



THE HIGHER EDUCATION UNION

Response to a Changing Landscape for Tertiary Education and Research in Scotland

Preamble

The Association of University Teachers Scotland (AUTS) has over 6,500 academic and academic-related members in Scottish higher education institutions (HEIs). We welcome the opportunity to submit evidence to a Changing Landscape for Tertiary Education and Research in Scotland, a Consultation Paper on the Merger of The Scottish Further Education Funding Council (SFEFC) and The Scottish Higher Education Funding Council (SHEFC).

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.

Introduction

We support the proposed merger of the funding councils but believe this consultation and bill is attempting more than the simple legislative merger. 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 this bill is too concerned with administrative changes and the need for intervention in those extremely rare cases where there maybe problems with the management of universities or the governing bodies. We believe the consultation lacks the drive and vision for higher education that is essential for a bright future in Scotland. Rather than concentrating on the need for control, the consultation should be making the case for how Scotland's world class universities will continue to maintain their position in Europe and the World whilst contributing to a Scotland that is smart, successful and inclusive.

We believe academic staff should be relieved of the burden of bureaucracy, the undermining of academic freedom should be reversed, the use of fixed-term contracts reduced and outreach into communities, including industry, should be rewarded. This will allow academic staff to concentrate on their main roles of teaching, research and scholarship for the greater good of Scotland.

Although we do agree that the dividing lines between further and higher education are blurred, with a significant proportion of HE undertaken in further education colleges (FECs), we do not believe funding should be totally driven by level of course. Indeed if this were to be carried through to its logical conclusion, it would increase the funding of HEIs to the detriment of FECs as all higher level HE takes place in HEIs, whereas the HE provision in FECs is below degree level. Funding by level would inevitably cause mission drift as institutions attempted to maximise the more lucrative provision. Universities would completely reduce their Higher National provision and

colleges would attempt to increase this provision at the expense of their main role of providing further education (FE). We believe the present system works well and in cases where an institution undertakes a majority of HE provision, it should apply for the HE designation that Bell College recently obtained.

The bill to form the new funding council should be as succinct as possible, leaving its detailed role of the body to statutory instruments and Ministerial Guidance. We believe the role of the Council would be difficult to modify in the future, as the proposed bill is highly prescriptive in detailing the workings of the new body.

The main problem with the merger is the difficulty of combining 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 higher education will be diminished. Whilst there may be a political will to merge 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.

Specific comments on the draft bill

Clause 1: Duty to secure provision of tertiary education and research

While we understand the need to ensure adequate and efficient provision, we are concerned that the phrasing of sub section (2) seems to give wide ranging powers for Ministers to intervene in higher education institutions. Although the present Ministers indicate that it is only their intention to use these powers in extreme circumstances, it is not clear what such circumstances would be and could include for example interference in academic subjects that are critical of government which is against the principles of academic freedom. Further, the present wording would allow future administrations unprecedented access to institutions. We recommend that this clause is preferably deleted or re-drafted to specify these specific powers which Ministers will be entitled to exercise.

Clause 2: Tertiary education

Rather than define tertiary education in the bill we would prefer the definitions of higher and further education in the 1992 Act to remain.

We realise that the term tertiary is in use in Europe but do not think it is relevant or appropriate to describe universities and colleges as one education sector in Scotland. Although there is overlap between the sectors, the missions of higher education institutions are distinct and diverse from those of further education colleges. Indeed there is an even greater overlap between schools and colleges and presently the main articulation is between schools on the one hand and HE and FE institutions on the other hand. These vital articulation routes should not be neglected in the aspiration to merge the funding councils.

Clause 4: Funding of the Council

We believe that the distribution of funds between the two sectors is a political decision and that Ministers should provide separate funds for each of the two sectors or at the very least provide guidance on the distribution of funds between the sectors and any shared funding streams. Hence the Scottish Executive and Parliament should have the ultimate say through the Scotland budget on the main distribution of funds between the higher and further education sectors.

Clause 5: Funding of the Council: additional grants

We would welcome additional grants where they help to encourage geographical and social provision for Scottish students. Additionally such grants would be welcome to meet certain needs within the sector, such as equal opportunities for staff and students and in meeting employment legislation such as the current regulations on fixed-term contracts.

Clause 7: Directions where financial mismanagement

Although it is stated that this section replicates procedures in place for FECs in section 24 of the 1992 Act, it is not obvious that this is the case as section 24 is about the removal of a board. This would not be possible in universities given their current chartered and statutory bases.

Clause 9: Scottish Tertiary Education Funding Council

We would prefer the council to be called the Scottish Higher and Further Education Funding Council, and the remainder of the bill to be amended accordingly. The designation of institutions as STEPS is dealt with later in this submission.

Clause 12: Funding of specified tertiary education providers

We welcome sub-section 6, which includes in legislation protection for the distinctive characteristics of HEIs.

With regard to section (1)(b)(ii), the memorandum accompanying the bill should highlight examples when 'any other person' would be entitled to grants, loans and other payments from the Council.

Clause 13: Funding: requirement to hold meeting

This should be re-written to provide that such a meeting should only take place in cases of financial mismanagement or other exceptional circumstances.

Clause 17: Skills needs

We welcome the reference to skills needs and knowledge within this clause but are concerned that the phrasing of this section could lead to over prescriptive definitions to skills needs in the future. We would prefer a more general reference to knowledge and cognitive skills throughout the section, including ensuring higher education provision across a broad spread of subject areas are met, rather than the present wording which suggests an emphasis on vocational skills needs.

Clause 18: Consultation and collaboration

Consideration should be given to the introduction of an additional sub-section which requires the Council to engage in a wider and more general duty to consult, where appropriate with other interested 'persons' such as staff, students, trade unions and other representative bodies in the HE and FE sectors.

Clause 21: Specified tertiary education providers

We do not see the need for a new definition of providers. Instead we would prefer a simple list of the colleges and universities, which is only broken down by HE designation, that should be funded by the new council.

However, we acknowledge that the use of STEPS purely as an administrative and/or legislative expedient may be attractive.

Clause 22: Specified tertiary education providers: further provision

In subsection (3) we would recommend an extra point is included:

(e) as to procedures for considering and resolving any grievances held by staff of the institution.

Clause 23: Duty to provide tertiary education

The reference to *in the area* in subsection (2)(a) should be removed and replaced by a broader definition of the constituency to accommodate universities which do not only serve their immediate geographical area.

Clause 24: Development plans

We supported the introduction by SHEFC of the new condition of grant which requires greater management over and above the proper management of public finances. This included the need for strategic plans and statements on meeting the condition of grant to be submitted to the council. We welcome the fact that this is now included in legislation as this should increase the importance of the strategic plans and the conditions of grant. These plans should be produced in consultation with the governing bodies, external stakeholders and staff and students of the institution.

The new funding council should have the power and ability to reject plans that do not meet the objectives set by Ministers and the Council. In such cases institutions should re-submit plans to meet these objectives and face the prospect of withholding of funding. Further if the actions of institutions do not meet these plans, a claw back should be introduced in a similar fashion to the present situation for meeting targets for student numbers. However, extra capacity in terms of staff and resources will be required in the funding council to evaluate the plans and monitor compliance.

Clause 26: Merger Evaluation

We believe it is a step too far for Ministers to have powers to initiate mergers as implied in this clause, however the funding council should be able to fund evaluations and Ministers should be able to encourage such evaluations without prejudice. Consideration should be given to encouraging articulation between or among institutions instead of the current emphasis on mergers.

THE CHANGING LANDSCAPE

The Association of University Teachers Scotland is against the proposed use of a single definition for all colleges and universities as proposed. Colleges and universities have distinctive roles. Universities predominately offer and validate degree provision and undertake research whereas college provision is virtually all sub-degree level. To define these two diverse sectors using one definition is bizarre. We do not, therefore, accept the notion of *Specified Tertiary Education Providers* (STEPS). The consultation states that:

The majority of HNC/Ds are delivered through FECs, but some are delivered through HEIs. Some FECs offer degree level programmes under validation arrangements; as do those HEIs without degree awarding powers.

Therefore, the Executive admits the differences between HEIs and FECs. Additionally HEIs predominantly offer degree provision and, in most cases validation, as well as undertaking research, much of it of international significance. The present definitions may be cumbersome and in any case are not superseded by the legislation so we believe it would be better to stay with these rather than attempt to invent a new all encompassing definition.

Even worse is the classification of STEPs into sub categories which divides institutions into different categories of universities and colleges. There may be a historic and legislative basis for such classifications but we believe it is a retrograde step. We do not accept that those higher education institutions that were formed in and after 1992 should be categorised differently to the older universities. The reputation of our world class universities will be threatened if these proposals go ahead and the artificial barriers proposed will set the sector back 12 years to the point where the formation of new universities broke down the binary divide.

However, 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 STEPs divide.

We are also concerned that other providers could easily be classified as a STEP as the Bill allows for the formation of STEPs but does not have adequate safeguards in place to regulate them. As any STEP can undertake higher education without being properly designated, providers could encroach into the more lucrative higher education provision without undergoing the correct level of quality assurance. This also opens up higher education to private providers and increases the possibility of higher education being used as a tradable commodity in the General Agreement on Trade and Services (GATS). We therefore recommend that only designated institutions should provide degree level provision and as is presently the case only a university should be able to validate degree level provision. However, this should not be phrased in such a way as to prevent franchise agreements between universities and colleges. This would extend the value of designation beyond the condition for eligibility to receive Research Assessment Exercise (RAE)-related volume/quality funding as proposed in the consultation.

The consultation has a vague reference to teaching qualifications that suggests that all lecturing staff may in the future require accreditation. We believe that this suggestion shows a lack of understanding of the university sector. Lecturers in universities do teach but they also perform research, manage staff, carry out consultancies, manage project budgets and provide expertise to the wider community. New entrants to the profession should have access to high quality, coherent and relevant programmes of training in teaching and support for teaching and should be expected to have demonstrated their competence by the end of their probationary period. Existing members of the profession should have access to CPD (which may involve a variety of activities, not only attendance at courses) in order to update, refresh and develop their teaching and teaching-related knowledge and skills. University lecturers undertake a diversity of roles and have a range of very high level qualifications, both academic - such as a PhD - and professional qualifications in their discipline. Training in teaching methodology is widely available and encouraged but a legislative requirement to undertake a specified teaching qualification is totally unnecessary.

ROLE

The vision within this consultation is welcome in recognising the many roles of higher education in developing economic and cultural aspects of the individual and society. Higher education plays a huge role in developing civic Scotland, including the sciences. The aims and objectives of the recent SFC joint corporate plan placed too much emphasis on the economic aspects. We believe the new body's role should be set by the tone of both the most recent guidance letter and the higher education review in pointing out the wider benefits for the individual and society. The Executive Summary of *A Framework for Higher Education in Scotland* 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.

The new body should reflect this broad steer rather than solely concentrating on the economic aspect of the purpose of higher education.

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. Scotland's ambition and confidence is provided by its universities and graduates. However, we are concerned about the prescriptive nature of the proposals which seem to suggest that courses should more closely match Executive priorities. We are concerned that would lead to course content and subject provision being driven by short term economic dynamics rather than academic principles. Further, it would attack the principle of academic freedom if courses which do not meet executive priorities are not fully funded in the future.

We believe that the present role of SHEFC is appropriate as a funding body that is able to influence the direction of institutions without being prescriptive. However, we

believe its planning powers should be increased particularly in the area of subject provision. We therefore welcome the recommendation that the new council should ensure that provision is comprehensive in coverage, both geographically and subject based – meeting the needs of learners, employers and society.

Responsiveness and relevance of learning provision

The body should have an overview of HE subject provision within Scotland. It should ensure that subjects are not lost to Scotland as a whole due to HEIs closing down courses. This is particularly important if Scots will be financially penalised by taking courses outwith Scotland. SHEFC already has the power to ensure student numbers for controlled and priority subject groups by not allowing these allocations to be transferred. Hence the power to ensure overall provision would be an extension of these powers.

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. In any case, the students themselves decide the take up on courses, so the only way to meet future skills is through an integrated and well-informed careers service for both potential and present students.

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 recommend the re-introduction of funding for non-accredited courses, which will encourage wider participation. However, the funding of provision by level would lead to reduced or no funding for non-accredited courses, as is presently the case for SHEFC teaching grants. 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.

Quality of learning provision and research

We agree with the consultation document on quality enhancement and assessment for teaching. The new body should have the same duties as SHEFC and continue to contract with the Quality Assurance Agency (QAA) for designated institutions. The SHEFC approach to quality enhancement has been widely accepted throughout the sector after much debate and trial of other systems and should be allowed to continue for the foreseeable future. We do not believe teaching quality assurance should be linked to funding and welcome the fact that this is not proposed in the present consultation.

Coherence of provision and collaboration between providers

There has been a lot of emphasis in Ministerial and SHEFC guidance on increased collaboration in recent years. This has led to some formal alliances between institutions, such as Synergy for Glasgow/Strathclyde, and many collaborative research projects, arising partly from the Strategic Research Development Grant awards and the Knowledge Transfer Grant. In addition some HEIs have formal articulation programmes with FECs. These collaborations will increase with the

development of SCQF and if the distribution of funding encourages collaboration rather than competition.

The merging of the councils should increase the synergy between the sectors. In some areas the new body would allow for shared resources as council staff would have overall responsibilities for cross-sectoral issues.

The consultation recommends continued use of the RAE but does not address the problems in the last RAE with regard to collaborative work. Despite the effects of the RAE, there is a great emphasis on collaboration by institutions and research links have been forged including cross disciplinary collaborations. These links will be lost unless a greater importance is attached to collaborative work in the research assessment in 2008 and the resulting research funding model devised by the council.

Mergers and new institutional models

In the HE sector, there have been a considerable number of mergers and whilst we would not oppose further mergers in principle, we do not believe that these should be prescribed by ministers directly in forcing HEIs to consider merger proposals. Indeed a recent change to the grant system, for small specialist institutions, has reduced the pressure to merge these HEIs because of Ministerial recommendations. Therefore if Ministers wish to encourage mergers they can guide the council to change the funding system to support mergers and larger institutions. This already takes place partially through the strategic change grant which can be used to fund evaluations and proposals for collaboration and merger. We believe it is a step too far to legislate on the feasibility of mergers.

Progression through learning (including articulation)

The development of SCQF and SCOTCATS has put Scotland at the forefront in Europe in developing credit and qualification frameworks. The framework must be allowed to bed in and will, in the future, be the mainstay of articulation across the sectors. This is the main area where the merger of the funding councils will have a beneficial effect in allowing cross sector funding for articulation agreements.

FUNDING

The current model of funding for HE has worked well for the vast majority of HEIs and students. It should not be changed drastically as a result of the merger or for the sake of individual institutions which do not fit into the overall pattern. Exceptional cases should instead be considered on an individual basis.

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.

As higher education institutions are autonomous bodies, it is not possible to direct funding more specifically for higher education. However, the Minister issues guidance, which presently drives the funding by SHEFC. The recently introduced condition of grant has been a positive step by the council and was developed to allow SHEFC to be less prescriptive with funding whilst ensuring Ministerial guidance is adhered to, including that on the management of staff.

We do not believe there is a case for extending the range of learning providers for HE provision. Publicly funded education should not be a tradable commodity and, in particular, should never be included in GATS.

POWERS AND DUTIES

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.

An appropriate method to address the balance between autonomy and accountability is by introducing a more rigorous condition of grant as recently developed by SHEFC. 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.

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.

We are concerned that Ministerial guidance has not been adequately enacted by institutions 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 which the council is promoting. Instead there should be 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.

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.

The powers for the new body should be similar to those that presently exist for SHEFC, in that it should act as a buffer body between the institutions and

government. Additionally it should have the responsibility to ensure that subject provision is adequately met in Scotland.

In terms of universities, there should be no additional powers for direct intervention by Ministers and in any case their autonomous legal statutes will preclude such intervention. We therefore welcome the parts of the draft bill which prohibit direct interference in specific institutions. If Ministers could intervene in decisions regarding course provision this would breach the issue of academic freedom and lead to accusations of political interference. However, the duty to secure "adequate and efficient" provision should be extended to cover higher education but not in the all encompassing manner proposed in the first section of the draft bill which appears to give Minister's unlimited powers to intervene in institutions.

SHEFC is able to intervene where there have been serious breaches of the condition of grant (by use of financial penalties) and as the buffer body is best placed to make such interventions.

The two sectors are distinctive and hence different arrangements for the two sectors within the new body are probably needed. We agree that academic freedom should be extended to all institutions, as the ethos of HE is based on scholarship and research, including concepts which could challenge the establishment and perceived wisdom. Without the protection of academic freedom staff will feel vulnerable when putting forward controversial ideas.

RESEARCH AND KNOWLEDGE TRANSFER

The Scottish universities achieved an outstanding result in the 2001 Research Assessment Exercise (RAE) with 85 per cent of Scottish research activity now of national or international quality, compared to 57 per cent at the time of the last RAE in 1996. University researchers in Scotland outperformed the rest of the UK.

In the last spending review we calculated that to fund the increase in research quality would cost an additional £38 million per annum. The formula based research grants have been increased by £23 million per annum and this has helped to meet the needs of the best research departments in Scotland. Despite this extra funding SHEFC has ceased to fund 3b rated departments and is only funding those 3a departments that have risen in quality. The introduction of a seed-corn fund has offset the concentration of research funding but only for those institutions who do not have a significant portfolio of research funding. This has left research departments with a national reputation without core funding and undermines the research base of Scottish universities. We believe funding for research should be an enabling resource to allow research groups the base to compete for grants at a national level through the highly selective research grants bidding process, both in the UK through research councils, charities and government departmental funds as well as for those funds available from the European Commission and other organisations world wide. This funding for research is already highly concentrated and we do not believe that the base funding for research from the council should be so highly concentrated. Further the AUC rejects the principle that university funding should be based to such an extent on a process that can only be described (at best) as random. We believe that the very principle on which the RAE is based - that a panel of experts can knowledgeable,

fairly and systematically assess the research quality of every researcher in all higher education institutions in Britain - is inherently wrong and unrealistic. We further reject the claim that there is overwhelming support from the university sector for the RAE.

The RAE has had deleterious effects on the nature of research and academic freedom. It has not improved research quality. It has undermined equal opportunities and has negatively affected the quality of teaching.

The RAE has been highly divisive and has created an atmosphere of conflict and discontent within departments. Even the funding bodies have admitted that previous rounds have led to ad-hoc grouping of departments, exclusion of some staff from the process and falsification of the institutions' profiles.

The AUT calls for the abolition of the RAE and its replacement with an alternative funding arrangement.

In the past we have praised SHEFC for not concentrating research in only the top rated departments and although funding for research is still not as concentrated as is the case in England, SHEFC has moved increasingly in that direction. We do not believe that such concentration of funding for research is good for the universities or for Scotland as research of national value is left unfunded. Research is by its very nature speculative and this attempt to second guess which research will bear fruit using an RAE based on conservative principles is fraught with dangers for the future prosperity of Scotland.

Knowledge Transfer

The research and knowledge transfer budgets should be safeguarded. The budgets should be at least maintained at their present relative level and should continue to be only available to designated institutions as stated in the draft bill.

There maybe a value in explicitly stating the links between the new body and the Scottish Enterprise Network which presently has working groups with both the further and higher education funding council as well as reciprocal membership for their respective councils.

GOVERNANCE, ORGANISATION AND MANAGEMENT

Most HEIs have adequate procedures on governance at present but we are concerned that many of the post-1992 Universities do not have democratically elected staff representatives in the governing bodies.

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.

OTHER MATTERS

See introductory remarks.

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For further information please contact:
Dr. Tony L. Axon
Research Officer
Association of University Teachers
6 Castle St.
Edinburgh
EH2 3AT
Tel. 0131 226 6694
Email: tony.axon@aut.org.uk
<http://www.aut.org.uk/Scotland/>

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