UCU Scotland has nearly 7,000 academic and academic-related members in Scottish higher education institutions (HEIs). We welcome the opportunity to respond to the Scottish Parliament Education and Culture Committee’s call for written evidence on the Post-16 Education (Scotland) Bill.

Introduction

We welcome the provisions in the Bill to widen access to universities and the inclusion of a legal requirement for universities to meet standards on governance. However, we have concerns over the legislative powers to review course provision as this opens up the possibility for a government to directly influence courses and content. We also oppose the introduction of a fee system that introduces a market in those undergraduate students from the rest of the UK.

University governance

We welcome the provision in the Bill to make good governance a legal responsibility. However, the code of governance is presently being developed in Scotland but will not be finalised in time to be considered during the passage of the Bill.

Further, the code is not being developed with the proper scrutiny of Parliament and in a manner that is contrary to a Parliamentary statement on 28 June 2012. Instead of leading a review, the chairs of court have formed a steering group of their own members which does not include representatives of staff and students.

UCU believes that a governance code should deliver recommendations to improve the management and governance of universities in Scotland; restore the confidence of staff in the governing bodies; and strengthen the autonomy, democracy and collegiality of Scottish higher education institutions.

We call for the full implementation of the Review of Higher Education Governance, RHEG, report and call for the code to implement the report’s proposals. That review, chaired by Professor Ferdinand von Prondzynski, took evidence from a wide range of bodies, despite a small budget, limited secretariat and a tight timescale. The panel drew on representatives of the whole sector but still managed to produce a report with dissent on two issues from one member. UCU does not believe that the present consultation and evidence sessions on a Scottish code are justified, as this evidence has already been collected by the review of higher education governance.
We recommend that the new code should implement the proposals in the Review of Higher Education Governance report.

Widening access

UCU supports initiatives to widen access so that the most talented students are admitted to our universities, irrespective of their social or financial background.

UCU has called for greater emphasis on contextualisation in admissions but this can be problematic and there may be a need for a statutory duty to protect institutions and in particular admissions staff from libellous claims. However, the proposals only legislate to force institutions to broaden access and it is not clear that this alone will protect institutions.

The widening access agreements will in practice be included in the outcome agreements between the funding council and institutions. We have concerns over how these will be agreed, as they have been rushed through in many cases, avoiding the full democratic process within Universities. Further, there has been a lack of proper consultation with staff and students.

The funding council has a legislative requirement to consult but has introduced these outcome agreements without that consultation. UCU believes that the staff involved in widening access should be included in developing these agreements. Further, the main outcome should not just be the admission of students from diverse backgrounds but an increase in graduates who then go on to find employment. Decreasing drop-out and ensuring students from diverse backgrounds graduate is the responsibility of all staff.

We recommend that the legislation includes a responsibility to consult with staff and students.

Tuition fees cap

UCU opposes variable RUK fees and agrees with the Cabinet Secretary that education should not be a market. We recognise that an increased fee is required but we would prefer that a fixed fee is introduced. Given the fact that most universities are charging the highest fee, we recommend that if a fee cap is included in the legislation that this is set at £6,375 which was the level suggested by the government in the consultation on the Draft Student Fees Order 2011. This would reduce the market in fees for students from elsewhere in the UK.

Section 3(b) under clause 4 that states the level of fees, does not achieve equity with the rest of the UK as it limits the cap to a single academic year. We believe that Scottish
Institutions should not be able to charge more for a degree than the amount paid elsewhere in the United Kingdom. However, this legislation allows Scottish Universities to charge fees for all four years of a degree even though it would only take three years elsewhere in the United Kingdom and similarly for longer courses such as medicine.

We are concerned that the increase of fees in England gives a perception that Scotland is out of kilter, but according to the European Commission, nine other countries do not charge fees including all our Scandinavian neighbours. Further, English fees are the highest in Europe with very few countries charging more than €1000. Hence Scottish Universities are now offering the most expensive degrees in the UK and indeed Europe, if not most of the world.

There is an historical basis for taking a different tack, as when variable fees were first introduced in the UK Scotland set a fixed fee. That fee level was set after careful consideration by a working group bearing in mind the costs of studying in Scotland and including the probability of an extra year of study. This yielded consistency on the numbers of English students and ensured that extra funding went back into the higher education budget. Most importantly, the extra funding received went into the overall pot with individual universities not gaining additional money for taking on RUK students. We believe that these criteria must remain in order to avoid a scramble to recruit RUK students which will no longer count in the overall capped student numbers.

Given the emphasis on broadening access in the Bill, it is notable that the proposed widening access agreements will not apply to students from elsewhere in the UK. Throughout the rest of the UK, universities can only charge fees if they have introduced bursaries for less well off students and had these schemes verified. However, no such safeguards have been included in the legislation for other UK students who study in Scotland. We recognise that all universities are offering bursaries but these are voluntary and there is no inducement for universities to recruit students who would be eligible, or any facility to monitor the number of students on bursaries. Indeed, it would be financially beneficial not to recruit students from less deprived backgrounds as they would pay the full fee and be eligible for the bursaries that are funded by the institution.

**UCU recommends a standard fixed fee for all undergraduates from elsewhere in the UK.**

**College regionalisation**

While changes to colleges are not directly applicable to universities, the regionalisation of colleges should not lead to lack of choice for students and diminish the opportunities for articulation. Further, it should not be the case that only certain universities are seen as the choice for college students from a region. There is the possibility that the student articulation choices will be limited if colleges only form links with the university in their region. However, it may allow for greater development of articulation links if universities
only need to deal with a regional consortium as oppose to over 40 colleges across Scotland.

UCU opposes any notion of regional universities as we believe all universities should be responsible to the local community, the Scottish nation and have wider global aspirations. Further, any mergers should be institutionally led, fully including staff and students and not be driven by external funding pressures. We support institutional autonomy and the variation in mission between institutions.

One area where there is ambiguity is in the highlands, where there is already a body for the University of Highlands and Islands which has a remit of ensuring coherent higher education provision offered by the colleges. This board is to be extended to cover all provision in the colleges. As a university, this board will be covered by the code of governance as well as provisions in this section relating to regional college boards. It is important its role as a university is not diminished by this extension to further education.

**Review of fundable further and higher education**

UCU supports the notion that the Scottish Funding Council, SFC, should have an overview of provision across Scotland, a position that was first espoused in our manifesto for the first Scottish Parliamentary elections in 1999. Since then, we have consistently argued that the increases in costs for Scots to study in the rest of the UK make it even more important that Scottish Universities at least provides an opportunity to study all subject and in particular that no existing course is lost to the nation.

We believe that the funding levers and indeed the outcome agreements can be used to ensure coherent provision. While we welcome a review of provision across Scotland we are not convinced that the SFC needs legislation to allow this to happen and we are concerned that the legislation as drafted gives much greater powers than are required to undertake this role. Further this review would have to recognise the subtle differences in courses that have similar titles.

The powers in the Bill potentially open up all aspects of post-16 education provision to ministerial control as it allows ministers to review the types of programmes of learning or courses of education provided by post-16 education bodies.

This opens up the possibility of political interference in the provision and content of courses, undermining both the institutional autonomy of universities and the academic freedom of lecturers. While there should be a role for the Funding Council to ensure subject provision across Scotland, the clauses in the draft Bill go much further and are a hostage to fortune.

**We recommend that the phrasing is modified to ensure that individual courses and universities cannot be reviewed and to clarify that this section only refers to overall provision in Scotland.**