

Education, Children and Young People Committee

20th Meeting, 2023 (Session 6), Wednesday 21 June 2023

Subordinate legislation

1. This note provides information about the: [Lews Castle College \(Transfer and Closure\) \(Scotland\) Order 2023](#).
2. These regulations may also be referred to by their Scottish Statutory Instrument number which is SSI 2023/171.
3. These regulations are being considered under the negative procedure.

Timeline for Consideration

4. The regulations were laid before the Scottish Parliament on **2 June 2023**.
5. They were considered by the Delegated Powers and Law Reform Committee (DPLRC) at its meeting on [13 June 2023](#). No points were raised.
6. The regulations will be considered by the Education, Children and Young People Committee at its meeting on **21 June 2023**.
7. If the Committee wishes to produce a report on these regulations, it must do so by **11 September 2023**.

Purpose of the regulations

8. This instrument closes Lews Castle College from 1 August 2023 and transfers its property, rights, liabilities and obligations to North Highland College.
9. A copy of the Scottish Government's Policy Note is included at **Annexe A**.
10. The governing bodies of North Highland College (NHC), Lews Castle College (LCC) (also known as UHI Outer Hebrides) and West Highland College (WHC) have proposed that the three colleges are merged to form one single, incorporated college.
11. LCC is an incorporated college under the Further and Higher Education (Scotland) Act 1992 ("the 1992 Act") and as such requires a statutory

instrument, made by the Scottish Ministers, to give effect to its closure and the consequential transfer of property, rights, liabilities and obligations.

Consultation

12. To comply with the requirements of section 5(1) of the 1992 Act, the Scottish Ministers have consulted with: the education authority for the area in which LCC is located; the Scottish Funding Council; the boards of management of LCC and NHC; the University of the Highlands and Island as the relevant Regional Strategic Body; representatives of trade unions and the relevant student associations. This was carried out as part of a full public consultation which ran from 24 February 2023 to 5 May 2023.

Impact Assessments

13. An Equality Impact Assessment, Child Rights and Wellbeing Impact Assessment (CRWIA), a Fairer Scotland Duty Assessment and an Islands Communities Impact Assessment have been completed on the SSI and there have been no negative impacts identified with the proposed closure of Lews Castle College.

Financial Effects

14. A final Business and Regulatory Impact Assessment (BRIA) has been completed and it found that this policy would have no impact on any businesses other than Lews Castle College itself.

Procedure

15. These regulations are being considered by the Education, Children and Young People Committee under the negative procedure.
16. This means that the regulations become law immediately, i.e. as soon as they have been laid before the Scottish Parliament. These regulations can, however, be annulled up to 40 days after this has happened.
17. Rule 10.4 of the Scottish Parliament's standing orders states that any Member of the Scottish Parliament can lodge a Parliamentary motion within the 40-day time period seeking an annulment of regulations.
18. All regulations considered under the negative procedure are scrutinised by both the Delegated Powers and Law Reform Committee (on various technical grounds) and by a lead committee (on policy grounds).
19. If a motion to annul is lodged, the lead committee will consider this and then hold a vote. If the motion is disagreed to, then the regulations will remain in their current form.

20. If, however, the majority of MSPs on the lead committee agrees the regulations should be annulled, then a further motion is lodged by the Parliamentary Bureau. This is then voted on by the whole Parliament.
21. If that is also agreed to (i.e. the majority of MSPs agrees with it), then Scottish Ministers must revoke (withdraw) the instrument. It will no longer be law and the Scottish Government must lay a new set of regulations before the Scottish Parliament.
22. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendation on it.
23. The Committee is invited to consider the instrument.

**Jane Davidson,
Committee Assistant
Education, Children and Young People Committee
14 June 2023**

Annexe A

POLICY NOTE

THE LEWS CASTLE COLLEGE (TRANSFER AND CLOSURE) (SCOTLAND) ORDER 2023 SSI 2023/171

The above instrument was made in exercise of the powers conferred by sections 3(1)(c), 25(1)(a), (1A), (2)(f) and (5) and 60(3) of the Further and Higher Education (Scotland) Act 1992. The instrument is subject to the *negative procedure*.

Summary Box

This instrument closes, from 1 August 2023, Lews Castle College and transfers its property, rights, liabilities and obligations to North Highland College.

Policy Objectives

The governing bodies of North Highland College (NHC), Lews Castle College (LCC) (also known as UHI Outer Hebrides) and West Highland College (WHC) have proposed to merge the three colleges to form one single, incorporated college. This is to be achieved by the closure of LCC and WHC, with all their property, rights, liabilities and obligations transferred to NHC.

LCC is an incorporated college under the Further and Higher Education (Scotland) Act 1992 (“the 1992 Act”) and as such requires a statutory instrument, made by the Scottish Ministers, in order to give effect to its closure and the consequential transfer of property, rights, liabilities and obligations. This includes the transfer of the employees of LCC to NHC, along with the terms of their existing contracts of employment.

As WHC is not incorporated under the 1992 Act that college will be wound up through non-statutory means which does not require any Ministerial involvement.

The three colleges engaged in a planning process, developed a merger proposal¹ and carried out two consultations, including a ten week public consultation which ran from 8 August 2022 to 14 October 2022, before submitting a business case to the Scottish Ministers in November 2022.

This was considered by the Scottish Ministers alongside advice from the Scottish Funding Council. The Scottish Ministers consider it is appropriate to make this instrument to enable the college merger to proceed.

Consultation

To comply with the requirements of section 5(1) of the 1992 Act the Scottish Ministers have consulted with: the education authority for the area in which LCC is; the Scottish Funding Council; the boards of management of LCC and NHC; the University of the Highlands and Island as the relevant Regional Strategic Body;

¹ Merger proposal and business case (uhi.ac.uk)

representatives of trade unions and the relevant student associations. This was carried out as part of a full public consultation which ran from 24 February 2023 to 5 May 2023.

Almost 70% of the respondents to the consultation approved of the proposed merger. The main concerns raised by respondents who disapproved of the merger were a concern about centralisation and loss of services. The merging parties have provided ameliorations for these concerns in the business case. Scottish Ministers are satisfied that the measures proposed address these concerns.

A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website.

Impact Assessments

An Equality Impact Assessment, Child Rights and Wellbeing Impact Assessment (CRWIA), a Fairer Scotland Duty Assessment and an Islands Communities Impact Assessment have been completed on the SSI and are attached.

There are no negative impacts with the proposed closure of Lews Castle College and the transfer of its property, rights, liabilities and obligations to WHC identified by any of the Impact Assessments.

Financial Effects

A final Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. There should be no impact of this policy on any businesses other than Lews Castle College itself. The impact on the college will be its winding up and the transfer of its property, rights, liabilities and obligations to North Highland College.

Scottish Government
Lifelong Learning & Skills Directorate
May 2023