

MSP Briefing – Post-16 Education (Scotland) Bill Stage 3 Debate

Wednesday 26 June 2013

Colleges Scotland supports the objectives of the Post-16 Education (Scotland) Bill. Stage 2 consideration delivered several significant improvements to the Bill for the college sector and for the effective implementation of colleges' reforms. This briefing considers the areas which we believe merit consideration as ways of further improving the Bill at Stage 3 and the issues of implementation to be considered going forward if the Bill passes.

1. Regionalisation and the Bill To Date

The proposals that led to the Post-16 Education (Scotland) Bill were set out in *Putting Learners at the Centre*. This proposed that colleges move to serving 13 regions in Scotland, and along with the Russel Griggs *Review of College Governance*, informed the proposals now being taken forward in the Post-16 Education (Scotland) Bill on how those regions will work in practice.

The Bill will introduce a new governance structure in colleges – giving primacy to the regional level. Regions will be served by either a single regional college or a regional strategic body which oversees a number of colleges assigned to it. The latter will be the model in the Glasgow, Lanarkshire and in the Highlands and Islands region, where colleges will be assigned to the University of the Highlands and Islands (UHI).

This reform process of regionalisation is now well underway. Mergers to create new regional colleges and assigned colleges are expected to be completed over the next year, and regional leads have been appointed by the Scottish Government in each region to oversee the transition.

The Bill also sets out the issues the regions will have to consider in making decisions for education provision in their area.

Colleges Scotland want to see the Bill ensure that the regionalisation process can allow colleges to work more efficiently, effectively, and collaboratively across the sector and with partners, to serve the regions and nation as a whole and so better serve learners.

The sector sought at Stage 2 a rebalancing of some of the initial proposals to ensure there was an appropriate level of autonomy and capacity in boards to serve their area effectively, so we particularly welcomed:

- a Code of Governance introduced to apply to colleges in the same way as proposed for universities, as a condition of grant from the Scottish Funding Council (SFC).
- no reduction in board size for assigned colleges to ensure there is capacity in what will still often be large colleges within a region.
- principals to be full board members – ensuring academic leadership is integral in the board's work
- that all assigned college board chairs will have a right of membership on the regional strategic body, so all colleges have a voice at regional level.

2. Key Issues for Stage 3

Attached to this briefing below is also a note of our view on all amendments lodged, however these are some of the key issues which Colleges Scotland believe merit particular consideration at Stage 3.

2.1 Transfer of Assets and Staff

The Bill proposes that regional strategic bodies have the ability to transfer assets and staff by direction in multi-college regions. Colleges Scotland propose that such transfers are carried out by agreement with the colleges affected where those transfers impact on provision of teaching, as proposed in amendments 57 and 58. We believe that the regional strategic body should seek to work collaboratively with its colleges to develop a plan for education in the region, and the most effective way to achieve this is with all parties working in agreement. We also recognise amendment 110 as a step in the right direction in terms of ensuring consent by the receiving college or regional strategic body, and that it enables government to revisit in the future which bodies must consent to transfers.

2.2 Approval of Assigned College Board Membership

The Bill requires that the regional strategic body appoint assigned college board members, apart from the elected staff and student members and the principal. We see this as a significant shift away from autonomy in that college, but recognise the oversight role of the regional strategic body. We therefore support amendments 32 and 33 which propose that for other members (apart from the chair) these appointments be made by the assigned colleges with the approval of the regional strategic body.

2.3 Highlands and Islands Regional Strategic Body

In the Highlands and Islands, the regional strategic body proposed is the UHI. This will operate differently to the regional strategic bodies (known as 'regional boards') of Glasgow and Lanarkshire with the way in which funds flow to colleges for FE purposes not explicitly set out on the face of the Bill. A working group chaired by Dr Michael Foxley produced recommendations in October 2012 setting out how this would work in practice, suggesting there be a Committee of the Court, made up of the chairs of the colleges to determine funding distribution for FE. To ensure there is protection of the flow of funds and structures to support decisions on provision Colleges Scotland welcomes amendment 44 and also amendments 93 and 110 which we believe would provide safeguards on those concerns.

2.4 Mismanagement

The Subordinate Legislation Committee noted in their Stage 1 consideration the extension of powers for Ministers to remove board members. This will include potential removal for breaches of any condition of grant – for example, targets set in outcome agreements – and for failing to 'discharge their duties'. Colleges Scotland would welcome further measures to be taken to appropriately limit these powers and therefore we support amendments 37 and 73, which would limit such powers to breaches of the Code of Governance as a cause for possible removal, and 38 and 74 which remove broad powers for removal on failing to discharge duties. We also welcome 39 and 75 which would introduce a requirement for the SFC to be consulted on any proposed removal.

2.5 Gender Quotas

This issue was discussed at Stage 2 in terms of ensuring board members in universities and in colleges have appropriate gender balance. We welcome amendments 4 and 80 to put this issue on the face of the Bill. It is important that the timescales for implementation are ambitious and achievable.

2.6 National Pay Bargaining

Amendment 79 will allow for the establishment of an independent advisory committee, with representatives from the sector, to make recommendations, prior to any commencement of a national bargaining structure across colleges which provide a useful clarification on the process.

2.7 Access for Under-Represented Groups

We support the proposed amendments 21, 24, 49, 52, 77 and 78 which would require regional colleges and regional boards as well as the SFC to have regard to improving representation among under-represented socio-economic groups.

2.8 Borrowing Powers

Amendments 71, 72, 81, 82 and 83 would allow colleges and regional boards to borrow and dispose of land or property without the need to seek consent from Ministers, which would increase the autonomous working of the sector.

3. **Implementation and Issues Going Forwards**

Assuming the Bill passes, there will still be a number of key issues to be considered in the transition and implementation of the working of the new regional structures.

3.1 Code of Governance

We believe the development of this code should be open and transparent, and responsive to the needs of different regions, colleges and stakeholders. This should underpin the operation of the sector and be able to evolve with the process of regionalisation itself. In the same way that the draft code for the university sector was scrutinised in the Parliament, we would also expect the code for colleges to be available to the Parliament to consider.

3.2 Mergers

We welcome the Education and Culture Committee's commitment to consider the mergers in the sector as part of its future work programme, recognising the scale of the changes underway.

3.3 Office of National Statistics (ONS) Reclassification of Incorporated Further Education Colleges

The Scottish Government have committed to work with the sector to find ways to address any potential negative impact of the ONS reclassification of the college sector as public bodies in Scotland. Given the implementation of regionalisation which will be underway, such measures will be essential.

Colleges Scotland

This briefing has been provided by Colleges Scotland for MSPs' information. More information about us can be found at www.collegesscotland.ac.uk

To discuss, or for further information, please contact John Henderson, Chief Executive, Colleges Scotland, email: john.henderson@collegesscotland.ac.uk or Tel: 01786 892000.

Colleges Scotland View: Stage 3 Amendments

Note: this does not include amendments to sections 1-4.

No.	Colleges Scotland View
1	Don't support
2	Don't support
4	Support – however issues of timescale for implementation would need consideration
17	No view
18-20	No view
21	Support
22,23	Support
24	Support
25, 26	Don't support – Colleges Scotland would not wish to exclude those who are staff but are not trade union members from being eligible for board membership
27	Support
28	Support
29	Support
30	Don't support – Colleges Scotland would not wish to exclude those who are staff but are not trade union members from being eligible for board membership
31	Support
32	Support
33	Support
34, 35	Support
36	Support
37-39	Support
40	No view
41-42	Support
43	No view
44	Support
45	No view
46, 47	No view
48	No view
49	Support
50, 51	Support
52	Support
53	No view
54	Support
55	Don't support – concerned this limits changes to structures in the future
56	Don't support – concerned this limits changes to structures in the future
57,58	Support
59	Support
60, 61	Don't support – don't wish to limit those eligible for election to exclude those who are not trade union members
62	Support
63	Support
64	No view
65, 66	Don't support – this further restricts the eligibility for board membership
67	Support

No.	Colleges Scotland View
68	No view
69	Don't support
70	Don't support
71, 72	Support – increases autonomy of the regional board
73, 74	Support
75	Support
76	Don't support – concerned this has an impact in terms of the sector's ability to develop the code, also that it introduces separate processes for universities and colleges and the list currently excludes colleges that are not fundable bodies
77	Support
78	Support
79	No view
80	Support
81-83	Support
84	Support
85	Don't support – would prefer assigned college board 'other members' appointments to be approved by the regional strategic body
86, 87	No view
88	No view
89-90	Don't support
91	Don't support
92	No view
93	Support
94	No view
95	No view
96, 97	No view
98	Support
99	Don't support
101-103	No view
104	Don't support – Colleges Scotland would have concerns, appears prescriptive.
105	Colleges Scotland would prefer amendments (39, 75) regarding Scottish Funding Council being consulted rather than establishing a new body.
106-109	No view
110	Colleges Scotland would support, but prefer amendments 57,58
111	Don't support – not convinced this is necessary
112	Support
113,114	Don't support – appears unnecessary as board chair determines whether a principal can participate.
115	Support
116	No view
117	No view
118	No view
119	No view
120	Support

Colleges Scotland
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