80. The principal of the University of Edinburgh spelled out potential risks of seeking to improve access without appropriate funding—

"The fact is that universities have a limited number of places and that working hard on one constituency will change the balance. The mediating factor is that this coming year the Scottish Government is providing an additional 1,700 places, which will be focused on widening participation and will therefore not result in displacement. Inevitably, however, something will happen if you have a limited resource and change the mix."⁶⁴

81. In oral evidence, Scottish Government officials said—

⁶¹ Policy Memorandum, paragraph 24.

⁶² Post-16 Education (Scotland) Bill. Explanatory Notes (and other accompanying documents) (SP Bill 18–EN, Session 4 (2012)). Available at: http://www.scottish.parliament.uk/S4_Bills/Post-16%20Education%20Bill/b18s4-introd-en.pdf

⁶³ Financial Memorandum, paragraph 131.

⁶⁴ Scottish Parliament Education and Culture Committee, *Official Report*, 22 January 2013, Col 1851.

“We are absolutely clear that the approach is not about displacing students of higher ability. Instead, we are trying to create a level playing field to ensure that students’ ability can be fully recognised. We are not seeking simply to adjust individual institutions’ entrance qualifications; this is a much more complex and sophisticated full-system approach.”⁶⁵

82. While there are no funds for widening access directly arising from the Bill, the Cabinet Secretary stressed that funding of around £10 million had been made available for the 1,700 additional university places noted above. This will result in 1,000 extra places for articulation and 700 for widening access.

83. The Committee acknowledged that there are sufficient places provided through the current spending review to ensure that the risk of displacement does not arise over this period. However, given the Cabinet Secretary’s longer term vision of continually expanding access, the Committee sought to understand how the risk of displacement would be avoided in the future.

84. In response the Cabinet Secretary said that “the provision will continue to be funded in a way that meets our policy objectives, and I accept the point that we should want to continue with at least the same number of places and that we should, presumably, want to increase them”⁶⁶. He would not, however, be drawn on the precise figures involved as there will be a further spending review later this year. The Committee welcomes the Cabinet Secretary’s recent commitment to financial support for widening access and articulation.

85. The SFC has confirmed that the focus of widening access activity is on Scottish-domiciled students attending Scottish universities. UCU Scotland noted in its written submission a specific concern about this limitation as this does not offer opportunities for under-represented groups from other parts of the UK to take up initiatives aimed at encouraging participation in a university in Scotland.

Retention

86. Those who provided evidence in this area were clear that access is only one step in the process and that it is crucial that those entering higher education stay and complete their studies.

87. This is a view that is shared by the SFC and the Scottish Government. Officials pointed out that, at current figures, £20 million of the £28-£29 million that the SFC spends annually on widening access, goes directly to retention activities. **The Committee welcomes this investment and seeks confirmation that this priority will continue as a core part of widening access activity in future years. The Committee also seeks further information on how widening access funding is allocated to individual institutions, including any guidance directing institutions toward access or retention focused activity.**

⁶⁵ Scottish Parliament Education and Culture Committee, *Official Report*, 22 January 2013, Col 1752.

⁶⁶ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2085.

88. The Students' Association of the University of the West of Scotland claimed that the university's record on access is good, but retention levels are poor. However, it refuted that widening access should mean high drop-out rates—

“Glasgow Caledonian University is a good example of an institution that widens access but has a good record on retention. If all universities are to widen access, everyone acknowledges that the right level of support must be provided, to ensure that students are retained.”⁶⁷

89. According to the NUS, frequent reporting – for example, annual reviews of widening access progress – is crucial to underpin access activity. The Committee agrees and notes that its recent report on the 2013-14 draft budget called for the SFC to provide an annual update on the extent to which it has delivered the priorities set out in ministerial guidance. **The Committee requests that these updates be extended to cover the progress that is being made on access and retention.**

Outcome agreements

90. This section has discussed the widening access agreements that would be introduced by the Bill. There is an existing process whereby each higher education institution agrees an outcome agreement (which is non-statutory) with the SFC. As noted above, these have included institutions' efforts to widen access. Scottish Government officials confirmed that, in future, widening access agreements would be published alongside outcome agreements.

91. The Committee, in reflecting on the outcome agreements that were published for 2012-13, notes the concerns raised during Stage 1 about the lack of student and trade union participation in this process. For example, the representatives of university students' associations said that “the process for developing outcome agreements did not adequately involve students and has led to outcome agreements with little to no student input”⁶⁸. UCU Scotland added that there was little consultation with trade unions on the development of the 2012-13 outcome agreements “because outcome agreements have been rushed in”⁶⁹.

92. The Committee would welcome reassurances from the Cabinet Secretary that future planning of outcome agreements and widening access agreements will involve comprehensive consultation with both students and trade unions.

Conclusion

93. Members welcome the commitment to widening access that is being pursued through the outcome agreements introduced in 2012-13. The Committee is supportive of the principle of widening access, while seeking further clarification on the specific points noted above.

⁶⁷ Scottish Parliament Education and Culture Committee, *Official Report*, 22 January 2013, Col 1867.

⁶⁸ Scottish Parliament Education and Culture Committee, *Official Report*, 22 January 2013, Col 1869-1870

⁶⁹ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 1986.

TUITION FEES CAP (SECTION 4)

Background

94. According to the Policy Memorandum, the purpose of this provision is to allow Ministers—

- “to set an upper limit on the level of higher education tuition fees which post-16 education bodies can charge UK students and certain others who are not entitled to be charged tuition fees at the level set by the Scottish Government; and
- when providing funding to the SFC, to impose conditions with a view to ensuring that post-16 education bodies adhere to such an upper limit.”⁷⁰

95. Paragraphs 27-31 of the Policy Memorandum explain the wider background to this provision clearly and succinctly. Paragraph 30 explains the practical consequences of the Scottish Government’s approach—

“[Scottish] Institutions would not be able to charge students from the rest of the UK fees at a higher level than the highest annual amount which they would pay elsewhere in the UK. Linking the tuition fees cap to the maximum fee level in the rest of the UK would ensure that those students eligible for student support from other funding bodies in the UK could access the full amount of tuition fee support required for their course. It is hoped that this would reduce the likelihood of students deciding not to come to Scotland on financial grounds.”⁷¹

The cost of a Scottish degree for RUK students

96. The main issue that arose at Stage 1 is that Scottish degree courses are generally longer than in England, meaning that rest-of-UK (RUK) students studying in Scotland may have to pay more overall for their degree.

97. In evidence, the NUS restated its opposition to tuition fees and said, in relation to RUK students, that—

“... due to the four year degree structure of Scotland, we now have potentially the most expensive higher education system of all the UK countries; up to £36,000 as opposed to £27,000 elsewhere for a standard honours degree”.⁷²

98. UCU Scotland pointed out that prior to 2012 there was an agreed fee level for RUK students coming to study in Scotland, which went into a central pot and was then redistributed to all universities in Scotland. However, RUK students are not now included in the number of students that Scottish universities can recruit. UCU Scotland considered that—

⁷⁰ Policy Memorandum, paragraph 17.

⁷¹ Policy Memorandum, paragraph 30.

⁷² NUS Scotland. Written submission, paragraph 8

“this is why we see universities such as the University of St Andrews and the University of Edinburgh, which are obviously keen to attract students from the rest of the UK, getting as many as they wish at £36,000 a head [i.e. a four year degree for which fees cost £9,000 a year].”⁷³

99. Universities Scotland disputed some of the evidence provided by the trade unions about the costs for RUK students in Scotland—

“By our calculations, the average Scottish fee is about £6,900, which is spectacularly below the average English fee ... It is already being shown that means-tested bursaries here are well ahead of those that are being provided in the rest of the UK. The idea that there is some sort of profiteering going on here is bizarre.”⁷⁴

100. Universities Scotland also stated, in relation to the NUS’ evidence about the length of a Scottish degree, that about 30 per cent of degrees in England take four years or more.

Alternative approaches

101. UCU Scotland proposed an alternative approach to capping fees, calling for a flat fee that would be the same for every RUK student wherever they studied in Scotland.

102. The NUS expressed concern about the nature of the higher education market that has been created in Scotland and called for control—

“... We have seen the creation of a market, and a market needs regulation; that means lowering the fee cap and having more rules for and conditions on the amount of bursaries that are provided.”⁷⁵

103. Its written submission argued that Scotland did not offer the protections that were available in England, including the statutory role provided for the Office for Fair Access^{76, 77}.

The Scottish Government’s position

104. The Committee asked Scottish Government officials whether, in setting an upper limit on tuition fees, Scottish Ministers intended to take into account matters such as (a) any wider support packages established by an HEI for the students in question and (b) the longer duration of some Scottish degree courses.

105. Officials stated that—

⁷³ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 1993.

⁷⁴ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 1992.

⁷⁵ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 1991.

⁷⁶ According to its website “The Office for Fair Access (OFFA) is an independent public body that helps safeguard and promote fair access to higher education.”

⁷⁷ NUS Scotland. Written submission, paragraph 9.

- it will be for the individual universities to set their own tuition fees for students from the RUK at a level which the universities consider will enable them to continue to attract RUK students;
- individual universities will utilise a proportion of the tuition fees received to provide bursary and support packages to help those RUK students most in need of financial assistance.⁷⁸

106. In oral evidence, the Cabinet Secretary added—

“quite often students from south of the border can go directly into second year in a Scottish degree, if they have a particular range of qualifications already. In addition, some universities discount and charge for only three years.”⁷⁹

107. The Cabinet Secretary did not share the NUS’s view on the possible merit of a Scottish equivalent to the Office for Fair Access—

“We should remember that the Office for Fair Access south of the border really exists as a financially redistributive mechanism for a system that I think is wrong. It essentially exists to try to undo some of the unjustness of the policy that is being operated south of the border.

In Scotland, the universities have been and are being sensitive to the issue. Their bursary provision for students from the rest of the UK has increased substantially and I see no reason to interfere in that, because the universities are very conscious of the issue. They have also publicly criticised the situation south of the border.”⁸⁰

Conclusion

108. This section of the Bill effectively puts an existing voluntary agreement on a legislative basis. The Committee supports the general principles of the Scottish Government’s approach to the fees cap and will continue to monitor the impact of tuition fees on Scottish higher education throughout this session.

COLLEGE REGIONALISATION (SECTIONS 5-13)

Background

109. According to the Policy Memorandum, the purpose of this provision is to—

- “provide for two types of incorporated colleges with different duties, composition and appointment provisions, depending on whether they are in single-college or multi-college regions;

⁷⁸ Scottish Government. Supplementary written submission following oral evidence 15 January 2013, paragraph 2.

⁷⁹ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2070

⁸⁰ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2070-2071

- establish new regional strategic bodies for colleges in multi-college regions to support a regional approach to the planning and funding of college provision; and
- introduce Ministerial powers to remove chairs and other members of incorporated colleges and regional boards for reasons of failure (in addition to mismanagement).⁸¹

110. Primary legislation is not required to deliver the programme of college mergers that is underway across Scotland.

111. College reorganisation is clearly the most substantial part of the Bill and an area on which the Committee took an enormous amount of evidence. This report does not seek to cover in depth all of the issues raised. Rather, this section aims to inform the debate by—

- summarising the main changes being proposed by the Bill;
- summarising witnesses' views on these changes;
- setting out a number of areas where further clarification is needed from the Scottish Government. The Committee hopes that the Scottish Government's response to these points will set the scene for the detailed consideration of the Bill at Stage 2 and perhaps reduce the number of amendments that may otherwise have been lodged.

Structural changes proposed

112. If the Bill is enacted, the following structures would be in place—

- A regional strategic body would be established for the University of the Highlands and Islands (UHI);
- Regional strategic bodies (known as 'regional boards') would also be established for both the Glasgow and Lanarkshire regions;
- Individual colleges within these regions would be known as 'assigned colleges';
- Other colleges would be the single college in a particular region and would be known as 'regional colleges'.

113. When the Bill was published, it was envisaged that there would also be a regional board for Aberdeen and Aberdeenshire. However, colleges in that area now intend to merge. The Scottish Government has stated that it wishes to see single colleges in all areas – while stressing that mergers are a voluntary matter for colleges – and the Bill provides for that eventuality.⁸²

⁸¹ Policy Memorandum, paragraph 17.

⁸² Post-16 Education (Scotland) Bill, section 13.

114. The Scottish Government has published a helpful document that sets out the proposed new college structures and the proposed changes to boards.⁸³

The case for change in college governance

115. Earlier in this report the Committee criticised the Policy Memorandum for failing to set out the case for the proposed reforms of university governance. The same criticism can be levelled about college governance in that there is very little information provided about why changes require to be made.

116. A review of college governance was undertaken by professor Russel Griggs before the Bill was introduced⁸⁴, in which some of the problems with existing college governance were discussed. A brief recap of some of these issues in the PM would have provided the necessary context.

117. In oral evidence, trade unions set out what they considered to be some of the failings of the current governance arrangements—

- The EIS said that “the perception was that boards were self-appointing ... they were structurally susceptible to the perception of cronyism in that board members were self-perpetuating and had very close relationships with principals. It was also felt that colleges were not run in an open and transparent way and, because they were not accountable directly to any other body—or, at least, it was very difficult to hold them to account—there was a range of governance standards and, one might say, effectiveness in Scotland’s colleges.”⁸⁵
- The NUS emphasised that “student associations in colleges have not had the involvement in decision making that they should have had. The bill provides an opportunity to increase oversight and accountability, with student associations and representatives overseeing the decisions that are being made by college boards.”⁸⁶

118. As part of its consideration of college governance, the Committee also discussed the issue of reserves. Professor Griggs’ report said that some colleges had built up significant reserves while others had not, and noted that—

“In many cases this has been unrelated to the standard of management at the College but more to do with the employment and geographical environment within which the college operates.”⁸⁷

⁸³ Scottish Government. (2013) *Overview of College Regionalisation Plans*. Available at: <http://www.scotland.gov.uk/Resource/0041/00412263.pdf> [Accessed 18 March 2013]

⁸⁴ Scottish Government. (2012) *Report of the Review of Further Education Governance in Scotland* conducted by Professor Russel Griggs OBE. Available at: <http://www.scotland.gov.uk/Resource/0038/00387255.pdf> [Accessed 18 March 2013]

⁸⁵ Scottish Parliament Education and Culture Committee, *Official Report, 19 February 2013*, Col 1975.

⁸⁶ Scottish Parliament Education and Culture Committee, *Official Report, 19 February 2013*, Col 1980

⁸⁷ Report of the Review of Further Education Governance in Scotland. Section D, Inequalities.

119. In providing oral evidence on the Bill, the principal of Edinburgh College said—

“I find the term “reserves” interesting. I know that Colleges Scotland is trying to unpick some of this issue to give us a clearer picture of what is liquid, cash or real working capital versus what are reserves in a broader sense. My honest answer is that the situation feels tight to me. I would rather have 90 to 100 days’ worth of cash or working capital than 50 to 60.”⁸⁸

120. The Cabinet Secretary acknowledged concerns that “sometimes colleges have established reserves out of public funding” and said he wanted to ensure “that that money is ploughed back into the system”.⁸⁹

121. The Committee notes that the Griggs report’s recommendations on college reserves are still under consideration by the Cabinet Secretary. **The Committee considers that it would be useful if the Cabinet Secretary could provide a response to these recommendations before Stage 2.**

The key issues

122. Overall, the evidence provided to the Committee indicates support from the further education sector for the broad aims of the Bill and the wider reform process. For example, Colleges Scotland’s written evidence noted that “colleges have been supportive of the move to regionalisation”⁹⁰. The STUC welcomed the Bill’s aim of improving transparency in further education governance, while the chair of Edinburgh College considered that the process offers—

“ ... the ability to bring together the quantum of the facilities available in colleges that were previously competing with each other and to ensure not only that communities get the provision that they need close to the point of delivery but, more important, that we have an opportunity to provide centres of excellence and good training for employers and the community across the region as a whole.”⁹¹

123. However, several witnesses put forward considerable criticisms of the Bill and the wider process at Stage 1. These broad criticisms are set out below. The report then considers some of the more specific themes that were discussed in evidence.

Broad criticisms

124. The Committee held a dedicated evidence session with four college principals in which they expressed some of their concerns with the Bill. In general, the principals discussed a possible erosion of accountability and autonomy, particularly for assigned colleges. In common with the arguments made by

⁸⁸ Scottish Parliament Education and Culture Committee, *Official Report*, 5 February 2013, Col 1937.

⁸⁹ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2077.

⁹⁰ Colleges Scotland. Written submission, paragraph 2.

⁹¹ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 2028

university principals, they also questioned whether all of the proposed changes required to be in the Bill, and stated that the Bill could be improved to provide greater clarity. On a broader issue, they noted that the advantages of regionalisation could be undermined by the complexity of different sources of funding.

125. In oral evidence, Unison was one of the strongest critics of the Bill and the wider reforms. Although it noted that “there will be some benefits in a regional approach”, Unison argued that “the whole thrust of regionalisation is not really about taking a regional approach. Rather, it is about delivering budget cuts”. Unison went on to argue that colleges are being “forced” into mergers “because they are afraid that if they do not, they will be cut out after the regional boards start to distribute the funding”.⁹²

126. The EIS, meanwhile, was concerned that “the complexity of the proposed structure will confound all but employees and public policy experts”⁹³.

The Cabinet Secretary’s response

127. In questioning the Cabinet Secretary, the Committee set out a list of criticisms or concerns, some of which are repeated in this section, that had been expressed by previous witnesses. The Cabinet Secretary replied—

“I would want to—but I am not going to—go through the same evidence and point out all the positive things that were said. I think that many positive things were said.”⁹⁴

128. The Cabinet Secretary stressed his willingness to consider amendments. He also reiterated that he was clear about the structure and how it should operate—

“It is quite a simple structure, to tell you the truth. It is a structure that has a regional component wherever you are in Scotland.”⁹⁵

129. The Cabinet Secretary was enthusiastic about the benefits of regionalisation, stating that it “offers great opportunities, which are not just regional”. He added “regionalisation enhances the ability of colleges to deliver locally and ensures that there is broader provision in the area”.⁹⁶

130. The Committee questioned why the Scottish Government has adopted a substantially different approach to reforming further education in comparison to higher education. The Cabinet Secretary said that universities did not have to adopt the regional model as—

⁹² Scottish Parliament Education and Culture Committee, *Official Report*, 5 February 2013, Col 1953.

⁹³ Educational Institute of Scotland. Written submission, paragraph 53.

⁹⁴ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2072.

⁹⁵ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2072.

⁹⁶ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2079.

“they are entirely different organisations, operating in different ways. There are only 19 HE institutions. At the end of this process, we will have 13 regional structures.”⁹⁷

Specific themes

131. The remainder of this section discusses some of the specific themes that arose in evidence. This discussion encapsulates some of the broader concerns highlighted above.

132. These specific themes are as follows—

- The relationship between regional boards and their assigned colleges;
- Colleges’ charitable status;
- Changes to boards;
- Protecting local provision;
- University of the Highlands and Islands (UHI).

Regional boards and assigned colleges

133. Regional strategic bodies will receive and distribute funding for the region and plan college provision strategically across the region. They will also be responsible for certain appointments to their assigned colleges.

134. This section focusses on the regional strategic bodies proposed for Glasgow and Lanarkshire, which will be known as regional boards. A separate section considers the situation in UHI.

135. As regional boards will effectively be a new layer of governance the Committee asked how this would affect the existing funding mechanisms for colleges. Scottish Government officials said that there would be no change—

“the hierarchy of funding will be as it is at the moment. The Scottish Government will apportion funding to the Scottish funding council and give policy direction in relation to that. The funding council will then distribute that funding to the regional strategic body.”⁹⁸

136. The Committee pursued this question as it was not clear how the SFC or regional boards would know what the financial requirements of assigned colleges would be. Officials confirmed that there will be no bidding process either between assigned colleges and their regional board, or between the regional board and the SFC. However, in establishing its plan for the region, the regional strategic body will be obliged to take account of how funding has to be apportioned across the colleges in that region.

⁹⁷ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2079.

⁹⁸ Scottish Parliament Education and Culture Committee, *Official Report*, 15 January 2013, Col 1757.

137. When pressed on the criteria that will be used to accord funding to the colleges within the regional set-up, officials stated that “the establishment of such criteria would be a policy and operational matter as the bill came into force.”⁹⁹ The Committee questioned how this would affect accountability if the regional board is to be accountable for deciding how to spend public money on the different colleges in its region. Officials confirmed again that lines of accountability would not change.

138. The Committee also discussed with the Scottish Funding Council (SFC) the relationships between regional boards and their assigned colleges. Its chief executive said that he was having continuing discussions with the Scottish Government about “ensuring in the legislation that the resource moves from the funding council to the regional strategic body to be distributed to the assigned colleges”.¹⁰⁰

139. He illustrated the point by saying that—

“If something were to go wrong in one of the assigned colleges for which I was accountable financially, there ought to be clarity around the funding council’s capacity to resolve the difficulties or the issues in that particular assigned college.”¹⁰¹

140. In response to a question about regional strategic bodies potentially controlling rather than enabling assigned colleges, the Cabinet Secretary stated that—

“The bill is clear about the functions of the regional strategic bodies. I expect them to exercise those functions within the law and to underpin that by working together with good will. I do not anticipate that that problem will arise.”¹⁰²

141. The Committee notes the Cabinet Secretary’s position. However, in light of the SFC’s comments about possible difficulties between regional strategic bodies and assigned colleges, the Committee requests a more detailed explanation from the Scottish Government of how relationships between these two layers will work in practice.

142. On a related point, **the Committee would also welcome an explanation of how the proposed new further education strategic forum will work in conjunction with the new college structure.** Professor Griggs recommended the establishment of such a forum, “which would drive the sector forward and

⁹⁹ Scottish Parliament Education and Culture Committee, *Official Report*, 15 January 2013, Col 1760.

¹⁰⁰ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2040.

¹⁰¹ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2040.

¹⁰² Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2078.

constantly review and evolve the sector in terms of fitness for purpose in a changing educational and economic world”.¹⁰³

143. There are two issues that arose from the Finance Committee’s report on the Financial Memorandum that, for convenience, can be set out in this section. In line with one of the Finance Committee’s recommendations, **the Committee asks the Scottish Government to provide further detail on the extent of the consultation which it held on the costs arising from the college regionalisation provisions in the Bill.**

144. The Committee also notes that the estimated costs for the three regional boards for 2015-16, of £1.68 million, will fall by a third since there will not now be a regional board for Aberdeen and Aberdeenshire.

Colleges’ charitable status

145. All further education colleges – specifically their boards of management – have charitable status. The Committee sought clarification from the Office of the Scottish Charity Regulator (OSCR) as to whether the Bill could affect this status. OSCR confirmed it would not but highlighted a particular issue around assigned colleges.

146. In essence, there is an overall duty on the members of a college board, including assigned college boards, to act in the interests of the college. OSCR noted that the Bill gives regional boards “significant powers” over assigned colleges, notably the power to give them binding directions, and stated that—

“it is possible to conceive of a situation (though it may not be particularly likely) where a regional board gives a direction to a college which, though it perhaps may be in the interests of education in the region as a whole, the charity trustees do not feel to be in the specific interest of the college. Charity trustees in such a case might feel themselves to be in a complex and conflicted position.”¹⁰⁴

147. OSCR went on to note that section 23K of the Bill imposes a duty on regional boards to consult various parties, including the colleges themselves, before issuing such a direction and that “this may help to avoid the situation indicated above”.

148. In a letter to Colleges Scotland, Scottish Government officials acknowledged the scenario but made clear that—

“ ... whether college board members feel conflicted or not does not affect their legal position. Complying with such a direction would be a legal

¹⁰³ Report of the Review of Further Education Governance in Scotland. Section G, paragraph 4.

¹⁰⁴ Office of the Charity Regulator. Supplementary written submission - Position on charitable status of FE institutions, paragraph 21.

requirement. Following such a direction would therefore not compromise their role as charity trustees.”¹⁰⁵

149. The Committee notes the explanation provided by officials. However, as the Bill will substantially change college governance structures, it **invites the Cabinet Secretary’s view on whether the Bill could be amended to provide further assurance to assigned college boards on this matter.**

Changes to boards

150. The Bill proposes various changes to the composition of, and the means by which members and chairs are appointed to, the different college boards. For example—

- the chairs of assigned colleges are to be appointed by the relevant regional strategic body, while chairs of regional colleges and regional boards are to be appointed by Scottish Ministers;
- regional college boards and assigned college boards are to be able to appoint the principal to the board (a change from the current position where the principal is automatically a board member). Principals of assigned colleges are able to attend meetings of regional boards;
- half of board members had previously to be appointed on the basis of their experience/ capacity in industrial, commercial or employment matters. This no longer applies.

151. Scottish Government officials stated that “the proposed new arrangements for boards’ constitutions and appointments will improve public accountability by clarifying what is expected of college boards and their members.”¹⁰⁶

Removing board members

152. Officials said that improved public accountability is also expected to result from the powers in the Bill that would extend the grounds for removal of board members by Scottish Ministers. These powers are set out in section 7 and relate to perceived mismanagement by boards, for example, in failing to provide an appropriate standard of education or in terms of financial mismanagement.

153. In discussing this issue, the Cabinet Secretary rejected the view that the Bill is centralising and intends to give ministers more powers. He considered that—

“Each of those [the circumstances in which powers over mismanagement would apply] seems to me to be an utterly reasonable circumstance under which the provisions could apply. What is more, such action would require an

¹⁰⁵ Scottish Government letter to John Henderson, Colleges Scotland. Supplementary evidence, paragraph 9.

¹⁰⁶ Scottish Parliament Education and Culture Committee, *Official Report*, 15 January 2013, Col 1744.

order that would have to be subject to parliamentary scrutiny and could be subject to judicial review.”¹⁰⁷

Principals

154. There was an extended debate at Stage 1 on whether a principal should automatically become a member of the relevant college board.

155. Colleges Scotland considered that the Bill is a bit confused on this issue “the Bill ... says, “Oh well, we’re not really sure. We’re going to leave this up to the regional college boards and the assigned colleges.””¹⁰⁸ In its view, the majority of colleges will have principals as members of their governing bodies, which would result in national inconsistencies.

156. The EIS was firmly of the view that principals should not be members of their boards, whether a regional board or a regional college board, claiming that—

“There is a belief that principals have had and have exercised excessive power in some cases and that a clearer division between governors and managers would therefore be a good thing.”¹⁰⁹

157. Current principals took a differing view. For example, the principal of Edinburgh College challenged the EIS’s position, saying that “there is nothing to demonstrate that the role of a principal as part of a board as it is currently set out in statute is bad, wrong or does not work”.¹¹⁰

Board chairs

158. The existing chair of Edinburgh College welcomed the fact that the chairs of regional boards will be appointed through the public appointments process, in a comparable manner to, for example, the chair of an NHS local board. However, the principal of Edinburgh College used this example to again make a contrast between the approaches being taken to college and university governance. She said—

“It strikes me that good progress is being made in the higher education sector with respect to the use of codes of practice as opposed to measures being stipulated in legislation. That is a direction of travel that regional colleges would support.”¹¹¹

Representation on college boards

159. A number of other issues around college boards were raised by witnesses. For example, NUS Scotland welcomed provisions in the Bill to achieve the greater involvement of students in institutions’ decision-making; UNISON called for trade

¹⁰⁷ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2088.

¹⁰⁸ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 1984.

¹⁰⁹ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 1983.

¹¹⁰ Scottish Parliament Education and Culture Committee, *Official Report*, 5 February 2013, Col 1940.

¹¹¹ Scottish Parliament Education and Culture Committee, *Official Report*, 5 February 2013, Col 1915.

union representation on college boards; Colleges Scotland claimed that the appointments process for members of regional boards “is not defined very sharply”¹¹²; and the principal of Cardonald College said of employee representation “it is a weakness not to provide for broad teaching and support staff representation”¹¹³.

160. As noted, the previous requirement for half of boards’ membership to be reserved for those with industrial, commercial or employment experience has been removed.

161. There were, again, mixed views on this provision. An existing college chair said private sector involvement was extremely important as “it is private sector companies in which the people who come through the colleges look for employment”¹¹⁴. Others agreed with the importance of there being good employer representation on a board, but did not agree that there should be a statutory place for such a representative.

162. The Committee invites the Scottish Government to explain why this requirement has been changed, given the Policy Memorandum’s statement that the wider reform will “align learning to labour market demand”¹¹⁵ and that the aim is to “make post-16 education more responsive to the needs of learners and employers”¹¹⁶. More generally, given witnesses’ comments on boards, **the Committee would welcome an explanation of the underlying principles behind the Scottish Government’s decisions on board appointment and composition.**

Preserving local delivery

163. One of the main anticipated outcomes of the Bill and the broader reform is that college education will be planned and delivered on a regional basis.

164. This principle was supported in evidence but there were worries about the possible impact on local provision. The NUS, for example, said—

“more needs to be done to protect local access to college courses—often, having that course on the doorstep is fundamental in giving people access to education, whether for the first or second time”.¹¹⁷

165. The Committee discussed with witnesses the possible move of the Edinburgh College joinery and construction campus from Dalkeith in Midlothian to Granton in north Edinburgh. While the Committee cannot comment on the merits of this specific case it does exemplify some of the generic issues that were raised at

¹¹² Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 1976.

¹¹³ Scottish Parliament Education and Culture Committee, *Official Report*, 5 February 2013, Col 1939.

¹¹⁴ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 2033.

¹¹⁵ Policy Memorandum, paragraph 3.

¹¹⁶ Policy Memorandum, paragraph 4.

¹¹⁷ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 1980.

Stage 1. For example, there is an ongoing debate about how to avoid *unnecessary* duplication in course provision without removing duplication of courses where that is beneficial and accessible to the learner.

166. In relation to the example above, the chair of Edinburgh College said—

“We would have a geographic spread for certain things; others would be sited in a place that allows us to build up a centre of excellence and of expertise.”¹¹⁸

167. The SFC made the general point that the existing college structure had been criticised as it had led to colleges concentrating too much on their local market.

168. The Committee questioned whether college reform could, in the longer term, result in homogenisation in regions, with the voice of local campuses becoming diminished. The chair of Edinburgh College acknowledged this potential pitfall but thought that it could be overcome—

“How you use the greater power for strategic work that is given through regionalisation is very much down to the policies and attitudes that you bring to it, but the bill does provide greater power. I agree ... that how it is used will be up to the bodies themselves, but I trust that they will be held to account ...”¹¹⁹

Regional boards

169. There was a specific discussion about local provision in areas where regional boards are to be established. Members questioned how factors such as students’ travel costs would be taken into account if, for example, a course were moved from one location to another.

170. Scottish Government officials explained that regional strategic bodies must conclude a regional outcome agreement with the SFC. Officials acknowledged that an outcome agreement “may include some sort of rationalisation where that is in the interest of the learners”¹²⁰ but stressed that there would have to be consultation with regional partners, including assigned colleges.

171. The chair of Edinburgh College considered that “regional chairs ... will be critical in ensuring that the regional bodies can balance achieving a strategic view for the region overall, engaging with key stakeholders and so on, with retaining the flexibility of local organisations and bodies”.¹²¹

172. There is a broader point, about the establishment and running of regional strategic bodies, that the Committee wishes to highlight in this section. The SFC noted the Scottish Government’s view that “it does not want huge new layers of

¹¹⁸ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 2028.

¹¹⁹ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 2031.

¹²⁰ Scottish Parliament Education and Culture Committee, *Official Report*, 15 January 2013, Col 1764.

¹²¹ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 2025.

bureaucracy that would consume resources that would otherwise go into front-line education services”¹²². According to the SFC—

“the trick will be to establish a relatively uncostly administration at regional level that has the capacity to think regionally and distribute provision across regional colleges in a way that works for students and businesses in the area. It is not an easy ask, but it is the next task.”¹²³

173. The Committee agrees with the SFC that there is a need to explain how the regional boards will meet students’ and businesses’ needs without becoming overly bureaucratic or consuming resources that would better be spent on education. The Committee invites the Scottish Government to set out how it expects this balance to be struck.

University of Highlands and Islands (UHI)

174. UHI is unique in delivering both further and higher education throughout the highland and islands region. Established as a university in 2011, UHI already operates regionally and has its constitution and governance arrangements established through company law.

175. The Bill only makes limited provisions that directly affect UHI, notably relating to the establishment, funding and functioning of regional strategic bodies.

176. In his report on the future structure and function of UHI¹²⁴, Dr Foxley recommended that the UHI should be the regional strategic body for the region and that a new further education (FE) regional board should be set up with delegated powers to plan and allocate funding for further education in the region. This FE regional board would be a formal committee of the university court.

177. The Bill establishes UHI as the regional strategic body, with the university court formally performing the role of governing and funding incorporated colleges in the region. Within this structure, the FE regional board becomes a subcommittee of the University Court. The Scottish Government, in a recent note on unincorporated colleges¹²⁵, states—

“The Bill designates UHI as a regional strategic body, as it is the legal entity. This Bill is unable to designate a committee of UHI... It is a matter for the UHI

¹²² Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2050.

¹²³ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2050.

¹²⁴ Scottish Government. (2012) *Working group on the future structure and function of the university of Highlands and Islands*. Available at: <http://www.scotland.gov.uk/Resource/0040/00404321.pdf> [Accessed 18 March 2013].

¹²⁵ Unincorporated colleges are those that do not have a board of management. Incorporated colleges were established through the Further and Higher Education (Scotland) Act 1992. Four colleges are unincorporated: Shetland, Orkney, Newbattle Abbey and Sabhal Mór Ostaig. All are in the UHI region.

Court in accordance with its constitutional arrangements to determine matters delegated to any of its committees.”¹²⁶

178. While most colleges in the region are supportive of UHI becoming the regional strategic body, the understanding was that the delegation of powers to the FE regional board would form a central plank of the changes proposed. The provision to give funding and decision-making powers to the university court has raised concerns with some colleges. For example, Orkney College notes “disappointment” at the lack of provision in the Bill to allow for delegation of powers from UHI to the FE regional body.¹²⁷

179. As assigned colleges are only represented on the FE regional board and not the regional strategic body (university court), concerns have been raised that – if a range of powers over strategic planning and funding are not delegated to the FE regional board – there is a risk that regional decision-making could be in conflict with or detrimental to local needs.

180. The Committee seeks clarification from the Cabinet Secretary as to whether there are any plans to set out in statute – or non-statutory guidance – instructions on the delegation of powers from the university court to the FE regional board.

181. A number of provisions in the Bill do not apply to unincorporated colleges. While the Scottish Government has provided information on how unincorporated colleges will fit into plans for college regionalisation, **the Committee would welcome clarity as to whether all unincorporated colleges are to become assigned colleges and how these colleges would be accountable to the university court.**

182. Finally, concerns have been raised about the estimated costs of establishing the regional strategic body and FE regional board within UHI. The Financial Memorandum suggested that the costs would be marginal. However, when giving evidence to the Finance Committee, Scottish Government officials amended this position—

“There probably will be set-up costs for UHI. The financial memorandum is not quite accurate on that point. I am conscious that UHI has made a submission in which it identifies start-up costs. We are talking to it—constructively, I might add—about those costs”¹²⁸

183. The Committee seeks clarification from the Scottish Government on set up costs for UHI and whether there will funding available to allow it to meet these costs.

¹²⁶ Scottish Government. (2013) *Non-incorporated Colleges and College Regionalisation Plans*. Available at: <http://www.scotland.gov.uk/Topics/Education/post16reform/hefegovernance/Plans> [Accessed 18 March 2013].

¹²⁷ Orkney Islands Council on behalf of Orkney College UHI. Written submission, paragraph 3.

¹²⁸ Scottish Parliament Finance Committee, *Official Report*, 30 January 2013, Col 2185.

Conclusion

184. A considerable amount of often very detailed information on college reform was presented to the Committee during Stage 1. The Committee has summarised the most important issues and has invited the Cabinet Secretary to reply to its specific questions in advance of Stage 2. The Committee considers that this response will greatly help to inform the more detailed scrutiny of the Bill that will take place at that stage.

REVIEW OF FUNDABLE FURTHER AND HIGHER EDUCATION (SECTION 14)

Background

185. According to the Policy Memorandum, the purpose of this provision “is to allow the SFC to review the provision of fundable further and higher education with a view to ensuring that such education is being provided by post-16 education bodies in a coherent manner”¹²⁹.

186. Under the Further and Higher Education (Scotland) Act 2005¹³⁰, the SFC already has the power to carry out studies “designed to improve economy, efficiency and effectiveness in the management or operations of any fundable body”¹³¹.

187. Before considering the merit of this provision it is helpful to provide some context. Prior to the Bill being introduced, the Scottish Government issued a pre-consultation paper entitled “Putting Learners at the Centre – Delivering our Ambitions for Post-16 Education”¹³². The paper noted work by the SFC showing—

“...there is too much duplication and unnecessary competition within colleges and regional universities. Very often different colleges and universities are competing for the same students and similar programmes are being run by institutions within a few miles of each other.”

“At present, decisions on the structure of the system and what is delivered lie solely with colleges and universities. Whilst this has benefits, we have a concern that the current structure of the sectors both in terms of the proportion of overall Government resources that individual colleges and universities are allocated – and the number of colleges and universities is not encouraging the sectors to make the rapid changes we think are needed.”¹³³

¹²⁹ Policy Memorandum, paragraph 17.

¹³⁰ Further and Higher Education (Scotland) Bill (as passed (SP Bill 26B, Session 2 (2005))

Available at:

http://www.scottish.parliament.uk/S2_Bills/Further%20and%20Higher%20Education%20%28Scotland%29%20Bill/b26s2-aspassed.pdf

¹³¹ Further and Higher Education (Scotland) Bill, Section 15 (1)

¹³² Scottish Government. (2011) *Putting Learners at the Centre – Delivering our Ambitions for Post-16 Education*. Available at: <http://www.scotland.gov.uk/Publications/2011/09/15103949/0> [Accessed 18 March 2013].

¹³³ Putting Learners at the Centre – Delivering our Ambitions for Post-16 Education. Paragraph 127 and 128.

The need for and merit of the provision

188. In oral evidence to the Committee, Scottish Government officials explained that the provisions would give the SFC “a clearer mandate to discuss with institutions evidence of, for example, unnecessary duplication that is to the detriment of learners and wider public investment”¹³⁴.

189. All the student representatives who gave oral evidence to the Committee identified that the power being given to the SFC could be used both positively and negatively. For example, the Students’ Association of the University of the West of Scotland said—

“We would support it [the power] if it could stop a situation such as the one at Strathclyde a few years ago, when courses were removed. We would be less likely to support it if the Abertay issue arose again, when certain institutions were being forced to merge, without the consent of the two institutions.”¹³⁵

Another threat to universities’ autonomy?

190. The broad power being given to the SFC includes the power to review the number of post-16 education bodies and the learning and courses they provide.

191. In oral evidence, university principals did not directly criticise this provision but unanimously stressed the importance of the current demand-led model whereby “students choose the universities they would like to go to and, in response, we put on courses or end those that are no longer required”. They contrasted this approach with—

“a supply-led model, in which there would be a framework for making decisions on what courses would be offered and in which regions and students would simply choose not to turn up, it would be hugely disadvantageous to the sector.”¹³⁶

192. Universities Scotland went further, claiming that—

“the provisions as drafted are inconsistent with responsible autonomy, and that provisions which have been conceived in regard to the college sector are being applied inappropriately to the university sector. This section should be removed or very substantially amended in relation to HEIs”¹³⁷.

193. In particular, Universities Scotland considered that—

- it is not the Scottish Funding Council’s responsibility to decide on the number of fundable higher education institutions. These are autonomous institutions, and as long as they meet the criteria and conditions of grant for funding by the Council they should be eligible for receipt of funding.

¹³⁴ Scottish Parliament Education and Culture Committee, *Official Report*, 15 January 2013, Col 1745.

¹³⁵ Scottish Parliament Education and Culture Committee, *Official Report*, 22 January 2013, Col 1873.

¹³⁶ Scottish Parliament Education and Culture Committee, *Official Report*, 22 January 2013, Col 1857.

¹³⁷ Universities Scotland. Written submission, paragraph 18.

Also, if it was known that the future of an HEI as a fundable body was under review, that institution would face particular competitive difficulties in attracting and retaining staff, and in securing research funding and building relationships with industry, and in competing in international student recruitment markets.

- it is the responsibility of institutions themselves to decide what ‘types of programmes of learning or courses of education’ to provide ... While the Council has a legitimate role in discussing with institutions whether provision appears coherent, this role can be discharged without the necessity for this legislative measure.¹³⁸

194. Scottish Government officials provided evidence on the limits of this power, which suggests that Universities Scotland’s fears may be misplaced—

“The new power will not change our sustained relationships with institutions on matters of autonomy or academic freedom and it will not give ministers new powers to dictate what universities or colleges teach, or to force institutions to merge.”¹³⁹

195. The Cabinet Secretary was also very clear in his opinion that the potential risks envisaged by universities would not materialise, stating “I do not believe that there will be any impact on course provision”¹⁴⁰. He offered to examine any concerns that universities may have about the provision.

196. The SFC also sought to reassure universities (and colleges) that the Bill would not radically alter its existing powers in this area—

“we already review provision, because we are required to secure coherent provision. That means that we consider whether the right provision is in the right place, at a national level. There is nothing in the bill that says that we would be doing anything other than that. It seems to me to be an entirely reasonable thing to do, particularly given that public resources are always limited, to ensure that the provision across our university and college system is the best that it can be for the resource that is put in.”¹⁴¹

197. The Cabinet Secretary suggested that the power may allow for a more strategic view of course provision to be taken—

“If we carried out reviews within a wider context from time to time ... we would probably get a more rational view of what should be provided, and I hope that that might avoid the type of passionate debate that took place around Slavonic languages, for instance, or people marching in the streets—

¹³⁸ Universities Scotland. Written submission, paragraph 19-20

¹³⁹ Scottish Parliament Education and Culture Committee, *Official Report*, 15 January 2013, Col 1745.

¹⁴⁰ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2081.

¹⁴¹ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2052-2053.

as happened—because something was not being provided in one place and they felt that it should be.”¹⁴²

198. The Committee notes the reassurances provided by the Scottish Government and the SFC. **However, Universities Scotland’s criticisms were expressed in relatively strong terms and the Committee invites the Cabinet Secretary to consider whether the Bill itself requires to be amended to provide further reassurance, particularly on course provision and the number of HEIs.** In making this request, the Committee notes the SFC’s statement that it “already reviews provision”, which suggests that the aim of the Bill may not be as radical as Universities Scotland fears.

Other issues

199. The Cabinet Secretary suggested that there would be a role for the Parliament in scrutinising the recommendations of any review carried out by the SFC, a position that is not clear from the Bill. **The Committee would welcome clarification of whether the Bill requires to be amended to reflect this role.**

200. There is a further, specific matter where the Committee would welcome clarification: section 10 of the Bill states that regional boards must monitor the performance of their colleges including “assessing the quality of fundable further education and fundable higher education provided by its colleges”¹⁴³. A regional board may also “secure the promotion or carrying out of studies designed to improve economy, efficiency and effectiveness in the management or operations of any of its colleges.”¹⁴⁴ **The Committee seeks an explanation of how these specific powers for regional boards are intended to work in practice alongside the SFC’s broader review power.**

Conclusion

201. As with other provisions, the Scottish Government and the SFC are attempting to strike a balance between colleges’ and universities’ accountability and their autonomy. The Cabinet Secretary and the SFC are satisfied that they have done so, and the Cabinet Secretary has also made clear that he is willing to discuss with universities any specific concerns they may have. The Committee has requested further information from the Scottish Government on Universities Scotland’s concerns, which it hopes will help to assuage these concerns.

DATA SHARING (SECTION 15)

Background

202. According to the Policy Memorandum the purpose of this provision is “to allow Ministers to make secondary legislation to impose a legal duty on relevant bodies to share data with Skills Development Scotland (SDS) on all young people between the ages of 16 and 24 moving through the learning system to identify

¹⁴² Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2082.

¹⁴³ Post-16 Education (Scotland) Bill, Section 10, 23E (2) (a).

¹⁴⁴ Post-16 Education (Scotland) Bill, Section 10, 23G (1).

those who have disengaged with, or may be at risk of, disengaging with, learning or training”¹⁴⁵.

203. The wider programme that is being changed was not described particularly clearly in evidence provided by SDS, which meant that the Committee struggled to understand the breadth and intended operation of this provision. It does consider that the changes being sought by the Bill are technical and relatively small. Other witnesses demonstrated some misunderstanding about the provision – for example, whether it would apply to universities, or that it was concerned with applications for college courses – which indicates that they also find this part of the Bill difficult to fully comprehend.

204. This section seeks to disentangle the actual provisions from the wider policy context, thereby providing clarity on the Bill’s intentions. The Committee hopes that this will assist other members given the underlying policy deals with a critical area not previously subject to detailed parliamentary scrutiny.

Learning and training for young people

205. The Policy Memorandum (PM) notes the importance of identifying all young people “who disengage, or who may be at risk of disengaging”¹⁴⁶ from learning or training so that they can be provided with appropriate support back into learning, training or employment. As part of this activity, relevant partners must collect and share data on the young people in question.

206. As a first step, records have to be created which is usually done when a child is first enrolled for mainstream education. Parts of these records are shared with SDS when the young person reaches the senior phase of Curriculum for Excellence. This enables SDS to maintain and update records on young people’s learning and training when they leave school.

207. When a learning or training provider enrolls a young person they share a record of that enrolment with SDS. This allows SDS to update the relevant record to reflect the young person’s current learning or training status and alerts SDS that this person does not need to be offered help to find learning or training. When a young person leaves a training or learning provider, the provider notifies SDS.

208. The PM makes clear that elements of this data-sharing approach are already in place – with SDS acting as a “data hub” – but stresses that all of those responsible for providing learning and training to 16 to 24 year olds must share data with SDS. The Bill seeks to ensure sharing. Neither SDS’ written evidence, or the PM specify where the current problem with data sharing lies.

209. In summary, the Bill is not about creating a completely new database. Rather, it is aiming to ensure that all relevant partners (i.e. local authorities, colleges, the Department for Work and Pensions and the Student Awards Agency for Scotland) contribute to the existing data hub that is maintained by SDS.

¹⁴⁵ Policy Memorandum, paragraph 17.

¹⁴⁶ Policy Memorandum, paragraph 42.

210. The Cabinet Secretary made clear that he sees this as a “modest enabling provision”—

“The proposed measure is not some all-singing, all-dancing massive new initiative. My concern ... is that the quality of the data that should allow us to understand what is happening in the sector has been patchy, and we need to improve that.”¹⁴⁷

Rationale for this provision

211. SDS provided the Committee with three pieces of written evidence and also gave oral evidence. In summary, SDS expects that the change from data sharing being voluntary to being on a statutory basis will make the shared information more accurate and more robust. SDS expects that data gaps and duplication will be removed, making it easier for staff to identify individuals who have dropped out of “positive activity” and to provide more effective support to them. The overall impact, according to SDS, is that more young people will be supported into positive destinations.

212. In oral evidence, the Committee pointed out that it seemed relatively straightforward to identify someone who had already disengaged from learning or training, but probed SDS as to exactly how a data hub could help it to identify young people “at risk of disengaging”.

213. SDS explained that the system identifies those at risk “because we have lots of information on them”—

“We get that information from all the partners, which means that we can identify young people who might have a lot of barriers that might have prevented them from continuously engaging in education. They might have had interrupted learning in school, so we would know that they might do that in college as well ... If a young person comes on to our list having dropped out of college, it does not mean that we cannot quickly get them back in if we can put the right support in place. Previously it might have been months before we knew that a young person had dropped out. Now we know it on a monthly basis.”¹⁴⁸

214. The Cabinet Secretary confirmed, in response to committee questioning, that he envisaged an increased role for SDS in intervening when it sees a problem—

“A careful reading of data by somebody who is experienced in reading data would probably lead to some conclusions. We need to establish that role somewhere, and such people exist in Skills Development Scotland. Indeed ... they have that role ... and I would expect them to fulfil it in the terms that I have outlined.”¹⁴⁹

¹⁴⁷ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2083.

¹⁴⁸ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 1998.

¹⁴⁹ Scottish Parliament Education and Culture Committee, *Official Report*, 26 February 2013, Col 2083.

215. The Committee is disappointed at the approach SDS appears to be adopting to this development, in particular its seeming reliance on historical information to inform decision making in this area. Given the Cabinet Secretary's comments, **the Committee would welcome a detailed explanation from SDS before stage 2 of how it intends to pro-actively support young people who may be at risk of disengaging with learning or training.**

216. SDS representatives also confirmed that they were not seeking to take over the support that colleges, for example, may already be providing to their students—

“ ... we are looking to support the individual. If that provides extra support for the colleges, that is fine, but what we are looking to do is to keep young people in positive opportunities and to ensure that those opportunities are the right ones for them.”¹⁵⁰

Witnesses' concerns

217. There were, comparatively speaking, relatively few comments made in evidence about this provision. A number of submissions expressed support but some concerns were raised, for example that—

- the data being held by SDS may lead to possible contraventions of data protection law;
- the secondary legislation being proposed touches on 'the learning system' and the need to identify those who have disengaged or may disengage with learning or training. Angus Council Community Planning Partnership considered that there is a need to define what constitutes 'learning' and therefore the scope of any duty;
- the arrangements proposed would not improve matters for young people who enter a negative destination and choose not to engage with SDS.

218. On the first point, SDS confirmed that it was not aware of any concerns about this legislation being inconsistent with any other legislation. **The Committee would welcome SDS' or the Scottish Government's response to the other points.**

219. There were also doubts expressed about the likely costs of the data sharing provision. For example, Colleges Scotland warned that—

“The risk ... is that we will end up with a system that will probably be more complicated and expensive than we had envisaged ... Some people expect that it will all be very straightforward and easy. The history of IT systems in the public sector suggests that these things are seldom as easy as they seem.”¹⁵¹

¹⁵⁰ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 2002.

¹⁵¹ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 1994.

220. According to the Financial Memorandum, the costs are likely to be minimal: £52,000 over two years¹⁵², to be met by various partners involved. SDS confirmed its view that the figures are accurate.

221. The Committee asked for information on the full costs to date of developing the data hub. SDS stated that it would provide further detail in due course. **The Committee expects to receive this information in advance of the Stage 1 debate.**

The wider context

222. The policy memorandum and SDS' written evidence describe the Bill's intentions and the wider policy context but do not explain a number of basic and important points, such as the number of people who will be on the data hub, or what is meant by young people who may be "at risk of disengaging" from learning or training. Unfortunately, despite the focus of the Bill and the wider reform process on supporting students, these documents say very little about what SDS and partners would do if they identified such a person. More information on points such as these would have greatly assisted the Committee's understanding of the provision.

223. The Committee sought answers to these questions from SDS after its evidence-taking session. A summary of the response received¹⁵³ is provided below—

- SDS has 5 staff (approximately 3 full time equivalent) who monitor and support the data hub, drawing on additional IT/IS support as required. In addition, the Committee understands that around 600 other SDS staff (464 careers advisers and 140 key workers) contribute to supporting the young people identified as requiring support;
- If the Bill were passed, SDS would expect its partner organisations to provide data on a fortnightly basis;
- There is no data sharing between SDS and private training providers but SDS holds information on individuals undertaking training within programmes that it funds (such as Modern Apprenticeships);
- SDS defined an individual who "is at risk of disengaging with learning or training" as "an individual between the ages of 16-24 who is either in school, college or training and may drop out of their current destination and fall into the "not in education, employment or training" category";
- In terms of actually identifying and, crucially, supporting such people SDS stated that "Staff will be able to draw on the critical dataset including the flagging indicators to inform professional judgement on the best way forward and most appropriate service provision for the individual.";

¹⁵² Financial Memorandum, paragraph 166.

¹⁵³ Skills Development Scotland. Supplementary written submission following oral evidence 19 February 2013.

- SDS' support to young people is both proactive and reactive. Regular discussions take place to decide which of the partners in the hub is best placed to provide support.

224. The Committee tried to understand the possible scale of the challenge facing SDS, in terms of the number of people who will be on the data hub – in oral evidence, SDS representatives confirmed that the database was a record of every pupil in Scotland.

225. 60,000 records are to be added to the database annually, which equates to the number of young people who leave school each year. Of these 60,000, approximately 7,000 are likely to be classified as 'active' i.e. people seeking an opportunity. SDS also made reference to 600,000 young people being on the database "over a 10 year period"¹⁵⁴ although the significance of this time period is not clear, particularly in the context of the 16-24 target age range.

226. The Committee wrote to SDS seeking clarity on the number of young people on the database, noting that there are around 625,000 people aged between 16 and 24 in Scotland. In its response SDS said it was "working on analysing and validating information related to the totality of records held"¹⁵⁵. **The Committee looks forward to receiving this information as soon as possible.**

227. **The Committee would also welcome confirmation from SDS that it captures fully data relating to part time college and university students.** This was a specific issue raised in the Open University's written evidence.

Conclusion

228. Members fully welcome, particularly in the current economic climate, anything that could improve the prospects of young people who may be disengaging with learning or training. The Committee therefore supports this provision and looks forward to an on-going discussion with SDS about how the changes brought about by the Bill are improving that situation.

Overall conclusion on the Bill

229. The Committee notes that the general principles of the Bill are to: improve governance in higher education; widen access to higher education institutions; improve governance in, and to restructure, further education institutions; set a tuition fees cap; enable the SFC to carry out reviews of fundable further and higher education; and, require relevant bodies to share data with SDS. The Committee supports these broad aims. While the majority of the Committee support the general principles of the Bill a minority of members have concerns about whether the general principles of the Bill would be achieved by this legislation. The Committee has some concern – expressed in the relevant sections of the report – about the specific means by which the Bill would achieve some of these principles. The Committee has asked the Cabinet Secretary for various

¹⁵⁴ Scottish Parliament Education and Culture Committee, *Official Report*, 19 February 2013, Col 1999.

¹⁵⁵ Skills Development Scotland. Supplementary written submission following oral evidence 19 February 2013, paragraph 25.

pieces of information that will provide reassurance on the approach being taken by the Bill.

ANNEXE A: EXTRACT FROM MINUTES OF THE EDUCATION AND CULTURE COMMITTEE

32nd Meeting, Tuesday 04 December 2012

Post-16 Education (Scotland) Bill (in private): The Committee considered its approach to the scrutiny of the Bill at Stage 1. A draft call for written evidence was agreed to.

33rd Meeting, Tuesday 11 December 2012

Post-16 Education (Scotland) Bill (in private): The Committee considered its approach to the scrutiny of the Bill at Stage 1.

1st Meeting, Tuesday 15 January 2013

Post-16 Education (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—

Michael Cross, Deputy Director, Colleges and Adult Learning Division, Col Baird, Policy Executive, College Governance, Gavin Gray, Team Leader, Ailsa Heine, Senior Principal Legal Officer, Directorate for Legal Services, Danielle Hennessy, College Regionalisation, Governance Team Leader, and Tracey Slaven, Deputy Director, Higher Education and Learner Support, Scottish Government.

2nd Meeting, Tuesday 22 January 2013

Post-16 Education (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—

Professor Gerry McCormac, Principal and Vice-Chancellor, Stirling University;
Professor Sir Jim McDonald, Principal, University of Strathclyde;
Sir Timothy O'Shea, Principal and Vice-Chancellor, University of Edinburgh;
Professor Seona Reid, Director, Glasgow School of Art;
Christina Andrews, Vice President Education & Engagement, University of Stirling Students' Union;
Freddie Fforde, Association President, University of St Andrews Students' Association;
Malcolm Moir, President, University of Strathclyde Students' Association;
Garry Quigley, President, University of the West of Scotland Students' Association.

4th Meeting, Tuesday 05 February 2013

Post-16 Education (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—

Mandy Exley, Principal, Edinburgh College;
Paul Sherrington, Principal, Banff and Buchan College;
Carol Turnbull, Principal, Dumfries and Galloway College;
Susan Walsh, Principal and Chief Executive, Cardonald College;
Chris Greenshields, Chair, UNISON Scotland's Further Education Committee;
David Bass, Senior Policy and Information Officer, Lead Scotland.

5th Meeting, Tuesday 19 February 2013

Post-16 Education (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—

David Belsey, National Officer, Further and Higher Education, the Educational Institute of Scotland;
John Henderson, Chief Executive, Colleges Scotland;
Robin Parker, President, NUS Scotland;
Mary Senior, Scottish Official, University and College Union Scotland;
Alastair Sim, Director, Universities Scotland;
Marlene McGlynn, Head of Operations West, and Alison More, Head of Strategy Policy and Research, Skills Development Scotland;
Tony Brian, Chair, Glasgow Caledonian University;
Stuart Monro, Chair, University of Edinburgh;
Alan Simpson, Chair, University of Stirling;
Ian McKay, Chair of Edinburgh College board and Edinburgh Regional Lead.

6th Meeting, Tuesday 26 February 2013

Post-16 Education (Scotland) Bill: The Committee took evidence on the Bill at Stage 1 from—

Mark Batho, Chief Executive, Scottish Funding Council;
Michael Russell, Cabinet Secretary for Education and Lifelong Learning, Michael Cross, Deputy Director, Colleges and Adult Learning Division, Tracey Slaven, Deputy Director, Higher Education and Learner Support, Gavin Gray, Team Leader, Bill Team, and Ailsa Heine, Senior Principal Legal Officer, Directorate for Legal Services, Scottish Government.

8th Meeting, Tuesday 12 March 2013

Post-16 Education (Scotland) Bill (in private): The Committee considered a draft Stage 1 report. Various changes were agreed to, and the Committee agreed to consider a revised draft, in private, at its next meeting.

9th Meeting, Tuesday 19 March 2013

Post-16 Education (Scotland) Bill (in private): The Committee considered a revised draft Stage 1 report. Various changes were agreed to, and the report was agreed for publication.

ANNEXE B: ORAL EVIDENCE AND ASSOCIATED WRITTEN EVIDENCE

1st Meeting, Tuesday 15 January 2013

Written Evidence

[Scottish Government \(1.47MB pdf\)](#)

[Oral Evidence \(573KB pdf\)](#)

Scottish Government

Supplementary Evidence

[Scottish Government Bill Team response following oral evidence 15 January 2013 \(232KB pdf\)](#)

2nd Meeting, Tuesday 22 January 2013

Written Evidence

[University of Stirling \(79KB pdf\)](#)

[University of Stirling Students' Union \(123KB pdf\)](#)

[University of Strathclyde \(84KB pdf\)](#)

[University of Strathclyde Students' Association \(124KB pdf\)](#)

[Oral Evidence \(650KB pdf\)](#)

Glasgow School of Art;

Stirling University;

University of Edinburgh;

University of Stirling Students' Union;

University of St Andrews Students' Association;

University of Strathclyde;

University of Strathclyde Students' Association;

University of the West of Scotland Students' Association.

Supplementary Evidence

[Scottish Government Bill Team response following oral evidence 22 January 2013 \(64KB pdf\)](#)

[Letter from Sir Timothy O'Shea regarding Scottish Index of Multiple Deprivation 2012 31 January 2013 \(130KB pdf\)](#)

4th Meeting, Tuesday 5 February 2013

Written Evidence

[Edinburgh College \(75KB pdf\)](#)

[Lead Scotland \(77KB pdf\)](#)

[UNISON \(98KB pdf\)](#)

[Oral Evidence \(499KB pdf\)](#)

Banff and Buchan College;

Cardonald College;

Dumfries and Galloway College;

Edinburgh College;

Lead Scotland;

UNISON Scotland's Further Education Committee.

Supplementary Evidence

[Edinburgh College \(144KB pdf\)](#)

5th Meeting, Tuesday 19 February 2013

Written Evidence

[Colleges Scotland \(153KB pdf\)](#)

[Committee of Scottish Chairs \(132KB pdf\)](#)

[Educational Institute of Scotland \(145KB pdf\)](#)

[National Union of Students Scotland \(273KB pdf\)](#)

[Skills Development Scotland \(84KB pdf\)](#)

[Universities Scotland \(313KB pdf\)](#)

[University College Union Scotland \(80KB pdf\)](#)

[Oral Evidence \(548KB pdf\)](#)

Colleges Scotland;

Educational Institute of Scotland;

Edinburgh College board and Edinburgh Regional Lead;

Glasgow Caledonian University;

NUS Scotland;

Skills Development Scotland;

University and College Union Scotland;

University of Edinburgh;

University of Stirling;

Universities Scotland.

Supplementary Evidence

[Skills Development Scotland \(87KB pdf\)](#)

[Skills Development Scotland response following oral evidence 19 February 2013 \(188KB pdf\)](#)

[Chairs of University Courts response following oral evidence 19 February 2013 \(137KB pdf\)](#)

[Colleges Scotland \(260KB pdf\)](#)

[Scottish Government letter to John Henderson, Colleges Scotland 6 March 2013 \(41KB pdf\)](#)

6th Meeting, Tuesday 26 February 2013

[Oral Evidence \(522\)KB pdf\)](#)

Scottish Funding Council;

Scottish Government.

ANNEXE C: OTHER WRITTEN EVIDENCE

[Adam Smith College \(17KB pdf\)](#)
[Alex Stobart \(209KB pdf\)](#)
[Angus Council Community Planning Partnership \(69KB pdf\)](#)
[Asset Skills \(68KB pdf\)](#)
[Association of Teachers and Lecturers and Association of Managers in Education \(94KB pdf\)](#)
[British Medical Association Scotland \(179KB pdf\)](#)
[Capability Scotland \(214KB pdf\)](#)
[Centre for Excellence for Looked After Children in Scotland \(219KB pdf\)](#)
[Children in Scotland \(72KB pdf\)](#)
[City of Glasgow College \(73KB pdf\)](#)
[Edinburgh University Students' Association \(133KB pdf\)](#)
[ENABLE Scotland \(72KB pdf\)](#)
[Falkirk Council \(78KB pdf\)](#)
[Families Outside \(134KB pdf\)](#)
[General Council Business Committee Convenors of the ancient universities of Scotland \(79KB pdf\)](#)
[Glasgow City Council - Education Services \(132KB pdf\)](#)
[Glasgow Colleges Strategic Partnership \(76KB pdf\)](#)
[Glasgow University Students' Representative Council \(116KB pdf\)](#)
[Highland Council \(122KB pdf\)](#)
[Inclusion Scotland \(269KB pdf\)](#)
[Information Commissioner's Office \(156KB pdf\)](#)
[Lews Castle College \(65KB pdf\)](#)
[National Union of Students Scotland \(273KB pdf\)](#)
[North Highland College \(92KB pdf\)](#)
[Orkney Islands Council \(139KB pdf\)](#)
[Perth College \(138KB pdf\)](#)
[Robert Templeton \(282KB pdf\)](#)
[Royal Society of Chemistry \(81KB pdf\)](#)
[Royal Society of Edinburgh \(158KB pdf\)](#)
[Scottish Children's Services Coalition \(203KB pdf\)](#)
[Scottish Council for Development and Industry \(76KB pdf\)](#)
[Scottish Council of Independent Schools \(117KB pdf\)](#)
[Scottish Social Services Council \(96KB pdf\)](#)
[Scottish Trade Union Congress \(95KB pdf\)](#)
[Scottish Youth Parliament \(188KB pdf\)](#)
[Secretary to the Board Network \(77KB pdf\)](#)
[Sense Scotland \(99KB pdf\)](#)
[The Open University in Scotland \(94KB pdf\)](#)
[The Prince's Trust Scotland \(183KB pdf\)](#)
[University of Highland and Islands \(82KB pdf\)](#)
[Wajahat Nassar \(110KB pdf\)](#)
[West Dunbartonshire Council \(64KB pdf\)](#)
[West Highland College UHI \(139KB pdf\)](#)
[West Lothian College Board \(70KB pdf\)](#)
[Young Scot \(152KB pdf\)](#)

Supplementary evidence received

[Professor Ferdinand von Prondzynski \(69.2KB pdf\)](#)

[Professor Russel Griggs OBE \(15KB pdf\)](#)

[Office of the Scottish Charity Regulator - Position on charitable status of FE institutions \(126KB pdf\)](#)

[Office of the Scottish Charity Regulator - Position on charitable status of HE institutions \(133KB pdf\)](#)

[National Deaf Children's Society Scotland \(126KB pdf\)](#)

ANNEXE D: REPORT FROM THE FINANCE COMMITTEE

The Finance Committee reported to the Education and Culture Committee on the Financial Memorandum of the Post-16 Education (Scotland) Bill on 21 February 2013. The report is available online here:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/59939.aspx>

ANNEXE E: REPORT FROM THE SUBORDINATE LEGISLATION COMMITTEE

The Subordinate Legislation Committee reported to the Education and Culture Committee on the Delegated Powers Memorandum of the Post-16 Education (Scotland) Bill on 19 February 2013. The report is available online here:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/59856.aspx>

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