

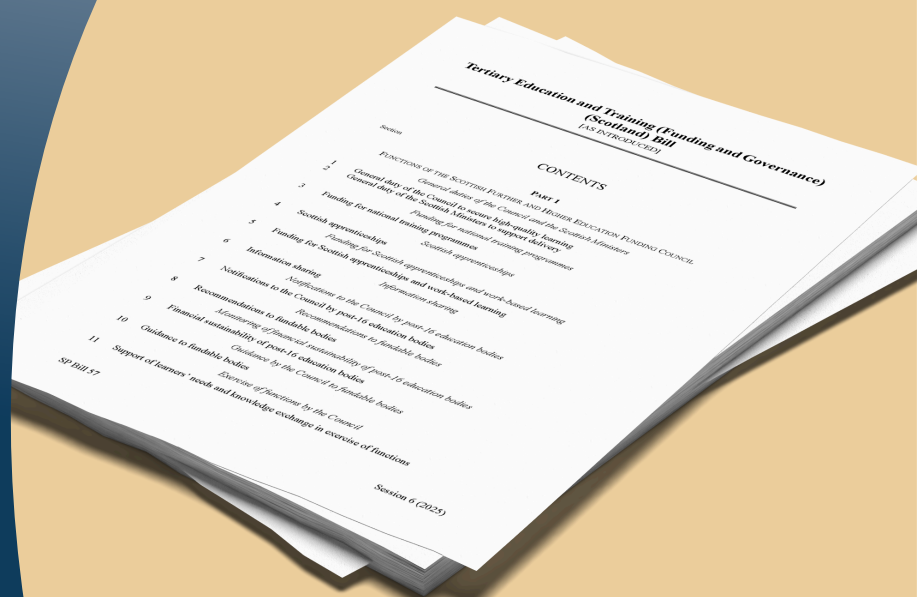


SPICe Briefing
Pàipear-ullachaidh SPICe

Tertiary Education and Training (Funding and Governance) (Scotland) Bill: Consideration prior to Stage 3

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This briefing sets out parliamentary scrutiny of the Tertiary Education and Training (Funding and Governance) (Scotland) Bill ahead of Stage 3. It recaps on Stage 1 Committee scrutiny and provides a summary of amendments agreed to at Stage 2.



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Overview of the Bill

The Tertiary Education and Training (Funding and Governance) (Scotland) Bill was introduced to the Scottish Parliament on 5 February 2025. The Education, Children and Young People Committee is the designated lead committee scrutinising the Bill.

The Bill is in four parts:

Part 1 gives the Scottish Funding Council (the SFC) new functions in relation to securing and funding delivery of national training programmes, apprenticeships and work-based learning. It introduces a statutory framework for apprenticeships.

In addition, Part 1 places a new duty on the SFC to monitor the financial sustainability of post-school institutions. It strengthens the SFC's existing functions and provides a regulation-making power for Scottish Ministers to set out matters about which post-16 education bodies must notify the SFC.

Part 2 makes reforms to the governance arrangements of the SFC, with a focus on the appointment of members to the Council (the governing board of the SFC). It places a new requirement on the SFC to establish an apprenticeship committee to advise on matters concerning apprenticeships.

Part 3 puts into legislation a mechanism for private providers of further and higher education to become 'designated providers' approved for the purposes of student support. The aim of this is to ensure that Scottish-domiciled students undertaking courses with approved private providers can receive student support.

Part 4 contains the final and general provisions for the Bill.

SPICe produced a briefing on the Bill following its introduction. This looks at the Bill provisions in more detail and can be viewed on the [SPICe Digital Hub](#).

Amendments agreed to at Stage 2 include:

- provision for a review of the SFC's credit-based funding model for colleges
- duties that are to be attached to the Scottish Ministers' funding of the SFC, including the SFC ensuring further and higher education institutions operate with transparency and accountability as a condition of funding
- a requirement for governing body members and senior officers at institutions to declare conflicts of interest
- whistleblowing requirements; and requirements for engagement with trade unions, students and other relevant partners
- duties to consult those representing apprentices and those involved in the delivery of apprenticeships and training
- the introduction of powers for the SFC to limit fees for apprenticeship managing agents.

Stage 1

The Education, Children and Young People Committee was the lead committee for the Bill at Stage 1.

The Committee [call for views on the Bill](#) received 51 submissions, the majority of which were from organisations.

Three evidence sessions were held with stakeholders. These took place on [7 May](#), [14 May](#), and [21 May 2025](#). An evidence session with the then Minister for Higher and Further Education; and Minister for Veterans, Graeme Dey MSP, took place on [28 May 2025](#).

The Committee published its Stage 1 report on 9 September 2025.

A report on the Bill at Stage 1 was also published by the [Delegated Powers and Law Reform Committee](#). The [Scottish Government responded](#) to this in April 2025.

In May 2025, the [Finance and Public Administration Committee wrote to the Education, Children and Young People Committee](#) about the Bill's Financial Memorandum.

Education, Children and Young People Committee Stage 1 Report

The [Education, Children and Young People Committee's Stage 1 report on the Bill](#) was published on 9 September 2025.

In its report, the Committee called for updated financial estimates ahead of the Stage 1 debate. It did not make a recommendation on whether the Scottish Parliament should pass the Bill due to concerns around the financial aspects of the Bill, particularly in relation to the transfer of staff between Skills Development Scotland (SDS) and the SFC. The report concluded:

“ ... the Committee is being asked to agree to a F[inancial] M[emorandum] which provides a very wide range of costs. In light of all of this, the Committee is not able to make a recommendation to Parliament and reserves its position on the General Principles of this Bill. ¹ ”

The Committee report also:

- highlighted concerns raised about the SFC's capacity to respond to all areas of the extended remit proposed for it in the Bill; concerns from staff unions about a lack of consultation around proposals to move SDS staff to the SFC, were also highlighted and the Committee called for careful management of change to ensure a smooth transition
- called for the Scottish Government to provide more detail on SDS staff transfer, required office space and pension arrangements
- suggested that the Scottish Government should carry out and publish a review of apprenticeship delivery within 36 months of the commencement of the Bill, looking at the SFC's relationship with employers, industry, independent training providers and

fundable bodies as part of this

- sought assurances on how the Scottish Government would ensure apprenticeship funding is prioritised and protected in future; transparency on funding per apprenticeship place was also requested
- requested further details on how the SFC would work with local authorities to deliver foundation apprenticeships and work-based learning
- sought assurances from the Scottish Government that colleges and local authorities would be able to continue delivering foundation apprenticeships
- sought further information about work to improve graduate apprenticeships
- recommended that the SFC provide the same level of detail on apprenticeship funding as is currently provided for college and university funding allocations
- asked the Scottish Government to consider how obstacles to the use of free school meals data as a widening access measure could be addressed by the Bill
- agreed with the [Delegated Powers and Law Reform Committee recommendation](#) that the Bill should contain further detail on what the proposed guidance to fundable bodies from the SFC might contain
- recommended further clarity be provided in relation to Bill provisions on recommendations to fundable bodies
- called for clarification from the Scottish Government on guidance for apprenticeship managing agents
- called on the Scottish Government to provide further clarity on what information institutions should collect and notify the SFC about in relation to "potential serious jeopardy to a post-16 education body" ¹
- asked the Scottish Government for its view on stakeholder calls for employers, independent training providers and others to be represented on the SFC Board, and to consider increasing the size of the SFC Council
- sought reassurances from the Scottish Government and the SFC in relation to mandatory training for senior leadership teams and university courts
- noted concern about plans to wind up the Scottish Apprenticeship Advisory Board (SAAB), calling for further information about how employers would be involved in the proposed SFC apprenticeship committee
- called for further detail on the definition of 'private providers' of further and higher education, including on whether employers and training providers would be covered by this, how the provision of high quality education would be ensured and how student support for further education students at private providers would be distributed.

Scottish Government response

The [Scottish Government response to the Stage 1 report](#) was published on 19 September 2025 ². This provided revised costings:

- the higher cost estimate of the Bill for the six years 2025-26 to 2030-31 decreased from £33.4 million to £21.6 million - a reduction of £11.8 million; this decrease was largely based on the estimated pension shortfall payment being revised down by £15 million, a fall in estimated restructuring costs, and moving commencement from 1 October 2026 to 1 April 2027
- this is offset slightly by new cost related to IT (a one-off cost of £4 million)
- the revised costs also include a recurring cost related to employer pension contributions of £1 million per year; over time, this will more than offset the reduction in the estimated costs of the pension shortfall payment
- the revised lower cost estimate projects a saving of £1 million - down from the initial projection of £3.1 million.

The Scottish Government response also included the following points ² :

- the SFC will be a redesigned funding body, and SDS staff will bring expertise to support the new organisation in relation to responsibilities on apprenticeships
- the Scottish Government will communicate skills priorities clearly to all partners, including those providing careers advice
- changes to the planning and development process of Graduate Apprenticeships will be taken forward with universities and employers
- Bill implementation will take the SFC's "employer engagement to a new level", and appointments to the SFC Board "provide an opportunity to strengthen the SFC's employer experience"
- in response to the Committee's call for a review of apprenticeship delivery within 36 months of commencement, the Scottish Government would explore "some form of commitment to review"
- measures to protect or ring-fence apprenticeship funding would not be introduced, however the Bill extends the existing duty to add provision of appropriate support for apprenticeships and work-based learning as well as further and higher education
- expectations on the funding and delivery of apprenticeships would be set out to the SFC in the Scottish Government's Letter of Guidance, as further and higher education funding expectations are currently
- a regular forum with trade unions had been established to discuss implementation of the Bill, however the public bodies must lead engagement with their staff
- the Scottish Government wrote to the SFC and SDS in June 2025 to outline expectations for them to develop a plan for staffing arrangements and transfers, with a clear commitment to Fair Work First
- SDS's latest estimate of the number of staff that would transfer to the SFC is "142.5 FTE and 166.3 FTE based on July 2025 data"
- there would be no change to funding for work-based learning (currently foundation apprenticeships) on 1 April 2027, and the changes brought forward in the Bill "do not

place any less importance on foundation apprenticeships"

- work to develop Graduate Apprenticeships was progressing with initial recommendations expected by October 2025; regular updates would be provided to the Committee on this work
- current arrangements for issuing apprenticeship certificates will continue immediately after April 2027
- the changes proposed by the Bill would improve transparency around apprenticeship funding by bringing it all into one place
- the Scottish Government would look at bringing forward amendments at Stage 2 to enable data sharing on free school meals in relation to widening access to university
- consultation on what would constitute a "notifiable event" that an institution would require to make the SFC aware of as a result of provisions in the Bill would be held prior to these being set out in regulations; further information might be provided at Stage 2
- the Scottish Government's view was that mandatory training for Principals and senior management could be progressed administratively and did not need to be included in the Bill
- in relation to the SFC Council, further consideration would be given to how the voice of staff could be "effective and heard" and how Fair Work approaches could be embedded; an increase in the size of the SFC Council would also be given consideration if the case was made for this
- the SFC was developing the remit for the apprenticeship committee and this would be "likely to incorporate the relevant responsibilities of the Scottish Apprenticeship Advisory Board's Standards and Frameworks Group and the Apprenticeship Approvals Group"; further information would be outlined ahead of Stage 2
- the definition of 'private providers' would relate only to Part 3 of the Bill in relation to student support and not to employers or training providers under provisions in Part 1 of the Bill
- the mechanism set out in Part 3 of the Bill for private providers to become designated providers and approved for the purposes of student support related to private providers offering HE-level courses only
- living cost support from SAAS would be available to eligible students studying higher education courses at designated private providers.

SDS also produced a [response to the Committee's report](#), providing additional information in relation to financial information it provided to the Scottish Government. ³

Stage 1 Debate

The [Stage 1 debate](#) was held on 25 September 2025 and the general principles of the Bill were agreed to. ⁴

The [newly-appointed Minister for Higher and Further Education, Ben Macpherson MSP \(The Minister\)](#), opened the debate. He stated his intention to move forward with the Bill, citing agreement on the need to make changes to the skills landscape but also acknowledging differing opinions on how this should be done.

During his speech, the Minister gave a commitment to continuing apprenticeship funding for all types of apprenticeships, stating that money provided to the SFC for apprenticeships would only be used for that purpose.

Addressing Committee concerns about the Bill's Financial Memorandum, the Minister said that these were "reasonable and important", adding:

“ We have worked closely with SDS and the SFC to refine the figures and, with the latest information, I am pleased to emphasise that the upper cost estimate has reduced by around a third to around £22 million. Work is on-going to finalise costs, but I hope that the additional financial detail in the letter from my predecessor offers reassurance. I remain committed to keeping the Parliament updated as the analysis progresses. ⁵ ”

Speaking on behalf of the Education, Children and Young People Committee, Convener Douglas Ross MSP said that the Committee could see the benefit in the Bill's proposals to streamline funding with the aim of removing duplication and reducing bureaucracy, however he called for further reassurance that apprenticeship funding will continue to be prioritised.

Douglas Ross MSP noted that the costs of the Bill had reduced, but said more detail was needed. He said the Committee sought further clarity on the number of staff that will transfer from SDS to the SFC, and what the TUPE and pension arrangements would be for these staff.

During the open debate, Members spoke of the financial challenges facing colleges and universities as highlighted in recent [Audit Scotland](#) and [SFC reports](#). Concerns about the sectors' ability to cope with reform at a time of financial pressure were highlighted. Some members questioned whether structural change could address the issues and pressures facing the skills system.

The opportunity the Bill presented to consider the role of the SFC in overseeing further and higher education institutions was highlighted.

The need for the SFC to build relationships with employers including small and medium-sized enterprises (SMEs) as it took on apprenticeship responsibilities was also highlighted, as were appropriate fee levels for apprenticeship managing agents.

At Decision Time:

- the general principles of the Tertiary Education and Training (Funding and Governance) (Scotland) Bill were agreed to (For 62; Against 39; Abstentions 2).
- the Financial Resolution for the Bill was also agreed to (For 63; Against 18; Abstentions 23). ⁴

Stage 2

Consideration of Stage 2 took place on 26 November and 3 December 2025.

During Stage 2, a number of amendments to the Bill were agreed to. Further details of agreed amendments are set out in this section of the briefing. The Marshalled Lists and Groupings of Amendments are available on the [Bill's web page on the Scottish Parliament website](#).

The Bill as amended at Stage 2 is also available [on the Scottish Parliament website](#).

A number of amendments that were **not** moved/agreed to at Stage 2 were highlighted for further consideration and may come back at Stage 3. These include amendments in the following areas:

- **Apprenticeship committee:** Membership requirements of the committee.
- **Apprenticeship frameworks:** Requirements for consultation and engagement with stakeholders, including apprentices and employers, when frameworks are being prepared, amended or revoked.
- **Council membership:** Membership requirements of the SFC Council.
- **Fair work:** A number of amendments on fair work were flagged for further consideration. Two amendments were agreed to, and were to be tidied further at Stage 3; further detail on these can be found in the sections that follow.
- **Gender-based violence:** Tackling gender-based violence as a condition of funding for fundable bodies.
- **National training programmes:** Requirements on fundable bodies in relation to funding of national training programmes.
- **Reporting:** Reporting requirements in relation to a range of matters.
- **Review of the Act:** Insertion of a new section requiring a review of the Act.
- **Value for money and transparency:** Requirements for the SFC to ensure value for money and transparency when securing training provision.

Part 1: Functions of the Scottish Further and Higher Education Funding Council

Amendments to sections 1, 2, 3, 4, 5, 8, 9, 10 and 11 were agreed to at Stage 2.

New sections 2A, 2B, 2C, 2D and 2E were agreed to at Stage 2.

Further detail of these amendments is set out in the following sections of this briefing.

Section 1

Section 1 of the Bill modifies section 3 of the [Further and Higher Education \(Scotland\) Act](#)

[2005](#) (the 2005 Act) to include coherent provision of apprenticeships and work-based learning within the SFC's general duties. This adds to the SFC's existing general duties under the 2005 Act to secure coherent provision of a high quality of fundable further and higher education, and the undertaking of research among post-16 education bodies.

Amendment 1 in the name of the Minister amends section 1 of the Bill to add the words "by the post-16 education bodies" after "fundable further education and fundable higher education" to the SFC's general duty to secure high-quality learning. The amendment does not change the duty, but brings it into line with language used in the 2005 Act.

This amendment was agreed to without division.

Section 2

[Section 2 of the Bill](#) modifies section 4 of the 2005 Act to add a general duty for Scottish Ministers to provide support for the provision of Scottish apprenticeships and work-based learning. Support can be provided via the grant-making powers in the 2005 Act or by other appropriate means.

Amendment 2 in the name of the Minister amended section 2 of the Bill to add the words "by the post-16 education bodies" after "fundable further education and fundable higher education" to the general duty on Scottish Ministers to provide support for the provision of fundable further and higher education. Again, this does not change the existing duty, but brings it into line with the 2005 Act.

This amendment was agreed to without division.

Amendment 25 in the name of Willie Rennie MSP amends section 2 to add a requirement for provision of post-16 education to "address current and future economic needs".

This amendment was agreed to without division.

Section 2A

Amendment 49 in the name of Miles Briggs MSP introduces new section 2A. This introduces a requirement for Ministers to carry out a review of the credit-based funding model used by the SFC in funding colleges and other providers of fundable further education. Following the review, Ministers must publish a report setting out its findings and actions that will be taken in response.

Outlining the purpose of the amendment, Miles Briggs MSP said:

“ That review must examine how fundable further education provision is delivered across Scotland, including by looking at the availability of courses and the capacity of providers to deliver them. We hear from many colleges that if they had additional resource they would do more to deliver in many of our key sector skills shortage areas, especially around construction. ⁶ ”

The amendment was agreed to without division.

Section 2B

Amendment 55 in the name of Ross Greer MSP introduces new section 2B, modifying section 9A of the 2005 Act to amend existing duties in relation to good governance to set out that principles of good governance are to include transparency and accountable operation, when specified as a condition of receiving the SFC funding for further and higher education institutions.

Outlining the purpose of the amendment, Ross Greer MSP said:

“ It would put that general requirement on universities and colleges to encourage them to be more open, in particular about decisions that are taken at a senior management level. ⁶ ”

This amendment was agreed to without division.

Section 2C

Amendment 60 in the name of Maggie Chapman MSP introduces new section 2C. This modifies the 2005 Act to add section 9F, introducing a requirement for institutions to have in place a conflict of interest disclosure regime as a condition of receiving funding from the SFC.

Maggie Chapman MSP said the amendment:

“ ... would require all governing body members and senior officers to declare registrable interests, update them promptly and recuse themselves when conflicted. The register would have to be public and updated within 28 days, and non-declaration or participation while conflicted would be an offence. ⁶ ”

The amendment was agreed to without division.

Section 2D

Amendment 64 in the name of Pam Duncan-Glancy MSP introduces new section 2D. This modifies the 2005 Act to add section 9G, introducing a power for the Scottish Ministers to oblige the SFC to require institutions to have a whistleblowing procedure in place for the reporting of concerns about financial mismanagement, failure of governance, bullying/retaliation, and risks to learner provision. Institutions are to notify the SFC when they receive information through their whistleblowing procedure which suggests a risk to continuity of learning provision or financial sustainability.

The amendment was agreed to without division.

Section 2E

Amendment 66 in the name of Pam Duncan-Glancy MSP introduces new section 2E . This modifies the 2005 Act, adding section 9H to include engagement with trade unions,

students and external partners as a condition of funding for institutions.

Pam Duncan-Glancy MSP outlined the purpose of the amendment, stating that institutions should "take reasonable steps to inform and consult" trade unions, students and relevant external partners:

"... before implementing any decision that could significantly impact provision for learners, levels of staffing or financial sustainability. ⁶"

The amendment was agreed to without division.

Section 3

Section 3 of the Bill deals with funding for [national training programmes](#).

Amendment 71 in the name of Ross Greer MSP inserts section 12C (3A) into the 2005 Act, via amendment to section 3 of the Bill. The amendment specifies that Scottish Ministers must publish terms and conditions imposed on national training programmes. Reasons for these conditions must also be published. If it is not appropriate to do so, a statement setting out why this cannot be done should be issued.

The amendment was agreed to without division.

Amendment 4 in the name of the Minister amends section 12D(2) of the 2005 Act (to be inserted by section 3 of the Bill) concerning the funding of training providers. It removes the words "in respect of expenditure incurred or to be incurred by the person". The Minister said this amendment put "beyond doubt" that training providers:

"... are not restricted from operating in a commercially profitable way and that the SFC's payments need not be only for the direct reimbursement of expenses." ⁶

The Minister added that private providers play an important role in building capacity and capability where this is not available from colleges and universities, and "legitimate and proportionate profit" was appropriate.

The amendment was agreed to without division.

Amendment 72 in the name of Miles Briggs MSP amends section 12D(3) of the 2005 Act (to be inserted by section 3 of the Bill) to set out how the SFC could impose repayment conditions on national training providers, including interest payable.

This amendment was agreed to without division.

Section 4

[Section 4 of the Bill](#) deals with Scottish apprenticeships.

Amendment 79 in the name of Stephen Kerr MSP amends section 12E(1) of the 2005 Act (to be inserted by section 4 of the Bill) to add "any training provider involved in the delivery of the apprenticeship" to the parties involved in apprenticeship agreements.

The amendment was agreed to without division.

Amendment 5 in the name of the Minister modifies section 12E of the 2005 Act (to be inserted by section 4 of the Bill), introducing a statutory duty for Scottish Ministers to consult various stakeholders and groups before making regulations amending the definition of Scottish apprenticeships. During Stage 2, the Minister stated:

“ Amendment 5 makes provision for a statutory duty to consult those who play a key role in delivering apprenticeships, such as employers and training providers. ⁶ ”

The amendment was agreed to without division.

The following amendments in the name of the Minister were also agreed without division:

- **Amendment 6** amends section 12F of the 2005 Act (inserted by section 4 of the Bill) to require the SFC to have regard to the views of employers, prospective employers and any other persons the SFC considers relevant when preparing the Scottish apprenticeship framework.
- **Amendment 7** further amends section 12F of the 2005 Act to require the SFC, before amending or revoking an apprenticeship framework, to have regard to the views of employers, prospective employers and any other persons likely to be affected.
- **Amendment 8** makes a technical amendment to section 12G of the 2005 Act (inserted by section 4 of the Bill), as a consequence of amendment 7.

Section 5

[Section 5 of the Bill](#) deals with funding for Scottish apprenticeships and work-based learning.

Amendments 9 and 10 in the name of Jackie Dunbar MSP modify section 12I of the 2005 Act (as inserted by the Bill). **Amendment 9** inserts the words 'education and' before 'training received by an individual' and **amendment 10** adds that such education and training can take place in an 'educational environment in which work-based activities are undertaken by the individual', as well as in a working environment.

Speaking to the amendments, Jackie Dunbar MSP said:

“ To ensure a smooth transition on day 1, my amendments 9 and 10 would ensure that the SFC can fund work-based learning in schools in the same way as SDS does now. ⁷ ”

The amendments were agreed to without division.

Amendment 11 in the name of the Minister amends section 12J of the 2005 Act (inserted by section 5 of the Bill) to enable the SFC to make grants, loans or other payments for the purposes of the delivery of training programmes for employment without limiting training providers' ability to generate profit. This amendment was lodged in response to concerns raised by SDS about the Bill's potential to limit such profits.

The amendment was agreed to without division.

Amendment 12 in the name of the Minister allows the SFC to limit management agent fees. Speaking to the amendment, the Minister recalled evidence heard by the Committee about retention of funding by managing agents, with one agent outlining "that they retained 40 per cent of it"⁷. Amendment 12 does not set a cap on fees - this is left up to the SFC to determine. Responding to calls for a cap on fees to be included in the amendment, the Minister said he believed this approach was "proportionate" and balanced "the legitimate costs of managing agents with the need to use public money wisely."⁷

The amendment was agreed to without division.

Section 6A

Section 6A is a new section of the Bill, proposed and agreed to at Stage 2. Its purpose and effect are explained below.

Amendment 128 in the name of Ross Greer MSP introduces section 6A to the Bill. This modifies section 12K of the 2005 Act (as inserted by the Bill) to add new section 12L on proactive publication of data. These provisions require the SFC and any bodies receiving funding from them to proactively publish data appropriate for disclosure into the public domain.

Speaking to the amendment, Ross Greer MSP explained:

“As an example of what that means in practice, any information that is on the Scottish Government’s website, other than the Government’s own logo—its brand—is freely available for anyone else to use for any purpose. It is public information, so it is not copyrighted. Amendment 128 would require the council and any fundable body that receives payment from it to take steps to adopt a proactive approach to the publication of data that is appropriate for disclosure in the public domain. It defines “proactive approach” as “the routine identification and publication of appropriate information without the need for specific requests.” That means that the information should be accessible without the need to submit a freedom of information request.⁷”

He added that the definition of what is appropriate for the public domain will vary, highlighting the commercially sensitive nature of some university research information. He noted that the amendment contained flexibility to deal with this. The Minister outlined the Scottish Government’s view that the amendment was unnecessary in respect of the SFC, as it already publishes data. He also expressed concern about the commercial considerations of fundable bodies.

The amendment was agreed to (For 5; Against 5; Abstentions 0; amendment agreed to on casting vote).

Section 8

[Section 8 of the Bill](#) deals with recommendations to fundable bodies.

Amendment 132 in the name of Miles Briggs MSP amends section 8 of the Bill to add additional elements to the list of considerations for the SFC when carrying out efficiency

studies of fundable bodies, set out in section 15 of the 2005 Act. The amendment adds:

- consideration of the extent to which the needs and interests of staff are being met including in relation to Fair Work First principles,
- consideration of any aspect of the legislative or administrative framework governing funding or provision within the fundable body subject to the efficiency study.

The Minister stated that while he would support the amendment, the Scottish Government would seek to make necessary changes at Stage 3, as "the second limb of the amendment, as drafted, does not work" ⁷ .

The amendment was agreed to without division.

Amendment 13 in the name of the Minister adds a requirement that, prior to publishing recommendations following an efficiency study, the SFC must consult the body about the recommendations issued.

The amendment was agreed to without division.

Section 9

[Section 9 of the Bill](#) deals with financial sustainability of post-16 education bodies.

Amendment 14 in the name of the Minister amends section 9 of the Bill, adding to new section 15A in the 2005 Act. The purpose of the amendment is to enhance the powers of the SFC to monitor the financial sustainability of post-16 education bodies, in response to finance, management and governance issues at the University of Dundee.

Speaking to the amendment, the Minister said:

“ It will enable the SFC to secure the carrying out of independent examinations into financial sustainability. The provision will also require the governing body to provide such information and make available for inspection any accounts and other documents as may be reasonably required for the independent examination. I anticipate that that information might be used when the SFC is unable to obtain the information that it requires from a post-16 education body, or is dissatisfied with the information with which it has been provided. ⁷ ”

Amendment 14B in the name of Ross Greer MSP sought to add reference to financial governance into amendment 14, enabling this to be examined as well as financial sustainability.

Willie Rennie MSP highlighted stakeholder concerns about amendments 14 and 14B in relation to the impact they may have on the Office for National Statistics (ONS) classification of universities.

Amendment 14B was agreed to (For 7; Against 3; Abstentions 0).

Amendment 14 was agreed to (For 7; Against 3; Abstentions 0).

Section 10

[Section 10 of the Bill](#) deals with guidance to fundable bodies and other persons in receipt of payments from the SFC.

Amendment 15 in the name of the Minister adds to section 17A of the 2005 Act (inserted by section 10 of the Bill) to state that guidance issued by the SFC may relate to: the needs and interests of current and prospective learners; the financial sustainability of fundable bodies; how and in what form required information is to be provided; and the identification of skills needs and skills planning in particular localities.

“ That is in response to the recommendations of the Delegated Powers and Law Reform Committee, which in turn informed this committee's recommendations in its stage 1 report on the bill. The Scottish Government agrees that it would be helpful to be clearer about what type of content such guidance might include. Amendment 15 therefore sets out an illustrative list of the types of matters that the guidance could cover. ⁷ ”

Amendment 15 was agreed to (For 8; Against 2; Abstentions 0).

Section 11

[Section 11 of the Bill](#) sets out requirements for the SFC to consider the needs of learners when carrying out its functions.

Amendment 145 in the name of Miles Briggs MSP amends section 11 to add a requirement for the SFC to also have regard to "the desirability of protecting and promoting the interests of ... staff, including in relation to Fair Work First principles" into section 20 of the 2005 Act.

Amendment 145 was agreed to without division.

Section 12A

Amendment 47 in the name of Ross Greer MSP adds new section 12A to the Bill, modifying section 20 of the 2005 Act to state that the SFC, in exercising its functions, must have regard to "the economic, social and environmental priorities of the Scottish Ministers".

Speaking to the amendment, Ross Greer MSP said that the 2023 independent report on skills delivery by James Withers had highlighted the need for clear leadership from the Scottish Government on skills delivery. ⁸ The amendment sought to address:

“ The issue of a lack of policy coherence and direction from Government across the post-16 education landscape has been raised frequently in evidence. ⁷ ”

Ross Greer MSP went on to say that the obligation on the SFC is one of 'due regard' to give it clear direction without placing additional requirements on ministers.

The amendment was agreed to (For 8; Against 2; Abstentions 0).

Section 12B

Amendment 16 in the name of George Adam MSP adds new section 12B to the Bill, amending section 22 of the 2005 Act to require the SFC to consult and collaborate with employers of apprentices and training providers. Ministers are able to update the list of consultees by way of order.

Amendment 16 was agreed to without division.

Section 12C

Amendment 17 in the name of the Minister adds new section 12C to this Bill. This inserts new section 25B into the 2005 Act giving Scottish Ministers the power to make regulations setting out how information about learners from identified under-represented socio-economic groups can be shared in order to increase their representation in further and higher education.

Speaking to the amendment, the Minister highlighted the Education, Children and Young People Committee's May 2025 report on widening access. The report recommended that work to introduce free school meals data as an access measure at national level should be taken forward, and any legislation required should be progressed.⁹

The Minister acknowledged the limitations of the Scottish Index of Multiple Deprivation (SIMD) - the measure currently used to identify potential widening access students. He said that amendment 17 creates the power for regulations to be made around what additional information must be shared for this purpose.

Amendment 17 was agreed to without division.

Part 2: Governance of the Council

Amendments to sections 16 and 17 were agreed to at Stage 2. Further details of these changes are set out in the following sections of this briefing.

Section 16

[Section 16 of the Bill](#) gives the SFC the ability to appoint up to two co-opted members to the Council, with the approval of Scottish Ministers. It sets out that co-opted members can be appointed for no more than one year at a time, but are eligible for reappointment.

Amendment 36 in the name of Paul McLennan MSP amends section 16 of the Bill, adding the words "including as to remuneration and allowances" to new section 2A(3) of the 2005 Act. This makes clear that the terms and conditions on which co-opted members of the SFC are appointed include any remuneration and allowances they are to receive.

Amendment 36 was agreed to without division.

Section 17

Section 17 of the Bill inserts new section 12A into the 2005 Act. This section requires the SFC establish an apprenticeship committee.

Amendment 182 in the name of Miles Briggs MSP adds to section 17 to give the apprenticeship committee the option to consult local authorities and have regard to their views when exercising its functions.

Amendment 182 was agreed to without division.

Amendment 187 and 188, also in the name of Miles Briggs MSP, add a requirement for the SFC to have regard to the interests of businesses in relevant industries to ensure employer perspectives were considered in shaping the apprenticeship committee's membership.

Amendment 187 and 188 were agreed to without division.

Amendment 18 in the name of Bill Kidd MSP adds to section 17 to require the SFC, when appointing members of the apprenticeship committee, "to have regard to the desirability of including persons who" are: employers of Scottish apprentices or their representatives; representatives of colleges and universities; training providers or their representatives; and representatives of any trade union that represents the interests of Scottish apprentices.

Bill Kidd MSP explained that the amendment was in response to Stage 1 evidence about the need for the new committee to represent a range of skills and experience.

Amendment 18 was agreed without division.

Amendment 191 in the name of Lorna Slater MSP amends section 12A(4) of the 2005 Act to require Scottish Ministers to issue guidance regarding the composition of the apprenticeship committee and its functions, rather than providing the option to issue guidance.

Amendment 191 was agreed to without division.

Part 2A: Transitional measures

New Part 2A and section 17A were agreed to at Stage 2. Further detail is set out in the following section of this briefing.

Section 17A

Amendment 197 in the name of Miles Briggs MSP introduces new section 17A.

This section creates a new part of the Bill - Part 2A - requiring Scottish Ministers to provide Parliament with financial transparency about the implementation of the legislation. This must be done by laying a statement before Parliament setting out the financial implications of any transfer of functions arising from the Act. This is to be done "As soon as is reasonably practicable after royal assent" .

Miles Briggs MSP said that the amendment was drafted in response to stakeholder

concerns about the financial implications of the transfer of responsibilities proposed by the Bill.

The Minister gave his support for amendment 197, but added that he would consider coming back at Stage 3 with a further amendment to "finesse the wording".

Amendment 197 was agreed to without division.

Part 3: Student support

Amendments to section 18 of Part 3 of the Bill were agreed at Stage 2. Further detail is set out in the following section of this briefing.

Section 18

[Section 18 of the Bill](#) inserts new section 74A into the 2005 Act. It sets out provisions that will enable Scottish Ministers to designate a private provider of further or higher education as a "relevant education provider" for the purposes of paying allowances or loans to students studying with such a provider.

Amendments 19, 20, 21 and 22 in the name of the Minister make technical amendments to the Bill's provision on the designation process for private providers.

Amendment 19 clarifies that designated private education providers elsewhere in the UK do not have to go through a separate process for designation by Scottish Ministers.

Amendment 20 clarifies that a provider must be designated by Ministers before applying to have their course approved for student support purposes.

Amendment 21 clarifies that students can continue to receive allowances or loans following withdrawal of a provider's designation. This ensures current students can still be funded in the event of a provider's designation being withdrawn.

Amendment 22 sets out the process for applying for particular courses of education to be approved for student support.

Amendments 19, 20, 21 and 22 were agreed to without division.

Part 4: Final provisions

One amendment to section 23 of Part 4 of the Bill was agreed at Stage 2. Further detail is set out in the following section of this briefing.

Section 23

Amendment 23 in the name of the Minister amends section 23 of the Bill to make regulations under new section 25B of the 2005 Act subject to affirmative procedure. Setting out this change, the Minister said this procedure:

“ ... is appropriate for such significant information sharing and will give the Parliament an appropriate role in scrutinising the secondary legislation. ⁷ ”

Amendment 23 was agreed to without division.

Stage 3

Stage 3 is scheduled for 20 January 2026.

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