

Our Ref - 254635118

1 July 2021

Mr L Flanagan
General Secretary
EIS
6 Clairmont Gardens
Glasgow
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Dear Mr Flanagan

Thank you for your letter of 7 June concerning the merger of Shetland College, Train Shetland and the NAFC Marine Centre.

As you are aware the merger in Shetland has been in development for many years and throughout this time there have been several iterations of business cases and timelines. Following the partners' agreement to merge in December 2018, a Transition Board was established and a project team initiated to develop proposals through to full business case.

As the merger business case evolved and decisions were agreed on the model for merger and the legal structure of the new college, the timelines and processes to follow, as determined by legal requirements, also evolved and changed. As you know, the merger business case concluded in March 2020.

The decision by the Transition Board to establish the new college as a charitable not-for-profit entity (and not as a college incorporated under the Further and Higher Education (Scotland) Act 1992) altered the timeline and legislative requirements that you refer to in your letter.

Your letter of 11 March made reference to a Shetland Shadow Board minute of 26 June 2019 and a statement made by Mr John Kemp. I have no information about the

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context or nature of discussion that led to the minute recording Mr Kemp's view in this way. SFC's position has been clear throughout the merger process over the past six years. Under the provisions of the Further and Higher Education (Scotland) Act 1992, SFC does not have powers to determine the legal status of any new entity in Shetland. This is a matter for the merging partners. That has always been and remains our position.

The Scottish Government ratified this position with UHI in November 2019. In a letter from the Deputy First Minister to the then Principal Professor Crichton Lang that "the decision on which governance model to adopt [was] for the college and project board to decide" and that it was not a matter about which the Scottish Government had any power of intervention.

The new college will, however, seek to be an assigned college of the Regional Strategic Board (RSB), The University of the Highlands and Islands (UHI). [Section 7C of the Further and Higher Education \(Scotland\) Act 2005](#) states that SFC must propose, or approve the assignation, and that it must consider the criteria set out in [section 7\(2\) of the Act](#) before making such a proposal – this will involve close scrutiny of the governance processes in operation at the new college and compliance with the [Code of Good Governance for Scotland's Colleges](#). As a registered charity the college will also be required to comply with the requirements of Scotland's Charity Regulator (OSCR). It is this path which the college has now taken to completion of the merger and subsequent assignment to UHI.

We anticipate that, regardless of the legal form of the new college, it will be required to meet our expectations in terms of standards of good governance in operation, fair access to tertiary education for communities on the Shetland Islands, and the quality of the learner experience.

I trust this letter clarifies matters.



Karen Watt
Chief Executive Officer