Higher Education Governance Bill and Glasgow School of Art

Introduction

There has been considerable discussion at respective Universities Scotland/CSC/Secretaries Group meetings about the potential generic impact of the Higher Education Governance Bill, if passed into legislation, on the Scottish Higher Education (HE) sector. This short paper reflects on the potential impact on the specific Governance arrangements of The Glasgow School of Art. At this stage these reflections are highly speculative as the Bill still has to move through several stages of consultation and various elements may well change as it receives scrutiny. The paper has the full support of both the Executive Group of The Glasgow School of Art and the Board of Governors of The Glasgow School of Art.

The Bill raises fundamental issues about the autonomy of The Glasgow School of Art (as well as for all Scottish HEIs) as the Bill proposes powers for Scottish Government Ministers, exercisable through secondary legislation, to decide what categories of person should be part of The Glasgow School of Art’s Board of Governors, how they should be appointed, and their conditions of service. That the legislation would give substantial powers to Scottish Government Ministers is highly concerning. Each line of the Bill proposes that politicians have additional powers to decide how The Glasgow School of Art is organised and governed.

The Glasgow School of Art is a Small Specialist Institution (SSI); the institution operates in a highly competitive international sector within which it is highly regarded. In the recent QS World Rankings the institution was ranked as one of the world’s top 10 art schools. To maintain this international competitiveness The Glasgow School of Art needs to determine its own structures in line with all relevant codes and best practices. Being forced to come into line with others in the HEI sector through one size fits all legislation is deeply concerning, particularly when no real clear need for any change has been articulated by the Scottish Government. The notes below highlight the inherent problems for The Glasgow School of Art with the legislation that is currently being proposed by the Scottish Government. In summary:

- It will add significant costs to The Glasgow School of Art.
- It will open up the appointment of the Chair of The Glasgow School of Art’s Board of Governors to a process of lobbying and campaigning around specific interests, rather than having an appointment made in the collective interest of the institution as a whole.
- It will result in a less democratic Governing Body for The Glasgow School of Art.
- It will adversely affect The Glasgow School of Art’s financial position in terms of its fund raising ability.
- The proposals contravene the Scottish Code and The Glasgow School of Art’s Statement of Corporate Governance. These are built on the principle of governing bodies acting in the collective interest rather than being vehicles for representatives of specific constituencies.
- The proposed legislation leaves organisation of governance and the structure of academic representation within The Glasgow School of Art open to the whims of whoever might be in Government at a particular point in time.
Before going into the details of how the proposed legislation would effect The Glasgow School of Art it is worth mentioning that an immediate consequence of the legislation proceeding would be the need for The Glasgow School of Art to seek legal advice on where it would now stand in relation to its Order of Council and its Memorandum and Articles of Association. Would it be The Glasgow School of Art’s responsibility to address its position through the Privy Council and Companies House, or would this be a Scottish Government responsibility? If it was The Glasgow School of Art’s responsibility to seek a change in its Order of Council through the Privy Council (something which is a very time-consuming process) any legislation would need to clarify how The Glasgow School of Art would continue to operate under the status quo in the meantime. When you look at the implications of change, listed below, you will hopefully get a sense of how disruptive and distracting this would be for a Scottish SSI focused on building its International position, delivering research and teaching excellence and offering Scottish students from all backgrounds access to a high quality arts education.

**Appointment of the future Chair of The Glasgow School of Art’s Board of Governors**

At the moment the position of Chair of The Glasgow School of Art Board of Governors is appointed through a process of external advertising, shortlisting by an appointing committee (formed from Governors) and interview. The Bill proposes that in future The Glasgow School of Art’s Chair of Governors should be elected. The exact nature of the electorate is not yet defined in the Bill. It could be that the appointing committee shortlists a number of candidates and these are then put to the electorate. This electorate could be the Board of Governors, but might also include The Glasgow School of Art staff or staff and students, depending on how Government Ministers choose to define the electorate.

**Implications for The Glasgow School of Art:**

- Finding an appropriate Chair of the Governing Body for an organisation like The Glasgow School of Art is extremely challenging. The role is in many ways unique given The Glasgow School of Art’s size, structure, and context. It is intellectually demanding and high profile and applicants for a role like this, like applicants for senior appointments within The Glasgow School of Art itself, may well be extremely reticent to go through an election process that offers no confidentiality. Historically, applicants for senior appointments within The Glasgow School of Art would have given presentations to staff and students as part of the job application process but this is now no longer seen as best practice by any of the international recruitment agencies operating in the HE sector or by HEIs themselves because of sensitivities of confidentiality.

- Having a very broad electorate such as staff and student body brings challenges in mobilising a large turnout. Even for student president elections at The Glasgow School of Art, the turnout is typically only 15% to 20% of students. This would make an election vulnerable to lobbying by specific interest groups, potentially aligning the appointment of the Chair of The Glasgow School of Art’s Governing Body to particular campaigns and view points rather than the collective interest of the Institution.
Membership of The Glasgow School of Art’s Board of Governors

The Bill would require The Glasgow School of Art to include within the membership of its governing body the person appointed as chairing member, two directly elected staff members, one member nominated by academic and related unions, one member nominated by administrative, technical or support staff unions, two students nominated by the students’ association, and two graduates of The Glasgow School of Art nominated by the graduates’ association.

Implications for The Glasgow School of Art:

- The Glasgow School of Art currently has two members elected by the staff - one elected by academic staff and one elected by professional support staff. The Glasgow School of Art could not really limit the electorate of these two appointments to members of the respective unions defined in the Bill. If it did, it would not be allowing other staff (non-union members) to have a vote in who sits on the Board of Governors. So, in order to comply with the Bill, the institution would need to bring two more members of staff onto the Board, who were only elected by union members. This would mean one subset of The Glasgow School of Art staff would have the opportunity to vote for two Board appointments (union members), whilst another subset could only vote for one Board appointment (non-union members). The number of Staff Governors would have to be increased from 2 to 4 as a consequence.

- Interestingly, at The Glasgow School of Art, in recent history the Staff Governors elected by academic staff and professional support staff have been union members. However, the critical point is that who to elect must be a decision of the staff, and one that is based on the individual rather than their categorisation as a union official. That is the very embodiment of staff choice. The Glasgow School of Art is entirely open to increasing the number of staff Governors but on the basis that all are free from the undemocratic requirement of needing union membership to stand and be elected.

- For Glasgow School of Art it is also very important to point out that a more proscribed membership doesn’t gel well with the principle of governing bodies acting in the collective interest rather than being vehicles for representatives of specific constituencies, a principle stated in both the Scottish Code and Glasgow School of Art’s Statement of Corporate Governance.

- The Glasgow School of Art is very careful to use the value-based term ‘Professional Support Staff’ and not ‘Administrative Staff’, for all non-academic staff.

- The Glasgow School of Art Board of Governors currently has the Student Association President as a member. The legislation would add another student elected governor to the Board of Governors. The key aspect of the relationship between the President, the student body, and The Glasgow School of Art is that it is non-politicised and personal. Scale is an appropriate aspect of this and The Glasgow School of Art considers that the current balance is effective and appropriate.

- The Glasgow School of Art does not have a graduate’s association like many other HEIs. This entity would need to be established to comply with the Bill - an extremely costly and time consuming exercise for a SSI like The Glasgow School of Art. Given that students completing The Glasgow School of Art’s programmes are, in effect, graduates of the
University of Glasgow, this matter is already addressed and, as such, further changes are unnecessary and confusing.

- If all the additional Board members prescribed in the HE Governance Bill were introduced at The Glasgow School of Art, the Board of Governors would become a much larger and ultimately unwieldy body, way out of proportion with the scale of the institution.

**Remuneration of the Chair of the Glasgow School of Art’s Board of Governors**

The Bill seeks to allow Scottish Ministers to make provision for remuneration and allowances to be payable to the chairing member of the governing body of an HEI. The Scottish Government has suggested this might be £512 per day for up to 6 days per year.

**Implications for The Glasgow School of Art:**

- Recent advertising for the Chair of Court at University of West of Scotland suggests a time commitment of 30 - 35 days per year. This is certainly much closer to the commitment of the Chair of the Board of Governors at The Glasgow School of Art than the suggested 6 days per year.
- The role of Chair of the Board of Governors at The Glasgow School of Art covers some roles that are performed by the Chancellor at other HEIs in Scotland, notably participation in graduation ceremonies etc. This would make a standardised remuneration problematic for the Chair.
- The burden of leadership of the Governing Body at The Glasgow School of Art is shared by many lay Governors who play an active part in chairing key Board Committees. If the Chair was remunerated there would be logic in remunerating other lay members of the Board. A payment structure not dissimilar to a NHS trust could quickly result. This would potentially cost The Glasgow School of Art up to £120k per year (£25k for chair and 12 x £7.5k for Lay Members). A considerable additional expense for a SSI like The Glasgow School of Art.
- The Glasgow School of Art considers that financial reimbursement for providing child care or other appropriate expenses to any Governors is much more sensible.

**Composition of the Academic Board**

Under this section the Bill proposes that the Academic Board (for The Glasgow School of Art this is the Academic Council) has a predefined composition of:

(a) the principal of the institution,
(b) the heads of school of the institution,
(c) persons appointed by being elected by the academic staff of the institution from among their own number,
(d) persons appointed by being elected by the students of the institution from among the students of the institution,
(e) such other persons as are appointed—
   (i) by virtue of an enactment,
   (ii) in accordance with the governing document of the institution, or
   (iii) in accordance with a decision of the governing body of the institution.
The academic board is to be constituted in such a way that:

(a) more than 50% of its members fall within subsection (1)(c) or (d),
(b) at least 10% of its members fall within subsection (1)(d).

*Implications for The Glasgow School of Art:*

- The proposals outline a structure that doesn’t necessarily fit with The Glasgow School of Art’s organisational structure. One small issue is that The Glasgow School of Art does not have a Principal, it has a Director.
- The Glasgow School of Art is currently composed of 3 schools plus a PGT/Research entity called the Digital Design Studio. Although not on the immediate horizon, over the coming years many other forms of structure might become appropriate for The Glasgow School of Art (the current schools are tiny compared to the norm for academic schools in the HE sector). The Glasgow School of Art would not want its future academic structure constrained by legislation.
- The proposals outlined by the legislation would increase student representation at The Glasgow School of Art’s Academic Council. The Glasgow School of Art considers its current arrangement to be highly effective and appropriate to the size of the student body and its relationship with sabbatical students.

*Classification of HEIs*

The Ministerial powers described in the Bill give rise to a fundamental business risk that HEIs might be reclassified by the Office for National Statistics (ONS) as Central Government (as has already happened for Scottish Colleges). Such a change would have significant consequences for The Glasgow School of Art.

*Implications for The Glasgow School of Art:*

- In the current economic climate to maintain its viability The Glasgow School of Art will need to make substantial investments in its estate. With the need to raise the capital required for investment from non-government sources, The Glasgow School of Art needs access to as many external funds as possible. The Institution is planning a very ambitious multi-million pound programme of campus development and also has the significant financial challenge of restoring the Grade A listed Mackintosh Building. Changing ONS classification of the organisation would potentially restrict borrowing and access to charity status etc. Losing charitable status would also reduce some VAT benefits applying to charities. This would penalise the Scottish sector versus the English sector, who are moving in the opposite direction as a result of student fees increasing as their government funding diminishes.
As a result, most English HEIs will soon be able to lose their current semi-public body status and, for example, opt-out of OJEU procurement requirements – which it is expected would reduce their operating costs by 10% at the same time that the Scottish sector is moving in the opposite direction and relying on public sector funding; funding which will be under significant pressure following the outcome of the current Spending Review.

Summary

Through reading this submission from the Executive Group and the Board of Governors at The Glasgow School of Art, you will realise that each line of the HE Governance Bill brings disruption to governance and academic management of the institution. The Glasgow School of Art values disruption, this is one of the core values of the School; The Glasgow School of Art also, however, values critical thinking and when you apply critical analysis to the terms laid out in the Bill it is clear that the potential disruption to the institution is significant and brings no clear benefit; the disruption will result in additional costs, weakened governance and academic management and potentially a change in ONS classification of The Glasgow School of Art. Nowhere, in either the debate surrounding the HE Governance Bill or in the Bill itself, is there any clear rationale as to the benefits that any part of the Bill will bring. Higher Education is an extremely competitive global activity. The Glasgow School of Art is one of Scotland’s key Higher Education Institutions and bringing in legislation that would weaken its governance will be damaging, not only to the Institution but also to Scotland’s global position in arts education.

The Glasgow School of Art
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