

**Education and Culture Committee**  
**Scotland's Educational and Cultural Future**

**NUS Scotland**

## **Introduction**

NUS Scotland welcomes this inquiry into Scotland's potential educational future, and the opportunity to respond and participate in the committee's inquiry. As decided unanimously, at our national conference in March, NUS Scotland has a policy of neutrality on the question of independence, and we have chosen not to take a side. Instead we see our fundamental task as ensuring that students and young people are engaged in the process, empowered to get involved in the debate, and feel able make an informed decision. This is particularly so given the fact that votes at 16 will be in effect for the referendum, something we want to see the success of, and a stepping stone towards the adoption of votes at 16 for elections.

However, just because we are neutral on the *question* of independence does not mean that we are neutral on the wider question of the type of country we want to see, and the education system in place. Ultimately, irrespective of the constitutional decision, it will be the political decisions which are made that could potentially have the greatest impact. As such, this evidence submission sets out what we believe are the strengths of the current tertiary education system, and equally where we believe there is room for improvement, and the issues we believe both sides of the debate need to address.

## **University funding and tuition fees**

NUS Scotland is strongly committed to the principle and practice of free undergraduate education in Scotland. Since the advent of devolution, Scotland has maintained a distinctive approach to that seen elsewhere in the UK. At the 2011 Scottish parliamentary elections 87% of MSPs were elected on a personal commitment to, among other things, rule out any introduction of charging for higher education. All but one party in the Scottish Parliament were elected on a manifesto commitment to free education.

There is clear public support for free education. A poll commissioned by the BBC ahead of the Scottish Parliamentary elections found "retaining free tuition for Scottish students" was the third most popular surveyed policy, ahead of continuing the council tax freeze, maintaining free prescriptions and reducing taxes on businesses.<sup>1</sup>

We believe Post-16 education is a universal service, bringing together colleges, universities and other post-school education (like apprenticeships and training). It is clear we have poor rates of access in our universities (or to be more accurate, at our most elite universities). When looking at rates of access for university, we should be fighting to ensure it is more equal rather than entrenching inequality, charging fees, and – in effect – making money out of unfairness.

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<sup>1</sup> Scottish election: BBC survey's policy league table, <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-13030467>

Charging for access to university would shut out the more disadvantaged in our society, worsening inequality between the advantaged and disadvantaged, and locking that inequality in for generations to come.

## **Free education and a new constitution in an independent Scotland**

First Minister Alex Salmond, in a speech in 2013, said that following independence a process to develop a written constitution would take place, and that the Scottish Government would “be but one voice in the process, and therefore it will not be prescriptive about the content of the written constitution”. However, he also said that among the issues Scottish Ministers would advocate to be enshrined in a written constitution would be free education and the removal of nuclear weapons from Scottish soil, a position reiterated in the Government’s Independence White Paper.<sup>2</sup>

We would warmly welcome free education being enshrined in a constitution for Scotland. As things stand, however, it is unclear what the inclusion of free education into a new constitution would mean in practical terms, as education is not free for some groups of Scottish students at the moment – such as international students and those from the rest of the UK, postgraduates, second degree students, or part-time university students earning over £25,000.

## **Rest of the UK students**

NUS Scotland opposes the principle and practice of charging any student to study, regardless of background or domicile. As such, we have been continually opposed to the decision to allow Scottish universities to charge up to £9,000 fees to students from the rest of the UK in any given academic year. This means that, due to the four year degree structure of Scotland, we now have potentially the most expensive higher education system of all the UK countries; up to £36,000 as opposed to £27,000 elsewhere for a usual honours degree.

While much of the blame for this lies with the Westminster government’s decision to raise fees in England, forcing the Scottish Government to act, we do believe that the proposed system goes beyond what was required, and equally contains none of the safeguards seen elsewhere, such as a requirement to provide minimum standards of bursaries or track access and backgrounds of students coming from RUK. Furthermore, variable fees mean we will have legislated for a market in higher education in Scotland, with fees that may change depending on course and institution, which we wholly oppose as student choice could become affected by price rather than academic considerations.

At the same time, early figures are beginning to show that the system may not have helped institutions, and indeed may have contributed to deterring students from Scottish universities. Earlier this year, figures were obtained by the media showing first year enrolment figures at Scottish universities, broken down by domicile of student. These showed, in 2012/13 - the first of £9,000 fees in England and also for RUK students in Scotland - that while, across Scotland, RUK entrants had increased by 260, this was actually driven by a 495 student increase at one university. Removing this from the overall figures gives a decrease of 230.

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<sup>2</sup> Scottish independence: Alex Salmond details constitutional rights, <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-21028617>

We believe that this is early evidence that we were right to be concerned with the potential impacts of the current system, but equally a clear sign that, under any future constitutional settlement, it is one which should be revisited as a matter of urgency.

### Loss of RUK fee income

Currently, Scotland is not able to charge tuition fees to students from other EU members, but is able to charge tuition fees for students from England, Wales and Northern Ireland. This is because EU law does not allow discrimination *across* member states (of which the UK is one), but does allow it *within* member states (i.e. the four nations of the UK). However, the Scottish Government has said that in an independent Scotland, students from the rest of the UK would still be charged fees to study in Scotland, despite being a separate EU country.

The Scottish Government believes that there is a legal case (or 'objective justification') for an independent Scotland being able to charge students from another EU country (the rest of the UK) fees, "based on the unique and exceptional position of Scotland in relation to other parts of the UK, on the relative size of the rest of the UK, on the fee differential, on our shared land border and common language, on the qualification structure, on the quality of our university sector and on the high demand for places."

The Scottish Government says this proposal is "consistent with, and informed by, legal advice the government has received." They have not revealed the details of this legal advice, though they have also highlighted similar advice which has been published by Universities Scotland: "The legal advice we have received would appear to identify ground upon which it would be possible for the Scottish Government to build a policy solution to the issue of rest-of-UK students coming to study in Scotland if Scotland were to become independent."<sup>3</sup>

Androulla Vassiliou, the EU education commissioner, has said that European treaties prohibited any member state from discriminating against students from other EU citizens on "conditions of access to education, including tuition fees". No such arrangement currently exists within the EU, she said, and attempts to do so could be regarded as "a covert form of discrimination on grounds of nationality."<sup>4</sup>

This proposal by the Scottish Government has been challenged as not being likely to survive a challenge in the European Court of Justice by some academics within Scotland, including Niamh Nic Shuibhne<sup>5</sup>, professor of European Union law at the University of Edinburgh, and Paul Beaumont<sup>6</sup>, professor of European Union and private international law at the University of Aberdeen.

Ultimately, should the Scottish Government's objective justification proposal fail, and assuming both an independent Scotland and the rest of the UK held EU membership, under the current

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<sup>3</sup> Legal advice commissioned by Universities Scotland on residency requirement for student fees,

[http://www.universities-](http://www.universities-scotland.ac.uk/index.php?mact=News.cntnt01.detail_0&cntnt01articleid=146&cntnt01returnid=23)

[scotland.ac.uk/index.php?mact=News.cntnt01.detail\\_0&cntnt01articleid=146&cntnt01returnid=23](http://www.universities-scotland.ac.uk/index.php?mact=News.cntnt01.detail_0&cntnt01articleid=146&cntnt01returnid=23)

<sup>4</sup> <http://www.heraldscotland.com/politics/referendum-news/snp-plan-for-iscotland-student-fees-is-covert-discrimination-says-eu-commis.1392188486>

<sup>5</sup> <http://www.scottishconstitutionalfutures.org/OpinionandAnalysis/ViewBlogPost/tabid/1767/articleType/ArticleView/articleId/2759/Niamh-Nic-Shuibhne-University-Fees-and-rUK-Students--the-EU-Legal-Framework.aspxuibhne>

<sup>6</sup> <http://www.scottishconstitutionalfutures.org/OpinionandAnalysis/ViewBlogPost/tabid/1767/articleType/ArticleView/articleId/2673/Paul-Beaumont-The-Scottish-Governments-Position-on-the-Relationship-Between-an-Independent-Scotland-and-the-EU.aspx>

funding arrangements Scotland would be required to provide free tuition to students from England, Wales and Northern Ireland.

### Rest of the UK students: Managing demand

In academic year 2011/12, there were 18,420 full-time undergraduate students from the rest of the UK studying in Scotland.<sup>7</sup> Of these, 4,760 were first-year undergraduate entrants. Should the Scottish Government proposal to charge tuition fees to students from the rest of the UK post-independence fail, RUK students could receive university education for free in Scotland, rather than pay up to £9,000 per year in the rest of the UK.

To maintain funding levels for universities at current levels, an independent Scotland would need to make up around £150m of lost income that is currently provided by RUK fees.

However, a potentially more intractable problem for an independent Scotland, even if the funding could be found, would be how to manage cross-border demand. With fees of up to £9000 in England, there is a distinct possibility that demand for places available for free at Scottish universities could increase from the rest of the UK. With just over 100,000 full-time equivalent places available for Scottish and EU students at Scottish universities, and just under 1million students in the rest of the UK, under this scenario it is clear that an independent Scottish Government would need to find a mechanism to manage demand from RUK students. In line with our opposition to charging students, irrespective of background or domicile, we could only accept a solution which was predicated on the accepted principle of ability to learn, not pay.

### Research funding

The research income for Scottish universities, broken down by source, in 2011/12<sup>8</sup> (the most recent year for which complete information is available, with updated 2012/13 figures due out from HESA in May):

Source of income	Amount (£m)	Percentage of total (%)
SFC grants	251	30
UKRC grants (competitively won)	129	26
Charity grants	131	15
Public sector bodies	96	11
Business and industry	64	7
EU funds and grants	63	7
Misc./other sources	36	4

One of the highest sources of research funding for universities in Scotland comes, ultimately, from the UK Research Councils (UKRC). More recent figures, for 2012/13, show that Scottish universities received £257million research grant funding from UKRC's, which represents 13.1% of UKRC grant spending; a higher proportion of research funding compared to the proportion of

<sup>7</sup> HESA, Flows between administrations, <http://www.hesa.ac.uk/content/view/2705/278/#flo>

<sup>8</sup> HESA, Finances Introduction 2011/12, [http://www.hesa.ac.uk/index.php?option=com\\_content&task=view&id=2866&Itemid=278](http://www.hesa.ac.uk/index.php?option=com_content&task=view&id=2866&Itemid=278)

Scotland's population in the UK (8.4%). This changes when infrastructure costs are included, with spend rising to £307m, but overall share of funding reducing to 10.7%.<sup>9</sup>

The Government's independence White Paper argues that after independence Scotland would seek to not only pursue new international funding sources but maintain its research links with the rest of the UK as well: "The UK operates as a 'common research area', ensuring no barriers to collaborative research and access to facilities for researchers throughout the UK."

Last year, however, St Andrews University principal Louise Richardson raised concerns about whether independence could threaten access to UK scientific research funds, warning that a loss of access to this funding would prove "catastrophic" to Scottish universities and that given an independent Scotland's smaller size, bids could be subject to political interference.

The UK Government's Universities and Science Minister, David Willetts has said that an independent Scotland wouldn't have access to the "single funding pot across all of the UK, allocated on the basis of excellence from which Scotland currently does very well."

If the status quo is not able to be maintained, it is possible that an independent Scotland would no longer receive a share of research funding higher than its proportionate share of population, and as such there would be a funding gap to be filled or, if not filled, a reduction in research funding for universities which could harm undergraduate and postgraduate student experiences, not to mention wider economic and societal effects.

### Future research funding policy

Again, irrespective of the outcome of September's referendum, NUS Scotland believes that there are some fundamental changes which should be to the disbursement of research funding. Scottish universities have a great record on research, with our institutions punching above their weight in attracting research funds to Scotland and in citations compared to population.

However, we are concerned that concentrating the vast majority of research funding at only a handful of institutions could damage the student experience and threaten the principle that all universities should be both research and teaching institutions. Scottish universities should be able to link research to teaching so that Scottish graduates benefit from teaching which incorporates the cutting edge research being undertaken at the institution.

Too great a concentration of research could also threaten to skew the mission of universities in Scotland. We believe that every institution in Scotland should have core priorities around research, teaching quality and widening access. By concentrating research into a handful of institutions we fear that the mission of those institutions, but also those from whom research capability has been removed, could be affected.

While Scotland has a strong quality enhancement framework, with a clear focus on continual improvement in the 'enhancement led institutional review' (ELIR) process and the sector-wide Enhancement Themes, the competitive nature of research funding versus the passive nature of

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<sup>9</sup> Scotland analysis: Science and research, HM Government, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/255788/bis-13-1115-scotland-analysis-science-and-research.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/255788/bis-13-1115-scotland-analysis-science-and-research.pdf)

teaching funding, combined with further concentration of research, could worsen the problem of 'chasing' research funding to the detriment of students in Scotland.

Furthermore, research activity and widening access activity have for too long been seen as alternatives rather than complementary. We must tackle the implicit assumption from many, that research-intensive institutions should leave widening access activity to the rest. On the contrary, research and widening access must be core to every institution in Scotland.

While this has been addressed to a great extent through the Post-16 Education (Scotland) Act, and the introduction of widening access outcome agreements, this has been the case while funding has been available for both. We recently saw in England, ahead of the most recent grant letter being released to HEFCE, conflict being played out between research funding and the 'student opportunity fund', which supports access. Under either independence or continued devolution, we could see a similar situation played in Scotland should funding be in a less secure position.

## **Student loans in Scotland**

In 2013/14, the Scottish Government has provided over £408.3m in student loans to Scottish and EU HE students, at a cost of over £134m.

The cost is due to the subsidised interest rates on student loans, and the fact that student loans are income contingent – students only make loan repayments if they are earning over a certain income threshold. These loans are also written off if graduates haven't paid them back after 35 years.

The total amount of loan funding available to the Scottish government is, similar to its overall budget, a proportion of loan funding paid out by the Westminster government. Student loans are borrowed by the UK Government and passed to students through the UK-wide Student Loans Company.

### ***The student loan budget in a devolved Scotland***

Under continued devolution it is likely this arrangement would continue as is. Changes could occur over time, as the Scottish budget is based on the spending of the UK Government. If spending on loans by Westminster were to go up or down, the budget for Scotland would go up or down in turn.

### ***Student loan costs in an independent Scotland***

Student loans could also be affected if Scotland voted for independence. For example, given student loans are funded through government borrowing, an independent Scotland's credit rating would impact how much the government could borrow and at what cost. An independent Scotland with a poor credit rating could result in the cost of providing student loans increasing. If that credit rating was better than the current rating of the UK Government, the cost could decrease.

Those on each side of the independence debate have argued that their preferred constitutional option would see the best credit rating for Scotland - at this stage it is unclear which way would be most beneficial in this regard.

## **Immigration and student mobility**

Immigration powers are currently reserved to Westminster, and so without independence it is unclear whether this would change under devolution. The current UK Government has placed a cap on the overall level of net migration, which includes those on student visas, with the most recent HESA figures showing a 1% drop in international student enrolment in Scotland between 2011/12 and 2012/13,<sup>10</sup> and continued work restrictions placed on international graduates in the UK. These policies have been roundly criticised by Universities UK, NUS and others. ONS quarterly migration figures<sup>11</sup> show that year end 2010 was the peak year for study related immigration, but that since then, by year end 2013, there has been a 32% reduction in this.

Universities Scotland has said the "UK's visa regime is now significantly more restrictive than that applied by a range of competitor nations who are vigorously seeking to attract talented learners from around the world."<sup>12</sup> Their paper on constitutional issues compares the UK regime to the USA, Australia, New Zealand and Canada, and finds it compares poorly in terms of work entitlement.<sup>13</sup>

NUS Scotland believes that immigration, including that for the purposes of study, provides huge benefits to Scotland and the UK, and should be wholly encouraged.

For a purely economic reasoning, Australia provides a case in point, which started a process of restricting immigration now being seen in the UK. There, universities and colleges saw billion dollar reductions in their budgets as a result of decreasing study-related immigration, and education went from being the third biggest export industry to fifth as a result of international students simply going elsewhere. It should be noted that, as a result of these negative effects on participation and the economy, last year the Australian government removed tougher restrictions on students, extended a streamlined visa processing system, beyond the university sector, and lessened the amount of paperwork and evidence required.

However, the positive benefits go well beyond economics: there's a cultural and social imperative too. This is an issue on which universities and students are fully supportive of each other: we both know from real life experience the immense benefits international students bring.

## Colleges and the referendum

The effects of the independence referendum on college students are less obvious than those in universities. Policy around colleges, which like the rest of education is a fully devolved issue, is undergoing significant reform, a situation unlikely to be affected by the independence vote. However, there are still areas of the debate that touch on college students' concerns.

### ***Benefits and welfare in an independent Scotland***

Part-time college students, studying FE level courses, and disabled students, might be most affected by Scotland becoming independent in terms of the welfare system, as they are more likely to be receiving benefits than full-time students. Currently, FE student support operates as a discretionary system, i.e. it is cash limited as opposed to the demand led system which operates in HE, meaning that students can potentially go under-funded and in some

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<sup>10</sup> HESA, 'Higher education student enrolments and qualifications obtained'  
<http://www.hesa.ac.uk/content/view/3103/393/>

<sup>11</sup> <http://www.ons.gov.uk/ons/rel/migration1/migration-statistics-quarterly-report/november-2013/index.html>

<sup>12</sup> Universities in a dynamic constitutional environment: policy issues for consideration <http://www.universities-scotland.ac.uk/uploads/ConstitutionPaper2012final.pdf>, page 7

<sup>13</sup> Ibid, Annex A

circumstances, if they apply once a budget has all been allocated to students, they may receive nothing.

At the same time as the FE bursary system being discretionary, there is an unfair postcode lottery at work too. Under the current regulations, there are set weekly limits available in bursary support for students, however, colleges may choose to pay anywhere from 80-100% of this weekly limit. Some colleges pay less than 100% of the SFC guideline amounts in order to meet demand among a greater number of students, but this means that students may be receiving less than they could elsewhere, and we know that there is huge regional, and even local, variation in what colleges do.

For 2013/14, the Scottish Government added an additional £2m to the FE student support budget to increase student support rates with inflation, and we were pleased to see this commitment repeated for 2014/15. However, while increasing bursary rates with inflation is welcome, we know that does not fix an underlying underfunding within the FE student support system.

Currently the SFC runs an 'in-year redistribution' (IYR) of college student support funds which allows colleges to request additional bursary funds and return any unused funds, allowing any surplus funds to be redistributed. This year's IYR shows that colleges requested an additional £12m yet only received £7.1m, resulting in £4.9m of unmet demand from students.<sup>14</sup> More worryingly, this represents a more than doubling of unmet demand on 2012/13.

As our [\*Still in the Red\*](#) research found, 76 per cent of students that were receiving benefits were either unhappy with, or unsure about, the interaction between the student support and benefits system.<sup>15</sup> Equally, the Child Poverty Action Group has highlighted, the rules on benefit eligibility for students are complicated due to the interaction between devolved education funding rules and reserved benefit qualification regulations. Adding to the confusion, Jobcentre Plus staff are not always aware of how these rules affect part-time versus full-time students.

One of the primary arguments in favour of a discretionary system has always been that it allows student numbers to be relatively 'uncapped' in FE (and the introduction of an 'entitlement' may necessitate capping them as in HE) but also that FE are more likely to receive some form of state benefit, and as such a discretionary system is necessary to ensure they can retain these, with their bursary reducing the amount they can receive.

Again, there are a number of options available, under the full-range of potential constitutional settlements. Under independence, or with greater control over benefits, we could clearly redesign a welfare system which afforded FE students the opportunity to claim benefits without this impacting on any student support (as with EMA recipients now), and vice versa. However, even under the status quo, by increasing the overall amount available, on the basis of historical demand, and ensuring that student support cannot be paid beneath the SFC's guidance rates, this would retain a discretionary system (the discretion to increase benefits), with no impact on benefits, while providing FE students with greater support and certainty.

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<sup>14</sup> 'College student support funds: outcome of the in-year management of student support funds for AY 2013-14', Scottish Funding Council, [http://www.sfc.ac.uk/web/FILES/Circulars\\_SFC042013/Circular\\_SFC042013.pdf](http://www.sfc.ac.uk/web/FILES/Circulars_SFC042013/Circular_SFC042013.pdf)

<sup>15</sup> Still in the Red, page 24, <http://goo.gl/mGbVu>

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