Introduction

NUS Scotland welcomes this opportunity to provide written evidence on the Scottish Government’s proposed Post 16 Education (Scotland) Bill, and fully support its progress at Stage 1.

We are pleased to see the bill propose legislation to promote moves towards fairer access for students from deprived backgrounds. Similarly, while there are risks, college governance reforms should see stronger student representation, hopefully backed up by non-legislative changes coming out of the recent Griggs review of FE governance.

However, there are areas where we believe the bill could be strengthened and improved. For example, we cannot avoid the fact that it contains proposals to provide a legislative underpinning to fees for RUK students of up to £9,000, without any protections for the poorest RUK students, going beyond the worst excesses of the Westminster model.

Widening access

As NUS Scotland’s recent research report *Unlocking Scotland’s Potential* found, Scotland continues to have the worst rate of access to higher education in the UK for students from poorer backgrounds, with the (limited) progress we have seen largely coming as the result of increased numbers in college higher education.

As such, a legislative standing for the new Widening Access Outcome Agreements was a key recommendation of *Unlocking Scotland’s Potential*, and we welcome provisions for this in the bill. We have long believed that it is important to create a defined link between the public funding universities receive, and the public benefit they provide.

As we recommended in *Unlocking Scotland’s Potential*, to ensure these agreements are enforceable, legislation is necessary. We would, however, be interested to see if the bill could go further in ensuring the longer term sustainability of efforts to widen access.

In particular, we would welcome exploring potential ways to ensure that the bill is “future-proofed”, including consideration of:

- **An annual review of the provision’s effect on access**: As was done with the Graduate Endowment (Abolition) Bill, we believe that it is important to ensure we
regularly review the outcomes which are being achieved by access agreements, and to ascertain how institutions are undertaking the responsibilities placed upon them.

- **Ensuring greater research, policy, and oversight:** Looking to England, there is a dual role played out by the Sutton Trust and the Office for Fair Access who, respectively, undertake policy and research on fair access and ensure national oversight of efforts to improve fair access. We would be keen to see how an organisation or body undertaking this creative role could be fostered in Scotland, and there is potential for this to be combined with, or work in parallel to, an independent monitoring body.

**Tuition fee cap**

NUS Scotland opposes the principle and practice of charging any student to study. The provision contained within the bill to set the maximum amount chargeable by Scottish institutions to RUK students, linked to the maximum amount they would be liable to pay in any given *academic year* elsewhere in the UK, means that, due to the four year degree structure of Scotland, we now have potentially the most expensive higher education system of all the UK countries; up to £36,000 as opposed to £27,000 elsewhere for a standard honours degree.

Despite such high fees, there are none of the protections we have seen as a result of higher fees in England, including the role legislated for the Office for Fair Access (OFFA). This is exacerbated because the higher fees system in Scotland has resulted in RUK students being removed from the student numbers cap. The net result being that RUK students now fall between the cracks of the SFC and their home country’s funding council, with no one to safeguard access or ensure minimum standards on bursaries and other such support.

Furthermore, variable fees mean we will have legislated for a market in higher education in Scotland, with fees that may change depending on course and institution, which we wholly oppose as student choice could become affected by price rather than academic considerations.

While we remain opposed as a whole to charging students, we do believe there are general principles which any system of RUK fees should adopt, including:

- **A lower cap:** At the very most, fee levels should ensure that the *total degree* cost faced in Scotland is no higher than elsewhere in the UK.

- **Removing variability:** Fees should be capped and fixed, perhaps combined with greater equalisation of the fee amount attached to EU/Scottish students, to ensure parity between Scottish/EU and RUK students and avoid the marketization of higher education in Scotland.
- **Introduce minimum standards on fee-waivers and bursaries for RUK students:** There should be minimum standards to ensure protection for the poorest RUK students, in a similar way to the minimum standards required in England, combined with responsibility placed somewhere within the system for oversight of these standards.

- **Robust consultation measures for changes:** Any future changes to the status quo, and in particular the fee cap, must be required to undergo specific and robust consultation with all relevant stakeholders before going ahead, rather than automatically in line with decisions elsewhere in the UK.

**College regionalisation**

NUS Scotland has consistently advocated greater involvement of college students in the decision-making of their institutions, and welcome provisions in the bill to achieve this. We remain open to regionalisation and mergers on a case by case basis, provided they are driven by bettering the student experience or extending opportunities, rather than purely financial considerations. Indeed, the legislative changes to college organisation can only be successful if they fully involve student representatives from the start, and we are pleased to that the bill recognises the need for defined student representation.

In tandem with legislation, there are a number of important non-legislative changes agreed to in the government’s response to the Griggs review. Taking these forward should be a high priority for the government and SFC, or there may be a need to introduce further legislation, as things progress. Examples include more structured funding for students’ associations on a defined ‘sum per head’ basis and the development of a Strategic FE Forum.

Similarly, on a note of diversity of representation, as seen in the recommendations of the HE governance review, we believe there should be a greater commitment to representation by women, who make up over 50% of the FE and HE sector, yet remain hugely underrepresented on boards.

The reorganisation provided for in the bill offers an opportunity to ensure greater financial sustainability and stability than might, at times, be otherwise lacking and which could be exacerbated through regionalisation. Ensuring regional responsibility for, and distribution of, certain budget lines would provide much more certainty, and a greater safety net.

Finally, while we recognise the importance of colleges to the local and national economy, and to ensuring a highly skilled workforce, we also believe that recognition should be forthcoming for the wider societal good they produce, and it will be vital that large regional colleges do not lose their connection with local communities, with local access remaining a priority. Colleges play a huge role in providing opportunities in education for those who most often are at risk of never benefitting from it, and have a tremendous role in fair access.
In principle, the bill’s provisions could be strengthened by:

- **Enshrining equal representation**: A requirement for fairer and more defined representation of women on college and regional FE boards, as seen in the HE governance review, is a priority for NUS Scotland.

- **Regionalisation of key budgets**: Regionalisation of student support budgets would provide much greater stability to a budget line which, due its cash-limited design, is extremely volatile. Similarly, the government agrees on the need to ensure students' associations are strengthened, appropriately funded and autonomous. One way to achieve this could be through the regionalisation of these budgets.

**Review of further and higher education**

While we can see the potential risks a review of provision could have there are also possible benefits a review of this sort could have to protect provision. Over the past few years we have seen a number of high profile examples of institutions undertaking large scale course closures and staff redundancies, often with little perceived academic benefit. We believe that the power to review could be (and should) be used in situations such as these to protect the sector from negative reductions in provision. However, it is necessary that any decisions to review (or, after the fact, to follow through on a review’s recommendations) are fully transparent, and have been through robust consultation.

Therefore, we believe it is important that any legislative power to review is safeguarded by a defined consultation process, including key stakeholders (including NUS Scotland). This will go some way to ensure this power is used to improve provision and the sector rather than threaten it.

**University governance**

NUS Scotland welcomed the VonProndzynski review into higher education, and indeed as a member of the group was central in forming its recommendations. It has long been our view that, while we fully recognise and believe in the full and proper autonomy of our universities, as recipients of huge sums of public money it is important that they are fully transparent and accountable to their staff, students, and wider communities.

Currently the Chairs of University Courts (CUC) are taking forward work on developing a code of good governance practice, referenced in the bill. As the Cabinet Secretary made clear at the time, this group is not supposed to replicate the work of the previous review, but instead find a way within the sector to agree a code based firmly on its recommendations. We will need to await the final published code, but we are pleased to see the bill reference adhering to any such code as a condition of grant. We are currently waiting to see the proposals for a Code and will hope to see this prior to reaching Stage 2 of the bill, to ascertain any legislative changes that will be required.
either to implement the code, or indeed changes required to implement parts of the VonProndzynski Review not dealt with by the Code.

Data sharing

As we recommended in *Unlocking Scotland’s Potential*, we believe that that institutions should undertake proactive work to reach out to potential university students at local schools and colleges, for example by ‘talent spotting’ potential students who perform above the median of their classmates, to apply to the university and to engage with any bridging support on offer from the university. This would mean that widening access and ensuring positive destinations starts before the point of application.

As such, in order to promote and enable this, we believe that universities (along with colleges) should be among those who are required to have information shared with them by SDS.