Education and Culture Committee

Post-16 Education (Scotland) Bill

Scottish Trade Union Congress (STUC)

The STUC is Scotland’s trade union centre. Its purpose is to co-ordinate, develop and articulate the views and policies of the trade union movement in Scotland; reflecting the aspirations of trade unionists as workers and citizens.

The STUC represents over 632,000 working people and their families throughout Scotland. It speaks for trade union members in and out of work, in the community and in the workplace. Our affiliated organisations have interests in all sectors of the economy and our representative structures are constructed to take account of the specific views of women members, young members, Black/minority ethnic members, LGBT members, and members with a disability, as well as, retired and unemployed workers.

The STUC welcomes the opportunity to give evidence to the Education and Culture Committee on the Post-16 Education (Scotland) Bill.

Introduction

The STUC has long been concerned about the governance in both the Further Education (FE) and Higher Education (HE) sectors in Scotland. We were therefore pleased to take part in the Governance Reviews in each of these sectors and supported the findings of both the Griggs and the Von Prondzynski reviews.

The STUC therefore welcomes this Bill’s general aim to improve transparency of governance structures in FE. However, we are concerned that these significant changes are being made in the sector at a time of severe cuts to funding and we are worried that this reorganisation places further pressure on stretched budgets, ultimately to the detriment of staff and students and the quality of education provided in the sector. The STUC believes that the first priority for further education in Scotland should be the provision of good quality education for students, and therefore the changes in this Bill should not be attempted without additional funding for this sector.

The STUC does, however, support much of Bill and we particularly welcome the requirements to consult with trade unions that have been included throughout. We also welcome the provisions in the Bill to widen access to universities and the inclusion of a legal requirement for universities to meet standards on governance. However, we have some concerns over the powers that are being transferred to the Cabinet Secretary, and while some Ministerial scrutiny is necessary, the proper checks and balances to this power should also be included to ensure a well functioning education sector in the longer term.
Higher Education

We welcome the provision in the Bill to make good governance a legal responsibility. However, a code of governance is presently being developed in Scotland but will not be finalised in time to be considered during the passage of the Bill. The STUC is concerned about this disconnect and is unclear how the work on the code of governance fits with this Bill or indeed the wider implementation of the Von Prondzynski review.

Further, the code is being developed in a manner that is contrary to principles of good governance and contrary to the Cabinet Secretary’s Parliamentary statement on 28 June 2012, with representatives of both staff and students being excluded from the steering group. While trade unions have been involved in giving evidence to this review, we are concerned that there is no transparency within the process and it is difficult to understand how our evidence is being used. We are also concerned that there will not be an opportunity to give feedback on a draft code, as is normal practice. Primarily, however, we are unclear why this review repeats many of the questions and issues considered as part of the Von Prondzynski review, which was conducted in a more transparent way with representatives from the whole sector involved. Equally the code of governance seems a much narrower piece of work which does not consider legislative change, despite the existence of this Bill and the proposal to have a subsequent Bill focused on Higher Education.

Essentially the STUC is concerned that the work on the code of good governance appears out of step with the rest of the work in this sector in terms of timings, but equally in terms of approach and we feel time would be better spent looking at the implementation of the Von Prondzynski review, rather than focusing on a narrowly defined project by the Chairs of Court that has little connection to the principles of good governance in its own approach.

Widening Access and Tuition Fees

The STUC welcomes the commitment to widening access across Scottish Universities and welcomes the emphasis on this within the Bill. It must be recognised that widening access agreements will in practice be included in the outcome agreements between the funding council and institutions. We have concerns over how these will be agreed and there has to date been a lack of consultation with staff and students. We therefore recommend that the legislation includes a responsibility to consult with staff and students in this section in line with wording elsewhere in the Bill. Further, the main outcome should not just be the admission of students from diverse backgrounds but an increase in graduates from diverse backgrounds that then go on to find employment.

The STUC continues to support the policy of no tuition fees for Scottish domiciled students. We would, however, recommend that this Bill provides clarity for rest of UK students on what they will pay if attending a Scottish University, which should not be more than they would pay at their home institution and should be adjusted to take into
account the fact that Scottish degrees are often longer than degrees in other parts of the UK.

**College Regionalisation**

The STUC is concerned that College regionalisation is happening at a time of severe budget cuts within the sector and that cost cutting has become the primary aim of any reorganisation, rather than educational benefit. Colleges have already cut over 1300 jobs, courses, including a range of vocational courses, are being cut and education is being provided in a less flexible way, with part time provision being cut back and flexible patterns of learning becoming less available across the sector as a whole. Thousands of people were unable to find a college place this year with waiting lists reported to be around 21,000 across Scotland. Currently there is no way to be certain how accurate this figure is, as some students will be applying for courses at more than one college and current data collection methods do not allow for accurate data to be collated. The provisions of this Bill, however, should improve this situation and it is imperative that accurate and honest data is presented for the FE sector which allows the true impact of these reforms and the ongoing budget cuts to be understood.

The Government in the policy memorandum that goes along with the Bill state that the regionalisation agenda is expected to provide savings of around £50m per year by 2015/16. The STUC is concerned however, that savings are expected to be achieved through sharing services. This approach to service delivery still has many advocates despite the lack of evidence of it either bringing improvements or making any savings of the type needed to deal with the current spending cuts. We therefore recommend caution around the level of saving proposed as no evidence is provided as to how these savings will be achieved and experience of these types of projects in other sectors suggests they are unlikely to be forthcoming.

The STUC hopes, however that the changes proposed in the Bill will provide more coherence in the sector, more transparency with regard to outcomes for students and more rigorous and effective governance across the sector.

We do, however, have some specific changes that we would like to see in the legislation.

Firstly it is important that article 23L which deals with the transfer of staff and property between assigned colleges by the regional strategic body includes a reference to the TUPE rights of staff within the colleges. It is not useful to have a clause within Scottish legislation which ignores or is silent on the employment rights that exist for staff, particularly when setting out a power that so manifestly interacts with these rights. There is clear precedent for this in other legislation passed by the Scottish Parliament. For example The Water Industry (Scotland) Act 2002 sets out:
23 Transfer of staff

The Transfer of Undertakings (Protection of Employment) Regulations 1981 (S.I.1981/1794) apply to the transfer of functions by section 21, whether or not they would so apply apart from this section. This example provides a useful precedent and the inclusion of a similar clause in this Bill would make the situation for staff, colleges and the regional board much clearer going forward.

We are also concerned that the Bill makes provision to transfer staff between regions. The STUC is concerned that this provision is inappropriate given the distances involved in such a transfer and therefore should be removed.

In addition we would also like to see the following issues being dealt with:

- The STUC supports the recommendation by Von Prondzynski that trade union representatives should be on HEI governing bodies and believes that this should be extended to the FE sector's regional and non-regional college boards.
- The STUC does not believe that Ministers should have the right to remove and bar student or staff members from boards, since they are elected not appointed. The Bill should be amended to reflect this.
- Before varying the rules for the election of student and staff members, the board should have to consult trade unions and student representatives. The Bill should be amended to take account of this.
- Consideration should also be given to the remaining provisions of the 1992 Act and the 2005 Act to ensure that consistency of approach is maintained across the legislation applying in this sector. This is particularly useful with regard to provisions around consultation of trade unions and student representatives.

Conclusion

The Post-16 Education (Scotland) Bill is primarily about reorganising the FE sector. However it should not be seen as a tool in a cost cutting agenda or a method of achieving large savings across the sector. Ultimately if the Government want to see a well functioning further education sector they must be prepared to fund it.