



**ENTERPRISE AND CULTURE COMMITTEE**

**24th Meeting, 2004 (Session 2)**

**Tuesday, 9<sup>th</sup> November 2004**

The Committee will meet at 2 pm in Committee Room 6.

- 1. Item in private:** the Committee will consider whether to take agenda item 3 in private.
- 2. Further and Higher Education (Scotland) Bill:** the Committee will take evidence from:

Panel 1

Melanie Ward, President, National Union of Students Scotland;

Keith Robson, Director, National Union of Students Scotland;

Panel 2

John Andrew Murray, President, Glasgow University Students' Representative Council;

Brian Ferrick, Vice President, Elmwood College Students' Association;

Panel 3

Dr Alastair Hunter, President, Association of University Teachers Scotland;

Dr Tony Axon, Research Officer, Association of University Teachers Scotland;

Ms Andy Thomson, President, Higher Education National Executive, Educational Institute of Scotland;

Mr Howard Wollman, Honorary Treasurer, Higher Education National Executive, Educational Institute of Scotland;

on the Further and Higher Education (Scotland) Bill.

3. **Scottish Executive's 2005/06 budget proposals:** the Committee will consider a draft report to the Finance Committee on the Scottish Executive's 2005/06 budget proposals.

Stephen Imrie  
Clerk to the Committee  
0131 348 5207

The following meeting papers are enclosed:

**Agenda Item 2**

Submission from the National Union of Students Scotland [EC/S2/04/24/1](#)

Submission from Glasgow University Students' Representative Council [EC/S2/04/24/2](#)

Submission from Elmwood College Students' Association [EC/S2/04/24/3](#)

Submission from the Association of University Teachers Scotland [EC/S2/04/24/4](#)

Submission from the Educational Institute of Scotland [EC/S2/04/24/5](#)

**Agenda Item 3**

Draft report (private paper) [EC/S2/04/24/6](#)



national union of students scotland

**NUS Scotland Evidence on the  
Further and Higher Education  
(Scotland) Bill  
November 2004**

Submitted to the Enterprise & Culture Committee of  
the Scottish Parliament



### **NUS Scotland**

NUS Scotland is a federation of local student organisations in Scotland, comprising over 60 local campus student organisations that are affiliated to the National Union of Students of the United Kingdom (NUS). NUS Scotland is an autonomous, but integral, part of the National Union of Students. The students' associations in membership of NUS Scotland account for 76% of students in higher education in Scotland and over 90% of students in further education in Scotland.

**Students' associations affiliated to NUS retain autonomy over all policy areas, and may choose to make individual students' association submissions based on local policy. NUS Scotland operates a democratic forum for policy and debate on national issues affecting students and NUS Scotland's role is to reflect the collective position.**

## **I. Introduction**

NUS Scotland would like to thank the Enterprise and Culture Committee for the invitation to submit evidence on the Further and Higher Education (Scotland) Bill.

NUS Scotland has long supported a merger of the further and higher education sectors, for wide ranging social, educational and economic reasons. Primarily for this reason we welcome this Bill; it is clear that the legislation represents real progress in developing our educational structure, and we hope and expect this can be built upon in the near future. We firmly believe, however, that this positive work must be regarded as only part of a journey towards an even more holistic attitude and approach to further and higher education, that we believe can only be brought about by the adoption of a single tertiary education sector. We are, however, extremely disappointed by the inclusion of differential fee setting powers in the final Bill - and we look forward to rectifying this during the passage of the Bill through Parliament, especially through our work with the Enterprise and Culture Committee.

## **2. Towards a single tertiary education sector**

NUS Scotland believes that Scottish further education is the primary gateway to opportunity for the Scottish people. Equally, NUS Scotland believes that Scottish higher education is of a high international standard. We believe that both sectors must continue to develop along the core values of accessibility, quality and fairness, with policies that are learner-focused. NUS Scotland has campaigned for over a decade for these sectors to be treated as a holistic tertiary education sector. A truly holistic sector will signal to learners that their learning is valued whether it is delivered in a college, school or university and whether it is vocational, full-time, part-time higher or further. That is not to say that we do not value diversity of approach and delivery, nor do we believe that each institution should be identical and have the same mission. We believe that Scotland should aspire to an education system that can provide any opportunity to every person who possesses desire and ability.

## **3. Key Areas of Interest**

NUS Scotland has identified several key components of this Bill upon which we would wish to comment, and to discuss further with the Committee. These are:

1. The proposed merger of the Funding Councils
2. The proposed role and duties of the unitary Council
3. The proposed power of Ministers to impose differential fees
4. The proposed remit of the Scottish Public Services Ombudsman within Further and Higher Education

#### **4. The proposed merger of the Funding Councils**

NUS Scotland views the proposed merger of the Funding Councils as an important step on the road to our vision for Scottish education. We agree with the Scottish Executive's belief that the creation of a single body for funding further and higher education "provides a much stronger guarantee that there will be coherent strategic decision making at national level in relation to further and higher education in the decades ahead". We believe that there is now much greater parity of methods and standards between FE and HE than there has been in the past, and that this must be made to give rise to parity of esteem between all those teaching and learning in each sector. Furthermore, that this justifies the creation of a unitary body for the funding and supervision of all further and higher education institutions cannot be doubted.

*(Section 1)*

NUS Scotland supports the adoption of the term "fundable body", although we preferred the originally proposed term "Statutory Tertiary Education Provider (STEP)" since this would better recognise the decreasing separation between the FE and HE sectors. Nevertheless, we believe the new terminology appropriately recognises the equal contribution made by each of the eligible institutions to the success of Scottish education and thus their benefit to Scottish society. We particularly welcome the fact that the final Bill refers to just two categories of institution, those "previously funded by SFEFC" and those "previously funded by SHEFC", as opposed to reinforcing needless distinctions between categories of institution that refer to the past, not the future.

*(Section 6 and Schedule 2)*

#### **5. The proposed role and duties of the unitary Council**

NUS Scotland supports the proposal within the Bill that it should be the Council, rather than Ministers, having the statutory duty to secure coherent provision of further and higher education, by supervising and making grants to fundable bodies. Ministers will have a duty to provide support for these activities by making grants of public funds to the Council. We see this as an entirely appropriate distinction of duty that reflects the both the strategic role of the Council and the broad obligations of Ministers in relation to Parliament and the public.

*(Sections 3, 4)*

NUS Scotland especially supports the fact that the Bill sets out specific matters to which the Council must have regard when carrying out its functions. The duty to consider not just 'skills needs', but also the contribution that institutions (and students) can make economically, socially and culturally is in our view essential for the Council to fully and properly perform its function. We are also pleased with the explicit duties required in relation to promoting and observing equal opportunities legislation, supporting persons with learning disabilities, and the requirement to take into account the needs of learners, and potential learners, whether educational or otherwise. We are concerned, however, that the definition of a person with learning difficulties is not fully appropriate for its purpose, and we would look to work with the Committee throughout this process in order to improve this.

*(Sections 12, 20, 21)*

NUS Scotland welcomes with the duties upon the Council to ensure appropriate assessment and, in particular, enhancement of quality in the activities it funds. The duty to promote the enhancement of quality across both further and higher education is a new duty, which we welcome. We also welcome the duty upon the Council to put in place a unitary credit and qualification framework across further and higher education, and to promote it appropriately.

*(Sections 13, 14)*

## **6. The proposed power of Ministers to impose differential fees**

NUS Scotland is surprised and disappointed by the inclusion in this Bill of measures that will allow Ministers to introduce tuition fees for particular courses. There can be no question that, even if not intended to provide a new funding stream, this represents a stark risk to the integrity of the Scottish funding model. A commitment has been given to the public that the Executive would “not support the introduction of top-up tuition fees”. The Executive seeks to reassure us by stating that “this power if used, is only intended to be used sparingly”, that “at the moment, the only area this might apply is medicine”, and that “any further differentiation is carefully focused and has the approval of Parliament”. These comments are simply not reassuring when read in the context of both the original commitment of the Executive to defend Scotland from top-up fees, and the apparent lack of imagination that has been brought to bear on devising the measure itself. NUS Scotland believes that the Executive would be unwise to attempt a reversal of an ongoing recruitment problem within the Scottish NHS by introducing deterrent measures at the point of training for medical practice. We have made alternative proposals to the Executive with an emphasis on providing incentives for medical students, both from Scotland and the rest of the UK, to practice medicine in Scotland after their graduation.

*(Section 8)*

We have a number of specific reservations about both the content and process by which this measure has arisen. Firstly, consultations from the Executive on this issue are still not completed, and might yet give rise to alternative solutions to the underlying proposals; we have certainly made positive suggestions in our response. Furthermore we are concerned that such a controversial power, that has the potential to introduce a market in Scottish education, should be deferred to the status of a statutory instrument, with the commensurate increase in the power of Ministers. Our questions are simple. What are Ministers’ intentions in regard of courses other than medicine? Are Ministers’ aware that this new power would potentially allow the future introduction of differential fees for further education courses? Why have the Executive not looked for real solutions to recruitment problems in the NHS, rather than hoping that changes in the student funding system will affect the number of doctors who wish to practice in Scotland?

*(Section 8)*

We are concerned that this power could be used not sparingly, but as the de facto ‘quick fix’ for any cross border flow issue that may arise, in relation to almost any discipline, without proper consideration of alternative approaches or solutions. We believe that the measure will ultimately permit differentiation of fees to become the acceptable norm in the provision of education, which can only damage the otherwise excellent progress made by this Bill in applying equal social value to all further and higher study and training.

*(Section 8)*

## **7. The proposed remit of the Scottish Public Services Ombudsman within Further and Higher Education**

NUS Scotland very much welcomes the provision in the Bill for the Scottish Public Services Ombudsman to investigate student complaints, or indeed complaints from any person who feels aggrieved by the decision of an institution. We are sympathetic with the position that the Ombudsman should not become involved in matters of academic judgement. We believe that this extension of the Ombudsman’s role can only serve to better protect students, whatever their level of study.

*(Section 26)*

## **8. Conclusion**

With the exception of the clauses on differential fees, NUS Scotland welcomes this Bill, and the significant victories for students that it promises. We have long campaigned for the merger of the funding councils, and for the Public Services Ombudsman to have their remit extended to further and higher education; we welcome that both of these developments will now be brought about through this legislation. We welcome new duties to promote equality, to take into account the needs of learners, and specifically to protect the interests of students with disabilities. We welcome the focus in the Bill on reducing the disparity between further and higher education, and see this as a step towards a unified tertiary education sector, in which achievement at every level can be properly recognised and respected. That said, we are extremely disappointed by the inclusion of excessive new ministerial powers that would hold the door ajar for the differential fee, and look forward to the opportunity to working with the Enterprise and Culture Committee to achieve change on this issue.

**Submitted by and on behalf of the Scottish Executive Committee  
November 2004**



**Students'  
Representative  
Council**

## **GLASGOW UNIVERSITY STUDENTS' RERESENTATIVE COUNCIL**

### **A RESPONSE TO THE PROPOSAL TO SET A HIGHER FEE FOR NON- SCOTTISH-DOMICILED MEDICAL STUDENTS STUDYING IN SCOTLAND. ARISING FROM THE FURTHER AND HIGHER EDUCATION (SCOTLAND) BILL**

#### **Preamble**

Glasgow University Students' Representative Council (GUSRC) is the statutory representative body for over 20,000 students at the University of Glasgow. We provide representation at University and national level, welfare and academic advice, and support for a wide range of student activities

#### **Introduction**

GUSRC welcomes the chance to respond to the Executive's proposals and hopes that the Executive takes on board the comments made below. We do, however, have concerns about the manner of this consultation that limits the degree of stakeholder input. These concerns are outlined later in the paper and we would wish the Executive to reconsider its approach to consultation on this and other issues. In this response we seek to make our principled opinion known on how the Executive's proposal may affect students and also make suggestions as to what other areas may be more usefully examined as part of a more holistic approach to the issues raised. We believe a broader and more informed consultation should be considered to allow a more constructive input from all areas, which may negate the perceived need to consider fee increases.

#### **Key principles**

GUSRC has consistently opposed the existence of tuition fees and the existence of variability within any tuition fees regime. GUSRC reaffirms its belief that finance should not be a barrier to entry to Higher Education nor a determinant of a student's academic choices. Higher Education should not be a marketable commodity but a public good open to all and benefiting all regardless of finance or background. No student or graduate should have to suffer burdensome debt which provides both a deterrent to entry and a tax on ambition.

Further, GUSRC maintains as a key principle that tuition fees and student hardship should not be used as a tool to further the Executive's wider social, political or economic ends.

It is for these reasons that GUSRC strongly opposed the Higher Education Act and the introduction of variable tuition fees in England, which have serious and broadly negative implications for students both in England and in Scotland. GUSRC would oppose vigorously the extension of variable fees to Scotland and views the very discussion of this issue as just one negative implication of the Higher Education Act in England.

Whilst we oppose the existence of fees, burdensome debt and variability, we also wholeheartedly support the goal of widening participation in Higher Education as a key tool of social justice and equality. This is a valid consideration for any policy and improving access to the medical profession for under-represented groups is equally important.

GUSRC is also sympathetic to the needs of Scotland's health service and NHS recruitment, but must primarily represent student needs and opinion. Again, fees and student hardship should not be used as mechanisms which the Executive should use to further their wider goals.

**Principles in relation to the proposal to increase fees for medical students**

GUSRC recognises that there are some difficulties in reconciling the above principles in a post-top-up fees context but rejects the proposal that fee variability be considered to pursue any aim. It is deeply regrettable that a situation exists where fee variability can be suggested as a way of protecting access to Higher Education, yet GUSRC believes the Executive need not go down this route.

GUSRC believes that to accept the logic of a differential fee in one instance is to open the door to similar appeals from other areas using the same rationale. We are concerned that 'special pleading' in one area would lead to similar pleas from others. The development of a segmented and differentiated market for students in Scotland may not be the intention of this proposal but will undoubtedly be the unwelcome result. GUSRC does not believe that medicine will universally be accepted as a 'special case' but instead believes claims from other areas would quickly be forthcoming.

GUSRC welcomes the expressed intentions of the Executive to maintain their opposition to up-front fees and fee variability for Scottish-domiciled students in Scotland, yet would not like to see the same disadvantages of England's top-up fee system extended to students in Scotland originally domiciled elsewhere in the UK. GUSRC would further like the Executive to clarify its proposals with regards to Welsh and Northern Irish students, whose future tuition fee regimes are not clear. If either or both decide not to introduce top-up fees then the fears of much higher numbers of these students coming north would disappear and the logic of creating a higher fee for Welsh and Northern Irish students would be diminished.

*GUSRC would like the Executive to clarify their position in relation to Welsh and Northern Irish students in relation to their potentially different fee regimes.*

GUSRC does not believe a conflict between enhancing NHS recruitment, protecting access to medical places for Scottish-domiciled students and maintaining a fees system free of variability is necessary. GUSRC urges the Executive to consider the issues more comprehensively and innovatively and propose other options and potential solutions for consultation that do not involve the use of variable tuition fees. In fact, GUSRC welcomes many of the recommendations of the Calman Report as positive ways that might be built on in order to avoid the perceived need for fees.

### **Consideration of premises and unknowns**

A key problem with the proposition to increase fees for non-Scottish-domiciled medical students is that it is based on speculative premises and without serious consideration of potential alternatives. For example, whilst domicile may at present be an influencing factor in recruitment and retention, it can hardly provide a full picture, and GUSRC believes a more holistic and imaginative approach must be taken. Other key factors affecting recruitment and retention may relate to living and working conditions, location of medical school in relation to the need for health workers, and any other factor that may make working in Scotland appear a less favourable alternative to working elsewhere in the UK.

The Calman Report does highlight a number of these issues but does not give particular recommendations in this area, which would be helpful. It does, for example, highlight issues such as 'the St Andrews Question' (s60-74) but lacks any major initiatives to incentivise domicile after graduation or improvements in working conditions.

*GUSRC would like the Executive to provide information and impact assessments on all other options, no matter how ambitious, to boost NHS recruitment and retention of all UK-domiciled graduates, and clarify the legal, financial and other implications of each.*

Further, it is not clear what effect the introduction of top-up fees will have on cross-border applications and current thinking is speculative. It may be reasonable to plan for the eventuality of a higher demand for Scottish Higher Education, but it would also be prudent to avoid rushing in to implementing proposals detrimental to students when the problem may not be as severe as sometimes imagined.

Further still, whilst factors affecting recruitment and retention other than domicile need consideration, so do factors affecting application and admissions to medical courses. The Calman Report does rightly highlight a number of these issues and GUSRC believes the Executive should provide more concrete proposals as to how steps might be taken to improve transition from Highers to medicine, how school outreach may increase applications from Scottish-domiciled students, or how admissions procedures might be tailored to protect places for Scottish-domiciled students once applications are received. GUSRC welcomes the recommendation that Scottish medical schools need to give more attention to the realities of secondary schools in

Scotland (s46) and welcomes also the consideration of the '4 means of widening access' (s48).

The Calman report is one of a number of Higher Education documents that notes the major current challenge to widen participation in medicine is in fostering "aspiration, achievement and application" (HEFC 2003) in under-represented groups, implying a key role to ever more active recruitment and reform at school level. Yet if the fear is that greatly increased applications from well-qualified English applicants post-2006 will cancel out any gains made in this respect, ambitious reform of admissions procedures should be considered as an alternative to fee increases.

The Calman Report's recommendation to 'ring-fence' the newly created medical places for schemes that increase the diversity of Scottish medical courses and for those most likely to be committed in the long-term to NHS Scotland is welcomed. GUSRC would be interested to know the extent to which mechanisms such as these could negate the perceived need for fee increases.

Schemes such as the 'Pathways to the Professions', foundation year courses and ring-fenced access places are positive schemes that, if expanded, might provide other ways of achieving the Executive's aims. Admissions procedures tailored to Scottish-domiciled applicants do exist (at Edinburgh the number of Scottish-domiciled applicants accepted is disproportionately high compared to application rates because of this) and might also be another avenue to be examined. If the Executive could be bold and imaginative in providing alternatives for consideration, such as greater use of ring-fenced places, then this might negate the perceived need for fee increases and provide a more positive, constructive and ultimately more preferable approach.

*GUSRC would like the Executive to provide information and impact assessments on all other options, no matter how ambitious, could exist to boost recruitment and retention in University admissions and clarify the legal, financial and other implications for each.*

GUSRC is not at this stage advocating use of any of the above methods, merely that they must be deliberated over and consulted on. GUSRC believes there is a wider picture to be considered and the Executive must deal with these areas before considering the use of tuition fees.

Aside from the recommendation to 'take special account' of the position of medical funding (s81), the Calman Report has a number of very promising and constructive recommendations. GUSRC believes some of the recommendations made, as well as many of those omitted, could be used to build an approach that negates the perceived need for a fee increase and would like to see these, and the assessment of their impact, progressed before consideration of funding changes.

GUSRC reiterates that tuition fees cannot be used as 'an easy option' in pursuit of the Executive's goals.

### **Other Options and poverty of consultation**

GUSRC takes issue with the manner in which this consultation has been conducted. Proposing to introduce differential fees into Scottish Higher Education is a hugely significant act and deserves a more thorough consultation than that offered. The Scottish Executive prides itself in the its consultation with stakeholders yet has fallen short on this issue in a way that undermines the scope of stakeholder input.

GUSRC notes that the consultation falls foul of a number of benchmarks of good practice highlighted in the Scottish Executive's *'Consultation Good Practice Guidance'* (June 2004). The guidance states, amongst other things, that consultation must be held over a minimum of 12 weeks, should include broad discussion of the issues involved and options available, provide relevant views and information, as well as an assessment of impact on different groups. With an 8 week consultation open to only a few stakeholders, providing only one external report (the Calman Report), only one option (the proposed fee raise) and only one opinion (that of the Scottish Executive based on the Calman Report) and without any assessment of impact, the consultation process is skewed heavily towards the Executive's ambitions.

As information and opinion that may assist those with opposing views is not provided, the consultation process is neither informed nor balanced.

Given the importance of this issue, a more formal process along the lines of other consultations undertaken by the Executive should be progressed. Options and alternatives should be suggested with sufficient information to provide stakeholders the chance to input more constructively. Although organisations other than GUSRC are better placed to deal with other aspects of NHS recruitment and retention, we would like to see the consultation relaunched, looking holistically at some of the following issues:

- The inventive use of admissions procedures and ring-fenced places to protect and promote access to medical places for Scottish-domiciled students.
- The extension of recruitment and outreach programmes to encourage medical applications from Scottish-domiciled students.
- The issues surrounding the transition from Highers to medical schools.
- The living and working conditions for medical workers in Scotland in comparison to elsewhere in the UK.
- Possible incentive packages and recruitment efforts for all medical students, regardless of domicile, to remain domicile in Scotland.
- Possible incentive packages and recruitment efforts for all medical students, regardless of domicile, to come to Scotland from elsewhere in the UK.
- Ways of improving links between the cities with medical schools and areas where there is a shortage of health workers

GUSRC is not necessarily endorsing actions based on any of the above, but believe they would all be appropriate items for consideration in a wider and more informed consultation. Other appropriate bodies with far more expertise on these issues may have other suggestions also.

*GUSRC would like the Executive to reconsider the whole approach and launch a much broader consultation process with more information, options and impact assessments, including some of the suggestions above.*

*GUSRC would like such a consultation to find a solution that negates the perceived need for increased medical fees.*

### **Considerations if proposals were progressed**

GUSRC reaffirms its opposition to the introduction of increased medical fees for non-Scottish-domiciled students but believes it prudent to comment on the practicalities of any such increase and what the Executive must do if it were to implement such an increase.

Firstly, if the Executive were to ignore the views of the student body and impose such a fee increase, GUSRC believes that a firm public commitment should be made stating that no other 'special cases' would be considered and differential fees would go no further.

Secondly, if the Executive were to ignore the views of the student body and impose such a fee increase, GUSRC believes it should set the fee at the minimum level possible. When deciding a fee level it should consider not just the relative price of tuition fees in England, but also the level of bursaries that accompany those fees. If the same fee level as England were set but without the accompanying benefit that students in England would receive, the real-terms cost of fees where would be significantly higher.

Thirdly, if the Executive were to ignore the views of the student body and impose such a fee increase, GUSRC believes that any revenue raised from the fee increase should be reinvested into widening participation. The revenue could provide access bursaries and other means of financial support for students from 'non-traditional' backgrounds seeking to enter medicine, as well as ring-fenced places for Scottish-domiciled students. If extra revenue was to be raised, this would be one positive way of using it.

*GUSRC believes that if student opinion was ignored and fees were imposed, the Executive should rule out further fee increases in other areas, should set the fee level at a minimal level with consideration of the bursary as well as fee levels in England, and should reinvest revenue into bursaries and places for Scottish-domiciled access students.*

Finally, GUSRC believes that the powers provided in Section 8 in the Further and Higher Education (Scotland) Bill be removed. A change such as the proposal discussed requires fuller consultation and scrutiny than that provided by the Bill. Ministers should not be free to raise fee levels without proper parliamentary scrutiny and public consultation, and the use of Secondary

Statutory Instruments provides no assurance of this process. GUSRC rejects the proposed increase in fees for medical students on principled and practical grounds, but further rejects any provision that allows major changes in fees or funding to be taken without the proper scrutiny provided by genuine consultation and primary legislation. Further, GUSRC is deeply concerned that Section 8 appears to give ministers the power to introduce differential fees for any course, level, domicile or institution, which appears to provide the legislative room for the introduction of top-up fees in the future.

Whilst we welcome the Executive's expressed commitment to oppose top-up fees in Scotland, as well the claim that section 8 is to be used for medical fees only, the question must be asked why such legislative powers are necessary if there is no intention to use them. Even if the Executive has no intention of using such powers, they remain open to future governments to do so without proper scrutiny and should be removed.

*GUSRC recommends that section 8 of the Further and Higher Education (Scotland) Bill be removed and any decisions be given full and specific parliamentary scrutiny.*

### **Summary**

Although GUSRC is sympathetic to the needs of protecting places for Scottish-domiciled medical students and to the need to improve recruitment for Scotland's health service, it does not believe that introducing a variable tuition fee for non-Scottish-domiciled medical students is an appropriate mechanism to achieve these ends. Increasing tuition fees should not be a mechanism by which government can further economic, political or social goals and other options must be explored and a more holistic approach taken. GUSRC believes other measures must be considered and maintains its stance against fees and against variability.

GUSRC is grateful of the chance to respond to this proposal but is disappointed with the manner of consultation and would like to see a broader and more informed consultation that sought more imaginative responses to the Executive's twin aims of protecting places for Scottish-domiciled students and improving NHS recruitment and retention. The introduction of a differential fee into Scotland is too important an act to be taken as the 'easy option' in pursuing these aims and all other measures from improving working conditions and incentive packages, to ring-fencing places and tailoring University recruitment and admissions procedures should be considered as factors more appropriate to influence.

GUSRC has provided suggestions for the Executive in case they are to pursue the proposal discussed, including safeguards for the future and suggested use of revenue. Ultimately, however, GUSRC believes Scotland must remain free of differential fees and opposes any move to threaten that.

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**SCOTTISH PARLIAMENT ENTERPRISE & CULTURE**

**FURTHER AND HIGHER EDUCATION (SCOTLAND) BILL: STAGE 1  
SCRUTINY**

**Brian Ferrick**

**Class Representative and Vice - president of the Students Association at  
Elmwood College.**

## Shared Funding

This Bill seems to present many opportunities for students in FE and on the whole, students included in the research for this paper, felt that they would welcome the changes this Bill could bring. It would appear to suggest the possibility of parity of funding levels between FE institutions and HE institutions. At the moment there is a clear divide between the quality of resources provided at individual establishments, with the Higher Education sector traditionally being better funded.

The change in funding to a shared Council for both HE and FE would seem to hold the key to making the Lifelong Learning philosophy a practical possibility for many local communities. Those in rural areas such as Elmwood College and equally those in socially deprived areas can have very basic access problems due to poor local transport and limited incomes. Education becomes more difficult to access for a variety of societal issues and funding for FE at the moment allows colleges no leeway to help with these problems.

Many students who apply to further education colleges are mature applicants who have been out of an educational environment for some time. They may also have had negative experiences in an educational setting in the past. It is important that this group of people are able to reach their full potential and be able to carry on to degree level courses if they want to, although they may not have the confidence or qualifications to go directly into a higher education setting. This is where the accessibility and local availability of Further Education colleges become a vital first step in the life long learning process. Further Education Colleges are not just concerned with the progression of educationally ambitious students but are of great value to local communities and businesses communities who can gain new skills and brush up on old skills through the short courses on offer.

It would seem that the people making decisions regarding the funding and quality standards would be the same for both HE and FE, giving parity of esteem within the post 16 sector as a whole. This could also bring the opportunity of Scottish FE qualification being held in higher regard internationally and widening employment prospects for Scottish students.

The promise of coherent provision for both Further and Higher Education implies that the needs of each area will be adequately met and will lead to barrier free links for progression while still ensuring the identity and the specialist vocational areas in FE are not lost. The main worry amongst students was that the important role that FE plays may be overshadowed by the larger HE institutions. Many FE colleges are small and provide very specialist courses. These courses must be fully resourced in order that students get the best from their educational experience. Merging colleges may seem sensible for funding purposes but does not fit into the Life Long Learning philosophy where accessibility plays an enormous part in people realising their potential.

The bill will promote collaborative working between universities and colleges. This in turn will promote greater understanding of the work of each institution and of the provision made for students. The more staff of these two sectors work together, the more likely they are to value each others' role. The transition students make from one sector to the other can only be made easier through this greater understanding.

## **Concerns regarding the outcome of the merger**

### **Student Voice**

By merging the new funding councils will further education students have more of a voice or less of a voice? The structure of higher education institutions means that naturally their students will have greater means to express themselves and protect their interests. This is due to factors which include the duration of time spent at university (average 3-4 years) when students associations have a chance to train up new members and ensure consistency. This also means that there will be fluidity to their approach. Many universities also have the financial position to enable them to fund paid students association posts in order that office bearers may devote their full attention to issues affecting their student population.

On the other hand due to the nature of Further Education courses, which may only last for 1 year, the student councils often lack consistency and experience to make their voice heard at a national level.

While this situation is nothing new it does raise key questions about how the voice of further education students will stand its ground going head to head with higher education students. Care must be taken to guarantee that the joint Funding Council is aware of these differences and ensures that both parties are heard.

Recent developments such as SPARQS are reassuring however and further education students are aware of this national resource to raise awareness of their needs.

### **Funding**

As regards funding, the bill will hopefully be of benefit to Further Education colleges and students. Currently there is inconsistency in levels of funding between universities providing degree programmes and colleges providing HNC's and HND's. The merger of the funding councils, coupled with the introduction of the Scottish Credit and Qualifications Framework will enable this to be evened out. From now on the funding council will be in a position to award funding to institutions on the basis of the level of qualification, regardless of its title.

## **Employer Links**

Another key factor for the further education sector is its link to employers. As previously mentioned, FE has strong links via its vocational courses. To be effective in the development of relevant courses for industry, they must retain close links with the employment market. The question is what will the relationship be between the new funding council and Scottish Enterprise and their duty to provide training for employment. Further more, what input will employers have to ensure that courses are responsive to the needs of the current labour market?

## **Access to Higher Education**

As a student currently studying at a further education college, one of the hopes I would have for this Bill is that it would make the transition between Further and Higher education easier.

At the moment there appears to be a tendency for universities to favour qualifications gained in the direct transition from school to university in the form of Highers and advanced Highers, with little understanding or acknowledgement of the further education route. There is scarce acknowledgement of the FE qualifications and the level of independent study and thought which is required to meet the pass criteria of such a qualifications.

It is my hope that this new Bill will assist Further Education students by making the NC/NQ/HNC level qualifications more widely recognised for entry level to universities and also solidify the HNC/D articulation routes into higher education institutions at 2<sup>nd</sup> or 3<sup>rd</sup> year. As previously stated, it will also help universities in their plans to widen access by allowing them to learn from their colleagues in FE.

## **Conclusion**

In summary, the Student's Association at Elmwood College welcome the introduction of this bill. The advantages which are anticipated are the improvement of funding for Further Education; the widening of access to all areas of the community by providing a greater range of opportunities for all students; student support in Higher Education should improve as Higher Education /Further Education institutions work together and learn from each other and finally that this should have the additional advantage of ensuring a smother transition from Further Education on to Higher Education.

We do however raise concerns regarding student voice at Further Education level and retaining strong employer input which we think would benefit from a proactive approach to ensure these issues do not create problems further down the line.



## **A vision for higher education, a vision for Scotland.**

### ***Submission on the Scottish Further and Higher Education (Scotland) Bill to the Enterprise and Culture Committee.***

#### **1 Preamble**

- 1.1 The Association of University Teachers Scotland (AUTS) has over 6,500 academic and academic-related members in Scottish higher education institutions (HEIs). We are the Union that represents lecturers, researchers and academic related staff, which includes senior administrative, computing and library staff. We welcome the opportunity to submit evidence to the Enterprise and Culture Committee on the Scottish Further and Higher Education (Scotland) Bill.
- 1.2 Although the consultation is about a merger of the funding councils, as an exclusively higher education union we will mainly confine our comments to the higher education sector.
- 1.3 The merger has already undergone two consultation stages and the draft bill and proposals altered significantly after the public consultation. Nearly all of our comments on the consultation were incorporated into the published bill in stark contrast to the pre-consultative stage.

#### **2 Introduction**

- 2.1 We support the proposed merger of the funding councils and this Bill meets many of the concerns of the sector in forming a council for further and higher education. We believe that higher education (HE) is vital for the future of Scotland and Ministers often cite Scotland's world-class universities as central to a Smart Successful Scotland. However, we believe the Bill could express that greater vision for a higher education that is essential for a successful future in Scotland. The Bill should help Scotland's world class universities continue to maintain their position in Europe and the world whilst contributing to a Scotland that is smart, successful, sustainable and inclusive.

#### **3 Vision for higher education**

- 3.1 A vision for higher education should recognise the many roles it plays in developing economic and cultural aspects of the individual and society, thus developing civic Scotland, including the sciences. The aims and objectives of the recent Scottish Funding Council's joint corporate plan placed too much emphasis on the economic aspects. In the Executive Summary of A *Framework for Higher Education in Scotland* it states:

*We look to our higher education institutions to serve learners: helping people develop throughout their lives so that they play the fullest part they can in society and the economy. We also look to higher education to serve society: making a significant contribution to the health, wealth and culture of a thriving and creative Scotland.*

- 3.2 The new body should reflect this broad steer rather than solely concentrating on the economic aspect of the purpose of higher education.
- 3.3 By supporting higher education the funding council will continue to contribute to the priorities of the Executive. Higher education is a crucial element for these priorities, as it provides the knowledge and experts that are required for all the professions.
- 3.4 **We recommend that:**
  - a. academic staff should be relieved of the burden of bureaucracy
  - b. the undermining of academic freedom should be reversed
  - c. the use of fixed-term contracts reduced
  - d. outreach into communities, including industry, should be rewarded.
- 3.5 This will allow academic staff to concentrate on their main roles of teaching, research and scholarship for the greater good of Scotland.

#### **4 Course provision and articulation**

- 4.1 We fully support the concept of greater collaboration and increased articulation through the use of the Scottish Credit and Qualifications Framework and in particular of increasing access to university for students from all walks of life. The merger of the councils will allow for joint funding for articulation initiatives across the sectors.
- 4.2 Fundable bodies will have a legislative requirement to have provision for the planning and development of their activities but the Council has not been given the power to monitor these plans or ensure that Ministerial guidance is carried out. We believe the new body should have an overview of HE subject provision within Scotland even though the Bill states that the decisions on courses are for individual institutions. It should ensure that subjects are not lost to Scotland as a whole due to higher education institutions (HEIs) closing down courses. This is particularly important if Scots will be financially penalised by taking courses outwith Scotland. By ensuring HE subject provision in all areas the new body will be able to address future skills holistically but predicting specific future skills needs is fraught with difficulties and dangers.
- 4.3 Many students, especially from non-traditional backgrounds, want to attend courses that do not attract credit, but which may act as a 'taster' for further learning. Often such students are deterred by accreditation, which has connotations of examinations. There is no reason why all courses within higher education need to attract credit, especially if such accreditation acts to deter participation by non-traditional students. We strongly believe that any

funding method should not discourage the teaching of non-accredited courses, as this is an essential element of the adult learning provision provided by institutions.

4.4 **We recommend:**

- a the re-introduction of funding for non-accredited courses
- b encouragement of wider participation via such courses.

## **5 Funding**

- 5.1 We believe that the distribution of funds between the two sectors is a political decision and not one to be decided in a formulaic manner. Hence the Scottish Executive and Parliament should have the ultimate say through the Scotland budget, as is presently the case. The need for the Enterprise and Culture Committee and the Scottish Executive to review specific HE funding in the light of university and student funding proposals in England amply demonstrates this point.
- 5.2 The main challenge of the merger is how to maintain within a single structure the distinctive roles of further and higher education. In attempting to cover both sectors, the objectives of the Council could become either disparate or basic, and we are deeply concerned that, in the long term, the distinctive role of institutions will be diminished. Whilst there may be a general consensus for the merger of the funding councils, it should not be allowed to result in the improvement of the position of the FE sector to the detriment of the international standing of Scotland's universities. The distinctive role of Scotland's universities must be recognised, protected, maintained and enhanced by the merged funding body.
- 5.3 Higher education institutions, as recipients of substantial public funding from the Scottish Parliament's budget, should be broadly accountable for the use of these funds in accordance with Scotland's needs for higher education and research. However, as higher education institutions are autonomous bodies, it is not possible to specifically direct their funding. But we now have a democratic mechanism whereby universities are accountable, through SHEFC, to a Scottish Parliament with significant and distinctive roles for the Minister and the Enterprise and Culture Committee. The Ministerial guidance presently steers the funding of SHEFC whereas the Committee has an audit role for both the Minister and SHEFC.
- 5.4 We are concerned, though, that institutions have not adequately enacted Ministerial guidance and we would wish to see increased powers for the council in ensuring that public money is used in accordance with the wishes of Ministers. Presently the only recourse for SHEFC is to cease funding for institutions that do not meet their obligations under the condition of grant. This is a punitive measure, which would result in HEIs losing funding for those activities that the council is promoting.
- 5.5 One appropriate method to address the balance between autonomy and accountability is by the use of a rigorous condition of grant as recently developed by SHEFC. This should be combined with an increased capacity for the council to warn HEIs that they are not meeting their conditions of grant

and face financial penalties in the future. Financial penalties should then include the withholding of grants or even funding claw backs until the institution proves that it is attempting to meet its obligations.

- 5.6 We believe that institutions should be required to show how they will respond to government policies in their strategic plans whilst maintaining their distinctive institutional mission and fully involving internal stakeholders – notably staff and students. However the new funding council will need to develop capacity and methodology for monitoring the implementation (as well as the adequacy) of institutions' strategic plans and in making recommendations on the plans to Ministers and the parliament.
- 5.7 Particular examples where we believe that institutions are not meeting their obligations despite repeated assertions in the ministerial guidance are those relating to staffing issues including the reduction in fixed-term contracts and meeting equal opportunities in terms of closing the pay gap between women and men and for staff of ethnic origin.
- 5.8 **We recommend that:**
- a Ministers direct the overall diversion of funds between the two sectors
  - b the Council be given increased powers to ensure that public money is used in accordance with the wishes of Parliament
  - c the use of a rigorous condition of grant as the most appropriate method to address the balance between autonomy and accountability
  - d financial penalties include the withholding or claw back of funding.

## **6 Governance, organisation and management**

- 6.1 Most HEIs have adequate procedures on governance at present but we are concerned to maintain the principle of HEIs having democratically elected staff representatives on the governing bodies.
- 6.2 We believe the powers relating to governance are presently appropriate for the higher education sector but we welcome the need to demonstrate good corporate governance, involving staff and students.

## **7 Merger Consultation**

- 7.1 We welcome the fact that Ministers can no longer initiate consultations on mergers but recognise that the Scottish Parliament has a role in promoting collaboration which increases productivity and the value of research and teaching, including greater opportunities for the redeployment of contract research staff. In consideration of mergers we believe students and staff have a vital role in determining the mechanics of the merger but they are not included in section 22(4) of the Bill.
- 7.2 **We recommend** that staff and students be considered as stakeholders in consultations over merger proposals.

## **8 Academic freedom**

- 8.1 While we welcome the assurance given by 8 (12) that funding decisions by Scottish Ministers will not be tied to conditions affecting particular programmes of learning or courses of education and research, it should be noted that this protects institutional academic autonomy. It does not protect academic freedom properly understood. Academic freedom is most authoritatively defined in the Education Reform Act 1988 (which in this respect applies only to institutions which, at that time, were already Universities). Academic freedom is about freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without the staff concerned placing themselves in jeopardy of losing their jobs or privileges. This legislative endorsement and protection of individual academic freedom should be extended also, using the opportunity presented by the current Bill, to the post 1992 universities in Scotland and (whilst this is not a matter of direct concern to AUT Scotland) in principle we see no reason why this should not also apply in further education.
- 8.2 **We recommend** that individual academic freedom be extended to the whole of further and higher education in Scotland.

## **9 Fee levels**

- 9.1 We share the concerns of the Executive that English students coming to Scotland for purely financial reasons may result in loss of places for Scottish students. However, we are concerned that proposals in section 8 of the Bill could be interpreted as giving power to introduce variable fees. We remain implacably opposed to variable fees in Scotland.

## **10 Conclusion**

- 10.1 In general we support the Bill and we hope we can work with the committee to refine the detail during the passage of the Bill through the Parliament.

**THE EDUCATIONAL INSTITUTE OF SCOTLAND****BACKGROUND PAPER FOR THE ENTERPRISE & CULTURE COMMITTEE,  
SCOTTISH PARLIAMENT****MEETING – 9 NOVEMBER 2004****INTRODUCTION**

The Educational Institute of Scotland is the largest lecturers' union in Scotland, with close to 9,000 academic members in both the further and higher education sectors. The EIS is the sole representative body for further education lecturers in Scotland. The Institute welcomes the opportunity to influence the eventual structure of a single funding council for Scottish tertiary education and the terms of the Tertiary Education (Funding etc.) (Scotland) Bill.

**LEGISLATING FOR MERGER**

The Institute welcomes the news that in seeking to legislate for the merger of the two funding councils it is intended to keep change to a minimum. However, if the new body is to play a role in realising the people centred aims of the Scottish Executive Lifelong Learning Strategy as set out in "Life through Learning: Learning through Life" and "A Framework for Higher Education in Scotland" we believe it will have to be an enabling body, one which has a developing, planning and funding role.

The new body should promote and assist collaboration between further and higher education establishments and other local and national agencies, ensuring duplication is kept to a minimum while encouraging partnership working which provides value to Scotland's growing knowledge economy. The new body should ensure representatives of staff in both sectors are involved in any planning and delivery processes.

The EIS believes the further education sector has established itself as the lead provider of HNC/HND education in Scotland and promoted the 2+2 route to a degree as the preferred option of many students. However, while this is the preferred option for many we realise that a four year honours degree will still be the preferred route for the majority of school leavers, we would therefore not wish to see any new legislative framework seek to promote one route over another, nor would we wish to see disparity in funding arrangements and would encourage the new body to fund according to level as set out in the Scottish Credit Qualifications Framework.

When framing the new legislation the Institute would wish the Executive to note that FE lecturers also deliver degree level programmes for many HEIs in locations best suited to the student's circumstances. Despite this exceptional contribution to HE delivery in Scotland, FE lecturing staff do not enjoy "parity of esteem" with their HE colleagues, particularly when it comes to matters of pay. The Institute believes now is the time for Ministers to seek to establish a forum to review the current disparities in pay and conditions across the FE sector and recommend looking at the long term benefits of assimilating FE college staff to the newly established higher education pay and grading framework.

## Diversity

The Institute supports the proposal to create an environment where the Council has the same powers and duties over all institutions. However, we also believe that not enough attention has been paid to recognising the diversity of the further and higher education sectors and that categorisation contained throughout this consultation document and proposed Bill seek to devalue the very diversity that is central to what the Executive seeks to achieve. The Institute is comfortable with the concept of a tertiary education sector for Scotland but is totally opposed to the STEP categorisation contained in the consultation and would question why it was necessary to sub-divide higher education throughout the document. We suggest greater clarification of the diversity of Scotland's tertiary sector is needed in the final Bill to ensure no negative impact is experienced by any one institution following legislative change.

## THE CHANGING LANDSCAPE

The Institute cannot see any case for extending the range of learning providers eligible for funding from the new body as we believe Scotland is well served by its publicly funded FEC's and HEI's. The Institute would, however, suggest additional funding is needed to assist cross sector collaboration, maximising use of resources and minimising duplication. If workplace education and training is to be beneficial to the needs of the Scottish economy we believe it must be delivered by dedicated, qualified professional lecturing staff who understand the priorities of Ministers and the Council, from our further and higher education institutions thereby ensuring quality and best value.

However, should such a proposal find itself into the final Bill, the Institute believes greater clarity is needed to show that being specified as a tertiary education provider does not automatically mean funding is provided from the public purse, causing a redistribution of scarce resources. Should eligibility ever lead to funding the Institute would want to be assured that Ministers were satisfied that it was only in exceptional circumstances and a consequence of the provision not being available from any FEC or HEI.

The Institute is pleased to note that the SCQF is currently establishing itself as a world leader in bringing clarity and understanding to entry and exit points and routes for progression within and across post compulsory education and training in Scotland. The Institute supports the work of the SCQF and looks forward to it providing a national vocabulary for describing learning opportunities and making the relationship between qualifications clearer and more easily understood by employers, learners, parents and the general public.

We welcome the proposal to extend academic freedom to FEC's. However, we would need assurance that the academic freedom enjoyed by higher education academic staff is also extended to further education lecturers.

We note the review of teacher qualifications in FE and the potential that lecturing staff would be required to gain an appropriate teaching or professional qualification within a prescribed period of time. The Institute would welcome such a proposal for FE lecturing staff.

Finally, we note the proposal to add a power in the new legislation which would allow Ministers to "invest additional funds – beyond grants" for a specific purpose. The Institute is opposed to top slicing in both further and higher education and would need assurances that

these “additional funds” were indeed new money not just money top-sliced from annual grant-in-aid allocations.

## **ROLE OF THE NEW BODY**

### **Responsiveness and relevance of learning provision**

The Institute, as indicated above, believes that the new body should have a planning and funding role and therefore accepts that it will have some involvement in ensuring that FE and HE institutions respond to addressing the skills needs of the Scottish economy. As it is likely that the Scottish economy will continue to move away from manufacturing and towards commercial and service based employment and also self-employment, we believe this is a strong pointer towards the need for broad courses including a large element of general education. If institutions are to be able to adapt quickly to changes in national and local economies and to set up new courses as required they will require to be well resourced. The Institute would like to see the Council provide funding for the development and piloting of new provision in rapidly evolving areas. We share the vision of collaborative working in many of the Stakeholder Platforms and ask that the new Council provide for partnership arrangements between FE and HE institutions; relevant employer stakeholders; trade unions and the Executive to encourage a proactive, informed approach to such developments.

### **Quality of learning provision and research**

The Institute has no difficulty with the provisions outlined here, however, we would not wish to see any additional quality audit burden placed on FEC's or HEI's by the new Council, rather we would welcome a review of current audit requirements and a light touch approach being introduced, underpinned by robust self-evaluation.

The Institute would like to see the new body take a lead role in ensuring FEC's are able to avail of research opportunities and that they are provided with opportunities to learn from HEI's how best to incorporate research considerations to current activities. We would like to see twinning and mentoring opportunities for institutions and staff being promoted.

### **Coherence of provision and collaboration between providers**

The Institute would like the Council to adopt a Collaboration, Communication, Co-operation approach, promoting joint programme delivery and research both within and across sectors. It should be proactive in encouraging and supporting collaborative initiatives, highlighting and commending good practice. It is true that collaboration is currently more common place between HE institutions and between FE colleges but not at all clear that collaboration and partnership across both sectors is as good as it could be. The Institute believes collaboration between sectors is a clear means of ensuring “parity of esteem” is established across both FEC's and HEI's and suggests that the additional resources will be required initially for FECs to rise to the challenges of collaborating with well established synergies in HEIs. Seamless articulation from FE to HE should be another priority for the new Council.

### **UHIMI and Crichton Campus: new approaches**

The Institute supports the development of the UHI Millennium Institute and the value that such a development brings to the Islands and Highlands of Scotland. We are, however,

concerned that this “university” is developed on a par with other universities in Scotland which is currently not the case as courses presently offered by the UHI Institute are developed by FE academic staff, taught by FE academic staff, student support dealt with by FE academic staff, without any common approach to quality, conditions of employment or rates of pay. The Institute suggests the new Council cannot continue the “poor relation” approach to the development and provision of degree courses for the UHI Institute and expects a funding mechanism to be established that allows the current disparities to be overcome.

### **Mergers and new institutions**

The Institute would wish decisions on institutional closures, start-ups or mergers to reside with Ministers. However, we would suggest that the Council be given authority to monitor the implementation of merger decisions in order to ensure the provisions of merger are adhered with and the interests of staff maintained. The Institute has not had very good experience of mergers in the HE sector and would suggest that some mergers had an element of asset stripping at their core while others seek to intimidate and threaten academic staff to transfer from TUPE protected contracts to alternative contracts by denying them future pay awards. The new body should also have authority to advise Ministers to reverse the decision should staff and student interests not be upheld.

On the FE front the Institute has been appalled at the amount of public funds utilised to investigate the potential for merger between colleges, without one single positive outcome. We believe the Council has a role to play in initiating and encouraging institutions to consider closer working, including merger, however, it should also have the authority to recommend positive change where that change is supported by the majority of the relevant stakeholders.

### **Progression through learning (including articulation)**

The Institute believes the new Council should, perhaps using a condition of grant, ensure all HEIs to have articulation agreements in place with further education colleges in order to maximise the number of students progressing seamlessly from FE to HE study. We would also suggest that the new body ensure that where these advancing students are those from socio economic groups not previously involved in or attracted to higher education that resources follow the student to ensure that expectations are realised and drop out rates among “non traditional” learners reduced. We believe that it is only with specific additional financial support that HE institutions can offer the advice and guidance necessary to help these students become graduates.

## **FUNDING**

The Institute supports the single tertiary allocation to the Council proposed in the Bill but would caution against any destabilising of the further or higher education sector during the transition phase. The Institute would need to be assured that once Ministers had agreed the allocations to FE and HE no further scrutiny of specific allocations was required. The Institute supports the proposal to fund provision by level and recommends using the SCQF levels for such purposes.

The Institute would suggest that the new Council also be given responsibility for the funding of nurses and midwives and that the requirement to bid to the Scottish Health Board on a five year basis be ended.

We support the proposal that the new body produce an annual report, to lay before Parliament, which we believe should also include a brief overview of the benefits or failures of the conditions set when funding specific areas of Ministerial priorities. In bringing together planning and funding responsibility the new body will need to ensure best practice is upheld and value for money delivered by both sectors.

## **POWERS AND DUTIES OF THE NEW BODY**

The Institute shares the concern of some HEI's that a requirement for "adequate and efficient" provision may lead to them having to duplicate provision already offered by FEC's. The Institute would welcome clarification on this matter and suggest the Council should focus on ensuring that the needs of learners are met within a geographical area rather than funding duplication of provision as a consequence of this provision in the Bill.

## **RESEARCH AND KNOWLEDGE TRANSFER**

The Institute welcomes the requirement that the new Council will require to establish a Research Committee and would suggest that such a Committee be made up of research expertise from across Scotland. We do, however, remain concerned at the very large gap between the amount of research conducted in long established universities and that conducted in the post 1992 sector institutions. If there is to be more equality of status among higher education institutions generally then some means of building up the research portfolio of the new universities will need to be found. The Institute believes it is crucial that the post 1992 sector institutions are supported if the new and applied areas of research such as nursing, tourism, media, creative industries and financial services, all important to the success of the Scottish economy, are to develop and flourish.

The new body should have additional resources at its disposal to provide discrete resources to FE institutions in order for them to engage in individual or collaborative ventures which will over time lead to increased commercialisation and knowledge transfer.

## **GOVERNANCE, ORGANISATION AND MANAGEMENT**

The Institute welcomes the proposal that the Chief Executive of the new body will have the right to request attendance at a special meeting of the Board of Governors. We would expect that any such attendance would result in recommendations being reported to Ministers for further consideration and appropriate action.

We believe it is unacceptable that the new body does not have powers to ensure that all publicly funded colleges and higher education institutions have regard to staff governance issues and a means of penalising those that do not, particularly those that do not comply with the Nolan principles when appointing Board members.

The Institute is disappointed to note that the proposals for Governance and Accountability changes being proposed for FEC's are not intended to cover HEI's. We are also disappointed that Ministerial powers are not to be enhanced to cover appointment of Chairs of College Boards of Governance and University Governing Bodies.

The Institute suggests the Bill needs to take account of the value of including staff on Boards of Governors and would suggest enhanced representation rights for staff in both sectors.

## **OTHER MATTERS**

### **Name**

The Institute has no problem with the name The Scottish Tertiary Education Funding Council.

## **TERTIARY EDUCATION (FUNDING etc.) (SCOTLAND) BILL**

We have not commented specifically on the draft Bill but would expect all the comments above to be reflected in the Bill at the appropriate sections.

However, we do have one concern regarding the provision set out in section 22 of the Bill. We are concerned that section 22 (2) and 22 (4) allows Ministers to arbitrarily specify conditions which could have a negative and/or punitive impact on institutions named in schedule 2. We would need assurances that such arbitrary power is limited and that all conditions which Ministers would wish to set by means of regulation are transparent and agreed by Parliament.