

Merger of The Scottish Further Education Funding Council and The Scottish Higher Education Funding Council

The Royal Society of Edinburgh (RSE) is pleased to respond to the Scottish Executive's Enterprise, Transport and Lifelong Learning Department's consultation on the merger of the Scottish Further Education Funding Council and The Scottish Higher Education Funding Council. This response has been compiled by the General Secretary, Professor Andrew Miller and the Research Officer, Dr Marc Rands, with the assistance of its Fellows, and others in the Scottish further and higher education sectors, with considerable experience in this area. It should be noted that in compiling this response, that the same key issues identified were all highlighted by the large majority of responders.

We see merit in the proposed merger and in particular that it will provide an opportunity for an integrated strategic approach to further education (FE) and higher education (HE) in Scotland, with stronger recognition and support for new and innovative models of education provision. However, there are a number of issues in the consultation document and draft Bill which we feel are, at best unnecessary and, at worst, potentially damaging to the FE/HE sectors. We believe the draft bill will reduce institutional autonomy and that several of the legislative changes represent a move towards a more centralist model of a sector whose activities are planned by Government. Such a move threatens to undermine the flexibility, creativity and entrepreneurial activity of the sector, as well as introducing additional bureaucracy which will be a distraction from institution's core objectives. It would also act as an obstacle to the actions of those best able to ensure a healthy future for further and higher education in Scotland.

The outputs from the review have also concentrated on data and organisational detail at the expense of policy and vision. There is, therefore, only a limited vision of what further education and higher education institutions can do for Scotland and the UK at large, in either the consultation paper or the draft Bill, which has been an opportunity missed.

In summary:

- The legislative provisions for the FE and HE sectors need to recognise their important roles and not blur the distinctive missions.
- The sub-division of institutions into four different categories should be removed and, to maintain existing branding, the term STEPs should be replaced by 'funded bodies'.
- Section 23 of the Bill is too parochial and redundant as the duty to provide education is already specified in the Charters or other governing instruments of funded bodies.
- The proposals for "influencing" mergers seem unnecessary.

- Section 17 of the Bill emphasises skills at the expense of the broader educational mission of higher education institutions, which should also be included in the Bill.
- In terms of funding the awarding of a single budget to the new Council for both FE and HE should be resisted, and the Council should continue to receive two budgets from the Scottish Executive, to help ensure Government obtained the full range of deliverables expected from each sector.
- Additional powers with respect to either sector, which are not present in the 1992 Act, should not be granted to Ministers or to the new Council unless there is clear evidence that there is some serious defect in the existing legislation.
- In order to encourage parity of esteem for learners, the legislation should treat the FE and the HE sector the same wherever practicable and the current treatment of the HE sector should be taken as the norm.
- There is a concern over the future Council's balance of priorities in relation to basic research. Research needs to be given a central role in the new Funding Council, with a research committee whose convenor is a member of the new Council.
- The provision that the new council can require the governing body of any organisation it funds to hold a special meeting to be addressed by the chief executive undermines the autonomy of an institution's Governing Council.

The different sections of the consultation paper are now addressed below. An important focus is also placed on the draft Bill, as it will be the possible interpretations of the Bill by future administrations that could have unintended consequences.

The Changing Landscape

Scotland's FE colleges play a distinct and crucial role in providing a comprehensive range of lifelong learning opportunities to people of all ages. Their role, despite its great importance for the local economy and society, is less well understood and recognised than the role of schools and universities, providing skills for the economy, and re-skilling in accordance with economic change, lifelong learning and continuing professional development. The creation of the Scottish Further Education Funding Council has contributed to greater recognition of the role of Colleges within Government and within the wider policy environment but it is essential that this progress is maintained and further enhanced and that the distinctive role and contribution of FE colleges is not diminished by incorporation into a merged Council.

Scotland HE institutions not only have a research mission, but an approach to learning and teaching that is inquiry-based. Degree level study in universities is delivered by research-active staff and is a markedly different experience from study for a non-degree qualification. Furthermore Scottish universities have an international reputation, based on excellence in both teaching and research, which enables them to attract large numbers of overseas students who bring academic, social and financial benefits to Scotland at large. In addition, HE institutions have been able to lever in funding from other sources to supplement their public funding. Currently only half the sector's total income is Funding Council grant and tuition fees paid by Government. Of the remainder much of it is won competitively, and much comes from wholly private sources.

While trying to force FE and HE into exactly the same statutory tertiary education framework may have administrative attractions for the Scottish Executive in the co-ordination and coherence of both sectors and in seeking to achieve parity of esteem, the reality is that the two sectors are different. The legislative provisions regarding the FE and HE sectors need to recognise this and not blur the distinctive missions of individual Colleges and Universities and of the distinctive roles of particular groups of institutions, if possible future damage to the sectors is to be avoided. In particular, it will be important for the legislation to state an intention to promote coherence of services for learners and employers whilst preserving the distinctive and differentiated roles of institutions within the authority of the merged Council. Where further emphasis should also be given in the draft Bill, as a result of the merger, is in the strengthening of support for progression and articulation for students between colleges and universities.

Specified Tertiary Education Providers (STEPS)

The proposal 'to create a new overarching category of providers eligible for funding through the new body, which will be known as Specified Tertiary Education Providers' (STEPS) is highly divisive. The sub-division into four different categories sends out the clear message that there are four 'classes' of institution ranging from, at the 'top end' the ancient and chartered universities down to, at the 'bottom end' the Incorporated colleges. For all practical purposes this proposal can be seen as re-introducing the 'binary line' and effectively introducing the concept of 'second class citizens'. This particular proposal flies in the face of parity of esteem and should simply be abandoned.

We recognise that the Scottish Executive's rationale for the introduction of STEPs is to achieve '...convenient ways of describing how Scottish Ministers and the new [funding] body can interact with them'. However, the phrase fails to recognise the valid distinctions between the FE and HE sectors within the tertiary education sector and implies moves towards a single sector. Issues of terminology matter because they relate to more substantive issues concerning distinctive missions, roles and reputation, and the strength of their brands. Therefore a more neutral term such as "funded bodies" could be used within the legislation alongside the accepted designations of Further Education and Higher Education. Similarly, the title of the new body should reflect its remit, which is the funding of both Further and Higher Education, and we firmly propose that it be named the Scottish Further and Higher Education Funding Council, as opposed to the Tertiary Education Funding Council.

Draft Bill

Section 23 of the Bill directs the funded body to secure the efficient provision of tertiary education of a suitable range, in the context of the area in which the provider is situated. While this may be appropriate for institutions which have clear local missions, this section implies far too narrow and parochial a vision for higher education institutions in Scotland that have an international outlook. This section is also redundant as the duty to provide education is already specified in the Charters or other governing instruments of funded bodies and is reflected in the conditions of grant from the Funding Council.

Role of the New Body

The proposals regarding the new Funding Council's role in "influencing" mergers and new institutional models and in encouraging and facilitating cross sectoral mergers seem unnecessary. It is widely recognised that mergers are of themselves difficult and that, in order for them to have a realistic chance of succeeding, it is essential that they should be 'bottom up' i.e. originate from the Institutions themselves rather than be imposed by some overarching planning body. Seeking powers for the Executive to 'demand' that potential mergers should be examined sends the wrong signal out to the sector and fuels the fear that the Executive is seeking to establish a 'central planning body' in the new Council. This would not only be almost certain to fail but more importantly it would undermine the authority of the governing bodies of the individual institutions which are key to, not only good governance, but also to an effective and diverse FE/HE education system in Scotland.

Draft Bill

Section 17 of the Bill seeks the Council to have regard to skills needs in Scotland. This emphasis on skills appears at the expense of the broader educational mission of higher education institutions, which should also be included in the Bill. 'Non-vocational' courses include substantial development of core intellectual and social skills for employability and there are good records for students' success in employment or further study after scholarly non-vocational degrees. In addition, the identification of these skill needs implies some form of manpower planning, which do not have a history of success: in Scotland even the apparently straightforward planning of teacher supply has been erratic at best. It will be unlikely that the Council will be able to forecast accurately the employers' demands several years in advance or to anticipate what particular industries will be recruiting heavily when today's FE/HE applicants graduate.

Funding

In terms of funding, it should be recognised that both FE and HE sectors in Scotland are currently under-funded. The FE sector has been subject to many efficiency gains in recent years, whilst delivering growth in excess of targets. At the same time, universities will suffer relative disadvantage following the enactment of the Higher Education Bill currently before the Westminster Parliament. There are also increasing expectations from the two sectors. The Scottish Executive is committed to raising Scottish skills levels and to improving the Scottish economy through a Smart Successful Scotland; to ensure social justice by widening access to both further and higher education to those from disadvantaged backgrounds; to ensure that Scotland's international reputation for world class education and research is not diminished and that overseas students continue to be attracted to Scotland; and more recently, it has been proposed that the FE sector should also play a wider role in delivering vocational qualifications and employability skills to 14-18 year-old school pupils.

Whilst both the FE and HE sectors have been very flexible in meeting the demands and challenges thrust upon them and will no doubt continue to be so in the future, it must be recognised that further progress cannot be achieved without significant investment from the Executive. There is, therefore, a danger that the Executive's intention to award a single budget

to the new Council will result in two pots of limited funding simply creating a larger pot of funding that remains inadequate for the needs of Scotland's students. Continuing to receive two budgets from the Scottish Executive would be one, albeit imperfect mechanism, to help ensure Government obtained the full range of deliverables expected from each sector and, by removing the direct competition for resource, would encourage collaboration between the sectors. Any new method of funding which reduces the resources allocated to institutions or which fails to take account of levels of funding for institutions of a similar type in Scotland's leading competitor countries will do great damage.

There are also concerns over proposals to fund by SCQF learning level as different programmes at the same SCQF level offer very different learning experiences. The people and other resources needed for degree teaching, in particular, is inherently more expensive than that leading to a non-degree qualification.

Powers and Duties of the New Body

Additional powers with respect to either sector, which are not present in the 1992 Act, should not be granted to Ministers or to the new Council unless there is clear evidence that there is some serious defect in the existing legislation and that these powers will serve some necessary purpose. The proposed draft Bill, however, grants significant additional powers to Ministers and the new Council which, we submit, are unjustified and unnecessary.

It is appreciated that the consultation paper gives assurances that the distinctive legal status, character and mission of institutions will be fully recognised and that maximum autonomy will be provided but these assurances are not reflected in the legislative proposals. Moreover the legal framework envisaged gives significant additional powers to the Executive. The document recognises that "definitions in legislation can sometimes create barriers to change in future". Equally, however, once embedded in statute, powers can be used for purposes for which they were never intended by those legislating at the time. For example, there could be a risk that at some time in the future the powers could be used to create a more "parochial" Scottish HE system by concentrating exclusively on the then skill needs of Scotland. Scottish HEIs have consistently delivered the Scottish Executive's student numbers, and have been responsive to the priorities of Scottish Ministers and to the steers given by the Funding Council through the funding levers available to them. The most effective role the Funding Council can play is as an allocator of public funding on a fair and rational basis, not as a central planner.

Draft Bill

Section 1, subsection (2) gives Ministers the duty to "do anything that is necessary or expedient" in relation to securing the "adequate and efficient" provision of education and undertaking of research. As currently phrased, these powers would appear to enable ministers to direct any aspect of a wholly independent institution, including the courses offered, areas of research undertaken and staff employed – a radical change from the current position in HE. While these powers are derived from those which exist in the Higher and Further Education (Scotland) Act, in that Act they are applicable only to FE, and would go against the traditional arms-length relationship between Government and universities which is the case elsewhere in

the UK. In order to encourage parity of esteem for learners, the legislation should treat the FE and the HE sector in the same way wherever practicable, however, the current treatment of the HE sector should be taken as the norm. It should, therefore, be made clear that the duty is specified in terms of 'funding provision', or 'ensuring quality', and is limited by constraints which are included in section 4(13) in the current draft. In addition, the duty in respect of research is too broad, given that only a minority of funding for research in Scotland is provided by Scottish Ministers.

Research and Knowledge Transfer

We welcome the legislation's commitment to "support the research base" and the inclusion of a statutory requirement for the Council to include a research committee. However, there is a concern over the future Council's balance of priorities in relation to basic research. Research needs to be given a central role in the new Funding Council, with a research committee whose convenor is a member of the new Council and whose members include a good representation of research-active members across a range of disciplines. Experience of research should also be added to the criteria to be taken into account by Ministers in appointing members of the new Council.

Governance, Organisation and Management

The new Funding Council, should be mirrored on the model of the Scottish Higher Education Funding Council, where Minister's priorities for the sector are reflected in the 'letter of guidance' which the Council receives from the Minister on an annual basis coupled with the 'Financial Memorandum' and other conditions of grant between the Council and the individual Institutions. The new legislation should be, as far as possible, 'enabling' and, as far as possible, 'non prescriptive'. Mechanisms, such as policy and management guidance from Ministers, and specific conditions to specific grants, have proved to be quite effective and flexible methods for achieving particular priorities.

This Bill instead threatens institutional autonomy in a number of ways which would do serious damage and which in some instances may be in conflict with some University Charters and other governing instruments. This is contrary to trends outwith Scotland where in Europe the trend is towards recognising the benefits of institutional autonomy, and extending it. In the UK the recent Lambert report on business-university collaboration recommended "a significantly lighter-touch regulatory and accountability regime for well-run universities".

Draft Bill

Section 13 of the Bill contains an entirely new provision that the new council can require the governing body of any organisation it funds to hold a special meeting to be addressed by the chief executive or other member of the Council. This is in danger of undermining the autonomy of an institution's Governing Council. University councils contain members whose experience in the public and private sector governance and finance merits an appropriate relationship with executive and non-executive members of the Funding Councils. Given a constructive relationship between the Funding Council and the Institutions it funds, which lies

at the heart of a constructive and mutually beneficial dialogue, there is absolutely no reason to enshrine in legislation the right of the Chief Executive to attend such a meeting. The objective of the exercise should be to strengthen the responsibilities and independence of the Governing Councils, so that they will be able to attract high quality candidates to their ranks, rather than undermine their authority.

Additional Information

In responding to this consultation the Society would like to draw attention to the following Royal Society of Edinburgh responses which are of relevance to this subject: *A Framework for Economic Development* (March 2000); *A Science Strategy for Scotland* (July 2000); *The Are We Realising Our Potential Inquiry* (July 2000; January 2001); *Review of the supply of scientists and engineers* (August 2001); *Scottish Higher Education Review* (January 2002); *Research and Knowledge Transfer in Scotland* (September 2002); *Review of Research Assessment* (December 2002); *The Role of the Universities in the Europe of knowledge* (May 2003) and *The Future of Higher Education* (May 2003).

Copies of this response and of the above publications are available from the Research Officer, Dr Marc Rands (email: mrand@royalsoced.org.uk) and from the RSE web site (www.royalsoced.org.uk).

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