Submission from Aberdeen University Students’ Association

Aberdeen University Students’ Association represents our 14,500 students. The ways in which our University is governed has a

1. What do you consider to be the existing problems (if any) with higher education governance, particularly around modernity, inclusion and accountability?

The Von Prondzynski review (2012) clearly stated in its opening paragraphs that despite the complex legal framework on the status of HEIs in Scotland, our HEIs are independent public bodies, and therefore are not accountable to private shareholders, but, to students, staff and wider society. Our universities are, rightly, in receipt of well over a billion pounds of public funding each year, however, we believe they could and should do much more to evidence their public good in return for this funding.

Aberdeen University Students’ Association agrees with NUS Scotland that the best way to ensure this accountability is to open HEI governance to democratic participation. On every level of HEI governance students and trade union representatives should be involved. All decisions made should be done so transparently and open to public scrutiny.

Our concern is that there is a lack of a genuine democratic culture in governing bodies as well as a lack of transparency and accountability over how decisions are made and the people who make them, plus a lack of fair representation and diversity on governing bodies.

Lack of democratic culture on governing bodies

On many occasions it can feel like student representatives are purely there as token members of committees, with major decisions being made without sufficient opportunities for student to input. This is reinforced by the appointment process for chairs and lay members of court. While we are luck in Aberdeen that our Rector now chairs the University Court, this was only introduced this year.

Lack of transparency over decisions

In addition to a lack of participation and democratic culture on governing bodies, there is a distinct lack of transparency over governance decisions. It can feel like there is a back-door culture on our governing
body. Decisions are often effectively taken at private meetings between individual court members, rather than through open debate at court meetings. This leaves little opportunity for genuine democratic decision-making where a multitude of views are taken into account.

The impact of this type of decision-making is exemplified by the ever-increasing principals’ pay packages in Scottish HEIs. Decisions on senior management pay are usually taken in remuneration committees, which more often than not comprise solely of members appointed by the Principal. This means there is little oversight, few opportunities for scrutiny by the wider community and often non-existent involvement of staff and students. Because there is no legislative requirement to allow student and staff participation on all committees, student officers have to often spend a considerable amount of time arguing for their right to participate in these committees. Here at Aberdeen University Students’ Association, we only secured an observer place on the university’s remuneration committee after a number of years’ of asking to be included.

Lack of fair representation and diversity on governing bodies
We believe that all governing board would benefit from a balanced membership that reflects the composition of the group of people the body takes decision on behalf of. Despite recommendations made through the HE Code of Good Governance, university courts are still dominated by men. In Aberdeen there are 9 women on a court with 28 members, making the percentage of women 32. This is nowhere near representative of the student population (55% female). While there has been a move in the sector to increase representation of women on governing bodies, it can often feel like this is to increase awards such as Athena SWAN. We do not feel the current approach on self-regulation is sufficient to ensure fair representation on boards, and call on the Scottish Government to legislate on 50% women representation on all boards of public institutions.

We also feel it is important to encourage boards to look beyond gender and consider the diversity of their boards in terms of ethnic background and age of members. This is crucial as older members may be out of touch with what students actually need.

2. The extent to which the Bill

(a) Will improve higher education governance, particularly in the areas above

We believe the proposed bill will address the above concerns in two key ways.
**Elected chairs**

AUSA recognise that the Chair of the governing body holds an important role in the governance of our HE institutions. We believe that as leaders of our institutions, chairs should come from diverse backgrounds, have the confidence of the institution’s most important stakeholders (staff and students), and be elected in a democratic manner.

In order to ensure that the Chair is chosen in a democratic and transparent way, and that they will represent the interests of all key stakeholder of an HE institution, students and trade union representatives must lead every stage of the selection process. Crucially, we believe that the candidates standing for Chair should be nominated by students and staff without a selection panel to pre-vet candidates.

The draft Bill includes a proposal to legislate on process to elect Chairs from among candidates in section 1(v). We fully support increased transparency and democracy of governing bodies, and welcome the proposals to move to electing chairs or HE institutions. We believe that this process should be transparent and democratic, and led by our students and staff every step of the way.

We have some concerns over how the introduction of elected chairs would impact the role of the rector in our university. We believe that our rector role is similar to that of an elected chair – ensuring the chair of the governing body exercises their role with a sensitivity to the views of the key stakeholder of the institution (students and staff), and that they are accountable to those stakeholders. Therefore, rather than threatening the role of the rector, rolling out elected chairs throughout Scottish HEIs would extend and strengthen the proud democratic history of Scottish universities’ rectorship. It is worth noting that the proposal for elected chairs in the Von Prondzynski review were also based on extending the benefits of the rector model beyond ancient intuitions such as ours.

**Student and trade union representation on governing bodies**

AUSA believes it is crucial the governing body of our institution is representative of its stakeholders. Students and staff are a vital part of our institution, and must be a part of the decision-making process of the University of Aberdeen. This view is also set out in the Scottish Code of Good HE Governance, which described one of the main purposes of HE Governance to be “promoting an appropriate participation of its key constituents, including students and staff”.
Section 4 of the draft Bill includes provisions for a minimum of two elected staff representatives, one trade union representative from academic staff, one trade union representative from support staff and two representatives appointed by the students’ association, as well as two representatives appointed by the graduates’ association. While our institution already include student and staff representatives in our governing body as recommended in the Code of Good HE Governance, these provisions in the Bill would secure staff and student representation through law. We are strongly supportive of this proposal, and fully endorse its inclusion in the final Bill.

(b) May alter the higher education sector’s current level of autonomy

While we fully recognise the need of any further regulation to fully respect the autonomy of Scotland’s HEIs, we do not believe the proposals set forward in the current bill alter that autonomy in a notable way. The proposed changes would not require institutions to implement any substantive policy changes; rather, they address the processes through which decisions on substantive issues are taken. We fully endorse the notion of ‘responsible autonomy’ for our institution. Where we have concerns is around the weight lent to both aspects of that, and are of the view that there has not been enough responsibility in return for the significant sums of public funding our institutions rightly receive.

3. Has the correct balance been struck between legislative and non-legislative measures?

With the development of the Scottish Code of Good Governance, undertaken by the Chairs of Scottish Courts, an attempt was made to make the majority of governance reform non-legislative; however, we believe that this simply did not go far enough, or result in a tangible and meaningful code or outcome and, as such, it is now necessary to seek reform through legislation. While our institution has voluntarily taken on board some of the measures proposed in the Scottish Code of Good HE Governance, others fall short of delivering on democratic, inclusive and transparent governance. It is crucial that we deliver the same high standards across the board in our HEIs.

When it was announced that the Committee of Scottish Chairs would be undertaking the development of the proposed code, NUS Scotland raised serious concerns, which we agree with. Chief among these was the concern at the system of self-regulation being adopted, and the potential for a weakened code as a result, which would now seem to have been a very real one. As we have stated in evidence before, we are wholly supportive of university governance being underpinned by ‘responsible autonomy’. However, we have often felt that this balance was tipped firmly to the side of autonomy, with little responsibility.
Getting a much more transparent and democratic form of governance was vital to ensuring that institutions were demonstrating genuine public benefit for the public funding they receive. But the code did not do that. From the start of this process we were of the opinion that it was not the chairs’ job to rewrite the original VonProndzynski report, but rather to find a way to take his recommendations and apply them across the sector through a code. Instead, it selectively picked those it wanted, ignored the ones it didn’t, and watered down those it took on.

The proposals
To require higher education institutions to appoint the chair of their governing body in accordance with a process set out in regulations made by the Scottish Ministers

AUSA believe electing chairs of governing bodies would be very beneficial for strengthening the democratic culture in university governing bodies. At its core, elected chairs provide a defined link between staff and students – who we would argue are the two single most important stakeholders an institution has – and the governing body. Two of the main arguments against elected chairs are based on fallacies.

Firstly, it has been argued that by electing chairs we may get to a situation whereby the chair doesn’t enjoy the ‘confidence’ of the governing body. However, while there is no evidence to suggest that would be the case, it also undermines the role of the chair and governing body. Governing bodies, as with all trustee boards (as the governing body essentially is, given the charitable status of our HEIs) should act as critical friends to institutions, on behalf of their stakeholders – staff and students. We would seriously question any governing body, and the role they are carrying out, that did not put their trust in a chair that had trust put in them by staff and students.

Secondly, it is often argued that there is no need for chairs elected by staff and students because staff and students already have representatives on the governing. Again, this entirely fallacious. As HEIs are very quick to point out – and a point entirely accepted, understood and respected by student representatives – when, in particular, controversial decisions come before a governing body, staff and student members do not have a representative role on governing bodies. We are there as full members, and bringing a representative role, as opposed to an independent one, into our membership of a governing body would go against the spirit, if not the actual letter, of trustee law. Elected chairs would
not undermine this legal role as a trustee, but would ensure that staff and students are able to directly have a say in the person chairing the governing body, and an advocate the act on their behalf, instilled with their confidence and trust, in addition to the student representatives they send to a governing body.

In terms of processes for election, we would maintain our support for the original von Prondzynski review, with a constituency of all staff and students of the institution. We already have the systems in place for elections. We do not believe there should be any bar or limit place on candidates for election (as the von Prondzynski review also stated must be the case). This should not be done to try and identify preferred candidates (again, as recommended by the von Prondzynski review), but simply to ensure all candidates would be able to undertake the role if elected. In order to ensure a degree of ‘independence’ from the institution, as a governing body should, this selection panel should not consist of institutional members. Instead, it should be made up of the three governing body constituencies – staff, students, and lay members. The process should be open and transparent; if ever a candidate is refused permission to run in the election it should be clear why.

To require HEIs to include various persons within the membership of their governing bodies

As mentioned above, we have concerns over student and staff members’ ability to genuinely take part in the decision-making at our institution under current governance regulation. We believe securing places for student, staff and trade union representatives would be very beneficial to increasing transparency and democracy in HEIs, and would enable key stakeholders to better contribute to debate over key-decisions at their institution. We believe that having representatives of these stakeholders on our governing bodies will go a long way to ensuring that our institution is run to the benefit of our students, staff and the wider community.

However, we believe that student, staff and trade union representatives should also have representation on key committees of the institution. Currently, the university court often act merely as a “rubber-stamp exercise”, where decisions have effectively been made at committee level or behind the scenes. In Aberdeen we have representation on most committees but we are aware that other HEIs do not have the same level of access to decision making committees. Student and trade union representation on committees would further foster a culture of democracy and transparency in HEIs.