POLICY NOTE

THE GLASGOW SCHOOL OF ART ORDER OF COUNCIL 2020

S.S.I. 2020/303

Purpose of the instrument: To revoke and replace The Glasgow School of Art (Scotland) Order of Council 1996 to reflect the requirements of the Higher Education Governance (Scotland) Act 2016.

1. The above instrument is made in exercise of the powers conferred upon the Privy Council by sections 45 and 60(3) of the Further and Higher Education (Scotland) Act 1992 ("the 1992 Act"). The instrument is subject to the negative resolution procedure.

Policy Objectives

2. Glasgow School of Art ("the School") is a higher education institution designated under section 44 of the 1992 Act and a private company limited by guarantee incorporated under the Companies Acts. The School's governance arrangements are set out in an Order of Council made by the Privy Council and its Articles of Association. Together, The Glasgow School of Art (Scotland) Order of Council 1996 ("the 1996 Order"), made under section 45 of 1992 Act, and the School's Articles of Association form the School's constitutional documents. The School now proposes replacing the governance arrangements set out in the 1996 Order, and its Articles of Association.

3. The purpose of this instrument is to revoke and replace the 1996 Order to ensure it complies with the requirements of the Higher Education Governance (Scotland) Act 2016 ("the 2016 Act"). Chapter 1 of Part 1 of the 2016 Act makes provision in relation to the governing body of a higher education institution. It makes provision for the membership of each governing body to include a senior lay member (or "Chair") with responsibility for the leadership and effectiveness of the governing body (section 1). The senior lay member is to be appointed following an appointment process which includes election by the staff and students of the institution (sections 3 to 8). Chapter 1 of Part 1 of the 2016 Act (sections 10 to
14) makes provision for the membership of the governing body. Chapter 2 of Part 1 of the 2016 Act (sections 15 to 17) makes provision in relation to the composition of the academic board.

4. Section 10 of the 2016 Act provides that the governing body of a higher education institution is to be composed of: the senior lay member; two persons elected by the staff; two persons nominated by a trade union with a connection to the institution (one from the academic staff and one from the support staff); two student members nominated by the students' association of the institution; and such other persons appointed by virtue of an enactment or in accordance with the governing document of the institution. Sections 11 and 12 provide that the election and nomination process for the staff, student and trade union members is to be conducted in accordance with rules made by the governing body of the institution.

5. Section 15 of the 2016 Act provides that the Academic Board is to be composed of: the principal (referred to by the School as the Director); the heads of school; persons elected by the staff of the institution who are to make up more than 50% of the total membership; persons elected by the students of the institution who are to make up at least 10% of the total membership; and such others as are appointed by virtue of an enactment or in accordance with the institution's governing document or decision of the governing body. Section 16 provides that the election of staff and student members is to be conducted in accordance with rules made by the governing body of the institution.

6. The governance arrangements which this instrument sets out in replacing the arrangements contained in the 1996 Order are further described below.

Proposals

7. Article 1 provides that the Order comes into force on 30 November 2020. Article 2 provides definitions of certain terms that are used in the Order.

8. Article 3 sets out the composition of the Board of Governors, which is to comprise a Chair who is the senior lay member by virtue of section 8 of the 2016 Act, the Director of the School, two persons elected by and from the staff of the School, two persons nominated by a trade union with a connection to the School (one from among the academic staff and one from among the support staff), two persons nominated by the students' association, and 10 to 17 members appointed by the Board of Governors ("Independent Governors").

9. Article 4 makes further provision for the appointment of the Chair who is to be appointed in accordance with the 2016 Act and an appointment process prescribed by the Board and the Board is to prescribe the duties, responsibilities and terms and conditions of the Chair.

10. Article 5 provides that the Board may appoint a Vice-Chair from among the Independent Governors who, in the absence of the Chair or when that position is vacant, is to chair meetings of the Board of Governors and exercise the functions of the Chair

11. Article 6 provides that the Board is to make rules for the election of governors by the staff. Article 7 provides that the Board is to make rules for the nomination of the student and trade union governors and is to consult the representatives of anyone with a right of nomination under and affected by the proposed rules.

12. Article 8 provides that the Board of Governors is to make rules relating to the term of office of members, including eligibility for re-appointment and maximum term of office. Article 9 provides that the Board of Governors may make rules relating to the procedure for resignation and removal of governors.

13. Article 10 makes transitional provision for the chairman of the Board of Governors and the convener of the students' association who are in office immediately before the coming into force of this Order to be treated for the remainder of their period in office as if appointed under article 3 of this Order.

14. Article 11 revokes the Glasgow School of Art (Scotland) Order of Council 1996.

Commencement

15. The Order will come into force on 30 November 2020.

Consultation

16. The Scottish Government consulted the Privy Council Office, the School and the Scottish Further and Higher Education Funding Council during the preparation of this instrument.

Impacts

17. A Regulatory Impact Assessment has not been prepared as this instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Advanced Learning and Science Division 2
2 September 2020