

Higher Education Governance (Scotland) Bill

March 2016

Final CRWIA - Web publication of Bill / Secondary Legislation CRWIA

<p>CRWIA title: Date of publication:</p>	<p>Higher Education Governance Bill February 2016</p>
<p>Executive Summary</p>	<p>Higher Education Governance (Scotland) Bill</p> <p>The principal objective of the Higher Education Governance (Scotland) Bill (“the Bill”) is to enable a framework of higher education governance that is more modern, inclusive and accountable. It will strengthen existing governance in the higher education sector in Scotland, ensuring it remains fit for purpose.</p> <p>The Bill, introduced to Parliament on 16 June, takes forward provisions in 4 areas. It requires the following:</p> <ul style="list-style-type: none"> • Higher education institutions (HEIs) to appoint the chair of their governing body in accordance with a process set out in regulations. As part of this, regulations may include provision for holding an election for the chair. The regulations may also require HEIs to make available to chairs remuneration commensurate with the responsibilities of carrying out the functions of the office. • HEIs to include within the membership of their governing bodies: two directly elected staff members, one member nominated by academic and related unions, one member nominated by administrative, technical or support staff unions, two students nominated by the students association, and two graduates of the HEI nominated by the graduates’ association. • HEIs to ensure that their academic boards are comprised of no more than 120 people and include Principals and Heads of Schools attending ex officio; a majority of elected members representing staff and students; and a minimum of 10% student representation. • Replaces the current definition of academic freedom in section 26 of the 2005 Act, with a view to strengthening it and making explicit the freedom to develop and advance new ideas and innovative proposals. <p>This CRWIA reflects the Bill as introduced in June 2015.</p>
<p>Background</p>	<p>In June 2011, the Cabinet Secretary for Education and Lifelong Learning commissioned an independent review of how Scotland’s universities are governed. The Review of Higher Education Governance in Scotland was prompted by concern that the existing models were in need of update, not because they had failed, but because the time was right to consider their on-going fitness for purpose. Scottish HEIs receive a substantial amount of public investment, with budgeted spend of over £4 billion in the four years since</p>

	<p>2012/13, and have a well-deserved national and international reputation for excellence. The public rightly expects the highest standards of governance and accountability to be followed by institutions in Scotland.</p> <p>The provisions set out in the Bill are informed by the Report of the Review of Higher Education Governance in Scotland (“the Review”), published in January 2012. The provisions in Part 1 of the Bill apply to HEIs. The definition of an HEI in the Bill is an HEI (within the meaning of the Further and Higher Education (Scotland) Act 2005 (“the 2005 Act”) provided that it has also been listed as eligible for public funding under that Act, but excluding the Open University.</p> <p>The Open University is excluded on the basis that it is a single institution established elsewhere and operating across multiple jurisdictions which might otherwise be made subject to conflicting governance requirements. However, the provisions on academic freedom do apply to the Open University in Scotland and also apply to publicly funded colleges of further education as the new section 26 of the 2005 Act (as inserted by section 19 of the Bill) applies to all post-16 education bodies in Scotland (as defined in section 35(1) of the 2005 Act).</p> <p>A number of the Review recommendations have been taken forward through the development of the Scottish Code of Good Higher Education Governance, developed on behalf of the Committee of Scottish Chairs of HEIs by a steering group chaired by Lord Smith of Kelvin, and published in July 2013. The Bill takes forward recommendations that were not yet addressed by other means and considered to require primary legislation.</p>
<p>Scope of the CRWIA</p>	<p>The provisions within the Bill at introduction which are likely to make the greatest contribution to the wellbeing indicators, are the requirements that each of the 18 Scottish HEIs, must include within the membership of their governing body 2 students, and within the membership of their academic boards a minimum of 10% students whilst capping the size of academic boards at 120. These positions may be undertaken by students who are under 18 and as such would provide a positive opportunity for young people in higher education to participate directly in key governance structures within institutions.</p> <p>The children and young people who will be affected by the Higher Education Governance (Scotland) Bill, when it</p>

	<p>becomes an Act are those young people who enter higher education under the age of 18.</p>
<p>Children and young people's views and experiences</p>	<p>The requirement to undertake a CRWIA was not in place during the development of the policy which underpins the Higher Education Governance (Scotland) Bill. As such specific data and evidence gathering in respect of the CRWIA has not been undertaken during the policy development process. It is considered that in these circumstances the generally available data cited below is sufficient.</p>
<p>Key Findings</p>	<p>The evidence tells us that 13% of the student population at Scottish HEI's in 2013/14 were aged 16-18 years old and of these 825 were aged 16 and 8005 were aged 17. Combined this accounts for 3.8% of the total student population. (HESA)</p> <p>As set out above, the Bill as introduced requires that each of the 18 Scottish HEIs for which Part 1 of the Bill applies must include within the membership of their governing body 2 students, and within the membership of their academic boards a minimum of 10% students whilst capping the size of academic boards at 120. Therefore across the 18 institutions there will be statutory provision for the participation in the governing body for 36 students and in academic boards, provision is made for the membership to include at least 10% students. The membership of academic boards is also capped at 120 capping the requirement at 12 students per HEI in those HEIs where the membership of the academic board was 120, setting a maximum, in terms of the requirements of this section of the Bill of 216.</p> <p>In reality there are only 5 HEIs which are likely to have academic board membership near those numbers, University of Glasgow, University of Aberdeen, University of the Highlands and Islands, University of St Andrews and University of Edinburgh. In the other HEIs membership sits around 30-75.</p> <p>Of the eight indicators of wellbeing it is considered that this would contribute to the wellbeing of any young person in terms of:</p> <p>Respected – having an opportunity to participate in decisions about a higher education institution which would affect all students.</p> <p>Responsible – having an opportunity to play an active and responsible role in their higher education institution.</p> <p>Achieving – Being supported and guided in their learning and in the development of their skills, confidence and self-esteem in their higher education institution.</p>

	<p>The Bill's promotion of the rights of all students in higher education, including those up to the age of 18, through statutory provision of the aforementioned positions in respect of the governance of the institution has potential to promote the implementation of UNCRC article 12, which relates to respect for the views of the child by providing an opportunity for young people to be heard, in the context of providing for statutory participation of some students in the governance of the higher education institution which they attend. That opportunity will be open to all students regardless of age.</p> <p>This also has potential to promote the implementation of articles 28 and 29 through the statutory provision for the direct participation of students in both the governing body and academic board of all 18 HEIs, ensuring the interests of students are represented by students. In particular 28 (1)(c), which requires that states parties recognise the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular make higher education accessible to all on the basis of capacity by every appropriate means and 29 (1)(d), which requires that states parties agree that the education of the child shall be directed to the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin; by providing, on a statutory basis, for the participation of some students in the governance of the higher education institution which they attend.</p> <p>The Bill offers an opportunity to all students, regardless of age, and including those young people under the age of 18 in higher education, 8830 in 2013/14, to participate directly in the governance of their institution through the provision of 36 statutory governing body positions and up to 216 statutory academic board positions.</p> <p>The participation of students in the governance of institutions is anticipated to have a positive percussive effect on the institution as a whole.</p>
<p>Conclusions and Recommendations</p>	<p>The Higher Education Governance Scotland Bill will have a positive impact by making statutory provision for participation of students, which may include young people under 18, in the governance of all 18 Scottish higher education institutions. This is anticipated to have a percussive positive effect throughout the institutions in general and therefore all students.</p>

Monitoring and review	<p>The Bill will have an indirect impact on those young people aged 16 and 17 years old who attend a Scottish HEI, however given the lack of direct impacts and the small number of young people under the age of 18 who will be indirectly affected by this legislation, it is considered that a full CRWIA will not be required. It is considered that a proportionate response to this is to commission a post implementation review to measure the impact of the requirements within the Bill which impact on young people. The transition period for this Bill once it becomes an Act is likely to be around 4 years, therefore a post implementation review is likely to take place around 5 years after the Bill receives royal assent.</p>			
Bill - Clause	Aims of measure	Likely to impact on . . .	Compliance with UNCRC requirements	Contribution to wellbeing indicators
Section 4	Requirement to include within the governing body of an HEI 2 persons nominated by a student's association of the institution from among the students of the institution.	This clause will ensure in statute the participation of students as members of the governing body in all 18 Scottish HEIs.	This has potential to promote the implementation of UNCRC article 12 by providing an opportunity for young people to be heard in the context of providing for statutory participation of some students in the governance of the higher education institution which they attend. That opportunity will be open to all students regardless of age.	<p>Respected – having an opportunity to participate in decisions about a higher education institution which would affect all students.</p> <p>Responsible – having an opportunity to play an active and responsible role in their higher education institution.</p> <p>Achieving – being supported and guided in their learning and in the development of their skills, confidence and self-esteem in their higher</p>

				education institution.
Section 10	Requirement to ensure that a minimum of 10% of the members of the academic board of an institution are students of the institution elected to the position by the students of the institution.	This clause will ensure in statute the participation of students as members of the academic board in all 18 Scottish HEIs.	This has potential to promote the implementation of UNCRC article 12 by providing an opportunity for young people to be heard in the context of providing for statutory participation of some students in the academic board of the higher education institution which they attend. That opportunity will be open to all students regardless of age.	Respected – having an opportunity to participate in decisions about a higher education institution which would affect all students. Responsible – having an opportunity to play an active and responsible role in their higher education institution. Achieving – Being supported and guided in their learning and in the development of their skills, confidence and self-esteem in their higher education institution.
CRWIA Declaration				
CRWIA required			CRWIA not required	
Yes – however this has been undertaken in a manner which is considered to be a proportionate response to this requirement which was introduced following the completion of the policy development phase of this Bill.				

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23 February 2016**Deputy Director or equivalent**

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