EDUCATION, LIFELONG LEARNING AND CULTURE COMMITTEE

AGENDA

23rd Meeting, 2009 (Session 3)

Wednesday 9 September 2009

The Committee will meet at 9.30 am in Committee Room 2.

1. **Public Services Reform (Scotland) Bill**: The Committee will take evidence on the Bill at Stage 1 from—

   Deborah Smith, Acting Director, Culture, External Affairs and Tourism, Nikki Brown, Deputy Director, Creative Scotland, Hilary Pearce, Portfolio Manager, Creative Scotland Division, Lorna Malcolm, HR Professional Adviser, Public Service Simplification Team, Greig Walker, Solicitor, Tourism, Culture and Procurement Division, Scottish Government Legal Directorate, Colin Miller, Head of Public Bodies Policy Team, and John St Clair, Divisional Solicitor, Constitutional and Civil Law Division, Scottish Government;

   and then from—

   Ewan Brown, Chair, Creative Scotland;
   Lorne Boswell, Scottish Secretary, Equity;
   Iain Hamilton, Development Manager, Creative Industries, Highlands and Islands Enterprise;
   Terry Anderson, President, Scottish Artists Union;
   Jim Tough, Chief Executive, Scottish Arts Council;
   Janet Smith, Artistic Director, Scottish Dance Theatre;
   David Hartley, Senior Manager, Digital Markets, Scottish Enterprise;
   Sheena Macdonald, Regional Organiser, Scottish Musicians Union;
   Ken Hay, Chief Executive, Scottish Screen;
The papers for this meeting are as follows—

**Agenda Item 1**

Paper by the Clerk

SPICe briefing
Introduction

1. This paper introduces members to the Committee’s second evidence session as part of its consideration of the Public Services Reform (Scotland) Bill. This second session will focus on the Creative Scotland elements of the Bill.

2. The first oral evidence session was held at the Committee’s 21st meeting on Tuesday 1 September 2009. Further information on the evidence sessions is available in paper ELLC/S3/09/21/1.

3. SPICe is preparing a briefing on the Creative Scotland elements of the Bill. This will be circulated to members prior to the meeting and published on the Bill’s web pages in due course.

Oral evidence

4. The second oral evidence session will comprise of two panels. The first panel will be Scottish Government officials:

   Deborah Smith, Acting Director, Culture, External Affairs and Tourism, Nikki Brown, Deputy Director, Creative Scotland, Hilary Pearce, Portfolio Manager, Creative Scotland Division, Lorna Malcolm, HR Professional Adviser, Public Service Simplification Team, and Greig Walker, Solicitor, Tourism, Culture and Procurement Division, Scottish Government Legal Directorate, Scottish Government; Colin Miller, Head of Public Bodies Policy Team, and John St Clair, Divisional Solicitor, Constitutional and Civil Law Division, Scottish Government.

5. The second panel will be made up of representatives from stakeholder organisations:

   Ewan Brown, Chair, Creative Scotland;

   Lorne Boswell, Scottish Secretary, Equity;

   Iain Hamilton, Development Manager, Creative Industries, Highlands and Islands Enterprise;

   Terry Anderson, President, Scottish Artists Union;

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1 Public Services Reform (Scotland) Bill: http://www.scottish.parliament.uk/s3/bills/26-PubSerRef/index.htm
Jim Tough, Chief Executive, Scottish Arts Council;  
Janet Smith, Artistic Director, Scottish Dance Theatre;  
David Hartley, Senior Manager, Digital Markets, Scottish Enterprise;  
Sheena Macdonald, Regional Organiser, Scottish Musicians Union;  
Ken Hay, Chief Executive, Scottish Screen;  
Dr Donald Smith, Director, Scottish Storytelling Centre.

Written evidence

6. Written evidence relating to the Creative Scotland elements of the Bill have been circulated in hard copy to members. All written submissions can also be viewed on the Committee’s web pages.

7. SPICe has provided a summary of the written evidence and this is included with the Committee’s papers for this meeting (paper ELLC/S3/09/23/2).

8. The Scottish Government has provided a written submission to support its oral evidence at this meeting. This submission is attached at Annexe A.

Emma Berry  
Assistant Clerk  
Education, Lifelong Learning and Culture Committee

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2 Education, Lifelong Learning and Culture Committee web pages – http://www.scottish.parliament.uk/s3/committees/ellc/inquiries/PSR%20Bill/PSRBillCommittee eHomepage.htm
Public Services Reform (Scotland) Bill:
Part 3, Creative Scotland

Note to the Education, Lifelong Learning and Culture Committee from the Scottish Government.

Background

1. This note is provided to give Committee members further information about the background to, and contents of, Part 3 of the Public Services Reform (Scotland) Bill, prior to the Committee’s consideration of the Bill at Stage One.

2. The Public Services Reform (Scotland) Bill introduced in the Scottish Parliament on 28 May 2009 includes, in Part 3, provisions to establish Creative Scotland as the single national development body for the arts and culture in Scotland. It is intended that Creative Scotland will replace the Scottish Arts Council and Scottish Screen.

3. The provisions within Part 3 and Schedules 5 and 6 to the Bill are substantially similar to those contained in the Creative Scotland Bill and considered by the Committee last year. The Government has noted and fully reflected upon all the comments made by the Committee at that time. In response to the views and concerns expressed to the Committee and published in its Stage 1 Report last June, and Part 3 of the Public Services Reform (Scotland) Bill now brings forward provisions for Creative Scotland which aim to address the Committee’s concerns and those of stakeholders in three significant respects, as detailed below. The provisions are also fully consistent with the overarching aim of this Bill – to simplify and improve Scotland’s public services.

The content of Part 3

4. The six General Functions for the new body, as set out in Part 3, section 27, place a new focus on artists and creative practitioners, whom the Government intends to place at the heart of the new body. Encouragement of access to, and participation in the arts and culture becomes a core function of Creative Scotland, alongside a new function relating to the contribution that creative endeavours make to understanding Scotland’s national culture. In line with the national culture function, Creative Scotland must realise, amongst other values and benefits, the national and international value and benefits of the arts and culture. Creative Scotland’s function in respect of support for creative industries has also been improved. Together, these remodelled functions aim to address the Committee’s concerns and give Creative Scotland a clear remit and broad overview of the breadth of arts and cultural practice in Scotland.

5. Creative Scotland is intended to support Scotland’s vital creative industries, and the groundwork has already been laid for this function to be delivered. This has been achieved through the Creative Industries Framework
Agreement, published in February, which defined the high level roles and responsibilities of the various bodies involved in supporting the creative industries, and the Creative Industries Partnership Report, published in June this year, which sets out in more detail how support for the creative industries will be delivered. The Creative Industries Partnership report makes clear the Government’s particular expectations of Creative Scotland in this regard.

6. The section of the **Financial Memorandum** to the Public Services Reform (Scotland) Bill dealing with Creative Scotland has been significantly revised from that which accompanied the Creative Scotland Bill last year. The Minister for Culture, External Affairs and the Constitution made a statement to Parliament on 2 April 2009, about the expected total costs of the transition from the existing bodies to Creative Scotland, publishing a summary of these costs at the same time. The Minister expressed his confidence that his best estimate of £3.3 million for the total costs of transition was robust and assured Parliament that resources to enable the transition would not come from front-line support for artists.

**Conclusion**

7. The Scottish Government would be pleased to provide any further information that the Committee would find useful during its consideration of these provisions.
Public Sector Reform (Scotland) Bill

Summary of Evidence Received on the Establishment of Creative Scotland

This paper provides a summary of the written evidence submitted to the Education, Lifelong Learning and Culture Committee on those parts (Part 3 and Schedule 5 and 6) of the Public Sector Reform (Scotland) Bill that deal with the establishment and functions of Creative Scotland (CS), through the dissolution of the Scottish Arts Council (SAC) and Scottish Screen (SS).

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LOCAL GOVERNMENT

1. Aberdeenshire Council
The Council expressed broad agreement with replacing the SAC and SC but frustration that legislation to set up CS has taken so long. It was felt essential to address the reasons for the failure of the Creative Scotland Bill and that the transition arrangements put in place have resulted in a vacuum in development of arts policy. Aberdeenshire Council argued that the cultural sector will welcome CS being set, but will appreciate clarity on its role in relation to arts and cultural policy, and that of the Scottish Government.

2. Aberdeen City Council
The Council felt the findings in the Cultural Commission Report – that the principles of the new organisation being ‘owned, governed and managed by its members’ (p.234) – may not have been embraced. Because it was seen as unclear what the benefits or implications will be for the local authority and the city/region as a result of this new body, the Council sought clarity on the proposed role of CS and the continuing role of local authorities in delivering the stated objectives of the new body. But it felt that, “the Council should continue to take a lead along with the private, community and voluntary sectors in delivering objectives.” This should include encouraging access and participation.
It expressed a preference for a structure based on regional areas along the lines of Sport Scotland, for better of understanding of local issues.
Clarification was sought on whether CS will have a direct role in the economic development of Culture and, if so, what will be the role of local authorities in this. If there will not be a direct role for CS to pursue economic benefits of the creative sector, will there be clear direction for this lead? It was also interested in whether CS will have targets to grow employment and investment in the creative industries and how this might impact on local authorities.

3. Convention of Scottish Local Authorities (COSLA)
COSLA does not believe CS is meant to act as the lead agency in developing understanding of the creative sector. New arrangements must articulate fully with Single Outcome Agreements and strengthen local democracy, i.e. all grants and funds disbursed by CS should be routed through Community Planning Partnerships via Single Outcome Agreements.
CS should recognise the crucial role of COSLA in “linking the development of the Business Gateway to the sectoral activity co-ordinated by Creative Scotland”, which will provide advice and support to the Business Gateway network across Scotland.
However, COSLA remains “uncomfortable” about the number of unelected quangos in Scotland, so saw as important that CS should be structured in such a way as to complement and add value to the delivery of services by local government, even including an elected member from local government on the board of CS.

4. Dundee City Council
While the process has been protracted and difficult, and delays “may have tarnished some of the initial optimism”, the proposals were welcomed. A vibrant arts scene was seen as defining Scotland’s status in the world and the new body will need to work closely with local authorities to further develop this. The Council noted that, “The transition team for Creative Scotland operated from the University of Abertay in Dundee, and we believe the City is ideally placed to host many of the functions and jobs associated with Creative Scotland …”.

5. East Ayrshire Council
The Council noted that the general functions of CS reflect existing policy priorities for arts in education, particularly in relation to creative links and cultural coordinators in Scottish schools programmes in East Ayrshire. These are the priorities set out in s27(1)(a)-(f) of the Bill. However, Ayrshire Council noted that while there is current grant support for cultural co-ordinators, which may transfer to CS, “there is no specific focus on education [which] may have an adverse impact on the excellent partnerships and developments made since the introduction of the Cultural Co-ordinators in Scottish Schools Programme 2002.” It was acknowledged that the impact will depend on the internal structure of CS, referring to para 496 of the Bill’s Explanatory Notes that, “Scottish Ministers consider that there will be no material direct cost implications for local authorities …”.

6. East Dunbartonshire Council
East Dunbartonshire Council welcomed bringing together SAC and CS, which should in the Council’s view, create a stronger cultural body. Leadership from CS will be welcomed to raise the profile of the sector through a raised media profile and better links with key educational resources such as Learning & Teaching Scotland. The Council felt, however, that the relationship between CS and councils should be formalised so as to include targeted provision for individuals and groups, pointing out in parenthesis that, “previous versions of Creative Scotland included development of a cultural strategy and entitlements which have now been removed.”

7. Edinburgh City Council
The council welcomed the idea of a single agency supporting and developing the arts in Scotland, but sought a clearer understanding - with examples - of what is meant by “creative industries”, arguing that the measure should not depend on “economic contribution”. It welcomed representation on the board of those with appropriate expertise, but lamented the omission of representation of key sectors on the board. The council remained concerned that because the remit of CS would be wider than those of SAC and SS combined, it may not be met with appropriate resources, as the only additional funds set out in the financial memorandum are £5m to support and Innovation Fund, and then lasting only until the end of 2011. These concerns were further underlined by the existing efficiency savings targets that CS will inherit from SAC. A clearer definition of funding mechanisms was sought, as well as an indication of the role of local authorities acting as service delivery partners. The council looked forward to seeing and commenting on proposals as to the relationship between CS and local government.

8. Falkirk Council
The establishment of CS was given support, but attention was drawn to the “considerable delays” in so doing, stressing the importance of moving the process forward. It was seen as essential that CS “creates a positive partnership with Museums and Galleries Scotland, the Scottish Library and Information Council, the Scottish Councils on Archives and other strategic bodies …".
9. Moray Council
Moray Council referred to and reiterated its response to the 2007 consultation on the Creative Scotland Bill, that it had “no strong views either way, but recognised that there may be advantages to having one national cultural development body.” Attention was drawn to the wider remit of CS, including advertising, architecture and interactive leisure software, which are not currently covered by SAC or SS. Yet the staff and budget will be no greater than that of SAC and SS. While it is important to maximise and develop economic benefits, it is as important “that the intrinsic, social and personal development benefits of arts and culture are recognised and supported.” The council also noted the potential for confusion between CS, Highlands and Islands Enterprise, and local authorities, and their roles in the Creative Industries.
No account was taken of the role of other bodies such as the Scottish Museums Council and Historic Scotland in respect of the possible collaborative role each will play with CS.

10. Orkney Islands Council
The Council sought clarity on the remit of CS in relation to the commercial creative industries, but accepted that CS will be well placed to have discussions with its other national partners, as the roles of various organisations become clearer once CS begins its work.

11. Renfrewshire Council
The Council felt that CS should work closely with local authorities to promote and understanding and appreciation of ‘art for art’s sake’. It listed accessibility to culture as being among the key aims of CS. In the current economic climate, this will involve funding for local and national collections as well as for theatre and cinema. CS should support excellence in arts and culture as well as accessibility to participation in arts and culture in the development of creative skills at community level. This should also be aimed at wider audience development. The Council argued that CS should support culture in achieving economic benefit through funding town centre regeneration projects linked to the development of improved or new cultural facilities. These key functions should be carried out proactively across all parts of the cultural spectrum.

12. South Ayrshire Council
SS will benefit by being brought into the main body of the arts and CS appears to have the potential to be a more pro-active body than the SAC. Concern was expressed that, as far as the council understands, “the Scottish Charity Office has ruled that a new Creative Scotland would not be eligible for charitable status” and that this may constrain its abilities.

ARTIST BODIES
13. Guyan Porter (on behalf of artists’ communities in Scotland)
Guyan Porter’s evidence referred to a petition and letter sent to artists around Scotland for signature, before being forwarded to MSPs through the Cross Party Group on Culture and the Media. That letter was signed by “440 signatories from the arts communities” and is alleged to have “gained major political support from MSPs”. (SPICe has sourced a copy of the letter and the names of the 440 signatories.) The letter stated that artists are strongly against the formation of CS, believing certain aspects to be “particularly damaging”. Criticisms include a lack of meaningful consultation with the arts communities during the transition process; expanded remit of CS without additional funding reallocated from Scottish Enterprise; costs of setting up a new institution which will result in cuts to grant aid funding; and the proposed exploitation of intellectual property rights and the introduction of loans instead of grants that will “enforce artists’ poverty”. It was felt that the bureaucratic process of setting up CS has not been about artists’ needs or about addressing UNESCO’s declarations on culture and freedom and as such signatories have, “no confidence in the process of the formation of Creative Scotland.” It was felt that CS would not offer improvement on the existing provision under the SAC and SS.
14. Artlink Edinburgh and the Lothians

Artlink is an organisation that works within the cultural sector with and on behalf of individuals who experience disability and/or disadvantage. Artlink recognised that CS can, through its enhanced remit, provide an opportunity for arts and culture in Scotland to be supported. Yet concern was expressed that the wider remit and reduced staff numbers could set up a tension in what will be realistically achievable. As such, Artlink encouraged CS to, “think more specifically and clearly how the experience within the different arts sectors can be harnessed and utilised."

While the general functions of CS set out in the Bill were supported, Artlink was concerned that barriers to access and participation in arts and culture should be removed for individuals with a disability, as audience members, participants and as practitioners (s27(2)). Recognising that what Artlink called the ‘arms length principal’ set out in s30 on the directional role of Scottish ministers, uncertainty was expressed as to whether s30 is explicit enough on that arm’s length approach.

Some specific points were made on the Bill and the Policy Memorandum, in particular that s27(1)(c), on encouraging participation, should be more explicit in relation to support for individuals who experience disability. On the Financial Memorandum, Artlink sought a more explicit statement about the evidence for the need for a reformed approach. While welcoming additional investment, it was argued that “long term investment in a range of access improvements”, is also needed. They also argued for continued and increased investment, which could be achieved through effective partnership working across the public and cultural sector, and sought further detail on how the pension deficits for SAC and SS would be addressed in the long term. This, it was felt, will create confidence, “that this potentially substantial amount will not be taken out of future investment for the arts.” It was also felt that the loss of charitable status should be more explicitly identified as a potential cost and should not affect investment in the cultural sector.

15. Fèisean nan Gàidheal

Fèisean nan Gàidheal is an “independent organisation supporting tuition in Gaelic song, Gaelic drama, Gaelic language, traditional music and dance to over 6,000 young people annually, whose funding comes mainly from the SAC, The Highland Council and Bòrd na Gàidhlig. It is a “key partner in the Gaelic Arts Strategic Development (GASD) group which has developed a National Gaelic Arts Strategy.” Fèisean nan Gàidheal supports the amalgamation of the SAC and SS in the hope that the establishment of CS will “offer an opportunity to create new support mechanisms for the development of creativity in Scotland.” In support of this hope, it was pointed out that the activities of CS have the potential to increase the use and understanding of Gaelic in Scotland, for example through the preparation of a Gaelic Language Plan. In addition, it was felt that CS should develop a bilingual corporate identity from the start, through signage and staff complement. Allied to that point, it was felt that the current exemplary support provided by the SAC for Gaelic arts and cultures should be continued under the CS umbrella, which was highlighted by the Minister for Culture, External Affairs and the Constitution, Michael Russell MSP on 2 April 2009. While considering the powers and functions proposed for CS to be appropriate to the task the Scottish Government envisages, Fèisean nan Gàidheal wants support for Gaelic arts and culture to be embedded in Creative Scotland’s functions on the face of the Bill. As such, five amendments to the bill were proposed along these lines.

16. HI-Arts

HI-Arts welcomed the decision to establish CS as an NDPB. While acknowledging that the term ‘Creative Industries’ is encapsulated by adopting the definition used by the DCMS and arguing the merits of the NESTA definition of the Creative Industries, HI-Arts believes that there remains a “significant issue of definition” that may yet prove problematic in the Bill’s progress. Indeed, frequent use of the phrase “arts and culture” in the Bill struck HI-Arts as both misleading and confusing.

It was argued that defining ‘Scotland’s national culture’ in the Explanatory Notes as "Scotland’s distinctive way of life as a whole" and linking that to the reference in the Policy Memorandum to “promotion and development of our national culture”, gives CS a broad and sweeping remit. They added that, “it is not clear why the term ‘culture’ is required at all in the is context …,” and that the terms ‘culture’ and ‘cultural[ would be better omitted from the Bill in favour of being more explicit about the role of CS.
On the ‘arms length’ principle, HI-Arts argued that in announcing the uses to which the additional £5m Innovation Fund will be put, effectively restricted freedom of action by the SAC and it would be “unfortunate” were CS to find itself in “the same straitjacket”. HI-Arts said that funding and advice to wider delivery partners should be reciprocal and supported the development of a ‘toolkit’ for Community Planning Partnerships on how to engage with culture, yet regretted the decision to impose no further burden on local authorities as the role of local authorities should not be left without definition.

17. Voluntary Arts Scotland (VAS)
As CS is to encourage diversity, VAS argued that diversity is not so much about the range of people accessing arts and culture, but more about the range of what is considered to be arts and culture. On general powers, VAS noted that there is no restraint on CS creating organisations and services, for example to prevent duplication by existing bodies. As have others, VAS expressed concern at the inability to support unincorporated bodies, which will have an impact on the nature of clients CS can support. VAS questioned whether, if Ministers may make grants and loans to CS, it will have no guaranteed income from government, and also expected clear direction on what the government expects as outcomes from the public purse. (Further specific comments were made on the Financial Memorandum, which have been set out in a different SPICe paper.)

18. Bòrd na Gàidhlig
Gaelic arts, culture and creativity has a critical role in the development of Gaelic in the National Gaelic Arts Strategy, which also acknowledges the challenges that will be faced in its implementation. The Bòrd welcomed the Ministerial commitment (2 April 2009) that CS will support an arts officer dedicated to working with partners on delivery of the National Gaelic Arts Strategy. Attention was drawn to the SAC’s stated policy of ensuring public recognition of the Gaelic language and saw as essential that CS maintains and builds on this support to increase the use and understanding of Gaelic in Scotland (particularly in respect of s27(2) on diversity). The Bòrd also noted that no definition of culture has been provided and sought a definition that includes Gaelic, and a Gaelic speaker to be among the appointees to the board of CS. Amendments along these lines were proposed in the written evidence.

ARTIST BODIES: theatre, music and dance

19. National Youth Orchestras of Scotland (NYOS)
NYOS saw some urgency in setting up then new body given that the end of the transition period will be early 2010, also drawing attention to the length and cost of the transition period. It welcomed CS being responsible for a “hugely diverse sector” and wanted to ensure that support for the arts – particularly music – is maintained at its current level or increased, yet questioned whether additional funding will be available. NYOS argued that it was unclear how the funding streams and priorities will work in practice, in respect of targeted funding and opportunities for all ages and backgrounds. Concern was expressed at the deficit that will be inherited from the SAC (£12m) and how that will be addressed, yet welcomed the savings that the formation of CS will make. While the wider functions of CS (being wider than the two constituent bodies) was welcomed, NYOS said it was not clear what these would be in day-to-day terms. At the same time, NYOS welcomed the freedom CS would have in respect of artistic freedom and creative judgement in its day-to-day activities.

20. Traditional Music and Song Association of Scotland
Although the TMSA worked with Voluntary Arts Scotland on their response to the Bill and agreed with those comments, specific additional comments were offered. On s30 (directions and guidance), TMSA believes there is a need for an element of direction from the Minister in the interest of accountability, as CS will be spending and allocating public money. This is based on the view that, “current agencies cannot always be justified even against their own set criteria.” On Schedule 5, the TMSA wondered whether the proposed system of appointing the Board may “result
in ‘artistic’ direction and priorities chopping and changing to fit political priorities after each
election.” While the TMSA is happy that CS will have strategic functions, it seeks more
understanding of the differences between active participation and being an audience member.

21. Scottish Ballet
It was pointed out that the creation of CS through the merger of SAC and SC, has been much
debated and that it “is now time to proceed with the establishment of Creative Scotland” through
this enabling legislation. In a similar vein to East Ayrshire Council, Scottish Ballet opined that the
cultural sector in Scotland has been in limbo for several years. It was felt that the brief for CS is
rightly ambitious and that its success will depend on the calibre of its appointees. However, some
concern was expressed that the intention is to recruit externally only for the Chief Executive, while
incumbents to other posts will be sought from among existing SAC/SS staff, with external
recruitment only if the internal process is unsuccessful. On that point it was argued that a
commitment to external recruitment for all strategic roles is essential for CS to be truly new and
dynamic.

22. Federation of Scottish Theatre (FST)
FST sees the setting up of CS as a ‘once in a lifetime opportunity’ to solve the problems of the
creative industries and to coordinate the various bodies falling within that description. The general
functions of CS were welcomed, but FST wanted ‘art for art’s sake’ legislatively enshrined along
with explicit expression of the benefits and impacts of arts and culture. As well as a focus on
‘export’ of Scottish culture, FST seeks more collaborative working, international exchange and
programming international work in Scotland and considers the definition of ‘national culture’ to be
both narrow and in conflict with the ‘arms length’ principle (which FST welcomed, though argued for
explicit expression of the principle in the Bill). FST felt it critical that the Bill excludes financial
support to the broader creative industries in the functions and purpose of CS. It was unclear,
however, what will happen to the existing functions of SAC and SS in disbursing Lottery funding.
FST also sought clarification of whether the efficiency savings that would be inherited will be
additional to the efficiency savings of the new body, as these will potentially have a direct impact on
artists. It was also questioned whether CS will be required to honour existing grant commitments
made by the SAC and SS, arguing for a formal commitment beyond “a number of verbal
assurances”.
Welcome was given to the parts of the Bill increasing diversity of those having access to arts and
culture, the goal of developing “new skills, knowledge, expertise and working practices” and the
focus on efficiency. Yet FST was concerned that the ‘wider functions’ of CS may be difficult to fulfil
if based on existing resource levels.
Like some local government evidence, FST sought a more formal relationship between CS and
local and national government and other relevant agencies that would work towards a coordinated
strategy for the arts and culture.

ARTIST BODIES: film and television

23. Institute of Local Television
It was submitted that neither the SAC nor SS fully understood or embraced representation of the
arts, and programmes ‘about’ the arts have fallen within the voluntary commercial coverage which
does not profess to be artistic goods in themselves. Yet they remain an important portal for the arts
(through which a nation can be viewed), which will benefit from a more publicly supported narrative.
While the Bill encourages access and participation, it was felt that representation of the arts was
overlooked by the Bill. Neither the SAC nor SS had a programme of support for the discursive
representation of the arts. This need not be part of the remit of CS, but might be part of the wider
remit of broadcasting and local media. The Institute went on to say, “Without a diverse and local
representation of the arts this ‘national culture’ is dangerously close to being formed as a
centralised stereotype or the elevation of one element of cultural activity or preference.” As such,
the general functions of CS fail to ‘represent’ and contextualise the arts and arts practice.
24. MG ALBA

MG ALBA welcomed the establishment of CS and its proposed general functions, as production of audio-visual content is an important commercial activity for the creative industries. Creating employment and building a skills base.

It was noted that since the consultation on the Bill, BBC Alba has been launched (September 2008) and that the Explanatory Notes to the current Bill indicate that some of the concerns MG ALBA had with the Creative Scotland Bill had been addressed, in particular mention of the economic development role to be taken by Scottish Enterprise and Highlands & Islands Enterprise. Following the same suggestion on the previous Bill, MG ALBA expressed the hope that Ministers will be able to appoint to the Board of CS members who are able to represent the interests of Gaelic arts and cultural activities, and of broadcasting and the screen industries.

ARTIST BODIES: print media

25. Publishing Scotland (PS)

PS argued that, “the published world has a vital part to play in preserving and recording the history, culture and life of Scotland” and endorsed the evidence from the Literary Forum on the Creative Scotland Bill. Setting up CS was welcomed in principle as publishing is both a cultural and a commercial activity that requires a “wider set of practical support structures than might be afforded by an arts-only approach.”

PS was concerned that the subject expertise in the SAC structure is retained by CS, as the structure of CS is presently unknown. A welcome was given to the emphasis on a “partnership approach” to other agencies and an alignment of public bodies as set out in the Policy Memorandum. This will be a “major step forward” in arts and culture. Yet PS will welcome more information on the separate remits of CS in relation to Scottish Enterprise and Highlands and Islands Enterprise, arguing for a strong element of co-ordination among the bodies and for brokering of new funding mechanisms for Small and Medium Enterprises.

26. Variant (magazine)

The Aim in the Bill of simplifying and improving the landscape of public bodies will not be achieved by Part 3, which represents a “backward trend” in cultural policy, eroding key values such as the “arm’s length” principle. Variant argued that the Bill will erode the principle of freedom of expression. Setting up CS as an “entrepreneurial organisation” serves the interests of bureaucrats and business people more than it does those of cultural practitioners. While recent Holyrood governments have “sought to reconcile economic instrumentalism and pure artistic freedoms, the complexities of this dichotomy have yet to be fairly debated and assessed. Setting up CS purports to offer a reform of a key part of democratic society, but is being “pushed through” as part of a range of technocratic efficiencies”.

ARTIST BODIES: industries

27. Architecture and Design Scotland

A+DS is broadly supportive of the Bill and its aim to simplify “the landscape of public bodies”, noting that (on s27(1)(f)), “In the sphere of architecture and place-making A+DS will share a clear common interest with Creative Scotland; particularly in cases of providing advice, information and assistance.” A+DS looks forward to engaging positively with CS.

28. Skillset

Skillset is the Sector Skills Council (SSC) for the Creative Media and an independent, industry-led organisation. It welcomed the commitment from Michael Russell MSP, “that reinforced [its] strategic role in leading the skills agenda for the creative media industries.”

Skillset is broadly supportive of the general principles for the establishment of CS as a single body to support all Scotland’s creative industries, with the potential to bring cohesion to a diverse range of activities. Broad support was also given to the functions set out in s27, but Skillset believes that
continual reference to ‘arts and culture’ may distort the wider role of CS. A preference was expressed that the ‘creative industries’ should be given equal weighting to ‘arts and culture’ and be defined on the face of the Bill as such. More specifically, Skillset sought a reference to measures of economic activity to be added to s27(a), (d) and (f), while recognising “art for art’s sake” in s27(b). Skillset also supported the advisory function of CS as a strategic body.

EDUCATION BODIES

29. Royal Academy of Music and Drama (RSAMD)
RSAMD observed that the merger of SAC and SS may look good on paper, but one should not underestimate the practical, personnel, financial and cultural issues which have to be addressed. The charitable status of CS must be resolved, given the current financial benefits to the SAC from its charitable status. The Academy accepts at face value assurances from Ministers on the ‘arms length’ approach to government intervention, yet hopes that while CS will be a conduit of advice to Ministers on cultural matters, any advice to Ministers will retain flexibility and be accessible to the creative sector, irrespective of Ministerial influence. The wide range of proposed functions of CS was welcomed, especially the identification of partner organisations and the integration with the creative industries.

30. Scotland’s Colleges
Support was expressed for increasing diversity and access in the functions of CS. With regard to CS providing advice and assistance to Ministers in relation to industries and other commercial activities, Scotland’s Colleges noted that it is unclear whether it will be required to act under this definition as an organisation delivering skills training, although such training may not comprise its primary focus under the legislation (s28).

31. Universities Scotland (US)
US is supportive of the proposal as a timely rationalisation and supported the role of CS in the promotion, appreciation and enjoyment of ‘art for art’s sake’ and the ‘arm’s length’ approach of Ministers. Attention was drawn to the constructive role of universities in the functions set out s27 of the Bill through, for example, citing the number of students taking relevant courses and taking part in relevant activities. The evidence also cited links with schools, cultural festivals at home and abroad, and supporting the creative industries, and the cultural and financial value of this work. Universities play a key role in developing quality and excellence in the arts and culture as Scotland’s universities are “world leaders” in research in the field (e.g. understanding the impact of art on culture) as well as playing a vital part in recognising, supporting and nurturing young talent.

UNIONS

32. UNISON
While UNISON thought that a single authority was not a bad decision in itself, it thought the remit of CS and its relationship to other cultural organisations should be much clearer. Given Ministers’ power of direction in the Bill may itself call into question that proposed remit. UNISON questioned whether CS is the right organisation to deliver the functions assigned to it, in view of CS not having responsibility for key national companies, or any co-ordination with existing national collections. UNISON also felt that the creation of a new body should not comprise a majority of board members from the previous constituent bodies. The role of CS is “confused and unclear, as is whether it will become any different kind of organisation to the Scottish Arts Council.”

33. Equity
Equity said that the legislative provisions do not prove that setting up CS will automatically lead to a “betterment” for the arts and creative industries in Scotland. This will require political will, appropriate and improved resources and clear leadership.
Equity considered that, "Reform of SAC and/or Scottish Screen could have been a much more cost effective option than the creation of a new body." This was after pointing out that SS is an amalgam of four organisations and the SAC has suffered from poor political leadership and was, "fata
ty undermined by a succession of Scottish Office and subsequently Scottish Parliament ministers
over issues like Scottish Opera." Like Artlink, Equity considered the ‘arms length principle’, noting
that this principle was destroyed by Ministers in the case of the SAC through rescue packages,
reviews and suggested mergers. This legacy is set to plague CS unless the ‘arms length principle’
is reaffirmed.

On reducing two bodies to one, Equity doubted the case for a ‘bonfire of the quangos’ had been
coherently made adding that, “It is fallacy to claim that because you are bringing something back
under the control of democratically elected politicians that is inherently ‘better’ or ‘superior’ to being
under the safe keeping of properly appointed and accountable volunteers from civic society.” And
later, “… it was not necessary to create a new organisation to fulfil the functions of the two existing
organisations.” But a greater indictment followed, to the effect that the uncertainty created by the
long debate over the creation of CS, “is becoming destructive to the very thing it is supposed to
nurture”, although Equity then reluctantly came out in favour of moving forward.

Recognising that additional funding for the arts have been pledged, Equity regretted that the
Scottish Government is not significantly increasing funding to the arts and called on the Scottish
Government to, “stop ‘hypothecating’ new funds for specific purposes but to allow increases in
funding to be used at the discretion of the board of Creative Scotland.”

Equity pointed out that much of the operational detail is not clear and while welcoming the
agreement between Creative Scotland, Scottish Enterprise and COSLA, questioned whether CS
“will simply devolve its spending on a per capita basis to Local Authorities on production of
acceptable plans/proposals.” This, it was argued, would have a negative impact for the arts under
the Single Outcome Agreement between central and local government.

The opportunity to debate the reasons for public arts subsidy was welcomed, in particular how to
best spend government money for the arts, centred as it is on the choice between ‘promoting’ and
‘producing’ and with Equity believing that the balance should be redressed to favour ‘producing’ in
Scotland over ‘promoting’ to Scotland as this will involve more inward investment.

Because different levels of government have a role in promoting the arts, Equity felt that the
interaction among them should be monitored to ensure all tiers are helping the arts achieve their
potential. In particular, attention was drawn to the role of the Scottish Government in the balance
between national priorities and more local initiatives, with the Scottish Government taking strategic
decisions but allowing local government to attend to matters of more regional relevance. That said,
Equity expressed scepticism of the Scottish Government taking responsibility for the National
Performing Arts Companies, suggesting that this arrangement should be reviewed in the light of the
creation of CS.

34. Scottish Artists Union (SAU)
The SAU sought affirmative answers to the questions will CS offer a marked improvement on
current structures and does it fit within the broader outline of the Public Service Reform Bill.
SAU opposes any legislation that will result in, “the visual and applied arts … receiving equivalent
to or less than current levels [of funding]” and sees no point in the upheaval and expense involved
in setting up CS if it cannot deliver “considerably more”. It dislikes the term “creative industry” as
“all industry can be considered creative” to an extent, but argued that not all artists will fit the
commercial model. SAU pointed to a contradiction in that visual art was listed as a creative industry
in the Creative Scotland Bill, but not in the current Bill’s Explanatory Notes and pointed out that,
“the UK Creative Culture and Skills Council does not consider visual art a creative industry …”.
SAU is concerned that, “the focus of [CS] managers appears to the outsider to behave been
largely, of not wholly, upon creative industry. Without more to go on, creative practitioners see the
Framework Agreement and the Partnership Report as an outline of how CS will go about its work.
Ministers have not assured artists that CS will not be an aggressively enterprise-minded
organisation” and those on government do not appreciate the fears of visual artists. On that point,
attention was drawn to parts of the Explanatory Notes that deal with efficiency and other spending
cuts and savings. The SAU reiterated arguments made on the Creative Scotland Bill, specifically
that broadening of the remit of CS to be wider than SAC and SS combined, should come with
increased funding and its first duty of care should be towards the art forms currently under the
charge of SAC and SS. Any new agency should comprise discrete officers representing different art forms.

A second objection was that mention should have been made of the contribution of the artist as without the artist, art cannot exist. Reference was made to the Policy Memorandum (p.33) and the difficulty of a definition with which all artists will be content, but the SAU argued that it had not asked for a definition of ‘artist’. At the same time, it was pointed out that although there is no mention of ‘artist’, the words ‘arts’, ‘culture’, ‘creative’ and ‘artistic’ are used, and used without definition.

35. Musicians’ Union (MU)

The MU said that it is the most influential organisation representing professional musicians throughout the UK, which includes negotiating agreements with employers such as the BBC. The MU is of the view that, “nothing has been written or said throughout the long process of the creation of Creative Scotland to date that convinces us that this is a necessary step”, and that a more appropriate approach would have been to reform and redefine the existing bodies (SAC and SS).

Even still, the MU welcomed a statement (2 April 2009) by the Culture Minister that CS set-up costs will not come from front line grants to artists or organisations, and the Minister’s views of the context in which Scotland’s arts and culture will thrive.

The MU went on to rehearse concerns in their 2006 and 2008 submissions on the Culture (Scotland) Bill - in particular the “lost opportunity” to implement some of the key recommendations of the Culture Commission Report, such as a strategy to bridge the funding gap. Other previously-expressed concerns include CS having new wider functions in relation to the creative industries (s27(1)(f))

On the other hand, the MU welcomed the emphasis in the Bill on encouraging and sustaining creators and artists, despite having concerns that CS may use its powers to provide loans rather than grants as being neither appropriate nor helpful. The MU suggested instead the current model used by SS, “which includes recoupment after certain thresholds are met …”. In any event, the MU felt that such decisions should have the “highest regard for artistic quality …” which ties in with the welcome given to enshrining “Creative Scotland’s artistic and creative independence in carrying out its functions.” (s30(2))

Concern was expressed for the future of the successful Youth Music Initiative (Explanatory Notes para. 471) as the movement currently provides funding to local authorities, which has led to increased levels of teaching and investment in music provision. The concern was that funding is currently distributed via the SAC, but will following the dissolution of the SAC be provided directly to local authorities under the concordat between central and local government and without reference to the conditions in Single Outcome Agreements. This may, in turn, lead to local authorities reducing music teaching in schools.

Citing para 483 of the Explanatory Notes to the Bill, the MU expressed concern that the new staffing structure of CS will see staffing levels reduced by 19%, or 30 full time posts, with a consequential reduction in expertise and understanding of musicians’ work and support needs.

PUBLIC BODIES

36. Event Scotland

Event Scotland supports many cultural events and festivals around Scotland, welcomes the moves to establish CS and looks forward to working closely with a dynamic arts agency. The role of CS in promoting and supporting creative arts opportunities was seen as crucial and CS must be able to develop synergies between public and commercial sectors, and must retain a well informed opinion of what is right for the sector.

37. UK Film Council (UKFC)

SS is a key partner of the UKFC, as is Skillset. To seize opportunities to increase Scotland’s screen and television production sector, CS must focus on improving Scotland’s competitive position internationally, building and attracting businesses and skills by using digital media and
promoting understanding, appreciation and enjoyment of film culture. Film is well placed to benefit from the general functions set out in s27.

38. Scottish Enterprise (SE)
SE sees the creative industries as one of the key sectors of the economic strategy that provides the best opportunity raise Scotland’s underlying trend rate of sustainable growth. It will focus its support on the areas of highest potential market growth (fashion design, games, new media & TV production). SE also recognised that the creative industries have a (cultural) impact beyond their economic contribution and welcomed the establishment of CS as a single body, and the clear definition (in the Policy Memorandum) of the roles of public bodies in support of the sector.

39. Highlands and Islands Enterprise (HIE)
The creative industries comprise a key growth sector among which it is HIE’s role to support. This includes support for sectoral growth, individual businesses, targeted infrastructure developments, as well as the arts and culture as a key community sector. The work of HIE involves both community and enterprise aspects of arts, culture and heritage. Specific priority areas include music, screen & television, writing/publishing, designer fashion and software. The “creative economy is best seen as a series of creative people and businesses, arts and cultural groups, as well as communities, all linked through human and social networks.” A difference in the creative industries is that the “business unit” is not usually the individual business and new knowledge, skills and access to the market come from growing the networks.
With this background in mind, HIE welcomes the creation of CS. Given HIE’s track record of working with SAC and SS, HIE believes the existing model of close working relationships can continue with CS. The Framework Agreement between CS and the public sector agencies highlights the opportunity for HIE to work with CS in the growth of enterprising communities. HIE also seeks to see the specific issues faced in the Highlands and Islands addressed along with the role of CS in community and cultural development.

40. YouthLink Scotland
Youthlink expressed an interest in a productive relationship with CS, having previously worked with the SAC for more than 10 years in developing resources for the youth work and arts sectors to the benefit of young people. It recognises the opportunities that CS will bring and welcomes the opportunity to broaden its partnership with the creative sector.

PUBLIC BODIES: museums, galleries, libraries

41. Creative Scotland 2009 Limited, Scottish Arts Council and Scottish Screen
These three bodies, responding jointly, see the new organisation as being “on track for success.” The evidence submitted provided an update of the status of transitional work being carried out and clarification of some of the concerns that had been raised through their “sector engagement”. The Creative Industries Partnership Report (CIPR) is seen as, “a framework by which Scotland’s creative industries can develop and grow, improving competitiveness, increasing turnover, employment, investment and contributing to … sustainable growth.”
Although the structure of CS will be a matter for the new board, “artform expertise” will play a key role. Active dialogue has been maintained by SAC and SS with trade unions representatives and career development meetings have been held with all staff in both organisations, with most staff expressing “a wish to join us in this journey …”
On financing, it was argued that budget cuts are not a result of rationalisation, but due to cuts in lottery funding due to London 2012 and that no money has been taken from existing budgets to pay for the costs of transition. These latter costs were paid from the SAC and SS, with the Scottish Government providing the remaining (and bulk) funds. Funding partners will be inherited from SAC and SS (until 2011, as well as the long term funding arrangements of SS) and CS “may well create a new methodology” for funding once the new board has been appointed. The ability to make grants and loans will enable CS to execute its full set of responsibilities. Brand development for CS is currently under way.
42. Anne Bonnar
Anne Bonnar served on the Joint Board of SAC and SS as transition director of CS. She sees CS as contributing to the Scottish Government’s core objectives to create a more successful Scotland, with the potential to improve local, national and international arts and creative experiences.

43. National Museums Scotland and the National Galleries of Scotland
No evidence specific to Part 3 was submitted, although general support was given for the general aims of the Bill and noting that they are already responsible for, “the procurement, preservation and promotion of a very substantial part of Scotland’s cultural, historic, and national heritage.”

44. The Scottish Library and Information Council (SLIC) and the Chartered Institute for Library and Information Professionals in Scotland (CILIPS)
The evidence pointed out that there needs to be close working with other agencies and local authorities in order for CS to effectively deliver on its functions. While CS will not represent the whole cultural sector, it will still have an overarching advisory role. Yet there is not clarification as to its relationship with existing independent advisory bodies such as Museums and Galleries Scotland, and no formal structure to work with them. Concern was expressed that the focus of funding will be on the creator, while, “Reading has the largest cultural audience and SLIC would welcome a more enabling approach by Creative Scotland to balance the needs of readers in relation to those of the creator.” The Bill is unclear on how reading will be promoted and sustained. An amendment to Sch.5 was suggested that could ensure that CS “works in partnership with other cultural agencies with specific expertise and responsibility.”

45. Visual Arts and Galleries Association (VAGA)
VAGA welcomes the establishment of CS, the Scottish Government desire for Scotland to be a creative nation and the intrinsic value of the arts and the promotion of ‘art for art’s sake’. Considering s27, VAGA sees internationalism as a two-way exchange, but does not see how such exchanges will be achieved by CS. Neither did VAGA support the reference to creative industries, in which the visual arts will be defined in terms of commerce. VAGA called for a definition in terms of the exhibition, production and collection of visual arts. It was seen as a limitation that the funding mechanism in s29 will not apply to groups of persons as this will restrict the types of organisation receiving support from CS to legal persons only and not to informally constituted groups of emerging artists. Given the provision allowing CS independence in the exercise of its functions, it was seen as peculiar that Scottish Ministers will be able to vary or revoke any direction given under Pt 3.

46. National Trust for Scotland
Evidence submitted by the National Trust that dealt with Creative Scotland, took an interest in advisory and other functions of CS, specifically dealing in cultural objects. Having responded to the consultation on the Draft Culture Scotland Bill, the National Trust reiterated its strong support for the introduction of the offence of dealing in tainted cultural objects in that Bill. But it expressed concern that it has not been addressed in the ‘successor bill’. Part of that concern was that, “it is not clear when another opportunity to resolve the current anomaly will arise.” The National Trust said further that, “At the end of stage one of the Creative Scotland Bill, the Education, Lifelong Learning and Culture Committee raised this point in their final report (Stage 1 Report, SP paper 105, 2nd June 2008, paras 15 & 16) and asked the Scottish Government to respond to it. We are not aware that this has ever happened.” As a result Scotland is set to remain the only part of the UK not covered by the Dealing in Cultural Objects (Offences) Act 2003.

47. Royal Society of Edinburgh (RSE)
The RSE was concerned that because CS will not be established by Royal Charter, it will not be sufficiently independent of government direction. It urged the Committee to examine the practicalities as well as costs and benefits of Royal Charter status for CS. On funding, the RSE suggested that the Committee seek assurance from the Scottish Government that when CS is established it will maintain the SAC connection with Lottery funding. It is essential
that there is funding in place for CS to fulfil its function of “playing a key and leading role in
developing a thriving creative industries sector”. As such, the RSE suggested the establishment of
a joint committee comprising those bodies that have common or complementary goals in promoting
and supporting the creative industries. It was argued that there is a "mismatch between innovative
aspirations [of CS] and the absence of financial support that will realistically be required to achieve
them." The RSE also questioned whether CS will have charitable status.
At the same time, concern was expressed that CS will concentrate on the economic development
opportunities at the expense of “more traditional arts council territory” and that achieving a balance
is crucial.
It is important that there should be close links with further and higher education bodies and the
Scottish Funding Council to develop mutually supportive partnerships. The RSE also cautioned
against the assumption that ‘national culture’ comprises a single and finite body of cultural material,
whereas creative endeavours seek to form, define and modify the national culture. The RSE
recommended, therefore, that in s27(1)(e), the phrase 'Scotland's national culture' be replaced by
'cultures of Scotland'.

Murray Earle
SPICe
31 August 2009