

Education, Children and Young People Committee  
Wednesday 7 May 2025  
15th Meeting, 2025 (Session 6)

## Tertiary Education and Training (Funding and Governance) (Scotland) Bill

### Introduction

1. The Scottish Government introduced the Tertiary Education and Training (Funding and Governance) (Scotland) Bill on 5 February 2025.
2. The Bill aims to simplify the funding landscape for post-school education and training.
3. The Education, Children and Young People Committee has been designated as the lead committee for the Bill at Stage 1.

### Call for views

4. The Committee issued a call for views on the provisions of the Bill, which ran from 28 February 2025 until Friday 11 April 2025.
5. The responses to the call for views have been [published](#). A summary of the responses received is included at **Annexe A**.
6. Ahead of the Committee's oral evidence sessions on the Bill, the [Economy and Fair Work Committee](#) has been taking evidence on [Skills Delivery](#) at its meetings on [26 March](#), [2 April](#), [23 April](#), [30 April](#) and will be taking evidence at its last session on 7 May. This work is focussing on wider skills policy and is complementing the work of the Education, Children and Young People Committee's Stage 1 scrutiny of the Bill.

### Committee meeting

7. The Committee will begin to take oral evidence at its meeting today. The Committee will also take evidence at its meetings on 14 May, 21 May and 28 May.
8. At today's meeting, the Committee will take evidence from two panels.
9. On panel one:

The Committee will take evidence

- Clare Reid, Director of Policy and Public Affairs, Prosper
- Professor Nigel Seaton, Fellow, Royal Society of Edinburgh

10. On panel two:

- Martin Boyle, Chief Operating Officer, Scottish Funding Council
- Damien Yeates, Chief Executive of Skills Development Scotland
- Catherine Topley, Chief Executive, Student Awards Agency Scotland

## Supporting information

11. A [SPICe briefing on the Bill](#) was published on Friday 24 April.

12. The Royal Society of Edinburgh, the Scottish Funding Council, Skills Development Scotland and Scottish Awards Agency Scotland have all provided written submissions. These submissions are included at **Annexe B**.

13. Skills Development Scotland has also provided a further written submission. This is included at **Annexe C**.

**Clerks to the Committee**  
**May 2025**

The logo for SPICe, featuring the word 'SPICe' in white, bold, sans-serif font on a dark blue background.The Information Centre  
An t-Ionad Fiosrachaidh

## Education, Children and Young People Committee

Wednesday 7 May 2025

### Tertiary Education and Training (Funding and Governance) (Scotland) Bill: Analysis of the call for views

#### Introduction

The Education, Children and Young People Committee opened its call for views on the Tertiary Education and Training (Funding and Governance) (Scotland) Bill on 28 February 2025. The call was closed on 11 April 2025. The [submissions are published online](#). At the time of writing this paper, the Committee had received 51 submissions to the call for views. Of these submissions, 45 were from organisations, and the other 6 were from individuals. Respondents were asked for their views on [6 questions relating to the Bill](#).

This paper provides an overview of the main issues raised in the submissions; please note it is not exhaustive.

#### 1. National Training Programmes and apprenticeships

The first question asked respondents for their opinion on proposals to move the funding and functions related to National Training Programmes and provision for apprenticeships from Skills Development Scotland (SDS) to the Scottish Funding Council (SFC).

Many respondents expressed some level of support for the move, however they raised a variety of concerns and/or reservations regarding the potential practical impacts of the move. Other responses were significantly more critical in their opinions.

Among those who provided generally positive views, the comments focussed on the potential benefits of the move. Energy & Utility Skills Ltd suggested that:

“The transfer of responsibility for funding and functions around apprenticeships should see increased operating efficiencies, operational cost savings, and improved coherence in the management and delivery of the apprenticeship program. The measures could support improved strategic oversight, clearer communication lines, and greater transparency of operation, easier access for employer engagement, and better informed funding decisions”

The Construction Industry Training Board (CITB) response was also broadly supportive, stating:

“A simplified landscape and increased transparency in post-school education and skills funding will have a positive impact in delivering a skilled, competent, and inclusive construction workforce. The SFC having a singular view on the delivery of funding and functions of apprenticeships and training programmes should also improve efficiency and the impact of the funding available within the skills system... The consolidation of funding for apprenticeships and skills to the functions of the SFC is an opportunity to make improvements to the procurement and delivery of skills and training.”

MCR Pathways highlighted the potential benefits to young people, noting that the organisation:

“...sees the clear advantage of having clear funding pathways all within the one funding body; it will decrease the number of funding applications that young people that are applying to several different pathways (e.g modern apprenticeships and college) and hopefully be a good starting point for streamlining the funding application process as a whole in Scotland.”

A number of responses highlighted the need to ensure funding for apprenticeships is protected. The Skills Development Scotland submission stated:

“As we understand the legislation as drafted, the SFC is empowered to fund apprenticeships, however it is not legally required to do so to any greater or lesser extent.”

SDS stated that while there was not a legal requirement currently, the move to SFC would see apprenticeships move away from being a “singular funding priority for an economic development agency” to “a relatively low priority (at least financially) for an education funding agency”.

SDS raised concern that apprenticeship budgets could be used to protect higher and further education under this arrangement, describing this as a “huge risk” to delivery. Related to this, the Federation of Small Businesses (FSB) submission stated:

“It is imperative that if the provision for apprenticeships is moved to the Scottish Funding Council, that there is a statutory requirement which commits to increasing the number of apprenticeships year on year.”

In addition, the SDS submission also highlighted a potential issue highlighted by the organisation's legal team:

“For Scottish apprenticeships, work-based learning and national training programmes, the Bill provides at sections 12D and 12J that: “The Council may make grants, loans or other payments to a training provider in respect of expenditure incurred or to be incurred by the provider....”

In the view of the SDS legal team, there is a high risk that a court would interpret this as excluding payment for any profit which would appear to rule out commercial organisations from being awarded apprenticeship contracts as is currently the case.

Given a significant majority of apprenticeship training provision is contracted through independent learning providers, this would appear to be a material matter in the bill as drafted that would significantly reduce the capacity and capability to deliver current volumes of apprenticeships.”

Colleges Scotland welcomed the simplifications proposed by the Bill in relation to National Training Programmes and apprenticeships provision. It noted that the proposals bring all three elements of the “apprenticeship family” within one organisation.

The Scottish Qualifications Authority (SQA) stated that historic experience in delivering the National Occupational Standards (NOS) programme meant it could deliver this rather than seeing the functions transferred to SFC as the Bill proposes.

## **Change management**

Many comments focussed on the importance of ensuring that the transition process of the suggested move is undertaken effectively. Angus Training Group told the Committee that:

“...centralising the funding under the SFC could provide a more unified approach to training and apprenticeship programs, potentially leading to greater alignment with other educational funding initiatives... However, it is crucial that the transition is managed effectively to ensure that training providers, like Angus Training Group, continue to receive the necessary support and funding to maintain the high-quality delivery of apprenticeships and training programs.”

The University of St Andrews agreed that the transition process was key, stating:

“We ask that during the transitional phase, safeguards are put in place to ensure that there are no detrimental impacts to learners, work placement providers, or learning providers.”

Other organisations, however, questioned whether the SFC will be in a position to take on the new role even with robust transition plans in place. The Scottish Training Federation stated that:

“...in its current state, the Scottish Funding Council (SFC) simply does not have the knowledge or understanding to manage NTP and apprenticeship provision. Without robust plans in place to ensure a smooth transfer of functions from Skills Development Scotland (SDS) to SFC, there is a real danger that the success of the programmes will be undermined.”

The Institute of the Motor Industry (IMI) voiced similar concerns, noting that:

“...the panel also raised concerns about whether the Scottish Funding Council is ready to take on this role. Some questioned whether the transfer is more than just a change in funding administrator and warned that the SFC must develop a clear understanding of apprenticeship models, competence-based assessment, and the role of private and independent training providers”

SFC’s submission stated that while it had experience of delivering National Training Programmes such as the Flexible Workforce Development Fund, it recognised the challenges it will face from taking on additional responsibilities through the Bill:

“For example, the funding model and the data collection methodology administered by SDS for Modern Apprenticeships is different to SFC’s. SDS has a wealth of experience and expertise in delivering the apprenticeship programme, and retaining the expertise of these skilled staff will be vital.”

## **Connection with industry**

Concerns were also raised by many of the respondents that the proposed move could lead to the loss of institutional experience, especially in regard to the connections that SDS have with partners in industry. This concern was voiced in the response from Stirling Council that stated:

“My main concern would be around the loss of the experience that SDS have with the industry-focused element of the apprenticeship model. It is essential that apprenticeships are industry driven - responsive to business needs and market demands which can be diverse and vary across sectors/areas.”

The UK Fashion and Textile Association Ltd agreed with this view, suggesting that:

“Historically, the SFC has been more focused around research and academia but if also taking over from SDS they need to hit the ground running in terms of being employer facing. This is where strong relationships with sector bodies and The Skills Federation would be crucial in streamlining a bureaucratic system which seems unfair in terms of consistency of coverage and funding allocations.”

The CBI were another industry body that shared the view that “it is crucial that the SFC works closely with industry to ensure that the funding aligns with the needs of employers and the evolving demands of the labour market.”

Other responses focused on concerns that recognition of the role of industry and employers in the apprenticeship process is missing from the Bill as it currently

stands. The Scottish Apprenticeship Advisory Board (SAAB) note that this is contrary to a recommendation from the OECD following their review of the apprenticeship programme in Scotland, and expressed the view that:

“The need to maintain an industry-led approach to demand assessment, design, development, approval, and delivery of apprenticeships within the post-school education and skills infrastructure – as a necessity. Recognising that employers understand their strategic workforce needs.”

...

“The lack of consideration for and detail on the role of the industry at this stage in the process (stage 1) reinforces SAABs longstanding concerns that industry is being distanced from performing a role that is rightly equitable in the creation, operation and maintenance of the apprenticeship system.”

SDS develop this theme, suggesting that the Bill as drafted displays a:

“...lack of recognition of the unique industry-led nature of the current apprenticeship system. As much as 70% of current apprentices will never enter a college or university with the vast majority of learning provision taking place on the job or through independent specialist learning providers.”

In addition to the ongoing role in the delivery of apprenticeships in Scotland, SDS note a concern that industry have not been sufficiently engaged in developing this reform.

There were also concerns that the move could lessen the current focus on vocational education in Scotland. The response from Scottish and Northern Ireland Plumbing Employers Federation (SNIPEF) suggested that:

“This move must also avoid any dilution of focus on vocational education. Instead, it should enhance alignment between apprenticeship provision and economic need, including critical professions such as plumbing and heating, which are central to Scotland’s transition to a low-carbon economy.” NHS Education for Scotland’s submission highlighted the role of apprenticeships in training the health and social care workforce, stating that it would like to see a requirement for the system to continue providing high quality work-based learning and apprenticeships, building in opportunities for co-design with young people, educators and employers.

## Foundation Apprenticeships

A number of respondents to the question raised concerns regarding the impact of the move on Foundation Apprenticeships. One response that focussed on this was from the Scottish Qualifications Authority who explained that:

“The draft Bill offers no distinction between Foundation, Modern or Graduate Apprenticeships and, therefore, we assume that inclusion of enabling legislation for SFC to issue apprenticeship completion certificates could cover Foundation Apprenticeships as well as Modern Apprenticeships. Foundation

Apprenticeships are currently the subject of review, which is being led by the Scottish Government.

SQA currently issues all Foundation Apprenticeship completion certificates as all components of these products are based on SQA products...In cases where a candidate achieves only components of the FA (as opposed to the FA in its entirety) then SQA certifies those components separately. A move to SFC would complicate this certification function.

It is our view that transferring certification of the FA element to the SFC is an unnecessary complication of this established process, especially at a time when the future of FAs is uncertain."

East Ayrshire Council Education Service also expressed serious concerns with the impact of the potential move on Foundation Apprenticeships. The stated that:

"This proposed move effectively creates a separation between school and post school with particular reference to Foundation Apprenticeships given the remit of the SFC in tertiary education. This endangers the provision of school based qualifications and effectively places them solely in FE domain. There were no previous issues with SDS in this regard given the work that they do both in school and post school. Effectively this would be a retrograde step."

The submission from City of Glasgow College stated: "it is unclear whether the transfer includes all apprenticeships."

Aberdeenshire Council's submission raised concern about the changes leading to the separation of school and post-school learning pathways. COSLA also raised a similar concern, noting that:

"Skills Development Scotland (SDS) currently support FAs which are greatly valued by Local Government and the young people who undertake them. SDS have expertise in supporting the key role employers play in providing FA opportunities for pupils in S4 to S6. We are concerned about the impact of moving this role to the Scottish Funding Council (SFC), given their expertise is in Further and Higher Education."

The Skills Federation had broader concerns regarding moving certification functions to the SFC. They told the Committee that:

"...we strongly argue that it is beneficial for providers, employers and apprentices for the certification function to remain with Skills Federation and the Certification Bodies... If the decision is taken to move the certification function from Skills Federation to Scottish Funding Council, then consideration will need to be given to the transition, including about whether Transfer of Undertakings (Protection of Employment) (TUPE) would apply."



## Workforce

The trade unions that responded to the call for views highlighted a perceived lack of consultation with the workers affected by the proposed move. PCS Union, for example, stated that:

“The absence of any consultation with the workforce or Trade Unions in the affected bodies is extremely apparent in the assumptions it makes. Workforce confidence in the proposed reform is extremely low, particularly since a consultation on options was promised by the government and then rescinded last year. Workers in all three affected bodies have been left in a state of uncertainty, and it does not appear at present that things will become any clearer until 2026 at the earliest... PCS members in SDS are concerned about impact on their own terms and conditions, yes – the comment in the financial memo about capping pensions is particularly alarming – but more than that, they are concerned about what they see as a significant risk to the quality of apprenticeship provision in Scotland. If this reform is carried out in ignorance of how the system currently operates in practice, it will disrupt that system, and learners will suffer.”

The need for consultation was reiterated by Unite the Union - SFC Branch, who commented that:

“Regardless of the eventual outcomes of the proposals, the Scottish Government has previously committed to the joint unions that full and meaningful consultation would take place with the trade unions across the organisations involved... We would like to see a renewed commitment from, and concomitant actions by, the Scottish Government on full and meaningful consultation with the joint unions.”

UNISON also expressed similar concerns, stating that:

“We do not believe that this move should take place it is a move fraught with risk; to apprenticeship quality, funding and volume of apprenticeships, as well as raising a variety of staff concerns. The goal of merging the Modern Apprenticeship (MA) elements of Skills Development Scotland (SDS) into the Scottish Funding Council (SFC) is not clearly defined. the merger appears to be a reshuffling of public sector organisations without a clear strategic policy driver and as such unlikely to deliver improved outcomes.”

## Further concerns

A number of submissions highlighted concerns and potential unintended consequences of the Bill.

University and College Union (UCU) Scotland said the concerns they had raised to the Scottish Government consultation had not been addressed in the Bill:

“In our submission to the Scottish Government’s consultation on legislation on post-school education and skills reform in September 2024, we raised our concern that adding additional roles to the Scottish Funding Council (SFC) could have the effect of making the organisation one which is less specialist and agile. Nothing has changed since then to alter our view. We do not regard the SFC as perfect... but we do appreciate and value the SFC’s focus and specialisation on the further and higher education sectors. Scaling up the organisation to also lead on skills and apprenticeships risks dilution of that focus.”

Aberdeenshire Council also stated their concerns that the proposed move could have a negative impact on learners. They stated that:

“Our concerns are primarily with Part 1 of the draft Bill and the impact the suggested changes will have on the delivery of vocational, professional and technical education pathways from school into Tertiary destinations and employment. What is proposed will cost more and will be less effective, with fewer positive outcomes than the development of a truly systemic Career Pathways Programme for Scotland. The draft Bill proposals do not meaningfully build on existing good practice and would seem not to have been informed by a full range of available and relevant research evidence and performance data. We also note that no formal Cost Benefit Analysis nor Equalities Impact Assessments have been carried out in relation to the potential impact of what is proposed in the draft Bill, including unintended consequences.”

Some of the responses proposed different ways to achieve the aims of the Bill. The Royal Society of Edinburgh (RSE) suggested that given it is “a time of significant financial pressure on public services”:

“The RSE recommends that approaches and processes are unified in the first instance to increase coherence and efficiency before major organisational changes are pursued... Equally, the RSE recommends that further details are provided on operational aspects related to the transition of responsibilities from SDS to SFC and the added benefits of consolidation into one body rather than alignment of processes and procedures.”

The response from Skills Development Scotland strongly expressed several concerns with the proposed move as detailed in the Bill. They highlight the SDS Board’s alternative proposal before stating that:

“The SDS Board believe the primary focus of reform should be driving economic growth and social outcomes by addressing the immediate and long-term workforce challenges facing our businesses and vital public services such as health and social care...In relation to the proposed legislation, there are areas of uncertainty and critical risk which the SDS Board believe need to be addressed to protect the delivery of what the OECD call ‘one of the most flexible and wide-ranging systems in the OECD’. Moreover, the SDS Board believes future reforms should be focused on implementing the OECD

recommendations which provide a clear path to further strengthening apprenticeships.”

A number of responses mentioned the expertise within Skills Development Scotland (SDS) and the Open University in Scotland submission questioned what role the organisation will have if the proposals in the Bill go ahead.

The Scottish Chambers of Commerce (SCC) submission stated the Bill:

“...misses an opportunity to enshrine employer ‘ownership’ of apprenticeships in law, as is the case in many other countries with more productive economies. Rather, it appears focused on mainstreaming the last industry-led training programme in Scotland alongside what the policy memorandum refers to as ‘the rest of university and college provision’.

We would call on Scottish Government to respond more directly to the informed advice of the OECD in this regard and ensure that employers have statutory rights and responsibilities in relation to Scottish Apprenticeships.”

SCC called on the Scottish Government to engage “much more deeply with the 11,000 businesses who employ apprentice workers”, echoing a point made by SDS.

## **2.College student support**

The second question asked by the call for views was for opinions on the proposal to move the funding and functions related to college student support from SFC to SAAS so that all student support funding is delivered through SAAS. There were far fewer responses to this question than to question 1.

Those who did respond were generally in favour of the move, with similar comments on the importance of the transition process made as for question 1. For the CBI:

“Consolidating student support funding under the Student Awards Agency Scotland (SAAS) can provide a more unified and efficient system for students. This change should simplify the process for students seeking financial support and ensure consistency in the administration of funds. It is important that this transition is managed smoothly to avoid any disruption to students currently receiving support.”

The importance of a smooth transition for students was mentioned by a few of the respondents. QMU Careers and Employability stated that:

“Overall, we believe that centralizing all student support funding through SAAS could simplify the process and create a more cohesive system. However, the success of this move will depend on careful planning, adequate resources, and ongoing communication to ensure that students—especially those with additional needs—continue to receive the support they require.”

Scottish and Northern Ireland Plumbing Employers Federation (SNIPEF) agreed with this viewpoint, suggesting that “it is essential that this transfer does not disrupt the learner journey or the ability of training providers to support students effectively.”

The Centre for Excellence for Children’s Care and Protection (CELCIS) stated support for the proposals, stating they provide “the opportunity to create a streamlined, more equitable system that ensures consistency and accessibility across further education (FE) and higher education (HE)”.

City of Glasgow College’s submission said the Bill could present an opportunity to look at the tuition fee payment for college students studying higher education level courses. The submission also stated:

“The current speed of response for student support must be maintained; moreover, continuing to allocate funding directly to colleges for their discretionary allocation within agreed guidelines will ensure that financial support mechanisms remain robust.”

SFC’s submission stated that as primary legislation was not required to make this change, SFC had been working with SAAS to manage this transition since the Minister’s January 2025 announcement of the intention to consolidate funding:

“We will continue to work with SAAS and with colleges to ensure this is as smooth as possible for learners and for the important staff within colleges who support them.”

The Royal Society of Edinburgh (RSE) submission put forward a suggestion not currently proposed by the Bill to move responsibility for the tuition fee paid to Scottish Higher Education Institutions from SAAS to SFC:

“This would bring all elements of funding under one umbrella and offer opportunities for a more integrated approach, as well as the possibility of greater administrative efficiency.”

## **Widening support**

Several respondents felt that the move would be an opportunity to ensure that financial support was available to a wider number of students, especially to those studying part-time. The Open University in Scotland said that:

“We continue to be supportive of this proposal ... By transferring the responsibility for student support in Further Education (FE) to the Students Awards Agency Scotland (SASS) there exists an increased potential for a coherent system for all students. We continue to call [for] a system that provides parity of esteem for those seeking to study part-time to develop their skills. We would like to see part-time study treated on an equitable basis with full time study.”

AGCAS also commented that “our members would like to see parity of esteem for part-time study.”

Comments by the Institute of the Motor Industry (IMI) also supported widening eligibility criteria for support. The response noted that:

“Some experts suggested that moving student support to SAAS could open a conversation about broader eligibility — and whether apprentices could get means-tested or targeted financial help in the same way as full-time students. This could support greater social mobility and reduce drop-out due to financial hardship.”

It should be noted that widening support to additional students is not included in the Bill as currently drafted.

## **SAAS systems**

One of the main concerns expressed about the move related to the ability of existing SAAS systems to appropriately support a wider group of students. UNISON Scotland, for example, said that:

“Our members are sceptical that it would be sensible to give SAAS a greater role. Their experience is that SAAS is routinely late with its policy and allocations for HE students in FE colleges, and consistently fails to meet the needs of HE students in FE colleges who often struggle to get funding in place before the start of their courses. SAAS are a small organisation who specialise in HE funding and do not have the knowledge base required to deal with FE funding. They are perceived as being overworked and unresponsive – students are often unable to contact them when they need to.”

MCR Pathways also spoke of the negative experiences of students in accessing support through SAAS. They suggested that:

“This Bill is a great opportunity for SAAS to address the issues that their systems have been causing students for many years, and ensure that going forward SAAS funding is as straightforward for students as it possibly can be. Addressing these issues allows for great improvements to be made to SAAS structures”

## **Concerns regarding tailored support**

The other main concern expressed by respondents was around the potential loss of the tailored support that colleges are currently able to provide some students. The Educational Institute of Scotland told the Committee that they:

“...would be concerned that Further Education students may find it difficult to access financial assistance if this move means Colleges are no longer able to directly support, advise, and give students access to financial support. Signposting to existing funding routes at places of learning eliminates confusion for learners, ensuring they are all receiving the correct financial support package, and this is an important aspect which should be retained. If Further Education students would now be asked to apply individually and

directly to SAAS for student support, then it is likely that student numbers will decrease as some will be unable to do this without significant support... Shifting funding and regulation for bursaries, EMA, childcare costs and discretionary funds to SAAS should mean SAAS then work with colleges on funding allocation, but it is unclear if this would be the intention.”

Edinburgh College expressed similar concerns, stating that:

“Under current arrangements, the guidance around FE Student Support Funds is very flexible to allow for institutional judgement on how to best use these funds to meet student need. As a result, Edinburgh College – and a number of other colleges - use FE Student Support Funds very differently to Higher Education funds, with the College allocation of Student Support Funds used to pay for more than bursary, childcare and discretionary funding. Colleges, including our own, use these funds to provide support to students with Additional Support Needs, cover course specific equipment and kit costs and to pay travel costs for students with disabilities... Our concern is that if the measures in the bill led to a ‘drag and drop’ approach to moving FE Student Support Funds to a model more like the current HE system this could prove challenging for the sector and is highly likely have a negative impact on FE student outcomes.”

These concerns were addressed in the submission from SAAS who noted that:

“Scottish Ministers have agreed that transfer of FE student support would be ‘as is’, meaning that the delivery model of the support is not in scope. This means that FE students applying for student support would continue to do so via their college. SAAS would take over the functions that SFC currently perform in relation to this budget i.e. allocation and payment of funds to colleges and the issuing of guidance on student support... SAAS are supportive of the proposal and will work closely with the SFC and college sector to ensure a smooth and prompt transfer of functions whilst aiming to ensure that there is not a negative impact on service delivery for FE or HE students during this time.”

SFC’s submission stated that while further and higher education support are currently “quite distinct systems”, bringing them both under SAAS’s remit “could provide an enabling environment for greater alignment in the future.”

Colleges Scotland’s submission stated the change also provided the opportunity to:

“...give colleges the flexibility to transfer funds between FE and HE funding streams needs to be taken, meaning learners would benefit from colleges being able to better support their needs. Currently, colleges are required to return unspent funds to SFC and SAAS meaning they cannot support learners to the best of their abilities, i.e. FE learners cannot benefit from available, unspent funding within the HE budget.”

### 3. Financial Sustainability

The Bill will provide SFC with powers to make recommendations, issue guidance and to monitor the financial sustainability of post-16 education bodies. The call for views asked respondents for their opinions on these measures. Not all of the organisations provided a response, but those that did were generally in favour of the provisions with a range of reservations expressed.

Those most in favour of the provisions tended to be responses from industry. The CBI, for example, stated that:

“Granting the SFC these powers is a positive step towards ensuring the financial sustainability and accountability of post-16 education bodies. The ability to make recommendations and issue guidance will help align educational institutions with national economic and social goals. Monitoring financial sustainability is essential to maintain the quality and accessibility of education and training.”

Energy & Utility Skills Ltd were also in favour of the provisions, suggesting that:

“Coherent, comprehensive and transparent support for post-16 education bodies should add stability to the system and allow providers to plan better, and also support value for money in the longer run.”

A couple of the respondents put forward ideas for additions to the provisions, with the Scottish Apprenticeship Advisory Board (SAAB) suggesting:

“Build in conditions to the Bill that requires SFC to use outcome reporting to include demand performance, higher and further education outcome data, and labour market outcomes. To understand the performance of post-school education and skills programmes and use the information to promote different post-school education and skills routes to jobs.”

The response from the Institute of the Motor Industry (IMI) stated support for SFC taking a more active role in monitoring financial sustainability, calling for these powers to be used to strengthen workforce planning, improve transparency and quality across all providers and sector bodies, support vocational and apprenticeship pathways and track outcomes.

Skills Development Scotland (SDS) stated that SFC’s ability to direct investment in provision of critical skills need in the NHS should be “extended to include other areas of strategic economic importance where we have critical skills gaps, including through Graduate Apprenticeships.”

The Royal Society of Edinburgh (RSE) submission suggested that consideration could also be given to aligning funding mechanisms for colleges and universities to bring about the Bill’s aim to move toward sustainable, coherent and efficient funding.

PCS Union’s submission stated that although the majority of apprenticeship places are allocated through third-party training providers, these organisations reported they had “not been afforded a voice in this review”. The submission went on to say that

the monitoring and guidance proposals “fundamentally misunderstand how in-work apprenticeships in Scotland are delivered”, adding:

“Additionally, creating a risk that a multi-year apprenticeship may have its funding pulled mid-way through is not supportive of learners and not conducive to encouraging the take-up of apprenticeships.”

Universities Scotland’s response stated that there was “considerable uncertainty” as to whether the proposed powers and duties will be effective and deliverable, due to the “reliance on the creation of a regulation-making power for Ministers for full implementation of these elements of the Bill”. For example, Section 7 of the Bill does not provide information about the scope of and thresholds for the duty for institutions to notify SFC of difficulties.

The University of Stirling response also highlighted Section 7 as lacking specificity, calling for further examples to be provided, adding:

“We encourage a process which is not adding additional complexity and burden for institutions.”

On the Bill’s provisions on efficiency studies, SFC’s submission stated these expanded existing powers:

“...to include consideration of the interests of learners, to allow SFC to make formal recommendations to fundable bodies, and to publish those recommendations. These are pragmatic changes which recognise the new statutory duty on SFC to consider learners, and which improve clarity and transparency with respect to proposals for improvement. SFC’s approach to assurance and accountability is underpinned by collaboration and positive engagement with institutions, and this would underpin the exercise of this expanded duty.”

On the Bill’s provisions on financial sustainability, SFC’s submission states this will formalise a core function:

“The Bill confers a new duty on SFC to monitor the financial sustainability of post-16 education bodies. This is already a core function of SFC as a funding body, which has previously been set out in our Ministerial letter of guidance, and we welcome it being reflected in legislation. As a non-departmental public body we are accountable to Scottish Ministers and the Scottish Parliament, and the TET Bill sets out in legislation our role in advising Ministers in relation to the financial sustainability of the sector.”

Similarly, SFC’s submission states that the Bill will give guidance issued by SFC currently a statutory basis. However, SFC highlighted it may not be “appropriate or proportionate to consult with Ministers” on all guidance, suggesting:

“Rather, it may be preferable that the Bill sets out the types of strategic guidance on which it would be appropriate to consult, for example in relation to the conducting of efficiency studies and issuing of guidance to institutions.”



## SFC Skillset

The skillset of the SFC was the focus of a number of the responses, with Scottish and Northern Ireland Plumbing Employers Federation (SNIPEF) stated that “it is crucial that these powers are applied with sector-specific understanding and sensitivity.”

The Royal Society of Edinburgh (RSE) used their response to note that:

“...a careful assessment would need to be made whether the SFC’s current and intended revised operation is supported by an adequate distribution of skills and experience to support new responsibilities. This is especially important to consider if the Council is expected to provide robust recommendations for the fundable bodies that go beyond measures related to ensuring financial viability.”

COSLA also commented on the required skills needed to support new functions, noting that:

“Changing the membership of the Council to ensure it reflects the new functions will be important. For example there will be a need to have members with an understanding of apprenticeships, and the skills and experience to build relationships with schools, economic development partners and employers will be vital.”

## Additional powers

There were some concerns raised that the additional powers for the SFC as detailed in the Bill had the possibility of duplicating existing provisions. The response from Enginuity:

“...recognises the need to measure financial sustainability of bodies to protect learners from adverse effects of closures. Nonetheless... notes the audit burden that already exists for post-16 education bodies and would advise that caution is paid to any new duties placed on under-resourced actors in the FE space.”

Rewards Training Scotland said in their response that they “are in agreement with this measure, as long as this is carried out in a transparent and collaborative manner, without duplication of requirements.”

The Educational Institute of Scotland (EIS) questioned whether the new provisions would be used as envisioned. They said that:

“...the Bill mandates institutions “must have regard to” the guidance or recommendations in the carrying out of their funded activities. However, a question mark remains over what happens where institutions do not follow the recommendations but simply ‘have regard’ to them, which can mean as much or as little as the governing body of the institution wishes...”

EIS-FELA are also concerned that the SFC does not currently make best use of its existing powers therefore it will be a watching-brief on whether these increased powers equate to a greater level of monitoring and accountability in reality.”

One of the concerns of the PCS Union was that:

“The provisions in the Bill providing SFC with powers to monitor and issue guidance, while well-intentioned, fundamentally misunderstand how in-work apprenticeships in Scotland are delivered at present. The powers in question may be appropriate for monitoring colleges and universities... but their applicability to the very different reality of in-work apprenticeships is questionable.”

On the other hand, there were organisations that were not concerned about the additional powers provided for in the Bill. Edinburgh College noted that:

“SFC already has the power to make recommendations, issue guidance and monitor the financial sustainability of Scotland’s colleges and Edinburgh College already has a positive working relationship with SFC. While some new processes may need to be developed, we are confident that the existing monitoring and reporting relationship could fairly easily be expanded to reflect the organisational changes initiated by the bill.”

University and College Union (UCU) Scotland’s response stated that existing powers provided by the Further and Higher Education (Scotland) Act 2005 “should have been sufficient to prevent the crisis at Dundee” and the proposal to expand SFC “into a larger, more generalist organisation, may make early intervention less likely”.

## **Schools**

A few respondents responded with concerns regarding how the provisions might work alongside the school system in Scotland. East Ayrshire Council Education Service said that:

“These are not well considered and [SFC] have little to no knowledge of school systems and therefore the necessity for effective school to post pathways is both endangered and misplaced.”

Aberdeenshire Council’s response also focussed on the role of schools. They stated that:

“The importance of the role of school and local authority provision in the Training, Tertiary and Post 16 landscape cannot be underestimated. SFC have, at best, limited knowledge of school systems, quality assurance and performance measures. Local Authorities and schools report to different statutory bodies. The draft Bill, therefore, puts at risk the ability to deliver an employer and learner led systemic approach to Career Pathways through secondary into tertiary pathways and destinations, including work.”

## Colleges

Colleges Scotland's submission stated that SFC required the power to address the financial sustainability of the college sector in order to change worsening financial health. The submission also stated:

"There is a question regarding the need to introduce new duties on organisations receiving public funding to provide better information to SFC, but the college sector would need further clarity on what this would involve.

If SFC becomes the responsible commissioning body for both colleges and private training providers, we would ask that the data collection requirements are consistent across the board, and that private training providers are subject to the same scrutiny as colleges."

The submission from City of Glasgow College expressed disappointment that SFC "will not act as a lender of last resort", adding that further flexibilities to "better future-proof tertiary institutions would be welcome", noting that while colleges elsewhere in the UK can either hold reserves and borrow (Wales) or hold reserves (England), colleges in Scotland can do neither.

## Universities

There were also issues raised in the responses relating to the proposed powers for the SFC and their relationship with the university sector. These responses were particularly concerned about the potential over-reach of the provisions. The University of St Andrews told the Committee that:

"...whilst we appreciate the intent and the import of these provisions, we seek clarity and reassurance through legislation as much as possible, rather than regulation, that the introduction of any such measures will be reasonable, proportionate, and pertain only to relevant activities that are funded by the Council."

QMU Careers and Employability also suggested that it is:

"...important for SFC to ensure that its recommendations and guidance are tailored to the unique circumstances of each institution. Different colleges and universities face varying challenges based on size, location, and student demographics, so a one-size-fits-all approach to financial sustainability may not be effective. Flexibility and contextual understanding should be built into the guidance and recommendations issued."

The response from Universities Scotland had many detailed suggestions for amendments to the provisions as drafted in the Bill. One area that they wished to raise with the Committee was that:

"We note that the ONS is embarking on a review of the transactions in which UK universities engage and that a further review to establish whether universities are subject to public sector control will be considered following the

completion of this review. Given the profound detrimental impact that a reclassification would bring, we ask that the Committee keeps these issues to the fore in its scrutiny of the Bill.”

Universities Scotland also stated that as the Bill included new duties to ensure data sharing, this presented an opportunity:

“...to address the long-established need for enhanced data sharing between parts of the education sector to support widening access. For example data on receipt of free school meals (FSM) and school clothing grant. We understand from Scottish Government that there are currently statutory obstacles to this.”

## **4. Governance of the SFC**

Respondents were next asked whether the changes the Bill makes to the governance of the SFC are sufficient in light of the proposed changes to its functions. The majority of respondents were broadly in favour of the provisions. Angus Training Group stated that:

“The changes to the governance of the Scottish Funding Council (SFC) are a necessary step to ensure that the Council can effectively manage its expanded functions. Ensuring that the SFC has the right mix of skills and experience is crucial, particularly as the landscape of post-16 education continues to evolve. These changes could enhance decision-making, improve accountability, and better align the SFC's priorities with the needs of training providers.”

Most of the comments received relating to the governance provisions focussed on the skillsets and viewpoints that respondents believed were necessary to be represented on the Council. The CBI shared that:

“Ensuring that the Council has the appropriate skills and experience is critical for effective oversight and decision-making... There are concerns from some of our membership that the legislation significantly under-represents the role of employers and makes no significant provision for industry oversight of apprenticeships moving forward.”

The Skills Federation provided a similar view suggesting that:

“When SFC's remit is expanded it will be essential that there are representatives on the board who can bring both the perspective of large employers, but also SMEs. This is partly about bringing relevant knowledge, but it would also help to increase credibility and strengthen the accountability lines to business.”

The Institute of the Motor Industry (IMI) said that:

“...representation must go beyond academic pathways. They stressed that work-based learning, apprenticeships, and technical education must reflect not only on the proposed apprenticeship committee but on the main governance board itself.”

The need for employer representation was also mentioned by Enginuity.

The Educational Institute of Scotland (EIS) stated it “would prefer trade unions to have formal representation within the governance and decision-making structures to mirror the requirement to have TU reps on College Boards or University Courts.”

## **Board reappointments**

Board reappointment proposals in Section 14 of the Bill were raised by a number of organisations in their responses.

Edinburgh College stated that more detail explaining the change was needed. The Scottish Training Federation said the proposal for four-year appointments with the option to extend for a further four years was “sensible and appropriate”.

Universities Scotland’s submission sought further assurance on the maximum duration of appointment:

“In our consultation response we noted our concern about the provisions to remove the time limit on appointments and restriction on reappointment of Council members. We are therefore pleased that the Policy Memorandum notes continuing adherence to the current 8 year limit on maximum duration of appointment in The Ethical Standards Commissioner’s Code of Practice for Ministerial Appointments to Public Bodies. We would value further assurance during the course of the Bill that this will apply.”

Colleges Scotland’s submission stated it had sought reassurances from SFC that this is a:

“...technical change is to bring the SFC governance in line with all other public bodies.”

SFC’s submission explained this further:

“Currently SFC Board members may serve a maximum of two terms, even if those terms were shorter than the maximum of four years each. We highlighted the importance of flexibility on the number of terms for Board members, while adhering to the Code of Practice for Ministerial Appointments to Public Bodies in Scotland which limits the total term of a Board member to eight years. We are pleased to see this flexibility built into the TET Bill, removing the two-term limit, which puts us in line with other public bodies.”

The Royal Society of Edinburgh (RSE) submission called for provisions to be made to:

“...unambiguously outline the profile of eligible prospective members and the potential conflicts of interest that may arise. Individuals who hold active positions as principals, vice-chancellors or other leaders that could have a distinct conflict of interest in fundable bodies as defined under the Bill should not be taken into consideration for membership.”

## **Skills and experience of members of the Council**

Section 15 of the Bill – ‘Skills and experience of members of the Council’ - proposes inserting a requirement for Scottish Ministers to consider appointing those with experience of and knowledge of apprenticeships and work-based learning and removing the existing requirements for those with engaged in or responsible for the provision of higher and further education and research.

There were some concerns expressed that this would lead to a loss of experience. UNISON Scotland said this would:

“...repeal paragraph 3 sub-paragraph 2 of Schedule 1 of the 2005 Act, which instructs Scottish Ministers to have regard for the desirability of including persons currently engaged in provision of Further and Higher Education, as well as for the breadth of expertise in the Council as a whole. We do not believe this would be helpful”

The PCS Union were also concerned that “in the long term, the removal of the requirement for prior educational experience may... over time lead to a loss of important knowledge of educational practice; the SFC will, after all, be retaining most of its current responsibilities.” Another respondent concerned by this was Edinburgh College who stated that:

“We would like to see strong college sector representation on this board, alongside a central role for industry to ensure the employer perspective on apprenticeship provision is appropriately considered when decisions are made in this area. We would therefore welcome confirmation/ clarification that the “desirability of persons with experience of further and higher education” will remain and that changes in this area are intended only to remove duplication of this point in the bill.”

SFC’s submission stated a duty to have regard to candidates’ skills and experience in relation to further and higher education would remain:

“The Bill removes the duty on Ministers to have regard to current engagement in the further or higher education when appointing Board members. The duty on Ministers to have regard to candidates’ skills and experience with respect to the further and higher education sectors is retained, and we are comfortable that this is sufficient to account for the necessary skills and experience. A similar duty to have regard to persons with experience of apprenticeships and work-based learning is added, which will help Ministers

balance the necessary skills and experience of a Board overseeing this expanded remit.”

## **Co-opting provisions**

Some of the responses discussed the powers in the Bill to enable the Council to co-opt members, with mixed opinions on the effectiveness of the provisions as written. The Construction Industry Training Board (CITB) were among the respondents with positive views, suggesting that:

“The primary challenge of transferring apprenticeship and skills funding to the SFC will be an initial lack of experience and understanding of engaging with employers and training providers. CITB therefore welcomes the provisions in the Bill for the SFC to co-opt additional members to the Council to provide advice or challenge on particular topics on a limited-term basis and the requirement for the SFC establish a new apprenticeship committee to assist with the administration of its new functions.”

The Royal Society of Edinburgh (RSE) on the other hand were concerned that the provisions did not provide enough flexibility to the Council. Their submission said that:

“Under these provisions, there can be only two co-opted members at one time and there is a maximum time limit of one year for appointment. The RSE recommends that this requirement is reconsidered to ensure there is more flexibility in the appointment process so that the Council can strengthen its membership by appointing co-opted members with specific skillsets as needed to ensure the smooth implementation of longer-term projects should this be the case.”

## **Apprenticeship Committee**

Respondents expressed mixed views about the proposals for an Apprenticeship Committee. Concerns were raised about the potential composition of the Committee and whether it would be sufficient to carry out its functions. The Scottish Qualifications Authority (SQA) stated that:

“We note the Bill requires SFC to establish an Apprenticeship Committee which will absorb, over time, the responsibilities of the SAAB Standards and Framework Group (SSAB SFG) and the Apprenticeship Approvals Group (AAG). Members of both latter groups have a wealth of experience in relation to apprenticeships and care should be taken not to lose this... We also note the Bill is silent on the composition of the Apprenticeship Committee.”

The Scottish Apprenticeship Advisory Board (SAAB) also commented on the composition of the Committee, suggesting that what was needed was to:

“Build in conditions to the Bill detailing the capability requirements of Apprenticeship Committee members which must match and be aligned to the

knowledge, skills and capability of the SAAB Standards and Frameworks Group and Apprenticeship Approvals Groups.”

The submission from City of Glasgow College called for clarity on “how the apprenticeships proposal will be governed and whether it will be under a sub-committee or a full committee within SFC governance structures”.

The Scottish Training Federation also suggested amendments to the Bill, commenting that:

“...the relationship and influence this committee has with the board needs to be clarified. The committee must have influence at board level and not merely be a ‘talking shop’. It must NOT be seen as a replacement for board level representation of apprenticeship professionals.”

The concerns expressed by Skills Development Scotland went further, stating that:

“...we would make the committee aware that our experience of supporting the framework development process leads us to believe it is highly unlikely that a single sub-committee of the SFC Council will have the capacity or skillset to undertake the current responsibilities of the SAAB Standards and Frameworks and Apprenticeship Approvals Groups.”

The submission from the Scottish Chambers of Commerce (SCC) said:

“The decision to disband the Scottish Apprenticeship Advisory Board (SAAB)—Scotland’s only employer-led advisory body— was met with significant disappointment and runs counter to the advice of the OECD.”

## **5. Student support: Private providers**

The penultimate question of the call for views asked for opinions regarding the Bill’s provisions clarifying the process for providing student support to Scottish students studying at private institutions in the UK. This question elicited the fewest responses in the call for views. While there was general support expressed for the provisions, responders raised a few concerns in their comments.

The Student Awards Agency Scotland (SAAS) submission explained that it was in the final stages of developing a new designation process for private providers, and in the interim has paused the acceptance of new applications from private training providers to allow pilots to be conducted. The launch of the new process is expected in Autumn 2025.

SFC’s submission stated that, as SAAS provides support for higher education students at private institutions and SFC does not currently provide this for further education students, “the current model of further education student support, with its relationship to further education teaching funding, would make this process more complex”.



## Guidance

Some submissions suggested that the success of the provisions was dependant upon the guidance that is subsequently issued. Angus Training Group stated that:

“While the intention to bring clarity is valuable, the measures must be robust enough to address the complexities of private institutions and ensure that students at these institutions have equal access to financial support. The clarity of the process will depend on how detailed and practical the guidance is for both students and educational providers, as well as how well it is communicated across the sector.”

Universities Scotland noted that:

“...implementation will be through the making of regulations by Scottish Ministers. It would be helpful if Ministers were to offer an indication of the content of these regulations during the passage of the Bill so that these can be commented upon.”

This view was supported by the University of Stirling, whose submission also asked “Scottish Ministers to outline the proposed content of these regulations during the Bill’s passage, allowing the sector an opportunity for review and comment.”

## Definition

The Royal Society of Edinburgh (RSE) sought clarification on:

“...what the definition of a private provider is in the context of the Bill. Universities, which are currently listed in the fundable bodies section, are in essence private providers also (as they are not public bodies), as are many training providers and other bodies. Clarifying the nature of what the Bill describes as private providers would be important. Further details would also be useful on the management of providers, what existing providers will need to do to continue to operate, how new providers can be added to the registry and if governmental approval would be needed in each instance irrespective of scale of operations.”

## Checks on private institutions

Some respondents were concerned that the Bill does not provide clarity on the checks that will be made on private institutions before student support is provided. In the panel formed by the Institute of the Motor Industry (IMI) to provide a response to the call for views:

“...many warned that any shift to allow support for private institutions must be accompanied by robust quality checks and governance. There were concerns that private training organisations could open simply to access public funding, without investing in high-quality delivery. Some participants called for stronger approval and monitoring systems to make sure that only reputable providers

receive support, and that funds are used to support learning outcomes, not private dividends.”

QMU Careers and Employability raised a similar concern, stating that:

“...it’s important to recognize that publicly funded student support is designed to help students access high-quality education, and the majority of public funding should go towards supporting students at accredited, public institutions that meet national standards. Private institutions, by nature, are not subject to the same level of oversight or public accountability, which raises the question of whether taxpayer money should be allocated to support students at these institutions. There is a risk that private institutions could take advantage of student support funding without being held to the same academic or financial standards as public universities and colleges. The Bill needs to ensure that these institutions meet certain criteria before receiving any public funding for students.”

Colleges Scotland stated private institutions should be subject to the same checks and expectations as public colleges.

The submission from City of Glasgow College stated that a “College First approach” should be taken to ensure SFC prioritises funding for colleges and public institutions.

## **Negative impacts**

Other respondents provided the opinion that the provisions in the Bill may have a negative impact on future educational provision in Scotland. The Educational Institute of Scotland (EIS) suggested that:

“Although the title of this section is “Student Support” and the policy background is that this change will allow Scottish-domiciled students to receive student support if they attend private providers in rUK, the statutory change is clearly wider in that it allows for designation of all private providers (in Scotland and rUK) as fundable bodies or bodies who may receive public grants. We are concerned this will further restrict the one pot of money SFC has for use by current fundable bodies and opens the way more private education providers to receive public monies in future.”

University and College Union (UCU) Scotland were also concerned about public money being used to fund private education providers. They stated that:

“UCU opposes proposals that would encourage the growth of private higher education providers in Scotland. We believe that higher education is a public good and that universities provide a public service and that the introduction of private provision in Scotland, primarily in the college sector, and more widely in England is detrimental to education and the sector. We have been assured that the measures in the bill simply tidy up current practice around student support in the further education sector, but we would not support further measures that sought to expand the private sector in Scottish higher education.”

## 6. Bill Outcomes

The final question in the call for views asked for opinions on what the outcomes from the Bill should be. The responses to the question were very varied, however the majority of views centred on outcomes relating to the experiences of learners as well as on the workforce skills needed by employers in Scotland.

### Learners

A sample of the outcomes relating to learners from the responses are below:

“I would like to see equal funding and opportunities for learners across all learning options. Training providers offering Modern and Foundation Apprenticeships should be equally valued and opportunities to choose your education route should not be institution based.” - SDC-Learn

“A system which is better aligned to the needs of learners, employers and the institutions. A tangible reduction in bureaucracy and duplication. A fairer system of financial support for part-time learners to help drive a genuine move to lifelong learning.” - The Open University in Scotland

“UKFT believes the main outcome of the Bill should be supporting young people, widening access, and narrowing the attainment gap.” - UK Fashion and Textile Association Ltd

“To put the interests of current and potential learners first to ensure sustainable lifelong employment and career development.” - Rewards Training Scotland

“There may be opportunities to strengthen the Bill by including specific mention of Gaelic in the General duty of the SFC to provide further education, higher education, Scottish education and work-based learning (Section 1) and/or under Support of learners’ needs and knowledge exchange in exercise of functions (Section 11)” - Bòrd na Gàidhlig

“The Scottish and Northern Ireland Plumbing Employers’ Federation (SNIPEF) believes that the ultimate outcome of this legislation must be the creation of a simplified, learner-focused system that genuinely values and supports both vocational and academic pathways.” - Scottish and Northern Ireland Plumbing Employers Federation (SNIPEF)

### Skills

Similarly, there were many responses that focussed on the potential outcomes of the Bill on the skills required by employers. A selection of these comments are provided below:

“A simpler and more transparent regime, informed by industry's real needs, supporting employer-validated provision that leads to occupational competence.” - Energy & Utility Skills Ltd

“The overarching outcome of the Bill should be to provide the framework for a skills and training funding system which is streamlined and transparent; responsive to employers' current and future skills needs; and reflects the way in which individuals train and upskill throughout their working lives.” - Construction Industry Training Board (CITB)

“The reformed system should achieve greater levels of flexibility in the application of funding to support reskilling and upskilling for the engineering sector of Scotland. All ages of learners should be targets by funding, with a dual focus of increasing vocational routes and pathways for young people and reskilling existing members of the workforce for the needs of the future economy.” - Enginuity

“The success or otherwise of the Bill must be judged not on whether the new landscape is decluttered or is more or less centralised, but rather on whether it delivers better outcomes for learners and employers and whether the education and training system is better able to develop the skills on which tomorrow's workforce will depend.” - The Institute of Physics (IOP)

## **Costs of the reform**

In a supplementary submission, SDS raise a number of concerns with the estimated costs of the reform set out in the financial memorandum, stating that these are likely to underestimate the cost. In particular, SDS note that:

- The cost and complexity of the transfer of functions from SDS to SFC in relation to pay harmonisation and pension consolidation “significantly under-represents the costs” based on the experience of the merger that formed SDS.
- There are “untested assumptions” in the cost benefit model which could lead to more expensive delivery.
- The FM suggests that Scottish Ministers might place limitations on the costs of the transfer, which SDS suggest could risk meeting SDS and SFC's obligations under TUPE.
- SDS staff whose responsibilities are diminished by the reform, but who are not in scope to move to the SFC might present a financial risk.
- There is a lack of transparency about apprenticeship cost modelling.
- A lack of clarity around the SFC use of credits for supporting colleges

## **Alternative suggestions**

There were also a smaller number of submissions to this question that stated that the Bill does not provide the outcomes that they think it should be aiming for. Some of these, such as the Royal Society of Edinburgh (RSE) suggested that there are different routes to achieving the desired outcomes:

“The RSE would like to reiterate our response to the preliminary consultation phase, that implementing smaller, incremental changes such as alignment of approaches and processes could facilitate a smoother and more manageable reform process”

The PCS Union told the Committee that in their opinion:

“The restructure it triggers will cost millions more than estimated in both one-off and ongoing costs. This is not to say that apprenticeship provision cannot be improved – PCS members believe it can be, and are supportive of new ideas and closer working relations between agencies. A transfer of staff and responsibilities alone will not achieve that... It would be better to take a step back from this draft legislation, properly engage with the workers involved in apprenticeship provision, and then formulate a plan based on a full understanding of the current system.”

UNISON Scotland provided a similar view, stating that:

“What the outcomes of the Bill should be, and the likely outcomes if the Bill is passed in its current form are likely to be very different things. The Bill represents a missed opportunity to create a better regulatory and funding environment for Scottish Higher Education. This is the case even if we set aside the clear and persistent need for a radical reform of how funding operates and the need to create a sustainable funding model. We are seeing increasing discrepancies across providers, particularly in regard to fair work. The Bill should, but does not, provide clear assurances that apprenticeships are a priority and will be supported adequately. Ideally with ring-fenced funding and that there is a strategic policy driver for apprenticeship delivery.”

EIS-FELA and EIS-ULA also gave the view that the Bill risked increasing competition:

“...creating a post-16 landscape through one funding model for higher education institutions, further education colleges, apprenticeships and work-based learning providers will only increase competition for funding unless it is very clear that each median of delivery fulfils a distinct purpose.”

Skills Development Scotland (SDS) suggested the Scottish Government should carry out “extensive work” to look at financial stability of the sector and current and future workforce demands.

**Laura Haley, Researcher; Lynne Currie, Senior Researcher; and Andrew Feeney-Seale, Senior Researcher, SPICe Research**  
**1 May 2025**

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## Annexe B

### **Royal Society of Edinburgh response to the call for views on the Tertiary Education and Training (Funding and Governance) (Scotland) Bill**

**Q1. The proposals would move the funding and functions related to National Training Programmes and provision for apprenticeships from Skills Development Scotland to the Scottish Funding Council. What do you think of these measures?**

The Royal Society of Edinburgh (RSE) welcomes the opportunity to respond to the Education, Children and Young People Committee's consultation on the Stage 1 of the Tertiary Education and Training (Funding and Governance) (Scotland) Bill.

The proposal to consolidate and enhance the governance of training and apprenticeship funding by moving the responsibilities from Skills Development Scotland (SDS) to the Scottish Funding Council (SFC) could support a more coherent and efficient delivery of post school education and skills training in Scotland. As noted in response to the Post-school education and skills reform legislation consultation, however, the RSE expresses its concerns for the negative implications the proposed realignment and consolidation of functions across organisations could have at a time of significant financial pressure on public services (including a significant use of resources and potential for disruption to organisations). The RSE recommends that approaches and processes are unified in the first instance to increase coherence and efficiency before major organisational changes are pursued. We also reiterate the recommendation that the final version of the Bill and associated documents will need to provide a clear vision of how the proposed changes will address the most pressing concerns of the education reform and what internal reforms will be pursued to ensure these changes do not overstretch the existing capabilities and expertise of the affected organisations.<sup>1</sup>

The proposal to develop new apprenticeship schemes is welcome and could potentially expand the pool of learners. A streamlined funding process could simplify access to funding for stakeholders interacting in some cases with tens of different providers, including trade bodies (e.g. Construction Industry Training Board) or employers. However, the projected changes should be accompanied by a more strategic and comprehensive plan for the Bill's implementation, including providing further clarity on how the proposed funding distribution is intended to operate. The proposed redesign should not lose track of the views and needs of other skills providers, alongside those of Universities and Colleges, and the new funding structures should ensure that the varied portfolio of funding for different pathways is retained.

Given the extent of the changes proposed in the Bill, it will be important to clarify how the SFC will deliver certain functions of SDS including skills planning, and how interactions with industry will be facilitated for both skills provision and skills planning

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<sup>1</sup> [Post-school Education and Skills Reform Legislation 2024](#)

to ensure robust industrial policy development. Similarly, it would be helpful to clarify whether it is appropriate for the SFC to also engage with local authorities and secondary schools offering Foundation Apprenticeships (FAs) at SCQF Levels 4-6 of their senior phase curriculum.

Equally, the RSE recommends that further details are provided on operational aspects related to the transition of responsibilities from SDS to SFC and the added benefits of consolidation into one body rather than alignment of processes and procedures. The Bill proposes a significant expansion of responsibilities for the SFC but does not clarify the nature of the engagement that currently is undertaken by SDS. Careful planning will be essential to ensure the success of the merger.

**2. The Bill would also move the funding and functions related to college student support from SFC to SAAS so that all student support funding is delivered through SAAS. What do you think of these measures?**

The documentation associated with the Bill appears to be silent on whether there is an intention to review or align funding mechanisms for the different learning pathways. Routing all student support through SAAS could potentially provide some efficiencies in the governance of the funding system. To ensure that students do not lose out, funding processes will need to be assessed to ensure that all types of support currently provided by SFC for students continue to be available through SAAS, and that the organisation becomes more agile and responsive to evolving student needs. Moreover, student support should not be predicated on a single model of full-time attendance but rather consider the different student needs and patterns of learning, including studying at different ages (colleges for instance often provide a lifeline for people who have been out of work or education), as well as those who combine studies with work or care responsibilities.

The RSE also recommends that the Committee considers a recommendation to introduce a measure that is not currently captured in the proposed Bill: to move the responsibility for the tuition fee paid to Scottish HEIs from SAAS to the SFC. This would bring all elements of funding under one umbrella and offer opportunities for a more integrated approach, as well as the possibility of greater administrative efficiency.

The RSE has previously emphasised at different junctures the need to value diverse outcomes, as well as to ensure parity of esteem for different types of providers and pathways<sup>2</sup>. This was echoed in some of the reviews of the education sector commissioned by Scottish Government in the last years, as the Purpose and Principles for Post-School Education, Research and Skills report advocated for 'equity of access and opportunity'<sup>3</sup> at different stages in life, while Prof. Withers' review<sup>4</sup> asked for further clarity on the distribution of funding for different qualifications and pathways based on parity of esteem principles. Further clarification would thus be needed on the proposed distribution of funding for different types of learning providers, including what funding will be available for skills development and lifelong learning. Moreover, it would be useful to outline the full scope of

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<sup>2</sup> See for instance [Education and skills 2050: Future proofing Scotland](#)

<sup>3</sup> [Purpose and Principles for Post-School Education, Research and Skills 2023](#)

<sup>4</sup> [Fit for the Future: developing a post-school learning system to fuel economic transformation 2023](#)

student/learner support that would fall under the responsibility of SAAS and whether support for all tertiary education pathways would be included in their remit.

**3. The Bill will provide SFC with powers to make recommendations, issue guidance and to monitor the financial sustainability of post-16 education bodies. What do you think of these measures?**

The Bill in its current form proposes a significant expansion of responsibilities for the Council, and some of these could prove challenging for the tertiary sector further down the line. In particular, the RSE expresses concern with the proposal that the SFC could issue recommendations and guidance, based on “efficiency studies”. We would recommend further consideration is given to what the expected outcomes are for such interventions and whether these could have broader, and perhaps undesired, implications for institutions, for example in determining the provision of programmes. In the RSE contribution to the consultation period for the proposed Bill we noted that a careful assessment would need to be made whether the SFC’s current and intended revised operation is supported by an adequate distribution of skills and experience to support new responsibilities. This is especially important to consider if the Council is expected to provide robust recommendations for the fundable bodies that go beyond measures related to ensuring financial viability.

Further consideration could be given to how the differential funding mechanisms are operating for colleges and universities at the moment and whether these should be aligned to support the Bill’s aim to work towards a more sustainable, coherent and efficient funding system across the board.

**4. The Bill makes changes to the governance of the SFC, to take account of its expanded functions, and to ensure that the Council has the skills and experience that it needs. Are the measures sufficient?**

As noted above, large scale institutional changes are proposed, and a careful analysis of the distribution and balance of skills available across the organisation, and indeed the governance mechanism, is needed to ensure the successful delivery of an increasing variety and number of responsibilities for the Council.

Careful examination is also needed to how the move of functions from SDS to the SFC will be undertaken, including any resources (re)distribution and financial implications in a time of contracting and pressured public sector budgets. While structural changes need to be adequately resourced, this should not come at the expense of existing core budgets for the different types of education providers. Large structural changes are likely to generate some attrition, opportunity costs, and lead to uncertainty in the tertiary and the wider training sector during the transitional period. It is essential that measures are put in place to mitigate and minimise negative consequences.

In relation to the proposed changes to the appointments of members to the Council, the RSE recommends that the process should be aligned with the general rules for public sector boards which stipulate that ‘no member’s total period of appointment in



the same position may exceed eight years'<sup>5</sup>. Imposing appropriate limits on appointment length is essential to ensure that the Council's composition reflects ongoing changes in the sector and that the skills available are refreshed periodically. Provisions should be made to unambiguously outline the profile of eligible prospective members and the potential conflicts of interest that may arise. Individuals who hold active positions as principals, vice-chancellors or other leaders that could have a distinct conflict of interest in fundable bodies as defined under the Bill should not be taken into consideration for membership.

The proposed stage 1 version of the Bill includes specific limitations for co-opted members which could hinder the operation of the Council in the future. Under these provisions, there can be only two co-opted members at one time and there is a maximum time limit of one year for appointment. The RSE recommends that this requirement is reconsidered to ensure there is more flexibility in the appointment process so that the Council can strengthen its membership by appointing co-opted members with specific skillsets as needed to ensure the smooth implementation of longer-term projects should this be the case. This will ensure that the Council can implement its long-term strategy based on a continuous thought process, without losing skills and knowledge along the way due to these limitations.

#### **5. The Bill aims to clarify the process for providing student support to Scottish students studying at private institutions in the UK. Do the measures provide enough clarity? Are the measures sufficient?**

This is a segment of the bill that would particularly benefit from further clarification on how the proposed realignment is intended to work to ensure that current opportunities will continue to be available for different types of learners, that the new processes are not cumbersome for providers or centralised to a degree that might cause detriment to the complex Scottish educational system.

The RSE would especially welcome further clarification on what the definition of a private provider is in the context of the Bill. Universities, which are currently listed in the fundable bodies section, are in essence private providers also (as they are not public bodies), as are many training providers and other bodies. Clarifying the nature of what the Bill describes as private providers would be important. Further details would also be useful on the management of providers, what existing providers will need to do to continue to operate, how new providers can be added to the registry and if governmental approval would be needed in each instance irrespective of scale of operations.

Revising the approval system with a recognition of the increased nature of provision could bring efficiencies but measures need to be put in place to ensure practicality and agility. It would also be important to clarify the quality assurance mechanism that would be in place for private institutions, noting that QAA and other appropriate 'regulators' may be relevant.

The Bill outlines that student support could be available for bodies that are 'maintained or assisted by recurrent grants out of public funds' but there is little detail

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<sup>5</sup> [ON BOARD - A Guide for members of statutory boards 2023](#)

on how this is defined or indeed the criteria that would be applied. The extension of student support to college students or those on alternate pathways in equal measure to that currently in place for university students could enhance opportunities for learners. It would also align with the views that the RSE has advocated for in the last few years, highlighting the importance of all education pathways, rather than favouring some preferred options. Should the proposed changes take into account a learner's location, consideration should be given to the flow of funds outside of Scotland and the impact this might have on the education budget at national level.

## **6. In your view, what should the outcomes of the Bill be?**

The RSE contends that the Bill offers some potentially beneficial change in the tertiary education system which is aligned with the principles we have advocated for, such as working towards increased parity of esteem amongst providers.

In addition, the Bill offers the potential to address the ambition in the Withers report that every individual (studying Foundation Apprenticeships in the senior phase of secondary school) has the opportunity to progress through their learning towards the world of work.

However, there remains a need to clarify certain key points before being able to assess the impact it might have. There are challenges related to the expansion of skills and responsibilities for the SFC, and little is known at this stage of how internal realignment will be pursued to facilitate the delivery of these enhanced responsibilities as opposed to aligning processes and procedures. Likewise, consideration needs to be given to the financial and opportunity costs of institutional reorganisation and the impact on the sector in the transitional period, particularly in the current economic climate. The RSE would strongly recommend that key metrics are defined prior to any change, which would be monitored to measure the success or increased efficiency of the tertiary system operations. Additional measures related to improved stakeholder experience can only be assessed over time.

The RSE would like to reiterate our response to the preliminary consultation phase, that implementing smaller, incremental changes such as alignment of approaches and processes could facilitate a smoother and more manageable reform process.<sup>6</sup> We noted that major changes could potentially cause disruption and require considerable resources at a time of increased pressures for the deployment of a section of the public budget for education. We continue to express the view that smaller changes, focused on process alignment changes in the first instance, would be preferable to address the pitfalls of large-scale institutional change.

We thus encourage the Committee to consider how, in the context of the Bill, time-specified incremental change based on key stages within the full programme of change, rather than full-scale immediate reorganisation, could be sought to support the increased coherence of the tertiary system.

As mentioned in first part of this response, we reiterate our recommendation for the Government to build on the rich repository of reports and evaluations published in the last few years (some of which are mentioned in this response: e.g. the Withers or

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<sup>6</sup> [Post-school Education and Skills Reform Legislation 2024](#)

the Independent Review of Qualifications and Assessment reviews) to maximise learnings and inform a long-term vision for education<sup>7</sup> to underpin any further anticipated reform, and outline how the vision and any proposed changes can be articulated with the Government's general strategic priorities.

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<sup>7</sup> See also the [RSE document on the future of education: Education and skills 2050: Future proofing Scotland](#)

# **Scottish Funding Council response to the response to the call for views on the Tertiary Education and Training (Funding and Governance) (Scotland) Bill**

## **About the Scottish Funding Council**

1. The Scottish Funding Council (SFC) is Scotland's tertiary education and research authority. We are a non-departmental public body (NDPB) established by the Further and Higher Education (Scotland) Act 2005. Our powers come from the 2005 Act, and we have two core statutory duties, currently articulated as follows:
  - a. To secure the coherent provision by post-16 education bodies of high quality and fundable further and higher education.
  - b. To secure the undertaking of research.
2. Our purpose is to sustain a world-leading system of tertiary education, research and innovation that enables students to flourish; changes lives for the better; and supports social, economic and environmental wellbeing and prosperity.
3. We invest around £2bn in tertiary education, research and innovation through Scotland's 24 colleges and 19 universities, which provides learning, reskilling and upskilling opportunities to Scotland's learners.
4. We are also the statistical authority for colleges, and we work closely with the UK-wide Higher Education Statistical Authority (HESA), to provide data and statistics for government, decision-makers, and the wider public.
5. Our four strategic objectives are:
  - a. Enabling people to learn and flourish
  - b. Generating new ideas and diffusing knowledge
  - c. Building a responsive, coherent, sustainable system
  - d. Making SFC an excellent organisation.
6. Underpinning these objectives is a proactive and collaborative approach to relationships: with colleges and universities, with the Scottish Government, with other public bodies, and with wider stakeholders. This principle informs how we exercise our duties, and would continue to direct us in any changes to our remit or duties conferred by this programme of reform.

## **Introduction**

7. SFC welcomes the opportunity to respond to the Tertiary Education and

Training (Funding and Governance) (Scotland) Bill (TET Bill).

8. We published our Review of Coherent Provision and Sustainability in June 2021, setting out a number of key recommendations for system change, including building a more responsive education and skills system. This aligns closely with the vision and objectives of the Scottish Government's programme of post-school reform, which are shaped by James Withers' Independent Review of the Skills Delivery Landscape and the Scottish Government's Purpose and Principles for Post-School Education, Research and Skills.
9. The TET Bill sets the legislative framework for the simplification of the post-school funding body landscape. We support its aims, which are to enable funding for tertiary education and training to be more responsive to the needs of learners and the economy; delivering better services for learners and employers; simplifying the operating environment; and ensuring best value for public funds. There is great potential in bringing together functions, intelligence and expert personnel within the education and skills system to realise the benefits intended by this reform.
10. In particular, SFC is supportive of the consolidation of funding for provision into one single funding body which will improve transparency of funding across the system; consistency of approach to quality assurance across all funded provision; consistency in data collection and reporting for training providers and for institutions; support parity of esteem; and make the system simpler for learners and for employers to navigate.
11. SFC welcomes reform and the opportunities it brings. Since the Minister's announcement of his intention to reform the public body landscape in June 2024, SFC has engaged constructively with the Scottish Government, Skills Development Scotland (SDS), the Student Awards Agency for Scotland (SAAS) and wider stakeholders to support the development of these proposals

### **Consolidation of funding for provision into SFC**

12. The consolidation of funding for provision into one body is in line with our 2021 Review, our response to the Skills Delivery Landscape Review, and our response to the post-school education and skills reform consultation ('simplification consultation').
13. We believe that bringing apprenticeships, work-based learning and national training programme (NTP) funding into SFC would have a range of benefits, including:
  - a. For learners: providing a more cohesive apprenticeship, skills and post-16 education offer; a more consistent approach to assurance and evaluation; improving transparency; enhancing parity of esteem.

- b. For employers and for training providers: creating a system which is more streamlined and coherent.
  - c. For public bodies and the sector: allowing a more holistic view of the system, enabling greater regional and strategic planning, reducing duplication.
  - d. For the public purse: channelling provision funding through one body will allow for greater financial stewardship and transparency.
  - e. For greater alignment and connectivity with research and innovation: for example, facilitating connections with innovation centres.
14. SFC has funding responsibility for Graduate Apprenticeships (GAs) and for Foundation Apprenticeships (FAs) in the college sector (which accounts for around half of all FAs) since 2020-21. Significant numbers of Modern Apprenticeships (MAs) are delivered by colleges and supported by SFC core funding.
15. SFC has experience of delivering Scottish Government-funded national training programmes such as the Young Person's Guarantee, the National Transition Training Fund, and the Flexible Workforce Development Fund.
16. Nonetheless, the Bill intends that SFC take on significant new responsibilities in relation to apprenticeships and national training programmes, and this will generate challenges. For example, the funding model and the data collection methodology administered by SDS for Modern Apprenticeships is different to SFC's. SDS has a wealth of experience and expertise in delivering the apprenticeship programme, and retaining the expertise of these skilled staff will be vital.
17. We are committed to working with SDS, apprenticeship providers, employers, the sector, the Scottish Government and wider stakeholders to manage this transition effectively, building on existing strong foundations of collaborative working.

### **Student support**

18. In our response to the simplification consultation, we noted that further education (FE) and higher education (HE) student support are quite distinct systems, although bringing together FE and HE funding into one body could provide an enabling environment for greater alignment in the future.
19. This element of the simplification programme does not require primary legislation. As such, since the Minister's announcement in January 2025 of his intention to consolidate funding for student support within SAAS, we have been working constructively with SAAS colleagues to manage this transition. We will continue to work with SAAS and with colleges to ensure this is as smooth as possible for learners and for the important staff within colleges

who support them.

### **SFC's duties**

20. The Bill sets out a number of new powers and duties for SFC in how it works with colleges and universities, and independent training providers and others who will be delivering apprenticeships, work-based learning and national training programmes.
21. We welcome the inclusion of two new 'have regard to' duties for SFC around protecting and promoting the interests of current and prospective learners; and supporting knowledge exchange and innovation. The addition of these duties better codifies existing practice, as we already consider the interests of students and knowledge exchange and innovation as important strategic priorities. This also reflects the proposals in our simplification consultation response.
22. SFC has an existing power to conduct efficiency studies designed to improve effectiveness in the management or operations of a fundable body. The TET Bill expands the scope of these efficiency studies to include consideration of the interests of learners, to allow SFC to make formal recommendations to fundable bodies, and to publish those recommendations. These are pragmatic changes which recognise the new statutory duty on SFC to consider learners,  
  
and which improve clarity and transparency with respect to proposals for improvement. SFC's approach to assurance and accountability is underpinned by collaboration and positive engagement with institutions, and this would underpin the exercise of this expanded duty.
23. The Bill confers a new duty on SFC to monitor the financial sustainability of post-16 education bodies. This is already a core function of SFC as a funding body, which has previously been set out in our Ministerial letter of guidance, and we welcome it being reflected in legislation. As a non-departmental public body we are accountable to Scottish Ministers and the Scottish Parliament, and the TET Bill sets out in legislation our role in advising Ministers in relation to the financial sustainability of the sector.
24. SFC issues guidance to fundable bodies on a range of matters, for example on quality arrangements for universities and colleges, or on completing further education statistical returns. The TET Bill gives the issuing of this guidance a statutory basis, with a responsibility on bodies in receipt of funding to have regard to this guidance. The principle of collaboration and positive engagement with fundable bodies and persons in receipt of funding is maintained in SFC's activity in this area. However, SFC already issues a high volume of guidance; from specific matters at individual institutions, to sector-wide guidance on high- priority or strategic matters. It may not be appropriate or proportionate to consult with Ministers on all of this as suggested in the

draft legislation. Rather, it may be preferable that the Bill sets out the types of strategic guidance on which it would be appropriate to consult, for example in relation to the conducting of efficiency studies and issuing of guidance to institutions. Other guidance would sensibly be developed along with relevant dialogue with the affected bodies, and engagement with Scottish Government and Ministers in the usual way, as set out in our Framework Document.

25. The Bill establishes a legislative framework for the relationship between SFC and independent training providers delivering apprenticeships, work-based learning or national training programmes. It sets out that: Ministers can set out in regulations criteria for training providers, SFC can set terms and conditions for funding, and SFC can request information from training providers in relation to funded activity. Scottish Government may want to consider how, in order to protect the interests of learners and ensure good stewardship of public funds, there is a proportionate assurance of the financial sustainability of training providers and protections for learners in the criteria set out by Ministers.

## **Governance**

26. The TET Bill sets out a number of changes to SFC's governance, many of which are in line with proposals within our simplification consultation response.
27. Currently SFC Board members may serve a maximum of two terms, even if those terms were shorter than the maximum of four years each. We highlighted the importance of flexibility on the number of terms for Board members, while adhering to the Code of Practice for Ministerial Appointments to Public Bodies in Scotland which limits the total term of a Board member to eight years. We are pleased to see this flexibility built into the TET Bill, removing the two-term limit, which puts us in line with other public bodies.
28. We are supportive of the addition of the ability to co-opt members, which we proposed in our consultation response, to allow the SFC Board to respond quickly to pressures or temporary challenges, or to draw on a specific skillset for a short period of time.
29. The Bill removes the duty on Ministers to have regard to current engagement in the further or higher education when appointing Board members. The duty on Ministers to have regard to candidates' skills and experience with respect to the further and higher education sectors is retained, and we are comfortable that this is sufficient to account for the necessary skills and experience. A similar duty to have regard to persons with experience of apprenticeships and work-based learning is added, which will help Ministers balance the necessary skills and experience of a Board overseeing this expanded remit.
30. There are a number of bodies involved in the governance and oversight of



apprenticeships currently, and it is vital that there is appropriate value and prominence given to this function within the governance structures of a transformed SFC. The TET Bill places a new duty on SFC to establish an apprenticeship committee. We note the distinct, but linked, functions of preparing and overseeing apprenticeship frameworks, and SFC's existing role in the oversight of skills, quality, access and learning as it relates to coherent fundable provision, including apprenticeships.

31. Our statutory skills committee, known as the Skills, Enhancement, Access and Learning Committee (SEAL), currently has oversight of policy as it relates to all fundable provision, including graduate and foundation apprenticeships. Therefore, to improve alignment across all provision, and avoid maintaining silos, it may be preferable to enhance the SEAL committee to have explicit oversight of broader apprenticeship policy, with suitable expansion of membership. A subcommittee, with appropriate expertise, could oversee and approve apprenticeship frameworks.
32. The TET Bill presents an opportunity to evolve the governance of SFC as it transforms to take on additional functions, and to make pragmatic changes to improve and future-proof governance arrangements which were previously set out in the Further and Higher Education (Scotland) Act 2005. In addition to the changes proposed, it may be appropriate that the Bill would provide flexibility to expand the number of Board members if that was deemed necessary in the future, to allow for a range of skills, experience and expertise in the expansion of functions.

### **Other considerations**

33. The TET Bill amends the 1980 Education (Scotland) Act to clarify the process by which private institutions may be designated so that their students may be assessed for eligibility to receive student support. This process seems clear for higher education student support funding, administered by SAAS. SFC does not currently provide any further education student support funding for learners at private institutions, and the current model of further education student support, with its relationship to further education teaching funding, would make this process more complex.
34. The TET Bill gives Ministers the ability to set out criteria in regulations on a number of matters: on apprenticeship frameworks; on training providers; on the process by which SFC prepares, publishes, amends or revokes frameworks and the fee charged; on the process of issuing apprenticeship certificates and the fee charged; on the definition of work-based learning. It would be useful to consider, at an early stage, whether Ministers intend to develop these regulations and the timeline for doing so, and how SFC and other stakeholders would provide input.
35. Additional investment in systems and personnel will be required in order to

successfully manage any transition and deliver a new organisational mission and responsibilities. There may be savings generated through reduced duplication and overhead costs, but this will not materialise for some time. We are proceeding with this programme of reform at a very challenging time for the tertiary sector. It is vital that SFC has the resource and capacity to address these challenges at the same time. Proceeding without additional investment in the public bodies leading this reform will create significant risk to the success of this project.

36. Alongside this reform, there are a number of other changes underway within the wider education and skills landscape and we are working with Scottish Government and other partners to coordinate and ensure continuity across these projects.

## **Conclusion**

37. SFC is positive about change, has a proven track record of managing transformation, and we are well-placed to take on the opportunities and challenges that reform brings. We are committed to working with Scottish Government, SDS, SAAS, and the many important partners across the education and skills landscape to deliver an ambitious reform programme for Scotland.
38. We recognise the uncertainty that this change brings to staff working across the public bodies. The commitment and knowledge of these staff is the foundation of our education and skills system, and retaining their expertise in a newly configured landscape will be crucial.

# **Skills Development Scotland response to the Call for Views on the Tertiary Education and Training (Funding and Governance) (Scotland) Bill**

Skills Development Scotland is the national skills agency.

## **Questions on Part 1 of the Bill**

- 1. The proposals would move the funding and functions related to National Training Programmes and provision for apprenticeships from Skills Development Scotland to the Scottish Funding Council. What do you think of these measures?**

### **MOVING FUNDING AND FUNCTIONS**

The Board of Skills Development Scotland (SDS) shares the Scottish Government's strong commitment to reform of the post-school education system.

We have consistently shared a view that with Ministers and officials that current plans for reform are unclear in respect of the benefits they will deliver for the individuals and businesses of Scotland.

Furthermore we believe that the timelines for current reform means that any benefits or unintended consequences of this programme will not be understood for a decade.

Given the pressures and opportunities before us, we have shared a view with Ministers and officials that more urgent action is required to address two fundamental challenges:

- 1) the financial stability of Scotland's high value university sector - we are concerned that current plans for reform appear limited to narrow structural change. A focus on moving just 3% of the skills budget risks 'tying up' the funding system for years in a costly, complex administrative process, whilst not addressing the longer-term future of our high-value institutions.
- 2) Current and future workforce demand - current analysis of workforce trends highlights that the supply of workers continues to be a predominant theme impacting economic performance and business growth. Commentators across almost all key sectors report a critical need for workers. The current pressures may become significantly more severe in the next decade. Forecasts suggest that Scotland needs 1.1m workers by 2034 to fill job openings and meet replacement demand.

SDS analysis shows that over the next ten years a projected £230bn will be invested in

a range of key sectors, including energy and utilities, shipbuilding, construction, advanced manufacturing, offshore/onshore wind (ScotWind), oil & gas as well as the future decommissioning of oil & gas. At a regional level, Highlands & Islands Enterprise and the H&I REP report a future investment of £100bn in the Highlands & Islands with a requirement to expand the workforce by 16,000 to meet current and future demand.

These investments risk significantly intensifying competition for workers in analogous job roles. Scotland's ability to provide skilled workers to support this major investment in infrastructure will determine the degree to which a lasting benefit lands in our economy, communities and indigenous businesses.

The SDS Board believe the scale of these challenges and opportunities are under-represented in current plans for reform and the reviews which have shaped them.

In its response to the Scottish Government's recent consultation on its plans for simplification of the post-school funding landscape, the SDS Board proposed a constructive alternative approach to reform, which could be delivered at pace:

- 1) the urgent need to develop and implement a long term, sustainable strategy to address the funding crisis in Scotland's high value university sector. This is a national endeavour and a strategic imperative that requires the concerted focus of a dedicated higher education funding agency, empowered with the capability & capacity to address the systemic challenges and opportunities facing the sector.

This would see a reformed SFC forge a new singular and more intensive collaboration with Scotland's university sector to tackle head-on the challenge of longer-term sustainability and create the conditions for this high value sector to thrive, to compete internationally and to grow Scotland's world-renowned research and innovation capability and 'spin out' businesses.

- 2) the immediate and long-term workforce challenges require a decisive shift in policy priorities for Scotland's colleges, focused on expanding Scotland's workforce through industry-led, technical and vocational training, apprenticeships and upskilling/reskilling. This would see a reformed SDS working more intensively with Scottish industry to co-ordinate technical and vocational training, apprenticeships and upskilling/reskilling leading a powerful renewal in vocational and technical education to unlock Scotland's economic potential. A reformed SDS would also seek to drive a new co-investment with Scottish industry who invest c.£4.1bn annually in workforce development.

This approach does not require SDS to directly fund colleges; rather, through intensified engagement with industry determine what collaborative actions can be

taken across industry sectors and with relevant public bodies to address growing workforce demands.

Work is already underway in this regard, commissioned through the Convention of Highlands and Islands, where in partnership with Highlands and Islands Enterprise and the University of Highlands and Islands, SDS has established a 'Workforce North' mission.

Together with partners, SDS has directly engaged over 50 major employers and inward investors from a range of sectors to determine a concrete set of collaborative actions that can directly address the short and medium-term workforce challenges in the region.

This formative work seeks to facilitate a more radical approach to regional workforce development which is decisively framed by the future economic ambition and seeks to empower industry and employers to co-invest with the public sector to build the workforce needed to unlock the £100bn generational opportunity in the Highlands and Islands.

Workforce North is actively working towards new legacy initiatives focused on:

- Building the workforce for the future, including programmes with schools to highlight and respond to economic opportunities in the region
- Building capacity in the regional workforce development, including new construction and engineering provision
- Strengthening vocational training, including scaling up of Modern and Foundation Apprenticeships
- Talent attraction and retention, including a talent attraction campaign.

Discussing the SDS Board's alternative proposal in its policy memorandum, Scottish Government confirms its primary policy driver is reducing the number of public bodies with funding responsibilities and therefore migrating the c. £100m distributed by SDS into the c. £1.9bn budget of the SFC.

As the financial memorandum confirms, this will require substantial structural reorganisation, including the transfer of a significant number of staff, data and systems. This process will be costly, complex and require significant resource to implement.

The SDS Board believe the primary focus of reform should be driving economic

growth and social outcomes by addressing the immediate and long-term workforce challenges facing our businesses and vital public services such as health and social care.

That notwithstanding, the SDS Board and Executive continue to work constructively with Ministers and officials to progress the Scottish Government's plans for the transfer of apprenticeship funding and staff into the SFC.

#### THE BILL AS DRAFTED

In relation to the proposed legislation, there are areas of uncertainty and critical risk which the SDS Board believe need to be addressed to protect the delivery of what the OECD call 'one of the most flexible and wide-ranging systems in the OECD'.

Moreover, the SDS Board believes future reforms should be focused on implementing the OECD recommendations which provide a clear path to further strengthening apprenticeships.

Drawing on international best practice and building on the success of Scottish Apprenticeships the OECD proposed a set of informed, evidence-led recommendations to further strengthen the long term durability and quality of the programmes.

Key themes within the OECD recommendations included:

- Strengthening the role of employers in the system
- Building a more demand-led funding system
- Introducing minimum requirements for programme length and the amount of off-the-job training
- Defining minimum requirements for in-company trainers
- Further expanding and promoting apprenticeships by using technology and innovation

This direction from the OECD is expanded on under the headings below, supplemented with some input based on SDS' experience of managing apprenticeship delivery:

#### 1) Definition of an apprenticeship

The current definition of an apprenticeship as drafted is broadly consistent with a definition developed by the Scottish Apprenticeship Advisory Board (SAAB) in 2019.

Since 2019, SAAB has identified several areas of improvement for this definition and is currently undertaking work to address a number of refinements to its original, focused on:

- incorporating a commitment to National Occupational Standards (NOS) and the revised NOS Strategy
- greater clarity around the development process for apprenticeships including self-funded developments
- greater clarity on the role and application of core, generic and meta-skills
- strengthened alignment to the Scottish Credit & Qualifications Framework (SCQF)
- agility and recognition of apprenticeship pathways which enable learners to transition from education to, and within, the workplace
- consideration of how apprenticeships are used by employers to support talent strategies and workforce planning
- off-the-job learning and guidance on minimum duration, apprenticeship agreements, mentoring, fast-track approvals and embedding equality.

None of these considerations are captured in the bill as drafted.

Beyond this, the intent of this definition work was never to create a legal framework for the delivery of apprenticeships. In that respect it does not consider a range of contextual issues recommended by the OECD, including:

- minimum requirements for apprenticeships to ensure quality without losing responsiveness and flexibility
- regulations for co-operation between different learning venues (learning providers/companies)
- the status and rights of apprentices – following best practice in Switzerland and Austria where the protection of apprentices is defined
- the roles and responsibilities of employers beyond an apprentice agreement – this issue is expanded upon below

- the need for apprentices to be supported in the workplace by a competent mentor and, in their learning and assessment, by a qualified trainer/ educator/ assessor.

## 2) Role of employers and industry demand

The bill appears to underplay the centrality of employers in the delivery of apprenticeships and does not materially recognise that apprentices are employees undertaking training, as opposed to students or learners as would be the case in university and college.

Whilst government fully funds further and higher education provision, this is not the case with apprenticeships, where it only pays a contribution to 'off the job' learning', assessment and certification – employers pay for 'on the job' learning, pastoral care, wages, equipment and other costs associated with staffing. Employers invest £10 for every £1 of public funding in apprenticeships.

“There is also evidence of a perception of apprenticeships as being detached from the rest of college and university learning”

The point above from the policy memorandum is telling in respect of the intent of the bill and its lack of recognition of the unique industry-led nature of the current apprenticeship system. As much as 70% of current apprentices will never enter a college or university with the vast majority of learning provision taking place on the job or through independent specialist learning providers.

Specific concerns in this regard include:

- a) The bill makes no provision to retain fundamental industry oversight of the development and delivery of apprenticeships – indeed despite advice from OECD to strengthen the role of the Scottish Apprenticeship Advisory Board, the policy memorandum confirms the intent to disband SAAB by the end of April with no detail on what will replace it beyond a committee under the direct supervision of the SFC Board. The Scottish Government's proposed 'employer reference group' is not mentioned in the legislation and therefore we assume will have no statutory role – again this is counter to the advice of the OECD.
- b) There is no provision for financial or non-financial incentives for employers to promote apprenticeship provision as recommended by the OECD.
- c) There is no definition of what employers must commit to in relation to apprenticeship delivery as is seen in legislation in high-performing



apprenticeship countries and as recommended by the OECD.

- d) The bill makes no provision to safeguard apprentices from employers with records of delayed payments, industrial accidents, cancelled apprenticeships and other evidence of negative conduct as highlighted by the OECD in international case studies.
- e) There is limited requirement on the Scottish Funding Council to ensure apprenticeship provision is aligned to industry demand in the way that exists currently within Skills Development Scotland and in a way which responds to the need outlined by the OECD for a more demand-led system, meeting the needs of employers and apprentices.

This final point is material in relation to the statutory role of the SFC as it exists currently.

The 2005 act requires SFC to have regard to the skills needs in Scotland; issues affecting the economy of Scotland; and social and cultural issues in Scotland.

Despite record levels of investment in higher and further education – upper quartile in relation to OECD countries - current analysis of workforce trends highlights that the supply of workers continues to be a predominant theme impacting economic performance and business growth.

And whilst we have one of the most highly educated workforces in the world, our economic productivity is poor and static.

Given the current challenges in workforce, it could be argued that the requirement to have regard to issues affecting the economy needs significantly strengthened in relation to current plans. This point is covered in more detail in our response to question 3.

Moreover, Scottish Apprenticeships are the last industry-focused skills intervention in Scotland. Bringing them within the remit of an organisation which has no interface with industry and an academic ‘muscle memory’ carries significant risk that, we believe, should be protected against within legislation in a way which it is not currently.

Finally, we believe that during the drafting of this bill a significant opportunity has been missed to consult with and engage the 11,000 businesses (c.90% of which are SMEs ) who provide apprenticeship opportunities at present, to better inform the structure of this legislation.

As the policy memorandum makes clear, engagement with SAAB appears to have been limited to two meetings focused on the definition of apprenticeships. It is not clear what further consultation has taken place with business, as the majority funders of

apprenticeships, in the development of this bill.

### 3) Guarantee of provision

As we understand the legislation as drafted, the SFC is empowered to fund apprenticeships, however it is not legally required to do so to any greater or lesser extent.

In many ways this is no different to the status quo; Scottish Government is not required to fund apprenticeships through SDS, however chooses to do so through annual grant in aid and letters of guidance.

However, once apprenticeship funding migrates to the SFC the context in which this funding is delivered will change considerably.

The current crisis in university provision is well documented with universities variously reporting deficits or significant reductions in financial surpluses.

We believe this creates huge risk for apprenticeship delivery, which will move from being a singular funding priority for an economic development agency, to a relatively low priority (at least financially) for an education funding agency.

The ease with which apprenticeship budgets could be diverted to protect higher and further educational institutions becomes significantly simpler in the proposed arrangements. We therefore believe safeguards are required to avert this, and which protect the SFC from the powerful lobby interests of universities and colleges understandably focused on securing additional funding.

Recent experience with Foundation and Graduate Apprenticeships has also shown that some institutions will default to knowledge-based 'classroom' courses that are easier and cheaper for them to deliver when funding is a challenge; this further points to the need to strengthen the requirement to fund apprenticeship provision.

Targets for apprenticeships are a feature of international legislation, including in England where there are minimum targets for apprenticeship delivery aligned to policy areas.

### 4) Equality impact

Over recent months, representatives of the SDS Board and Executive have met with officials a number of times to discuss the need for detailed understanding of the equality impact of the proposed changes.

At present, Scottish Apprenticeships have a disproportionate positive impact on

Scotland's least affluent communities, with c. 25% of apprentices coming from SIMD1 and 2 regions. 17% of Scottish apprentices report a disability. Whilst more work needs to be done, progress is being made to expand the number of apprentices from minority ethnic backgrounds, with the findings of a recent independent race commission in apprenticeships published in March this year. Through the SAAB gender commission we have a significant understanding of the issues impacting gender segregation in apprenticeships.

As a Board, we have expressed significant concerns over the maturity of our understanding of equality impact and the risk of unintended consequences in relation to initiatives that are currently underway to address inequalities. Moreover, we are unaware of any work undertaken with those with lived experience in relation to the development of the bill.

We are also concerned that the bill includes provision for charging employers and/or their apprentices for completion certificates. To our knowledge this is not a feature of provision elsewhere in the system and risks exacerbating existing inequalities where academic learning is fully funded when apprenticeship learning at the same SCQF level is not. It is unclear to us why an apprentice or their employer should be required to pay for a certificate when a college or university student is not. This position is difficult to reconcile with the policy memorandum's stated goals around 'parity of esteem'.

#### 5) Financial impact and benefits

We recognise the Finance and Public Administration Committee has responsibility for scrutiny of the financial memorandum related to the bill and SDS is preparing a submission to its call for views in this regard.

We would state our belief that the Financial Memorandum significantly under-represents the cost of this transfer of functions. We are working with Scottish Government and Scottish Funding Council to ensure a more thorough understanding of the mechanics of apprenticeship development and delivery alongside the systems which currently support it.

We have also advocated to Ministers and civil servants that the current understanding of benefits realisation is immature; the primary driver of this process is simplification of funding streams and an underpinning assumption that this will lead to better outcomes for the people and businesses of Scotland and deliver a range of other benefits including parity of esteem of learning pathways. We believe this is an assumption based on opinion which needs tested much more thoroughly.

There is a separate financial consideration within the current legislation that we would draw the committee's attention to.

For Scottish apprenticeships, work-based learning and national training programmes, the Bill provides at sections 12D and 12J that: "The Council may make grants, loans or other payments to a training provider in respect of expenditure incurred or to be incurred by the provider... ."

In the view of the SDS legal team, there is a high risk that a court would interpret this as excluding payment for any profit which would appear to rule out commercial organisations from being awarded apprenticeship contracts as is currently the case.

Given a significant majority of apprenticeship training provision is contracted through independent learning providers, this would appear to be a material matter in the bill as drafted that would significantly reduce the capacity and capability to deliver current volumes of apprenticeships.

#### 6) Apprenticeship reform

As we understand the Scottish Government's current intentions, a programme to consider the design of Scottish Apprenticeships is being undertaken by civil servants. This work appears focused on determining a future operating model for the delivery of apprenticeships in Scotland.

We have shared a view that simultaneously progressing apprenticeships redesign, legislation and the legal obligations around TUPE consultation for a large number of staff creates huge complexity and, in the context of finite resource within government and its agencies, opens all three organisations (Scottish Government, SFC and SDS) up to significant risk, including breach of obligations under employment legislation

Separately, we are aware that the Scottish Qualifications Authority has advocated strongly that, in the event that SDS responsibilities in relation to apprenticeship delivery are removed, responsibility for framework development and associated functions should be handed over to the SQA (or Qualifications Scotland as it will become).

Based on over a decade of experience in managing apprenticeship programmes, we would strongly advise against breaking up apprenticeship development and delivery in this way.

There are many reasons for this which we would be happy to expand on further, however in short:

- Apprenticeship frameworks are not qualifications; apprenticeships exist to

develop occupational competence for a job role. The qualification(s) within frameworks represent a component of that competence, alongside the broader development of skills.

- A wide range of high-quality non-SQA qualifications (e.g. City and Guilds) are awarded through successful completion of apprenticeships – many of these are low volume however directly support important sectors and/or niche job roles not currently provided for via the SQA, or where employers believe a qualification from a different awarding body is a better solution for their sector.
- Giving the SQA a regulatory role in the development of frameworks which incorporate non SQA qualifications as a publicly funded commercial provider of qualifications would appear to represent a significant conflict of interest.
- The current framework development process has been recognised by the OECD as a strong example of good practice for placing employers and apprentices at the centre of developing frameworks.

We believe maintaining all of the ‘end to end’ elements of apprenticeships (development, delivery, quality and enhancement) together is critical to future success.

**2. The Bill would also move the funding and functions related to college student support from SFC to SAAS so that all student support funding is delivered through SAAS. What do you think of these measures?**

We would offer no view in this regard, other than that, based on our discussions with Scottish Government, SAAS and SFC, this would appear to be a straightforward exercise which is effectively a budget transfer and affects a very small number of job roles within SFC.

We would only seek to highlight that this transfer of responsibilities carries little of the scale, complexity or risk of moving apprenticeship delivery from SDS into SFC.

**3. The Bill will provide SFC with powers to make recommendations, issue guidance and to monitor the financial sustainability of post-16 education bodies. What do you think of these measures?**

Whilst there have been a significant number of ‘reviews’ designed to shape future delivery of post-school education, the SDS Board believe there has been little material consideration of how the totality of Scottish’s Government’s investment in post-school education is directed in response to either:

- a) the current university funding crisis

- b) the provision of skilled workers into the labour market which is holding back current economic performance, and risks future economic growth

On that basis we are concerned that the legislation as drafted requires further detailed consideration of these matters. In our view, this requires a short-term focus on:

- 1) the urgent need for a national endeavour to develop and implement a long term, sustainable strategy to address the funding crisis in Scotland's high value university sector.
- 2) a decisive shift in policy priorities for Scotland's colleges, focused on expanding Scotland's workforce through industry-led, technical and vocational training, apprenticeships and upskilling/reskilling.

Without a clearer articulation of a focused response to these issues, we fear the bill as drafted will do little to improve outcomes of the Scottish Government's laudable prioritisation of over £3bn of investment in post-school education.

Beyond this, there is an opportunity to strengthen the bill in a number of areas:

- 1) The ability to gather data which enhances our understanding of the correlation between higher and further education and labour market outcomes. In particular, measures which enable potential students (and those that support them including teachers, parents and carers) to understand the performance of their prospective courses in relation to securing a job at a level commensurate with their qualification and in a related field would significantly enhance students' ability to make more informed choices. At present, there is very little information to help students (and those who support them) understand how likely a course is to help them secure related work. Given the scale of investment in further and higher education pathways, we believe the ability to gather basic and timeous data in this regard should be mandated as a condition of investment.
- 2) The ability for the SFC to direct institutions to significantly expand investment in provision in sectors of critical skills need. At present, we understand that the SFC specifies protected provision in a range of subjects, predominantly in medicine. That is to say, the SFC mandates that institutions provide a quota of medical courses to support the future workforce of the NHS.

We believe this function should be extended to include other areas of strategic economic importance where we have critical skills gaps, including through Graduate

Apprenticeships. This should be directed through Scottish Government's leadership of national and regional skills planning.

## Questions on Part 2 of the Bill

### **4. The Bill makes changes to the governance of the SFC, to take account of its expanded functions, and to ensure that the Council has the skills and experience that it needs. Are the measures sufficient?**

We would restate here our response to question three; the SDS Board's position is that whilst there have been a significant number of 'reviews' designed to shape future delivery of post-school education, we believe there has been little material consideration of how the totality of Scottish's Government's investment in post-school education is directed in response to either:

- a) the current university funding crisis
- b) the provision of skilled workers into the labour market which is holding back current economic performance, and risks future economic growth

On that basis we are concerned that the legislation as drafted requires further detailed consideration of these matters. In our view, this requires a short-medium term focus on:

- 1) the urgent need for a national endeavour to develop and implement a long term, sustainable strategy to address the funding crisis in Scotland's high value university sector.
- 2) a decisive shift in policy priorities for Scotland's colleges, focused on expanding Scotland's workforce through industry-led, technical and vocational training, apprenticeships and upskilling/reskilling.

Without a clearer articulation of a focused response to these issues, we fear the bill as drafted will do little to improve outcomes of the Scottish Government's laudable prioritisation of over £3bn of investment in post-school education.

We would also highlight that the SFC does not currently have the experience or competence to effectively engage industry as it would relate to apprenticeship delivery or broader alignment of technical and vocational provision to improve the supply of skilled workers.

Again, the legislation as drafted does not appear to seek to address this issue. There is no specific provision in the bill in relation to employer representation on either the SFC Council or its new apprenticeship committee. Any diminution of the employer role and voice in the governance or development and delivery of

apprenticeships risks undermining their integrity.

Beyond this we would make the committee aware that our experience of supporting the framework development process leads us to believe it is highly unlikely that a single sub-committee of the SFC Council will have the capacity or skillset to undertake the current responsibilities of the SAAB Standards and Frameworks and Apprenticeship Approvals Groups.

Indeed, it is not clear how well understood the current process for framework development is in the context of the drafting of the policy and financial memorandum. There are assumptions around the costs and processes outlined within both the policy and financial memorandum that we believe require extensive additional consideration.

Finally, we believe that Audit Scotland's 'Learning the Lessons of Public Mergers' Good Practice Guide should fully apply to any transfer of SDS functions to the SFC.

## **Questions on Part 3 of the Bill**

### **5. The Bill aims to clarify the process for providing student support to Scottish students studying at private institutions in the UK. Do the measures provide enough clarity? Are the measures sufficient?**

We would offer no view in this regard.

## **Further comments**

### **In your view, what should the outcomes of the Bill be?**

The SDS Board would urge the Scottish Government to undertake a more extensive work to determine how best to engage in responding to the dual challenges of:

- 1) The financial stability of Scotland's high value university sector - current plans for reform appear limited to narrow structural change. A focus on moving just 3% of the skills budget risks 'tying up' the funding system for years in a costly, complex administrative process, whilst not addressing the longer-term future of our high-value institutions. The SDS Board's view is that this requires the concerted focus of a dedicated higher education funding agency – a reformed SFC - empowered with the capacity to address the systemic issues facing the sector.
- 2) Current and future workforce demand - current analysis of workforce trends highlights that the supply of workers continues to be a predominant theme impacting economic performance and business growth. Commentators across



almost all key sectors report a critical need for workers and current pressures may become significantly more severe in the next decade. Projections suggest that Scotland needs 1.1m workers by 2034 to fill job openings and replacement demand.

Record levels of investment risks significantly intensifying competition for workers in analogous job roles. Scotland's ability to provide skilled workers to support this major investment in infrastructure will determine the degree to which a lasting benefit lands in our economy, communities and indigenous businesses.

We believe this requires a decisive shift in policy priorities for Scotland's colleges, focused on expanding Scotland's workforce through industry-led, technical and vocational training, apprenticeships and upskilling/reskilling. This would see a reformed SDS working more intensively with Scottish industry to co-ordinate technical and vocational training, apprenticeships and upskilling/reskilling and driving industry co-investment.

This approach does not require SDS to directly fund colleges; rather, through intensified engagement with industry determine what collaborative actions can be taken across industry sectors and with relevant public bodies to address growing workforce demands.

As outlined in our response to question 1, work is already underway under a shared mission in the Highlands and Islands to implement this approach. Beyond this, we believe the Tertiary Education Bill should be significantly strengthened in respect of:

- 1) embedding industry leadership of apprenticeships, recognising that business is the majority funder
- 2) strengthening protections for apprenticeship delivery in the context of a crisis in further and higher education funding
- 3) a more direct response to the OECD recommendations to strengthen apprenticeships in Scotland

In closing we would note that the functionality of this form does not easily allow us to reference data points for the various figures and statistics quoted. We will be more than happy to provide these separately to the committee should this be useful.

## **Written submission from the Student Awards Agency Scotland regarding the Tertiary Education and Training (Funding and Governance) (Scotland) Bill**

Thank you for the opportunity to provide a written submission on the above Bill ahead of my appearance before the Committee on 7 May 2025.

As the Chief Executive of the Student Awards Agency Scotland (SAAS), I have no substantive comments to make in relation to the proposals contained within the Bill in relation to the move of funding and functions related to National Training Programmes and provisions for apprenticeships (Part 1), powers to the Scottish Funding Council (SFC) to make recommendations, issue guidance and to monitor financial sustainability (Part 1) or changes to the governance of the SFC (Part 2). My written submission will focus on two elements contained within the Committee's recent call for evidence:

1. Proposal to move funding and functions related to college student support to SAAS; and
2. Providing student support to Scottish students studying at private training providers in the UK.

### **1. Proposal to move funding and functions related to college student support from SFC to SAAS.**

The proposal would see student support for Further Education (FE) students transfer from SFC to SAAS. SAAS currently administer student support for Higher Education (HE) students studying at college.

Scottish Ministers have agreed that transfer of FE student support would be 'as is', meaning that the delivery model of the support is not in scope. This means that FE students applying for student support would continue to do so via their college. SAAS would take over the functions that SFC currently perform in relation to this budget i.e. allocation and payment of funds to colleges and the issuing of guidance on student support.

SAAS are supportive of the proposal and will work closely with the SFC and college sector to ensure a smooth and prompt transfer of functions whilst aiming to ensure that there is not a negative impact on service delivery for FE or HE students during this time. The work with SFC colleagues is still in its early stages and my aim is to ensure that students and the sector are kept apprised as this work develops. I am keen that my team engage with the college sector during this process to identify any immediate areas of improvement that SAAS could consider as part of the transfer work.

## **2. Providing student support to Scottish students studying at private providers in the UK.**

Eligible students studying courses of Higher Education at designated private training providers can access support in the same manner as those eligible students who are studying at a public institution.

The Student Support (Scotland) Regulations 2022 currently provides Scottish Ministers (via SAAS) broad discretion in designating a course of education as eligible for student support. This provision is currently used by SAAS to designate courses run by private training providers which enables eligible students studying with the provider to access tuition fee and living cost support (if applicable). In the 2023-24 academic year, SAAS provided financial support (tuition fees and living cost support) to 695 students across 23 full-time designated private providers in Scotland and provided tuition fees to 2,505 students studying at nearly 130 designated part-time training providers in Scotland. The majority of the courses available at full-time level are in the field of dance and drama. Part-time courses are linked more to employment and tend to specialise in social care and childcare.

SAAS have been developing new designation processes in relation to private providers. We are in the final review stages of a pilot designation process for full-time providers – this has included an educational oversight inspection by His Majesty's Chief Inspectorate, Education Scotland and the submission to SAAS of Student Protection Plans and financial statements. The reason for the revised designation process is to provide a more robust validation framework around public funds extending to private training providers. Concurrently, SAAS are also developing a revised designation process for part-time private providers. A pilot was launched in December 2024 which includes assessment of the financial viability of the provider and the submission of Student Protection Plans.

In the interim, SAAS has paused the acceptance of any new applications from private training providers for designation to allow the pilots to be concluded and fully reviewed – this does not impact those training providers who are currently designated. We anticipate the launch of the new designation process in Autumn 2025, when we will again accept new applications.

It is our understanding that the provision in the Tertiary Education and Training (Funding and Governance) (Scotland) Bill provides a regulation-making power that would enable Scottish Ministers (via SAAS) to set out the process for the designation of private training providers as a whole rather than their individual courses. We understand that the regulatory-making power would also allow Ministers to charge a fee for the designation process through secondary legislation. The provision in the Bill would be primarily aimed at the part-time private training providers. As the full-time designation process includes an inspection by His Majesty's Inspector of Education, it is our understanding that the Education (Scotland) Bill provides a power for the Chief Inspector to enter into an arrangement for the purposes of an inspection in relation to the provision of education, including with private training providers. The Education (Scotland) Bill enables the Chief Inspector to recover expenses incurred from the training provider.

**ECYP/S6/25/15/1**

I will be happy to expand on my comments to members during my evidence session on 7 May.

Yours sincerely,

**Catherine Topley**

Chief Executive

## Annexe C

## Additional written submission on behalf of the Board of Skills Development Scotland regarding the Tertiary Education and Training (Funding and Governance) (Scotland) Bill

We thank the committee for the opportunity to provide evidence to support its scrutiny of the Tertiary Education and Training (Funding and Governance) (Scotland) Bill.

### Simplification of the Post School Funding Body Landscape

The Board of Skills Development Scotland (SDS) shares the Scottish Government's strong commitment to reform of the post-school education system.

We have consistently shared a view that with Ministers and officials that current plans for reform are unclear in respect of what the Bill will enable and the benefits it will deliver for the individuals and businesses of Scotland. Furthermore, we believe that the timelines for current reform means that any benefits or unintended consequences of this programme will not be understood for a decade.

Given the pressures and opportunities before us, we have shared a view with Ministers and officials that more urgent action is required to address two fundamental challenges:

1) the financial stability of Scotland's high value university sector - we are concerned that current plans for reform appear limited to narrow structural change. A focus on moving just 3% of the skills budget risks 'tying up' the funding system for years in a costly, complex administrative process, whilst not addressing the longer-term future of our high-value institutions.

2) Current and future workforce demand - current analysis of workforce trends highlights that the supply of workers continues to be a predominant theme impacting economic performance and business growth<sup>8</sup>. Commentators across almost all key sectors report a critical need for workers. The current pressures may become significantly more severe in the next decade. Forecasts suggest that Scotland needs 1.1m workers by 2034 to fill job openings and meet replacement demand<sup>9</sup>.

In its response to the Scottish Government's recent consultation on its plans for simplification of the post-school funding landscape, [the SDS Board proposed a constructive alternative approach to reform](#), which could be delivered at pace:

- the urgent need to implement a **sustainable university funding model** requires concerted focus of a dedicated higher education funding agency, empowered with the capacity to address the systemic issues facing the sector.

<sup>8</sup> Institute for Employment Studies (2024). [Working for the Future](#)

<sup>9</sup> Oxford Economic (2024)

This would see a reformed SFC forge a new singular and more intensive collaboration with Scotland's university sector to tackle head-on the challenge of longer-term sustainability and create the conditions for this high value sector to thrive, to compete internationally and to grow Scotland's world-renowned research and innovation capability and 'spin out' businesses.

- the **immediate and long-term workforce challenges** require a decisive shift in policy priorities for Scotland's colleges, focused on expanding Scotland's workforce through industry-led, technical and vocational training, apprenticeships and upskilling/reskilling.

This would see a reformed SDS working more intensively with Scottish industry to co-ordinate all technical and vocational training, apprenticeships and upskilling/reskilling leading a powerful renewal in vocational and technical education to unlock Scotland's economic potential. A reformed SDS would also seek to drive a new co-investment with Scottish industry who invest c.£4.1bn<sup>10</sup> annually in workforce development. This reflects the approach underway through a '**Workforce North**' mission<sup>11</sup>.

Discussing this proposal in its policy memorandum, Scottish Government confirms its primary policy driver is reducing the number of public bodies with funding responsibilities and therefore migrating a single fund of c. £100m distributed by SDS into the SFC.

As the Financial Memorandum confirms, this change will necessarily require substantial structural reorganisation, including the transfer of a significant number of staff, data and systems.

At a time when the Scottish Fiscal Commission reports that public finances could see a fiscal gap of up to £14bn per year over the longer term and further & higher education institutions are reporting record deficits, the SDS Board has questioned the rationale for incurring direct transition costs – which we believe could potentially be in the region of £40-£50m - and potentially risking further significant annual increases in programme costs associated with this Bill (see section on Financial Memorandum below).

**The SDS Board continue to believe the primary focus of reform should be driving economic growth and social outcomes by addressing the immediate and long-term workforce challenges facing our businesses and vital public services such as health and social care.**

That notwithstanding, the SDS Board and Executive continue to work constructively with Ministers and officials to progress the Scottish Government's plans for the transfer of apprenticeship funding and staff into the SFC.

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<sup>10</sup> Department for Education; Scottish Government (2023). [Employer Skills Survey 2022](#).

<sup>11</sup> Workforce North draft high-level action plan is currently out for consultation and available to view on the [Skills Development Scotland website](#)

## The Bill As Drafted

In relation to the proposed legislation, there are areas of uncertainty and critical risk which the SDS Board believe need to be addressed to protect the delivery of Scottish Apprenticeships and what the OECD<sup>12</sup> call 'one of the most flexible and wide-ranging systems in the OECD'. Moreover, the SDS Board believes future reforms should be focused on implementing the OECD recommendations which provide a clear path to further strengthening apprenticeships.

Drawing on international best practice and building on the success of Scottish Apprenticeships the OECD proposed a set of informed, evidence-led recommendations to further strengthen long-term durability and quality. Key themes within the OECD recommendations included:

- Strengthening the role of employers in the system
- Building a more demand-led funding system
- Introducing minimum requirements for programme length and the amount of off-the-job training
- Defining minimum requirements for in-company trainers
- Further expanding and promoting apprenticeships by using technology and innovation

In this context SDS has highlighted a range of issues and opportunities to strengthen the Bill:

1) Definition of an apprenticeship: we believe the **current definition of an apprenticeship needs strengthened in respect of a range of issues highlighted by the OECD**, including the status and rights of apprentices, roles and responsibilities of employers, apprenticeship agreements, mentoring and embedding equality as outlined in international best practice in high-performing apprenticeship systems including Switzerland, Austria and Germany.

2) Role of employers: **we believe the Bill needs significantly strengthened to embed industry leadership and ownership of Scottish Apprenticeships**. As drafted, the bill appears to underplay the centrality of employers in the delivery of apprenticeships and does not materially recognise that apprentices are employees undertaking training, as opposed to students or learners. The bill makes no provision to retain fundamental industry oversight of the development and delivery of apprenticeships, nor does it recognise that, unlike college and university provision, apprenticeships are not fully funded by Scottish Government, and business is the majority funder. The OECD highlight the importance of industry leadership within legal frameworks for apprenticeships, including in Denmark where trade committees and an apprenticeship council are granted a consultative role and also the authority to make decisions.

3) Guarantee of provision: **we believe the Bill should set a commitment to supply of apprenticeships aligned to industry demand**. As we understand the legislation as drafted, the SFC is empowered to fund apprenticeships, however it is not legally

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<sup>12</sup> OECD (2022). [Strengthening Apprenticeship in Scotland, United Kingdom](#); OECD Reviews of Vocational Education and Training

required to do so to any greater or lesser extent. This represents a significant risk in the context of the current crisis in university funding and does not adhere to international best practice where a commitment to supply of apprenticeships often feature. As an example, the OECD reference England and Wales where the 2009 Apprenticeships, Skills, Children and Learning (ASCL) Act creates a right to an apprenticeship for suitably qualified 16–18-year-olds.

4) Equality impact: **we believe that the proposed migration of NTP delivery into SFC should more directly articulate equality impact.** We have expressed significant concerns over the maturity of the understanding of equality impact and the risk of unintended consequences in relation to initiatives that are currently underway to address inequalities. Moreover, we are unaware of any work undertaken with those with lived experience in relation to the development of the bill.

5) Apprenticeship reform: **we believe that TUPE dependencies must be a dominant theme in relation to implementation planning and actions that create risk in this regard should be stopped or paused.** We have shared a view that progressing apprenticeship redesign at the same time as the underpinning legislation is being scrutinised and legal obligations around TUPE consultation for a large number of staff are being progressed creates huge complexity and, in the context of finite resource within government and its agencies, opens all three organisations (Scottish Government, SFC and SDS) up to significant risk, including breach of obligations under employment legislation.

## Financial Memorandum

We would state our belief that the Financial Memorandum significantly under-represents the cost of this transfer of functions. We are working with Scottish Government and Scottish Funding Council to ensure a more thorough understanding of the mechanics of apprenticeship development and delivery alongside the systems which currently support it.

We have also advocated to Ministers and civil servants that the current understanding of benefits realisation is immature; the primary driver of this process is simplification of funding streams and an underpinning assumption that this will lead to better outcomes for the people and businesses of Scotland and deliver a range of other benefits, including parity of esteem of learning pathways. We believe this is an assumption based on opinion which needs tested much more thoroughly.

The risks set out below have increased significantly as the crisis in university and college funding places even greater strain on wider public finances which, according to the Scottish Fiscal Commission's latest projections, require long-term annual savings of over £1bn per year<sup>13</sup>:

- a concern that the financial underpinning provided within the Financial Memorandum significantly under-represents the cost and complexity of this transfer of functions including in relation to TUPE considerations (e.g. costs of pension consolidation, pay harmonisation) data, systems and framework development. In cost terms, based on our experience of the original merger

<sup>13</sup> Scottish Fiscal Commission - [Fiscal Sustainability Report](#), April 2025



which created SDS, we believe the total costs of this transfer of functions could be significantly higher than projected

- the cost-benefit model appears immature with a range of untested assumptions which we fear could increase the cost of apprenticeship delivery for poorer outcomes
- the Financial Memorandum appears to make provision for Ministers to place limits on the cost of transfer which could put at risk SDS and SFC's obligations under TUPE
- an exposure to financial risk as a result of diminished need for responsibilities of SDS staff not in direct scope of transferring to the SFC but whose job roles may no longer be required in a future SDS
- a lack of transparency and clarity on apprenticeship cost modelling
- a lack of clarity around the use of SFC credits supporting college delivery of apprenticeships, documented in the Financial Memorandum at around £50m. Based on the fact that this £50m is spent on the 20-30% of Modern Apprenticeships which are currently delivered by colleges, we are concerned that if Ministers pursue a 'college first' approach this might require similar volumes of additional credits which could make current delivery significantly more expensive with poorer outcomes and displace employer investment currently made through independent providers
- at present there is no clear definition on the future functions and remit of Skills Development Scotland which is creating new risks for the SDS Board in terms of governance and oversight.