1. Thank you for the opportunity to offer evidence to the above Bill. I write as a taxpayer and as someone who retains a keen and active involvement in Higher Education in Scotland.

2. It is not clear why there is an apparent need to create legislation to tackle perceived deficiencies in current governance arrangements; a view which has gained editorial support and coverage in the national Press in recent weeks. There is no obvious public concern over current arrangements within universities, and any attempt through legislation to manage and standardise governance in our Scottish universities is misguided and unnecessary. Diversity within our universities has been a strong driver of their success worldwide; in some cases for centuries. The proposed legislation appears to want to curb this, through standardisation, and to reclassify Scottish universities as part of central government, without an appreciation of the probable consequences.

3. As to the role of the Rector in our Ancient Universities under the proposed legislation: there is a total lack of clarity. The Rector has enjoyed the right over centuries to chair Court meetings. The present Rector of Aberdeen University fulfills that right – at the direct request of the student body – enabling students to have a strong and influential voice on the governing body. Current proposals would diminish the voice of students, as there is no clarity re any future Rectorial role.

4. The proposal in the Bill to increase Ministerial control will alter the relationship between the State and universities, to the detriment of both. It would lead to reduced autonomy by universities, which would compromise their charitable status and lead to reduced funding from donors, much of which is currently used to fund world class research. Additionally, it would reduce university borrowing and stop them from reinvesting surpluses. The result would be to reduce university levels of activity and investment, with significant implications for their ability to deliver on Scottish Government priorities, such as skills provision, innovation, and social mobility.

5. The proposal to have the Chair of the Court elected externally could potentially lead to chaos, depending on the outcome of the election. The choice of Chair is fundamental to the effectiveness of any organisation, and the choice of chair should rest with that body. The proposal, too, to remunerate university Chairs is neither desired nor sensible. It is completely wrong to spend public money unnecessarily.

6. I write in an individual capacity, but also as a graduate of Aberdeen University, current member of its Court, former Chair of its Business Committee and General Council. My knowledge of Governance is based on the above, plus my current membership of the Accounts Commission for Scotland and a national Health Board, my former non-executive role on a territorial Health Board, and thirty years as a senior manager of Marks & Spencer. Governance has therefore played a large role in both my current and past work, and I remain convinced that the proposed Bill is unnecessary, centralist, and not fit for purpose. The Bill seeks to address a problem that is imagined, rather than real, and would cause financial and reputational damage to Scotland's university sector.

I ask the Committee to note my comments, and to reject the Bill. I provide answers overleaf to the specific questions posed.
Committee’s questions

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

I do not consider that there are any serious problems with higher education governance in Scotland. Universities have to comply with the Scottish Code of Governance as a condition of funding. As an experienced governor of Court at Aberdeen University, I have first-hand knowledge of the skills that exist – and are actively used – to ensure that senior management are held to account whenever necessary. Lay members with business skills, as well as academic staff, plus members with special audit and governance skills provide an effective blend of experience.

2. The extent to which the Bill
(a) will improve higher education governance
(b) may alter the higher education sector’s current level of autonomy
(c) may affect lines of accountability between the Scottish Government, relevant public bodies and the higher education sector

The proposals provide Ministerial control over the internal governance of charitable organisations, eroding the principle of institutional autonomy. The Bill would fundamentally change the relationship between State and institution, and diminish the role of universities in a democratic society.

3. Has the correct balance been struck between legislative and non-legislative measures? Are any further measures needed?

No. The Scottish Code of Good HE Governance already covers this. The Bill is unnecessarily prescriptive and centralist, reducing the scope for universities to introduce necessary future changes to governance.

Specific proposals

The Bill proposes a number of specific changes to higher education governance:
- To require HE institutions to appoint the chair of their governing body in accordance with a process set out in regulations made by the Scottish Ministers
- To require HEIs to include various persons within the membership of their governing bodies
- To require HEIs to ensure that their academic boards are comprised of no more than 120 people, and include various persons

4. Please provide your views on the merit of each of these proposals

Chair: this is a key role in any organization. The governing body should appoint the individual responsible for its leadership. Where a university has a Rector, that person can choose whether to exercise that right to chair meetings, or request the senior Governor to so do. I am deeply concerned that this proposal is in the Bill, despite 78% opposition in the consultation, and without specifying the detail to enable proper scrutiny at Stage 1 of the Bill.

Composition: It is undemocratic for Ministers to prescribe the composition of the board of what is an autonomous charity. No case has been made for the proposal that Ministers should
determine the number of Alumni on the governing body. The proposal to include union representation fails to mention how non-union members should be represented. It is likely that union members would represent their membership, rather than acting as individuals whose overall concern is for the good of the institution.

I am deeply concerned that this proposal is in the Bill, despite 67% opposition in the consultation.

Academic Boards: As with the composition of governing bodies, it is important that each academic community is able to determine the size and composition of its academic board, that reflects their respective academic structures and character. I am unaware of any evidence that suggests that 120 persons is an optimal number.

**Academic freedom**

*Please provide your view on the following:*

5. **The likely practical effect of these provisions, for example, whether there are any areas of teaching, learning or research that will be particularly enhanced.**

   *The Bill states that academic freedom is to be exercised “within the law”*

6. **Are there likely to be any significant constraints – other than legal constraints – on academic freedom?**

7. **Are the situations in which relevant persons can exercise their academic freedom clear?**

Academic freedom (within the law) is a fundamental value of universities, and has been the subject of discussion at our Business Committee in recent months. The discussion, which included union representatives who sit on the committee as individuals, raised no concerns with the current situation. I believe therefore that the current statutory protections are adequate.

I believe that the provisions of the Bill represent a clear threat to academic freedom, by seeking to replace university autonomy with Ministerial control.

I ask the Committee to take note of my evidence on the Bill. There are more urgent and serious issues in Scottish education for Parliament to address than the imposition of Governance legislation. This piece of proposed legislation will do more harm than good, and should therefore be withdrawn.

Colin Duncan