Introduction

The University of the Highlands and Islands welcomes the thrust of the draft bill; we endorse the importance of regionalising Further Education. We support the arrangements set out for the Highlands and Islands as they map Further Education onto the same region as the Higher Education which the University is tasked to provide. We fully endorse the comments made by Universities Scotland on the draft bill.

Higher Education Institutions: Good Governance : Para 2, 9A

UHI is fully committed to high standards of corporate governance, wider access and coherence of academic provision. Each of these is fundamental to the mission and purpose of UHI.

UHI accepts the principle that the Government should seek appropriate returns from universities for the investment of public funds in their work. UHI is however committed to the concept of University autonomy. We believe that it produces academic excellence in both teaching and research, and those universities in Scotland within this system have served the nation well. We also believe that it complements the commitment of Government to academic freedom as a cornerstone of a democratic society. The tradition of the democratic intellect is in our view both excellent and preserved by the autonomous framework.

We support the voluntary code for good governance currently being produced and are actively involved in consultation. We are anxious to ensure that the code recognises the importance of flexibility to accommodate non-traditional institutional structures like ours, and ensure that we can work within the code and opt out of specific provisions if justified. For both reputational reasons, and ensuring that the code is of an excellent standard, we believe that it should be dynamic and benchmarked against best practice within education and beyond.

We have however concerns around Part 1 Section 2, 9A. We believe that the definition of what constitutes good governance or good management practices in a democratic society should not be set by ministers alone. We support the view of Universities Scotland that this would be more consistent with responsible autonomy, with existing charity legislation, and with the long-established principle that universities should not be subject to political direction. Significantly, the Von Prondzynski review of higher education governance recommended a role for the Scottish Funding Council (SFC), rather than Ministers, in relation to introducing a new Scottish code of governance.
The existing statute (2005 Act) already gives the SFC power to request Ministers to remove an institution from the list of those eligible for public funding if it does not meet acceptable standards, inter alia, of governance and management. Ministers cannot, however, remove an institution from that list unless the SFC have so requested and can only do so after consultation. This existing provision strikes a balance between accountability for public funds and preserving the autonomy of institutions against political interference. It safeguards the public purse against bad governance and management; but does so in a way that maintains the role of the SFC as a buffer between Ministers and individual institutions.

The new provision upsets that balance. It empowers Ministers, not the SFC, to decide what is good practice governance and management; it allows them to do so subjectively - 'what appears to be'; it empowers them to require the SFC to impose some unspecified financial adjustment to funding if an institution - which ex hypothesi is not badly run - does not comply with Ministers' notions of good practice. This would, if legislated, represent a considerable weakening of the notion of university autonomy.

We also believe that the reference to ‘management’ is inappropriate and should be removed. Governing bodies are responsible for ensuring that the institution is managed in a way which successfully implements the institution’s mission and strategy. The senior managers of the institution are accountable to the governing body for achieving this. These responsibilities are fundamental to good governance and would be undermined if Ministers (or SFC) assumed responsibility for determining how universities should be managed.

Widening Access to Higher Education

UHI is committed to widening access. As a university with the highest proportion of mature and part-time learners in the Scottish university system, we believe in the importance of making educational opportunities available to students precluded both by social class and geography. In the case of the Highlands and Islands, we work hard to ensure that modern technology is used to overcome geography as a barrier to accessing educational opportunity. We do not believe that there is any necessity to legislate access targets. We are happy with the arrangement whereby targets are negotiated with SFC as part of a single outcome agreement.

We are anxious that targets are not expressed exclusively in terms of social class, but also recognise that the provision of university education within communities in the Highlands and Islands to obviate people having to work away from home, and the provision of a flexible model to allow people access education without ceasing part-time employment or conflicting with social commitments eg looking after elderly parents, are also important ways of widening access in a community like the Highlands and Islands.

Fee Cap

We have no comments to make on this issue.
Review of Fundable Further and Higher Education : Para 14

We endorse the importance of regional coherence and the recognition of regional universities with defined geographies. We believe that UHI should be recognised as the “regional university” for Highlands and Islands. We would be concerned if the effect of the bill was to give SFC new powers to decide what universities can teach. This would be inconsistent with autonomy and we believe would not serve the country as well as the existing system. (See below “University Autonomy”). We have some further concerns around the consultative requirements laid on regional strategic bodies in relation to coherence and we develop these concerns under “Further & Higher Education” below.

Data Sharing

We have no comments to make on this section.

University Autonomy

In many of our comments we have asserted the necessity to protect university autonomy. We endorse Universities Scotland’s regard for the principle of ‘responsible autonomy’, i.e. that universities and other HEIs are responsible for delivering public benefit in return for public investment, but are best able to succeed in this and in their wider missions when they are operating within a framework of clear institutional autonomy.

We believe that international evidence suggests that the university sectors which enjoy robust autonomy are best able to make a successful contribution to the economic and social wellbeing of their nations. We note that the trend across Europe is now towards increased university autonomy as a means of generating success, and European Commission policy is an affirmation of responsible autonomy.

We believe that the bill should be checked to take cognisance of the fact that in UHI the regional strategic body is the University Court and therefore the need to preserve its autonomy has to override the less autonomous arrangements in place for regional bodies which are not Courts of universities.

Other Regional Strategic Bodies : Part 2

We welcome the additional responsibilities and powers for the Court and Principal of UHI providing a regional perspective on further education as proposed in the Bill. This will ensure that post 16 education across the Highlands and Islands is planned, delivered and funded in as integrated a manner as possible. This will be of major benefit to students and employers who will be able to see a seamless progression route from leaving school through to degree and post graduate qualification as appropriate. The proposals will make delivery more effective. The proposals ensure maximum
efficiencies through shared provision of curriculum and support services whilst retaining and enhancing local access.

We endorse the powers given to UHI as the Strategic Regional Body and believe that these powers are essential for the University both to deliver the objectives of regionalisation and to protect the autonomy of the University Court. We can imagine that there may be some concern on the part of some Colleges that the exercise of such powers requires checks and balances. We believe that where the regional strategic body is a university, as it is in the case of UHI, any attempts to restrict the powers would be harmful to the autonomy of the university and hinder the application of the principle of regionalisation.

Under 7C1 “Other Strategic Regional Bodies”, the bill refers to “colleges of further education” being assigned to the regional strategic body. The Academic Partner Colleges of the University include a mixture of incorporated Colleges and unincorporated colleges including two Local Authority Colleges. Some are fundable bodies and some are not. We believe that the effective regionalisation of FE and HE makes it imperative that the University’s FE Regional Board funds all these entities and that the general provisions which are intended for incorporate Colleges apply equally to all. This would promote a more thoroughly homogeneous regional sector. Whether this is what is intended depends upon the interpretation of the term “colleges of further education”. We recognise, of course, that this may be problematic for Local Authority Colleges – in the case of UHI the colleges in Shetland and Orkney.

**Further & Higher Education**

We welcome the creation of a single outcome agreement with SFC as a means of further enhancing the co-ordination of HE and FE and of the activities of the University and its Academic Partners.

We endorse the need for regional coherence of curricula and courses but note that under Section 10, 23C UHI would have a duty to "have regard to any fundable further education and fundable higher education provided by other post-16 education bodies in the localities of its colleges". Since “locality” is undefined and since UHI’s Colleges cover such a wide geographic area this could commit UHI to consult an enormous number of institutions, including other universities, without these other universities being under any obligation to consult UHI. This is both impractical and unnecessary since UHI as a University will be under the advice of SFC to secure regional coherence.