



General Principles of the Creative Scotland Bill

The Royal Society of Edinburgh (RSE), Scotland's National Academy, welcomes the invitation from the Scottish Parliament's Education, Lifelong Learning and Culture Committee to comment on the general principles of the Creative Scotland Bill. These comments have been compiled under the direction of Professor Jan McDonald, the Society's Vice-President with responsibility for the Arts, Humanities and Social Sciences, and with the assistance of a number of expert Fellows of the RSE.

In Scotland, performers, writers and directors move comfortably between stage and screen, and there is increased use of filmed or video material in theatre and in creative art. The establishment of Creative Scotland, which recognises the central importance of creativity and culture to the nation's cultural, social and economic well-being, is a timely rationalisation of the organisational arrangements for supporting creativity through the combination of the Scottish Arts Council and Scottish Screen's overlapping functions. Whilst we recognise that efficiency should be a consideration of the amalgamation, this should be subordinate to the ability of the new body to carry out successfully the wide range of functions expected of it.

General functions of Creative Scotland

We have concerns over the way in which clause 2 (1) of the Bill is framed. The proposed remit is wide-ranging and it will be a challenge for Creative Scotland to develop a coherent approach in fulfilling all of its functions. The Society considers that the prime function should be the support and development of excellence and talent in the arts, and that issues related to economic gains, wider access and other incidental benefits will naturally flow from this approach. Therefore, we strongly recommend that clause 2 (1) (b) *identifying, supporting and developing talent and excellence* is put before 2 (1) (a) *promoting understanding, appreciation and enjoyment of the arts and culture*.

Within the functions of Creative Scotland there is continual reference to *arts and culture*. Given the extended remit of Creative Scotland, the Society believes that the phraseology should reflect this and we suggest arts, culture and *creative practices*.

The Policy Memorandum states that the resources of the Scottish Arts Council and Scottish Screen will be amalgamated to create the body. Creative Scotland, however, is to have new and wider functions than its antecedent bodies. Therefore, it is crucial that there is commensurate funding in place to enable Creative Scotland to undertake its wider functions. We urge the

Committee to give priority to this issue, and to ask the Scottish Government whether there is any intention to transfer funds from Scottish Enterprise to Creative Scotland in light of the refocused remit of Scottish Enterprise and wider remit of Creative Scotland.

Grants and Loans

We assume that clause 4 (1) covers the core funding of Creative Scotland and that funding as a result of specific one-off initiatives proposed by Ministers would be covered under 4 (2). The Society would appreciate guidance and clarification in relation to clause 4 (2) on the *particular purposes* that Scottish Ministers may make further grants to Creative Scotland, and in particular how this fits with the requirement in clause 5 (2) that “.. Ministers may not give directions so far as relating to artistic or cultural judgement..”.

Directions and Guidance

We welcome the specific provision in the Bill (Clause 5 (2)) that prevents Ministers from giving directions relating to Creative Scotland’s artistic or cultural judgement. The extent of Ministerial directions was a particular concern of many respondents, including the Society, to the Draft Culture (Scotland) Bill. However, there is provision in clause 5 (1) giving power to Ministers to give directions, and it appears to the Society that there is an unnecessary and intrusive elaboration of this power in clause 5 (3). To some extent this could undermine the non-intervention provision in clause 5 (2). The Society is strongly opposed to this and recommends that 5 (3) be removed. We are firmly of the view that the proposed powers to be provided to Ministers should be qualified to reflect Ministerial policy that any direction or guidance issued to Creative Scotland should be limited to the governance of the organisation.

In the context of decision-making, we advocate that a collaborative culture be fostered and that decisions are taken after discussion and debate, including interaction with practitioners.

Transfer of Scottish Arts Council Staff

Whilst we recognise and understand the importance of upholding the principles of employment law in relation to the transfer of employees from the Scottish Arts Council and Scottish Screen to Creative Scotland, we wish to add that in doing so, Creative Scotland may not be perceived as a new body. This could have implications for Creative Scotland in carrying out its wide-ranging functions. We would suggest that given the focus on creating a new body with a new direction and new responsibilities, there is going to have to be some form of reallocation of staff responsibilities.

Schedule 1 of Creative Scotland Bill

Status of Creative Scotland

The Society notes with regret the dissolution of the Royal Charter of the Scottish Arts Council and the fact that Creative Scotland will not be established by Royal Charter. A Royal Charter protects the independence of a body. As set out above, much of the anxiety being expressed is that Creative Scotland will not be sufficiently independent of government direction. We hope that the dissolution of the Royal Charter does not lead to the foreshortening of the 'arm's length' principle that has existed to date.

Membership of Creative Scotland and Terms of Appointment

We believe that these are important matters, given that those appointed will influence the strategic direction of Creative Scotland. We understand that civil servants lead the appointment process in public bodies and suggest that the appointment committee could be expanded to include persons with relevant expertise, to ensure the appropriateness of those appointed to the new body.

With regard to the terms of appointment, we do not agree with clause 3 (1), that members will be appointed for such a period as the Scottish Ministers think fit. In order to ensure confidence and a degree of consistency, the terms of appointment should be made more specific. Therefore, we have taken this opportunity to suggest that members should serve a term of three years and that after this three-year period their membership is reviewed. Members should be able to serve a maximum of twelve years. This would allow a reasonable degree of flexibility.

Location of Office

We agree with the approach taken that Creative Scotland should determine the location of its office premises.

Relationship with Local Authorities and Other Groups

We applaud and encourage the partnership approach set out in the Policy Memorandum and agree that given the wide-ranging remit of Creative Scotland it will have to work closely with COSLA, local authorities and other relevant groups.

While there is reference to a range of interests whose functions are related to, or may be impacted on by, Creative Scotland (Local Authorities, Scottish Museums Council, Scottish Library and Information Council), there is no reference to the role played by Higher Education Institutions (HEIs). HEIs play a crucial part in fostering and supporting access to and/or participation in the arts (through formal programmes of study of historical, theoretical, analytical and practice-based research in the arts, curatorial, scholarly and other cultural engagement work). While the Bill itself may not be the place to express this, the Society would emphasise the importance of Creative Scotland

establishing close links with HEIs and of developing partnerships across relevant areas.

Additional Information and References

In responding to this consultation the Society would like to draw attention to the following Royal Society of Edinburgh responses which are of relevance to this subject: *Draft Culture (Scotland) Bill* (March 2007) and *Scotland's Creative Industries*, produced for the Scottish Funding Council (March 2008).

Copies of these responses can be requested from the RSE's Consultations Officer, Mr. William Hardie (email: evidenceadvice@royalsoced.org.uk). Responses are also published on the RSE website (www.royalsoced.org.uk).

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