

13 December 2016

Keith Brown MSP  
Cabinet Secretary for Economy, Jobs and Fair Work  
The Scottish Government  
St Andrews House  
Regent Road  
EDINBURGH  
EH1 3DG

Dear Cabinet Secretary,

I was encouraged by some of your comments to the Education & Skills Committee on 7 December. I particularly welcomed your recognition of the ‘value of arms’ length bodies advising Ministers on further and higher education matters’, the consistent messages from the Deputy First Minister and yourself about the Scottish Government’s commitments to university autonomy and academic freedom, and the clarity of your assurance that Universities Scotland would be ‘intrinsically involved’ in deciding the nature of governance structures for any change to the Scottish Funding Council.

I thought it would be useful to you, and to the Committee, if I set out some of our thoughts about the way forward.

Universities Scotland has expressed its support for a better alignment of the various actors in promoting productivity and innovation. While we do not see a compelling case for the abolition of the existing statutory bodies, we have been clear that we wish to engage constructively in phase 2 of the Review so that whatever structure is ultimately developed supports universities to make our full contribution to Scotland's economic, social and cultural wellbeing.

Some design principles are important to Universities Scotland as phase 2 addresses future structures in the light of the phase 1 report. These include:

- The need for a statutory non-Ministerial body with responsibility for regulatory and funding issues affecting higher education and for the detailed development of policy on how higher education funding can promote Scotland’s economic, social and cultural wellbeing;

- The statutory higher education body to have its own legal personality distinct from the Scottish Ministers and distinct from any statutory body established with an ‘enterprise and skills’ remit;
- The statutory higher education body to be responsible for upholding the autonomy and academic freedom of higher education institutions, as well as for ensuring that public investment in higher education promotes Scotland’s social, economic and cultural wellbeing;
- This body to have a non-executive board that has sufficient expertise to carry out its functions, including expertise drawn from within higher education as well as from wider interests including business;
- The statutory higher education body will have some functions that sit within an ‘enterprise and skills’ remit e.g. in relation to the interface between business and universities, and the promotion of ‘near-market’ research; but its functions will be much wider than that and will include the overall promotion of learning and research, the promotion of wide access to higher education, and oversight of the governance and financial management of higher education institutions. The integration between ‘enterprise and skills’-related activities of higher education institutions and their wider functions means that the statutory higher education body needs to have oversight across all these functions.
- The ability of the statutory higher education body to advise the proposed ‘super-board’ on matters relating to enterprise and skills; and membership from the statutory higher education body on the ‘super-board’.
- The ability of the ‘super-board’ to influence the statutory higher education body on matters relating to enterprise and skills as part of its remit to ‘bring greater integration and focus to the delivery of our enterprise and skills support to businesses and users of the skills system’.
- The capacity for the statutory higher education body to make decisions at its own initiative on matters within its remit, subject to a Ministerial letter of guidance – recognising that for matters relevant to enterprise and skills the statutory higher education body will be one of the actors promoting alignment of activities through the proposed ‘super-board’.
- While the ‘super-board’ should be able co-ordinate the better collective use of resources for enterprise & skills purposes, the core funding of universities’ teaching and research must be decided by Parliament and allocated by the statutory higher education body.

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Universities Scotland will offer more detailed advice on structures that can be built consistent with these principles during the course of Phase 2. Detailed issues will need a great deal of thought, for instance definition of the relationship between the statutory higher education body and the proposed 'super-board'. We have not commented in this letter on the funding and regulation of FE colleges, though we have been supportive of the SFC's work to take a joined-up view across tertiary education, and structures for this will need to be considered carefully in Phase 2.

We will also offer a detailed analysis of the existing powers of the Scottish Funding Council, and I attach a draft of this to highlight the areas where the functions of the SFC are relevant to the Enterprise and Skills Review, and to identify the wide range of SFC functions which fall outside the scope of the Review or which need to be exercised separately from government.

For information, in addition to the general points you made about ONS classification to the Committee, there is a specific exercise at present by the Office of National Statistics to consider the classification of higher education institutions. This has its origins in consideration of whether universities in England remain 'non-profit institutions serving households' in the light of the more marketised student funding regime there: however its scope is UK-wide. This makes the reclassification risk a live one, and accentuates the need for any new structures affecting higher education institutions to avoid any increase in 'the total influence government holds over the actions of that body'.<sup>1</sup>

My fellow Principals and I are keen to reach early and solid agreement with the Scottish Government on the design principles for the new institutional arrangements as we are keen to return our attention to practical action to promote inclusive economic growth.

I am copying this letter to the Convener of the Scottish Parliament's Education & Skills Committee.

Kind regards,



**Professor Andrea Nolan FRSE MRCVS OBE**  
**Convener**

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<sup>1</sup> HM Treasury guidance on sector classification, August 2013: paragraph 3.29