

## Post-16 Education (Scotland) Bill

### Stage 2 – Progress Report

The stage 2 process of the Post-16 Education (Scotland) Bill has been completed. Almost 200 amendments were considered in total, the majority of which concerned the provisions for colleges. The Bill is now moving to stage 3 where final amendments will be considered by the whole Parliament. The Bill as amended will then be debated and voted on.

Following agreement by members, Colleges Scotland proposed almost 50 of the amendments considered in the 11 areas. Eight of these 11 proposals have been fully or partially achieved, and progress is expected to be made at stage 3 on a further area. Further activity is to take place as indicated.

#### **1. Membership of Regional Strategic Boards (from Assigned Colleges)**

The amendment proposes to ensure that the chairs of each of the assigned colleges also become members of the regional strategic board by right of position.

**Achieved in full:** amendments to make this change were passed with the unanimous support of government and opposition members.

#### **2. Principal to be an Ex-officio Member of the Board (Regional and Assigned Colleges)**

The amendment proposes to remove the proposal that a principal can be made a member of a board and change to ensuring they are a member by right of position. This should apply to both regional and assigned colleges.

**Achieved in full:** amendments to make this change were passed with the support of government and opposition members.

### 3. Size of Boards of Assigned Colleges

Amend the provisions to limit membership of an assigned college board to 7–10 members, proposing a higher limit in line with that for regional colleges.

**Achieved in full:** amendments to make this change were passed with the unanimous support of government and opposition members. Due to the government proposing to change the numbers of union and staff representatives, the minimum will be 15, rather than 12, to ensure the majority of the board are not remunerated, which would breach charity rules.

### 4. Appointments of Principals (Assigned Colleges)

The amendment proposes to remove the provision where the appointment of, and the terms and conditions, assigned college principals are set by the regional strategic body. Instead the terms and constitutions would be set by the assigned college, with the college making the appointment, approved by the regional strategic body.

**Achieved in full:** amendments to make this change were passed with the unanimous support of government and opposition members.

### 5. Approval of College Board Members (Assigned Colleges)

The amendment proposes to remove the provision allowing regional strategic boards' approval of membership of the assigned college boards. This could be dealt with in the same way as proposed for regional colleges in terms of abiding by the code of governance, with the condition of grant being set by the regional strategic body.

**Partially achieved:** amendments have been passed to establish a code of governance for assigned colleges, as a condition of grant, however amendments to remove the ability of regional boards to approve the remainder of assigned board members did not pass. Colleges Scotland is considering further amendments towards this aim for stage 3.

### 6. Code of Governance (Regional and Assigned Colleges)

The amendment proposes the removal of the proposed requirement for Scottish Ministerial approval of board appointments (with the exception of the chair) and replacing this with provisions similar to those for universities in the Bill – which board members agree to abide by a code of governance. This code would be produced by the sector in partnership with the government. Abiding to the code would also be a condition of grant from the Scottish Funding Council (SFC), and in the case of assigned colleges, from the regional strategic body.

**Partially achieved:** amendments have been passed to introduce codes of governance for regional colleges, assigned colleges, regional strategic bodies and non-incorporated colleges. These codes will be a condition of grant and, have oversight from the SFC for all but the assigned colleges, where there will be oversight from their regional strategic body. Amendments to limit Ministerial powers on board approval did not pass. Colleges Scotland is considering further amendments towards these aims for stage 3.

## 7. Data Sharing

The amendment proposes that it does not appear to be necessary for gathering information on young people and concern that it discourages a partnership approach between providers of education and training.

**Partially achieved:** it was not possible to propose an amendment to remove these provisions, however it was possible to seek that such powers only be used with the scrutiny and approval of the Education and Culture Committee of the Parliament, which were passed. The government also introduced provisions to be able to require SDS share their information with education providers, which appears to be a welcome move.

## 8. Highlands and Islands Regional Strategic Board

The amendment proposes to set out in the Bill safeguards in terms of the operations of UHI as funding and setting strategic direction for FE in the region – that funds for FE in the Highlands & Islands region must be determined by a sub-committee of the UHI Court, including representatives from all assigned colleges, as a condition of grant from the SFC.

**Partially achieved:** a government amendment to introduce a code of governance which would allow for a code to be developed to apply to UHI was passed, however the amendment initially proposed to have further safeguards on funding and structures that support FE within UHI were withdrawn on the basis that government would come back with further amendments at stage 3 to address these concerns. Colleges Scotland is working closely with government, Highlands & Islands regional lead/college representatives and MSPs on finding a solution which all could support.

## 9. Ability to Transfer Assets and Staff in a Multi-College Region

This provision proposes to allow a regional strategic body the ability, by direction, to move assets or staff from its assigned colleges to other colleges assigned to it or other regional colleges or regional strategic bodies. Colleges Scotland amendments proposed that such changes be done by agreement, as is set out in the Bill for the Highlands & Islands region.

**Progress being made:** these amendments fell, however the government have indicated some sympathy for this view, and are looking at amendments for stage 3 to limit the directing powers. Colleges Scotland is working with government on these proposals.

## 10. Duties of Regional Strategic Bodies

The amendment proposes to ensure that colleges' recognition and procedure agreements (RPAs) are adhered to and not usurped by regional strategic bodies consulting directly with trade union bodies.

**Not achieved:** the government was not convinced of the need for these proposals and that regional strategic bodies should be able to engage directly with union representatives. We are aware that union bodies were unresponsive of the Colleges Scotland amendments. Colleges Scotland intends to consider this issue further for stage 3.

## 11. Age of Board Members (Regional and Assigned Colleges)

The amendment proposes the return of a minimum for appointees to a board to be set no lower than 16 years of age, but with no upper limit.

***Not achieved:*** the Cabinet Secretary indicated he did not see a limit as necessary and is in line with common practice in public bodies. Colleges Scotland proposes not to pursue this further.