

Review of the Balance of Competences

Scottish Government Response

Education, Vocational Training and Youth

1. The Scottish Government welcomes the opportunity to contribute to this call for evidence on the balance of competences between the UK and the EU in the area of education, vocational training and youth. We recognise the significance of the range of tools and initiatives supported by the European Commission and agree that these need to be well articulated, relevant and linked firmly with Member State policies and procedures.
2. We believe that, in order to maximise impact, the initiatives must be compatible and provide a coherent and joined up approach to education, training and learning.
3. We have set out below our response on key aspects of the call for evidence.

Background

EU competence in relation to education, vocational training and youth policy

4. Under the EU Treaties, the EU has a very limited competence with regard to education, vocational training and youth. Article 6(e) of the Treaty on the Functioning of the European Union (TFEU) provides that the EU shall have competence “to carry out actions to support, coordinate or supplement the actions of the Member States” in the area of education, vocational training and youth. As an area where the EU only has supporting competence, it is open to both the EU and Member States to adopt policy and legislative measures but even where the EU does adopt measures, this does not prevent the Member States from adopting their own unilateral measures.

5. Nonetheless, the EU has competence in other areas which can have significant impacts on education, vocational training and youth policy in the Member States. These include the shared competences between the EU and the Member States under Article 4(2) of the TFEU in relation to the internal market (in particular, the free movement of persons) and social policy (in particular, employment law).

6. The supporting competence of the EU in relation to education, vocational training and youth set out in Article 6(e) of the TFEU is complemented by specific provisions in Title XII of the TFEU which set out the parameters for EU action in this area. In respect of education and youth, Article 165(1) provides for the EU to contribute to “*the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of the Member States for the content of teaching and the organisation of education systems and their cultural and linguistic diversity*”. This role of ‘encouraging cooperation between Member States’ and of taking ‘supporting and supplementing action’ is fleshed out further in Article 165(2) which sets out the type of action envisaged by the EU under this provision. These include:

- developing the European dimension in education, particularly through the teaching and dissemination of the languages of the Member States;

- encouraging mobility of students and teachers;
- promoting cooperation between education establishments and the exchange of information; and
- encouraging the development of youth exchanges.

7. In respect of vocational training, Article 166(1) provides for the EU to implement a vocational training policy which supports and supplements the action of the Member States in this area ‘while fully respecting the responsibility of the Member States for the content and organisation of vocational training’. Again, the EU’s competence is further fleshed out in the second paragraph of that Article with EU action to be targeted at facilitating adaption to industrial changes, improving vocational training and facilitating access to training as well as encouraging cooperation and mobility.

8. In order to pursue these objectives, the European Parliament and the Council may adopt incentive measures through the ordinary legislative procedure after consulting the Economic and Social Committee and the Committee of the Regions. The Council may also adopt recommendations following proposals from the Commission in respect of education and youth.

9. Of note, both Articles 165(3) and 166(3) expressly prohibit the EU from adopting any measures to harmonise the laws and regulations of the individual Member States.

10. The role of the EU in the area of education, vocational training and youth policy is quite clearly limited by the specific provisions in the EU Treaties to a supporting role and it is not an area where the EU is permitted to take action to harmonise the laws and regulations of the individual Member States. Responsibility for education, vocational training and youth policy, therefore, remains very much with the individual Member States with the EU institutions playing a supporting role.

Education, vocational training and youth policy in Scotland

11. Under the current constitutional settlement for Scotland, responsibility for education, vocational training and youth policy falls within the devolved competence of the Scottish Government. The Scottish Government’s competence within this field is not unfettered though and the reservation of employment policy means that the Scottish Government’s competence to fully adopt measures regarding youth employment is impaired by its inability to adopt measures in relation to employment¹.

Assessment of the exercise of EU competence – Education and vocational training

12. Given the nature of EU competence in relation to education and vocational training, the most influential EU measures which have emerged through the exercise of this competence have been the programmes aimed at promoting and facilitating student and teacher mobility and the teaching and dissemination of other European languages as well as co-ordinating measures with a view to improving the levels of education and

¹ See section 29(2)(b) and sections H1 and H3 of Part II of Schedule 5 to the Scotland Act 1998 (c.46).

vocational training across the Member States. 'Erasmus+', in particular, has had a significant impact on education and vocational training policy in Scotland.

Programmes for increased learning mobility and language learning

13. *Erasmus+* is the new EU programme which commenced at the beginning of 2014 with the aim of increasing learning mobility, improving cooperation for innovation and good practices and supporting policy reform in relation to education, vocational training as well as sport. *Erasmus+* brought together a number of former EU programmes including *Erasmus* in relation to higher education; *Comenius* in relation to school education; *Grundtvig* in relation to adult education and *Leonardo* in relation to vocational education into one collective programme for education and vocational training.

14. A structure like *Erasmus+* operating between European nations requires supra-national level structures to ensure an accessible, coordinated, harmonised, recognisable, and valuable academic experience, and an efficient accountable governance system. It could not be achieved by the Member States acting individually. A universal application form, for example, or drawing into one new programme several previous smaller units could only be arranged by collaboration within such a supra-national body like the European Commission. National structures and systems are, however, required to ensure effective delivery takes account of local needs and regional variations (applicability to Scottish four-year degrees).

15. Delivering *Erasmus+* at an EU level ensures a common framework to reduce bureaucracy and increase participation by a larger wider range of participants. The Scottish Government values the universality, consistency and range of opportunities such a programme allows.

16. Learning and training mobility programmes carry significant benefits for the mobile student or staff member, the institutions, society at large and the wider economy. UK employers are increasingly seeking graduates with international experience for their global outlook and enhanced linguistic, academic, social and personal skills.² The Scottish Government values the universality, consistency and range of opportunities such a programme allows. There are, however, wider costs associated with the delivery of these programmes.

17. The Scottish Government regards the ability of Scotland's people to learn and speak modern languages as a key to achieving our overall purpose of creating a more successful Scotland with opportunities for all to flourish through increasing sustainable growth. It is important for the nation's prosperity that young people are attracted to learning modern languages and that they become confident and competent linguists, well equipped with the skills and capacities needed in the new Europe and in the 21st century global marketplace. EU programmes have gone some way to promoting and achieving this but we recognise that action within the individual Member States is also necessary. That is why the Scottish Government have made an ambitious languages commitment to create the conditions over two Parliaments to enable all young people to learn two languages in addition to their mother tongue - known as the Barcelona 1+2 model. We are working in partnership with all local authorities in Scotland and stakeholders to

² British Council, Think Global (2011), [*The Global Skills Gap: preparing young people for the new global economy*](#), p. 4.

enable learning of the first additional language to start from Primary One with a second additional language to be offered by all schools from Primary Five. This has been heavily influenced by the exercise of EU competence in this area.

Free movement of persons

18. In relation to the education sector, according to a 2011 analysis carried out by London Economics, on behalf of the Department for Business Innovation and Skills, EU domiciled post-graduate students brought to the Scottish economy an estimated £12.4 million in tuition fees in 2008-2009. Furthermore, undergraduates and postgraduates brought an estimated £146.8 million in non-tuition fee expenditure (including accommodation and other day-to-day expenses). This illustrates the level of financial income the Scottish economy receives from EU students and highlights the value in the increasing mobility of students.³

19. The Scottish Government greatly values the benefits of freedom of movement enjoyed by citizens of the EU such as the right to free movement to live, study and work in all European Economic Area (EEA) countries. The Scottish Government values EU competence in this area and would not wish for any barriers to be raised to the Scottish Government's policy of encouraging skilled migrants to study and work in Scotland.

Policy coordination – Europe 2020

20. The EU sets targets and makes country-specific recommendations for the Member States in relation to education and vocational training as part of the Europe 2020 Strategy to support smart, sustainable and inclusive growth.

21. Although there is some doubt about the legal basis for country-specific recommendations in relation to education and vocational training, the Scottish Government considers that the EU's coordination of education and vocational training policy through Europe 2020 is enormously valuable and has assisted in the development of education and vocational training policy in Scotland. Indeed, the Scottish Government shares the European Commission's ambition of improving education levels and considers that equipping people with the right skills for the jobs of today and tomorrow is vital for ensuring a competitive and dynamic economy. Building equity and success into the foundations of Scotland's education system will ensure that the full potential of Scotland's talent is realised, sharing the benefits of a skilled, flexible and well-educated population throughout Scotland's communities.

22. The policy coordination by the EU through the setting of targets and the making of country-specific recommendations and has assisted with improving the level of attainments in Scotland.

23. In Scotland our record on attainment is good and continuing to improve. Scottish pupils currently perform above the OECD average in reading and science, and at the OECD average in maths (OECD Programme for International Student Assessment 'PISA' 2012). The PISA results also show a reduction in the performance gap between disadvantaged pupils.

³ <http://www.bis.gov.uk/assets/biscore/higher-education/docs/e/11-980-estimating-value-of-education-exports.pdf>

24. Furthermore, 2013 delivered record exam passes in Scotland with rates increasing in all major qualifications. Our national performance in reading and writing is very good both in primary and secondary education.

25. We continue to work to raise attainment and close the equality gap through our key implementation programmes for children and young people - including the *Early Years Framework*, *Getting it Right for Every Child*, *Curriculum for Excellence* and *Opportunities for All*.

Assessment of the exercise of EU competence - Youth

The European Youth Guarantee (EYG)

26. The Scottish Government has continually expressed support for the principles of the European Commission's Youth Guarantee (EYG), which provides young people with the support that they need to progress to employment within 4 months of becoming unemployed, and offer jobs, apprenticeships, traineeships and places in education. Youth unemployment in each Member State impacts on the economy of the others with high unemployment in one Member State resulting in decreased demand for goods and services from another. All Member States, therefore have an interest in collectively tackling this issue and the Scottish Government is, therefore, in favour of the exercise of EU competence in this area.

27. In an independent Scotland, the Scottish Government would make it a constitutional right for every young person to be offered the opportunity of education, work or training. The Youth Right to work and training will build on the success of our current approach through the *Opportunities for All* commitment. Furthermore, employment services in an independent Scotland could be built on the principle of early intervention and preventing individuals from becoming long-term unemployed. However, without the power to align the delivery of employability and skills provision with a benefit and taxation system, the Scottish Government cannot currently implement the European Youth Guarantee in full.

Careers Advice

28. In line with the Council resolution of 2008 recognising the importance of lifelong guidance, Skills Development Scotland, our national skills agency, delivers all age Careers Information Advice and Guidance (CIAG) at key points of transition and beyond. Working with young people at school, young people transitioning from education towards employment (16-19 years) and an adult service (age 20+), CIAG services include supporting people to develop Career Management Skills through a comprehensive service offering intensive one-to-one coaching, group sessions, industry contact and labour market information – all supported by My World of Work (MyWoW). MyWoW is SDS' web service for individuals, offering valuable information and resources to people in Scotland looking for jobs or developing their careers.

Policy Coordination – Europe 2020

29. Again, EU action in the form of target-setting and country-specific recommendations has played a significant role in Scotland maintaining a highly skilled and dynamic workforce. Scotland's performance in terms of youth unemployment is

consistently around the OECD average; with a ratio of youth to all age unemployment rates generally around 3 to 1 irrespective of where we are in the economic cycle. The Scottish Government considers that the EU should continue to play a supporting and coordinating role in this area while leaving substantive policy to the individual Member States.

Conclusions

30. The Scottish Government is currently satisfied with the balance of competences between the EU and the UK in the area of education, vocational training and youth policy. The exercise of EU competence in this area has played a significant role in improving the mobility and employability of our young people within the entire territory of the EU. In addition, the target-setting and country-specific recommendations which have emerged through the Europe 2020 strategy have played a significant role in improving the standards of education and vocational training in Scotland and throughout the EU. We consider that the EU has added significant value in this area while still leaving it to the individual Member States to determine their own substantive policies on education, vocational training and youth. This is the correct balance as substantive policy decisions regarding education, vocational training and youth are best taken at the level closest to those whom they effect, thereby according with the principle of subsidiarity. Nonetheless, the interdependence of the Member States through the establishment of the single market necessitates some EU action in order to ensure the mobility and employability of all EU citizens across the single market. High youth employment in one Member State can also have significant effects in the other Member States and some form of collective action is, therefore, desirable. Europe 2020 has made significant inroads in this respect and the Scottish Government is an active participant in this.

31. While the Scottish Government considers that the balance of competence between the UK and the EU is correct, we consider that the current constitutional settlement in the UK which prevents the European Youth Guarantee from being fully implemented in Scotland requires re-examination.