



The Scottish Parliament
Pàrlamaid na h-Alba

Finance Committee

Report on the Financial Memorandum of the Post-16 Education (Scotland) Bill

The Committee reports to the Education and Culture Committee as follows—

INTRODUCTION

1. The [Post-16 Education \(Scotland\) Bill](#) was introduced in the Parliament on 27 November 2012.

2. The [Policy Memorandum](#) (PM) states that the Bill's overarching purpose is “to make post-16 education more responsive to the needs of learners and employers”¹ and in so doing, “ensure the system better supports jobs and growth; improves life chances, especially for young people; and is sustainable for the long-term.”² In order to do so, the Bill introduces provisions covering six areas—

- University governance;
- Widening access;
- Tuition fees cap;
- College regionalisation;
- Review of fundable further and higher education; and
- Data sharing

3. Under Standing Orders Rule 9.6, the lead committee at Stage 1 is required, among other things, to consider and report on the Bill's Financial Memorandum (FM). In doing so, it is required to consider any views submitted to it by the Finance Committee (“the Committee”).

4. Rule 9.3.2 of the Standing Orders sets out the requirements for the FM accompanying a Bill.

5. The FM relating to this Bill can be accessed via the following link: [Explanatory Notes \(And Other Accompanying Documents\)](#)

¹ [Post-16 Education \(Scotland\) Bill. Policy Memorandum, paragraph 4.](#)

² [Post-16 Education \(Scotland\) Bill. Policy Memorandum, paragraph 2.](#)

6. At its meeting on 5 December 2012, the Committee agreed to seek written evidence from a number of organisations potentially affected by the Bill. Submissions were received from—

- Colleges Scotland
- Commission for Ethical Standards in Public Life in Scotland
- Scottish Public Services Ombudsman
- Skills Development Scotland
- Standards Commission for Scotland
- Universities Scotland
- University of the Highland and Islands

7. All submissions can be accessed on the Committee’s website via the following link: [Finance Committee - Scrutiny of Financial Memoranda](#)

8. At its meeting on 30 January the Committee took evidence from the Bill Team. The Official Report of the evidence session can be found on the Parliament’s website here: [Link to Official Report of meeting 30 January 2013](#)

9. Following the evidence session a further written submission was provided by the Bill Team. This can also be accessed via the Committee’s website.

10. Whilst the Bill introduces policy provisions relating to six distinct areas, the written and oral evidence contained substantive comments relating to three of these:

- Widening access;
- College regionalisation; and
- Data sharing

11. The relevant costs as set out in the FM and the Committee’s consideration of each of these three aspects are detailed separately below.

WIDENING ACCESS

12. The FM states that “there would be no new or additional budget required”³ as a result of the widening access provisions contained in the Bill. It notes that there is a possibility that universities and other higher education institutes would incur some additional costs as a result of reprioritisation to widen access to education for underrepresented groups but states that any such costs “are expected to be marginal.”⁴

13. In its submission, Universities Scotland stated that it “would question this assumption”⁵ and that “there are significant costs associated with delivering their commitment to recruiting and retaining learners from challenged socio-economic

³ [Post-16 Education \(Scotland\) Bill. Financial Memorandum, paragraph 131.](#)

⁴ [Post-16 Education \(Scotland\) Bill. Financial Memorandum, paragraph 133.](#)

⁵ [Scottish Parliament. Written submission.](#)

backgrounds”⁶. It refers to a [study by JM Consulting](#) which “estimated that, in aggregate, the costs of attracting, teaching and retaining ‘widening access’ students were around 31% higher than for students from more privileged backgrounds.”⁷ The submission went on to state that “if the JM Consulting report’s analysis of costs is correct and £7,500 p.a. is accepted as the average cost of teaching a ‘normal’ student, the additional cost to higher education institutions per ‘widening access’ student would be £2,325.”⁸

14. The Committee sought clarification on this point during its evidence session with the Bill Team and was advised that—

“The report that underpinned the assessment of a 31 per cent additional cost is based on data from 2002 in England. Of course, simply because of its historical nature, that report cannot reflect in any way the substantial funding that has gone into widening access in Scotland, the different distribution of disadvantage in Scotland relative to England or the dramatic changes in recruitment, retention and outreach activity in universities since 2002. Things that were considered as routes only for potential widening access students in 2002 are now mainstream activities for all students. I am therefore rather bemused by the basis on which the evidence was put forward.”⁹

15. Whilst not falling directly within the scope of the Bill, the Committee was informed that funding of around £29 million per annum was provided by the SFC to support widening access activities.

16. The Committee sought further clarification from the Bill Team on any costs that might result from the provision of additional services relating to the widening of access to higher education institutions for under-represented socio-economic groups and was informed that—

“Student support falls very much outwith the provisions in the bill. Substantial changes to the student support package have been introduced for 2013-14. Those changes are specifically designed to help to support widening access and retention by providing a minimum income for low-income students of £7,250 per year and a minimum student loan of £4,500 for all students. That has already been provided, outwith the bill; issues to do with student support were addressed in the spending review.”¹⁰

17. It went on to state that—

“On the universities’ activities, the financial memorandum indicates that the additional costs will be marginal, rather than zero. There might well be changes in individual institutions, and changes will be greater in some places than in others. The sector has been engaged in widening access activities,

⁶ [Scottish Parliament. Written submission.](#)

⁷ [Scottish Parliament. Written submission.](#)

⁸ [Scottish Parliament. Written submission.](#)

⁹ [Scottish Parliament. Official Report, 30 January 2013. Col. 2176.](#)

¹⁰ [Scottish Parliament. Official Report, 30 January 2013. Col. 2176.](#)

supported by the Scottish funding council, and as I said there is no indication that the sector thinks that such activities have been underfunded.”

18. When asked directly whether access could be further widened without additional funding the Bill Team responded “in relation to the bill, yes,”¹¹ and went on to state that—

“We have provided student support that will remove financial barriers for widening-access students who have the aspiration and ambition to go to university, so we do that transition.”¹²

19. The Committee was then informed that—

“The Universities and Colleges Admissions Service statistics that were released this morning indicate that there has been a substantial transition on widening access, with students from our most disadvantaged areas now 80 per cent more likely to apply to university than in 2004. We have been on a journey and we have already had quite a lot of impact. The changes are starting to become well embedded in the universities’ core systems and processes.”¹³

20. Universities Scotland’s submission went on to state that the SG’s assumption that widening access costs would be marginal “has not been the subject of consultation with Universities Scotland or with member institutions.”¹⁴

21. When asked by the Committee why this had been the case the Bill Team stated—

“That is simply because there has been a long and on-going conversation around widening access. The universities are involved in drawing together plans for outreach activity and they have been involved in the development of the widening access agreements, which are part of their outcome agreements. Cost issues were not raised as part of those processes.”¹⁵

22. It did go on to state, however, that it would be—

“more than happy to have conversations with Universities Scotland to see whether we have any evidence or indication that is somewhat more recent than the report that was mentioned.”¹⁶

23. The Committee invites the lead committee to ask the Scottish Government and Universities Scotland to provide further detail on the likely costs to universities arising from the widening access provisions within the Bill.

¹¹ [Scottish Parliament. Official Report, 30 January 2013. Col. 2181.](#)

¹² [Scottish Parliament. Official Report, 30 January 2013. Col. 2181.](#)

¹³ [Scottish Parliament. Official Report, 30 January 2013. Col. 2181.](#)

¹⁴ [Scottish Parliament. Written submission.](#)

¹⁵ [Scottish Parliament. Official Report, 30 January 2013. Col. 2180.](#)

¹⁶ [Scottish Parliament. Official Report, 30 January 2013. Col. 2181.](#)

24. The lead committee may also wish to seek a breakdown of the £29 million per annum provided by the SFC to support widening access activities.

COLLEGE REGIONALISATION

College Mergers

25. The PM states that (at the time of writing) the Bill would create 13 different college regions (nine of which would contain single colleges whilst four would consist of a regional strategic body working with more than one college). It states that “beyond the scope of the Bill itself, there will be savings arising from the wider reform programme,”¹⁷ and that the SFC “expects to see efficiencies in the region of £50 million per annum by 2015-16.”¹⁸ The Committee sought clarification of the basis for this estimate during its oral evidence session with the Bill Team and was provided with supplementary evidence, in the form of correspondence between both the SG and the SFC and the Public Audit Committee which aimed to “make clear the basis of the SFC’s assumptions.”¹⁹

26. This correspondence explained that—

“In our letter of guidance from the Cabinet Secretary for Education and Lifelong Learning, he asked the SFC to make efficiency savings of £18M in 2013-14 and £33M in 2014-15. On our current estimates (based upon mergers that have been completed and our discussions with the colleges that are currently engaged in a merger process) the aggregate of potential merger efficiencies in these years means that these savings are achievable.”

Regional strategic bodies

27. In its submission, Colleges Scotland stated that many of the figures quoted in the FM relating to regional strategic bodies “appear light” or “seem very low”. It went on to state that—

“The Financial Memorandum contains new proposals within the College Regionalisation section for staffing structures/costs of the regional strategic bodies and regional boards as well as proposed remuneration levels for chairs of regional college boards which were not explicit in the previous Scottish Government consultation exercises.”²⁰

28. When questioned by the Committee as to why these figures had not been reflected during consultations, the Bill Team responded—

“It is true that the estimates did not appear in the consultations that the Government published, but the structure of the regional board was developed on the basis of those consultations. We discussed with Colleges Scotland— or, rather, with the former Scotland’s Colleges—the content of the financial memorandum. Specifically, we discussed it with the college legislative group,

¹⁷ [Post-16 Education \(Scotland\) Bill. Policy Memorandum, paragraph 6.](#)

¹⁸ [Post-16 Education \(Scotland\) Bill. Policy Memorandum, paragraph 8.](#)

¹⁹ [Scottish Parliament. Official Report, 30 January 2013. Col. 2177.](#)

²⁰ [Scottish Parliament. Written submission.](#)

to which I referred in my opening statement, which comprised four current principals, one of whom is a regional lead at the moment, and a college chair. The purpose of that engagement was to help shape the content of the bill, which in turn reflected the earlier consultations. Like Tracey Slaven, I am slightly puzzled that Colleges Scotland is saying that it was unaware of the figures. We think that they are at the upper end of the costs likely to be incurred by a regional board, but we did expose those figures to Colleges Scotland as they were developed.”²¹

29. The Bill Team also informed the Committee that instead of the three multi-college regions referred to in the FM, there would now be only two (in addition to UHI) as the two colleges in Aberdeenshire had recently agreed to merge.

30. The Committee sought clarification of how the total of £560,000 was arrived at and was informed that—

“We spent some time talking to Colleges Scotland about the figures and they were influenced by a human resources professional from the sector—an assistant principal who is on secondment to us. We estimate the staff costs to be about £430,000, which covers 6.5 staff. We envisage the position of chief executive officer or strategic lead within the region, a strategic curriculum lead, an operational finance role, an information and communication technology lead, a regional board secretary who will act part time, and two administrators. That comes to £430,000. There are then the on-costs of about £110,000, which we discussed earlier, and the costs of remunerating the chair. Those are the component parts of the global figure. Again, we will be happy to send you a breakdown.”²² (available online as part of supplementary written submission)

31. In its submission Colleges Scotland stated that “ongoing costs of £110k per annum (including VAT) for the regional strategic bodies appears to be light if these costs are expected to cover new premises, insurances, licences, audit fees, membership fees and staff training, to name but a few, items of expenditure.”²³ However, the Committee raised this point with the Bill Team and was told that—

“We disagree. We have a detailed breakdown of the £110,000, ranging from the computing equipment necessary through consumables and hospitality to travel expenses for board members, recruitment of board members and professional services. We would be happy to share those details with the committee. We do not agree that the forecasts are light.”²⁴

32. This breakdown was provided in supplementary written evidence and can be found on the Committee’s website as stated above.

²¹ [Scottish Parliament. Official Report, 30 January 2013. Col. 2182.](#)

²² [Scottish Parliament. Official Report, 30 January 2013. Col. 2186.](#)

²³ [Scottish Parliament. Written submission.](#)

²⁴ [Scottish Parliament. Official Report, 30 January 2013. Col. 2179.](#)

33. The Committee asked what would happen to a regional board in the event that all colleges within its region agreed to merge at a later date. The Bill Team's supplementary written evidence confirmed that—

“Section 13 of the Bill, which inserts new section 23O into the Further and Higher Education (Scotland) Act 2005, makes provision for Ministers to make an order to abolish a regional board and to transfer the staff, property, right and liabilities of the regional board. We would expect these to be transferred to the merged college in the region which would then benefit from the savings and efficiencies associated with merger.”²⁵

34. During its oral evidence session, when questioned about the prospect of further mergers, the Bill Team replied—

“In the sense that merged colleges can provide a better service to learners, there was encouragement to merge where that suited the colleges. If the second part of your question was whether further mergers are in prospect, I think that they probably are, for that reason.”²⁶

35. The Committee invites the lead committee to ask the Scottish Government and Colleges Scotland to provide further detail on the extent of the consultation which the Scottish Government carried out in relation to the costs arising from the college regionalisation provisions within the Bill.

36. As the FM stated that the annual costs for each of the three regional boards for 2014-15 and 2015-16 were estimated to be up to £560,000 each giving an annual total of £1,680,000, the lead committee may wish to seek clarification of the new aggregate total following the merger of the two Aberdeenshire colleges.

37. The Committee invites the lead committee to ask the Scottish Government for details of the process of how any regional board would be wound up and its assets and liabilities transferred to a merged college in the event that all colleges within a region agreed to merge at a later date.

University of the Highlands and Islands

38. In its submission, the University of the Highlands and Islands (UHI) refers to footnote 2 to the “Summary of Estimated Costs”²⁷ table in the FM which states that “these costs do not include UHI, which is not a regional board.”²⁸ As a result, UHI states that it “will apply to the SFC for transitional funding to cover one-off costs of employing a senior member of staff to support FE and associated support staff costs at £420K pa and £310K of one-off preparatory costs.”²⁹

39. When questioned on this point the Bill Team responded—

²⁵ [Scottish Parliament. Supplementary written evidence.](#)

²⁶ [Scottish Parliament. Official Report, 30 January 2013. Col. 2188.](#)

²⁷ [Post-16 Education \(Scotland\) Bill. Financial Memorandum, paragraph 123.](#)

²⁸ [Post-16 Education \(Scotland\) Bill. Financial Memorandum, paragraph 123.](#)

²⁹ [Scottish Parliament. Written submission.](#)

“There probably will be set-up costs for UHI. The financial memorandum is not quite accurate on that point. I am conscious that UHI has made a submission in which it identifies start-up costs. We are talking to it—constructively, I might add—about those costs.”³⁰

40. The lead committee may wish to invite the Scottish Government to confirm the set-up costs for UHI and ask why this was not reflected in the FM.

VAT registration

41. The FM states that the new regional boards created by the Bill would not be registered for VAT and would therefore be unable to claim recoverable VAT on non-business activities.

42. In its written submission Colleges Scotland suggested that “it might be prudent to consult a VAT expert to ensure that costs can be minimised within regional strategic bodies and assigned colleges as there may well be VAT implications unless a shared service provider is set-up as a third party body owned by the institutions concerned.”³¹

43. When questioned by the Committee as to whether a VAT expert had been or was being consulted, the Bill Team stated that—

“We consulted the VAT expert in the Scottish Government. Our initial assessment of whether the new bodies would wish to register for VAT was based on an analysis that the bodies would be similar to non-departmental public bodies. As such, they would be able to recover only the element of VAT that related to their business activities. As the vast majority of their activity relates to education, which is exempt from VAT, our expectation is that they would be able to reclaim minimal amounts of VAT and therefore may choose not to register for VAT initially. The financial memorandum was prepared on that basis.”³²

44. The Bill Team went on to explain—

“There is new legislation that specifically looks at cost-sharing groups, which we believe would be applicable in this instance, but further activity would be needed once the bodies were established. My expectation is that there would be a review of the VAT position as cost sharing was explored.”³³

Commissioners/Ombudsman

45. The FM states that—

“The Bill would extend the remit of the Standards Commission for Scotland, the Scottish Public Services Ombudsman and the Scottish Information Commissioner to include statutory regional boards. This has the potential to

³⁰ [Scottish Parliament. Official Report, 30 January 2013. Col. 2185.](#)

³¹ [Scottish Parliament. Written submission.](#)

³² [Scottish Parliament. Official Report, 30 January 2013. Col. 2178.](#)

³³ [Scottish Parliament. Official Report, 30 January 2013. Col. 2179.](#)

increase their work slightly. Any net increase in costs would be marginal. Moreover, wider college reforms would see the overall number of college bodies decrease.”³⁴

46. The Scottish Public Services Ombudsman stated that “it is difficult to assess the impact of new organisations coming within our jurisdiction as well as the changes that will occur in the sector in terms of complaints numbers...working on the assumption that the changes are implemented well we are, therefore, in broad agreement that the impact is likely to be marginal.” However, it goes on to note that “on the assumption that any increase in complaint numbers is small, we are content we can manage this. If we consider that a number of small changes have reached the point where there will be a cumulative impact or if we see a spike in complaint numbers because of any unexpected occurrences during implementation of the legislation, we will work with SPCB and SG to ensure that our ability to maintain our service is maintained.”³⁵

47. When asked about the possibility of a large increase in complaints to the Scottish Public Services Ombudsman as a result of changes proposed by the Bill, the Bill Team stated that whilst neither they nor the ombudsman expected any large increase in complaints, “if there was a large increase in complaints that the ombudsman was not funded to accommodate, we would need to take that into account”³⁶ and that this would be kept under review if necessary.

48. The Commission for Ethical Standards in Public Life in Scotland states that it has “been informed by the Scottish Government that Ministers plan to amend the Bill at Stage 2 to bring these appointments (chairs of regional colleges and regional boards) within the remit of the Public Appointments Commissioner”³⁷ and that this will “result in additional costs for the Commission of £24,000 in financial year 2013/14. These costs are not currently reflected in the Financial Memorandum.”³⁸ It goes on to state that if the relevant legislation is passed it “is unlikely we would be able to absorb the full £24,000 in our proposed 2013/14 budget of £798,000. Additional funding would be sought via the Scottish Parliamentary Corporate Body.”³⁹

49. The lead committee may wish to ask the Scottish Government whether the SPCB has been consulted on the proposed additional funding for the Public Appointments Commissioner.

DATA SHARING

50. The FM states that SDS and a number of partner organisations are expected to share costs estimated at £52,000 (over financial years 2011-12 and 2012-13) which would be met from existing budgetary provisions.

³⁴ [Post-16 Education \(Scotland\) Bill. Financial Memorandum, paragraph 157.](#)

³⁵ [Scottish Parliament. Written submission.](#)

³⁶ [Scottish Parliament. Official Report, 30 January 2013. Col. 2183.](#)

³⁷ [Scottish Parliament. Written submission.](#)

³⁸ [Scottish Parliament. Written submission.](#)

³⁹ [Scottish Parliament. Written submission.](#)

51. Colleges Scotland expressed concerns as to whether this estimate was sufficient and suggested that “this could possibly result in a very bureaucratic and administratively onerous process if not streamlined and automated.”⁴⁰ However, Skills Development Scotland stated that “the figure of £52,000 quoted in the FM represents a likely estimate of incremental costs to make small modifications to partners’ systems.”⁴¹

52. The Committee noted that the end of financial year 2012-13 was approaching and asked whether this estimate had proven to be correct and whether work on this project was nearing completion. The Bill Team informed it that—

“We are confident that the £52,000 is the best estimate that we can provide you with. Your point on timing is well made. It is unlikely that there will not be some slippage of that cost into 2013-14. However, we write to you to confirm that point.”⁴²

53. The Bill team provided further information which can be found on the Committee’s website and states that—

“The £52k allocated to meet the costs of developing technical solutions to support data sharing in Section 15 of the Post-16 Education (Scotland) Bill is provided by Skills Development Scotland (SDS). In financial year 2012/13 SDS have spent approximately £6k developing and refining technical solutions for sharing data with local authorities. SDS have reallocated the remaining anticipated spend against financial years 2013/14 and 2014/15 to take in to account the timescales for incorporating partners within the data sharing community and legislation coming in to force. SDS remain satisfied that the overall figure of £52k is sufficient to deliver the software changes required to implement these changes.”⁴³

CONCLUSION

54. The lead committee is invited to consider this submission as part of its scrutiny of the FM.

⁴⁰ [Scottish Parliament. Written submission.](#)

⁴¹ [Scottish Parliament. Written submission.](#)

⁴² [Scottish Parliament. Official Report, 30 January 2013. Col. 2180.](#)

⁴³ [Scottish Parliament. Supplementary written evidence.](#)

ANNEXE A: ORAL AND WRITTEN EVIDENCE

4th Meeting, 2013 (Session 4), Wednesday 30 January 2013

ORAL EVIDENCE

Michael Cross, Deputy Director, Colleges and Adult Learning, Scottish Government;

Gavin Gray, Bill Team Leader, Colleges and Adult Learning, Scottish Government;

Tracey Slaven, Deputy Director, Higher Education and Learner Support Division, Scottish Government; and

Scott MacKay, Finance Business Partner, Education and Lifelong Learning, Scottish Government.

WRITTEN EVIDENCE

- [Colleges Scotland \(233KB pdf\)](#)
- [Commission for Ethical Standards in Public Life in Scotland \(149KB pdf\)](#)
- [Scottish Public Services Ombudsman \(149KB pdf\)](#)
- [Skills Development Scotland \(159KB pdf\)](#)
- [Standards Commission for Scotland \(81KB pdf\)](#)
- [Universities Scotland \(158KB pdf\)](#)
- [University of the Highlands and Islands \(85KB pdf\)](#)

SUPPLEMENTARY WRITTEN EVIDENCE

- [Post-16 Education Bill Team \(171KB pdf\)](#)
- [Correspondence to Public Audit Committee](#)
- [Learning for All: sixth update report on measures of success 2012](#)