

Addition of trade union nominees to the boards of college institutions: consultation

December 2022

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Introduction

As a result of the Covid-19 pandemic, work to amend subordinate legislation to effect governance changes to the boards of management of the incorporated colleges, the Glasgow Colleges' Regional Board and the Lanarkshire Board was put on hold. We are now in a position to restart work around implementing governance changes and to consult on adding trade union nominees to the boards of college institutions.

In 2016, the then Education Secretary's Good Governance Task Group reported back on the lessons learned at Glasgow Clyde, North Glasgow and Coatbridge Colleges. The Task Group also made a series of recommendations to improve governance in Scotland's colleges around four strategic themes of prevention; self-assessment; external assurance; and sanctions. These recommendations have been taken forward in conjunction with the Good Governance Steering Group, which is a cross-sector body with a remit to support-ongoing good governance across the college sector. Although the origin of these governance changes dates back to 2016, if implemented, these improvements would sit within a wider package of transformation and change within the tertiary education and skills sector, as the Scottish Government progresses recommendations from the SFC Review of Coherence and Sustainability 2021.

The Scottish Government consulted on the Good Governance Task Group recommendations in April and May 2017. The Scottish Government received 39 responses to this consultation – 28 from organisations, including 10 colleges, and 11 from individuals.

On 18 February 2019, the former Minister for Further Education, Higher Education and Science, Richard Lochhead MSP, outlined in a letter to the Education and Skills Committee of the Scottish Parliament the actions that the Scottish Government intended to take in response to the consultation regarding college governance matters. As part of this response, the Scottish Government committed to introducing trade union nominees to the boards of the incorporated colleges, the Glasgow Colleges' Regional Board and New College Lanarkshire (NCL) (also known as "the Lanarkshire Board"). As the Court of the University of the Highlands and Islands is the regional strategic body in the Highlands and Islands college region, there will be no changes to that entity.

About this Consultation

The purpose of this consultation is to seek views on proposals to add trade union nominees to the boards of college institutions. The Scottish Ministers are proposing to make legislative changes to the Further and Higher Education (Scotland) Act 1992 and the Further and Higher Education (Scotland) Act 2005 Act to give effect to the commitments made on adding trade union nominees to the boards of college institutions. Details of the proposals are provided below, under the section 'Proposals to Add Trade Union Nominees to the Boards of College Institutions'.

Responding to this Consultation

We are inviting responses to this consultation by 27 January 2023.

Please respond to this consultation using the Scottish Government's consultation hub, [Citizen Space](#). You can view and respond to this consultation [online](#). You can save and return to your

responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 27 January 2023.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form to:

College Governance Team
Scottish Government
5 Atlantic Quay
Glasgow, G2 8LU

Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our [privacy policy](#).

Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public on [Citizen Space](#). If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at ScotGov_Colleges_Mailbox@gov.scot.

Scottish Government consultation process

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations [online](#). Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a

range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Policy Proposals to Add Trade Union Nominees to the Boards of College Institutions

This consultation paper seeks comments on proposals that would deliver governance changes to the boards of management of the incorporated colleges, the Glasgow Colleges' Regional Board and the Lanarkshire Board. These proposals describe how trade union members are to be appointed and states their term of office, and are set out below.

As a consequence of the changes in relation to trade union nominees, the proposals also increase the minimum and maximum number of board members for the various types of board. There is a statutory requirement for boards to have a majority of non-executive members over executive members. A table demonstrating what these changes mean for overall board composition can be found underneath the proposals below.

This consultation contains a proposal to amend Schedule 2 of the Further and Higher Education (Scotland) Act 1992 ("the 1992 Act") to alter the constitution of the board of management of New College Lanarkshire to make provision for trade union representatives on its board. The proposal provides that there will one nomination for trade union representatives from teaching staff and one nomination from support staff across both, New College Lanarkshire and South College Lanarkshire. This proposal balances the need to introduce trade union representatives on to boards with the need to ensure that board sizes are manageable, while still ensuring a majority of non-executive members. Although it will alter the unique arrangement where there exists equal representation between both colleges on the board of management, consideration has been given to the manageability of the board. A table illustrating the proposed changes to the composition of the Board of New College Lanarkshire can be found underneath the proposals below.

To add trade union nominees to boards of college institutions requires changes to both the Further and Higher Education (Scotland) Act 1992 and the Further and Higher Education (Scotland) Act 2005. For ease, the proposals have been labelled 'Proposal A' and 'Proposal B', both of which are required to achieve adding trade union nominees to boards of college institutions.

Proposal A

Proposals to amend the Further and Higher Education (Scotland) Act 1992 to make provision for trade union representatives on the boards of management of regional and assigned colleges.

We propose to amend Schedule 2 of the 1992 Act to:

- increase the maximum number of members of a board of management of a regional college¹, and increase the minimum and the maximum number of members of the board of assigned colleges;
- make provision for trade union representatives on the boards of management of regional and assigned colleges², namely one person nominated by a trade union from among the teaching staff of the college, and one person nominated by a trade union from among the support staff of the college;
- require that the nominating trade union must either be recognised by the board of management or appear to the board to be representative of staff of the college[s]
- provide that the nomination process is conducted in accordance with rules made by the board, and the board must consult any trade union before making, varying or replacing those rules;
- specify that trade union representatives on a college board are to hold office for a period of up to 4 years, with length of term decided upon by the trade union, and will be eligible for reappointment, and
- specify that the trade union representative must vacate office on ceasing to be either a member of staff of the college or a member of the trade union.

Proposal A (i)

We also propose to amend Schedule 2 of the 1992 Act to alter the constitution of the Lanarkshire Board to:

- increase the minimum and maximum number of members on the Lanarkshire Board and make provision for trade union representatives, namely one person nominated by a trade union from among the teaching staff, and one person nominated by a trade union from among the support staff, of both New College Lanarkshire and South College Lanarkshire;
- require that the nominating trade union must either be recognised by the Lanarkshire Board or appear to the board to be representative of staff of both colleges;
- provide that the nomination process must be conducted in accordance with rules made by the Lanarkshire Board, and the board must consult any trade union before making, varying or replacing those rules;
- specify that trade union representatives on a college board are to hold office for a period of up to 4 years, with length of term decided upon by the trade union, and will be eligible for reappointment, and
- specify that trade union representatives must vacate office on ceasing to be either a member of staff at one of the board's colleges or a member of the trade union.

¹ In 2012, the Scottish Government undertook work to regionalise colleges in Scotland, which led to the establishing of 13 college regions and the merging of colleges. Boards of regional colleges provide governance oversight of colleges and are responsible for the planning and delivery of learning and for ensuring value for money.

² Assigned colleges exist in regions where there are multiple colleges. These colleges are assigned to a single Regional Strategic Board. There are three multi-college regions; Glasgow, Lanarkshire and the Highlands and Islands.

Proposal B

Proposals to amend the Further and Higher Education (Scotland) Act 2005 to make provision for trade union representatives on regional boards.

We propose to amend the Schedule 2 (B) of the Further and Higher Education (Scotland) Act 2005 (“the 2005 Act”) to:

- increase the minimum number of members of a regional board and increase the maximum number of other members which the board can appoint
- make provision for trade union representatives on regional boards, namely one person nominated by a trade union from among the teaching staff, and one person nominated by a trade union from among the support staff, from among the regional board’s colleges;
- require that the nominating trade union must either be recognised by the regional board or appear to the regional board to be representative of the board’s colleges;
- provide that the nomination process must be conducted in accordance with rules made by the board, and the board must consult its colleges and any trade union before making, varying or replacing those rules;
- specify that trade union representatives on a college board are to hold office for a period of up to 4 years, with length of term decided upon by the trade union, and will be eligible for reappointment, and
- specify that trade union representatives must vacate office on ceasing to be either a member of staff at one of the board’s colleges or a member of the trade union.

Illustration of Changes to College Boards

		Current Arrangements		Proposed Changes	
Incorporated Colleges	Assigned Colleges	Min: 13 Max: 18	<ul style="list-style-type: none"> • Chair (Appointed by the RSB) • Principal • Student Member 1 • Student Member 2 • Elected Support Staff • Elected Teaching Staff • 7-12 Independent Members 	Min: 15 Max: 20	<ul style="list-style-type: none"> • Chair • Principal • Student Member 1 • Student Member 2 • Elected Support Staff • Elected Teaching Staff • Support Staff Nominee • Teaching Staff Nominee • 9-12 Independent Members
	Regional Colleges	Min: 15 Max: 18	<ul style="list-style-type: none"> • Chair • Principal • Student Member 1 • Student Member 2 • Elected Support Staff • Elected Teaching Staff • 9-12 Independent Members 	Min: 15 Max: 20	<ul style="list-style-type: none"> • Chair • Principal • Student Member 1 • Student Member 2 • Elected Support Staff • Elected Teaching Staff • Support Staff Nominee • Teaching Staff Nominee • 9-12 Independent Members
	Regional Boards (GCRB)	Min: 15 Max: 18	<ul style="list-style-type: none"> • Chair • Chair of the Assigned Colleges Boards (x3) • Elected Support Staff • Elected Teaching Staff • Student Member 1 • Student Member 2 • 7-10 Independent Members 	Min: 19 Max: 22	<ul style="list-style-type: none"> • Chair • Chair of the Assigned College Boards (x3) • Elected Support Staff • Elected Teaching Staff • Student Member 1 • Student Member 2 • Support Staff Nominee • Teaching Staff Nominee • 9-12 Independent Members
	NCL	Min: 19 Max: 22	<ul style="list-style-type: none"> • Chair • Chair of SLC • Principal of NCL • Principal of SLC • Elected Support Staff NCL • Elected Support Staff SLC • Elected Teaching Staff NCL • Elected Teaching Staff SLC • Student Member NCL • Student Member SLC • 9-12 Independent Members 	Min: 21 Max: 26	<ul style="list-style-type: none"> • Chair • Chair of SLC • Principal of NCL • Principal of SLC • Elected Support Staff NCL • Elected Support Staff SLC • Elected Teaching Staff NCL • Elected Teaching Staff SLC • Student Member NCL • Student Member SLC • Support Staff Nominee • Teaching Staff Nominee • 11-14 Independent Members

Respondent Information Form

Addition of trade union nominees to the boards of college institutions: consultation.



Scottish Government
Riaghaltas na h-Alba
gov.scot

Please Note this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:

<https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email Address

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
 Publish response only (without name)
 Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
- No

Consultation Questions

Question 1

Do you agree with the proposed changes to the Further and Higher Education (Scotland) Act 1992 and Further and Higher Education (Scotland) Act 2005, as outlined in the sections marked Proposal A and Proposal B?

- Yes
- No

If no, please give reasons.

Question 2

Do you agree with Proposal A (i) to amend schedule 2 of the 1992 Act to alter the composition of the Lanarkshire Board?

- Yes
- No

If no, please give reasons.

Question 3

Do you agree with the proposals that trade union representatives should have a flexible term of appointment of up to 4 years that is to be determined by the nominating trade union, as opposed to a fixed term appointment of 4 years?

- Yes
- No

Question 4

Do you agree with the proposals that trade union representatives must vacate office if they cease to either be i) a member of staff of the college or ii) a member of the nominating trade union?

Yes

No

Question 5

Do you have any other comments on the proposals overall?



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