

# **Business and Regulatory Impact Assessment**

**December 2022**

## **Title of Proposal**

**THE LEWS CASTLE COLLEGE (TRANSFER & CLOSURE) ORDER 2023**

## **Purpose and Intended Effect**

- Background

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.

- **Objective**  
The order will close Lews Castle College and transfer its property, rights liabilities and obligations to North Highland College. This will include the transfer of employees from LCC to NHC along with the terms of their contracts of employment.
- **Rationale for Government intervention**  
The three colleges consider it appropriate to merge, but this cannot be fully achieved without the Scottish Ministers making a statutory instrument closing the incorporated college, Lews Castle College and transferring its property, rights, liabilities and obligations to another of the colleges (North Highland College) .

## Consultation

- **Within Government**

Consultation with the Directorate for Lifelong Learning and Skills.

- **Public Consultation**

A ten week, Scottish Government, public consultation into the proposed merger is has taken place. It opened on 24 February 2023 and closed on 5 May 2023.

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

- **Business**

A link to the consultation and the proposal document was sent directly to Caithness, Outer Hebrides and Lochaber Chambers of Commerce at the start of the consultation.

- **Options**

From this consultation there are two options:

- Approve the closure of Lews Castle College and the transfer of its assets and liabilities to North Highland College.
- Do not give approval for the closure of Lews Castle College and the transfer of its assets and liabilities.

## Sectors and Groups Affected

The following sectors and groups are affected:

- Students and staff of Lews Castle College.
- Students and staff of North Highland College.
- If local centres were to be closed this could have an impact on businesses surrounding the centres, local cafes and so on. It might have an impact also on ancillary staff who are required to run the estates, and it might make some transport options less viable, if there are not students travelling on the routes

due to closure of centres. **However, as the SFC have provided assurances received from the merging colleges that there are currently no plans to close any physical centres there should be no impact on any of these businesses.**

## **Benefits**

The SFC have provided advice that indicates that key benefits of the merger will be:

- Enhanced resilience and financial sustainability through the creation of a more effective and efficient college structure with greater critical mass.
- Greater capacity to meet the needs of local communities, industries and employers, particularly in the blue and green economies.
- More resilient services for learners and increased opportunities for college staff through the establishment of larger, connected teams.
- Students will have a more consistent learning experience, through the creation of larger college structures and more viable class sizes with a wider curriculum offer for students.

The merging parties have indicated that the benefits of not merging would be:

- That it requires no cost or avoids the uncertainty of change.

## **Costs**

- The SFC has supported the merger proposal and will also provide post-merger funding.
- The immediate costs of not merging would be zero, however the financial viability of the individual institutions would be challenging in the short-medium term.

## **Regulatory and EU Alignment Impacts**

### **Intra-UK Trade**

Is this measure likely to impact on intra-UK trade? **NO**

### **International Trade**

Is this measure likely to impact on international trade and investment? **NO**

## **EU Alignment**

Is this measure likely to impact on the Scottish government's policy to maintain alignment with the EU? **NO**

## **Scottish Firms Impact Test**

A Scottish Firms Impact Test was not undertaken.

## **Competition Assessment**

The closure of Lews Castle College and its merger with North Highland College is an operational change to the management and administration of the colleges, but there is no indication that it will lead to a reduction in choice for students.

## **Consumer Assessment**

Although the merger of the colleges will provide, on the face of it, a loss of choice, the SFC have obtained assurances from the College Merger Transition Board that there are no current plans to reduce the physical locations, withdraw courses or move course presentation from some locations. The merger business case indicates that the merger has the potential to increase the reach of the curriculum and provide more opportunities for students in remote areas.

## **Test Run of Business Forms**

There will be no new forms for businesses to complete.

## **Digital Impact Test**

There will be no digital impact.

## **Legal Aid Impact Test**

There will be no legal aid impact.

## **Enforcement, Sanctions and Monitoring**

There is no enforcement required.

## **Implementation and Delivery Plan**

The proposal will be implemented on 1<sup>st</sup> August 2023 by the merging colleges.

## **Post-implementation Review**

A review will take place within 10 years.

## Summary and Recommendation

The advice to the Minister is to approve the closure of Lews Castle College and its merger with North Highland College.

The incorporated institution created through the merger of the three colleges is likely to create significant benefits for students, staff and stakeholders across a large region of Scotland.

- **Summary costs and benefits table**

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1	The merger will create a college of scale that will be more efficient and generate economies of scale that will enhance resilience.	The initial costs of merger which are one-off costs will have to be met.
2	The merger will provide an improved service for students. It will reduce duplication and therefore free up capacity for an increased range of provision.	
3	The merger provides an opportunity to align skills provision with the potential economic opportunities that are available in the region, particularly in environmental sectors.	
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## Declaration and Publication

The Cabinet Secretary or Minister responsible for the policy (or the Chief Executive of non-departmental public bodies and other agencies if appropriate) is required to sign off all BRIAs prior to publication. Use appropriate text from choices below:

- **Sign-off for Final BRIAs:**

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed: Graeme Dey**

**Date: 31st May 2023**

**Minister's name: Graeme Dey**

**Minister's title: Minister for Higher and Further Education; and Minister for Veterans**

**Scottish Government Contact point: Mary Maxwell**