The problem – who 'owns' a university

Governance arrangements are generally designed to ensure that the 'owner' of a company, organisation or institution have their interests protected in the management and administration of that company, organisation or institution. Thus shareholders have a right to oversee the work of management teams in companies, trustees are appointed by people who set up charities to ensure the charities goals are met and Parliaments are subject to election by citizens who have the right to change the 'management' of their elected institutions.

Universities are generally understood to be 'public' institutions. This does not mean they are 'public sector' (owned or directly managed by government) but that they fulfil a wholly essential public service on behalf of all of the public. They are also public in the sense that universities are essentially communities of students and academics.

No-one is calling for universities to be 'owned' by government (although this is a perfectly possible arrangement). However, absolutely no-one would argue that universities are or should be 'owned' by individual principals, senior management teams or small groups of self-selecting private individuals. And yet this is effectively the governance model which is used in the Scottish university sector.

How does university governance really work?

Governance arrangements vary from university to university. However, there are important consistencies. All governing bodies have a built-in majority of members who are appointed by that same governing body (the 'lay members'). Vacancies on the governing bodies will therefore almost always be filled on the basis of candidates selected by senior management teams. Previous nominations put forward by the senior management teams (the existing lay members of governing bodies) will then select from among the new set of nominations. The chances of a university's governing body ever failing to have a permanent majority made up of people nominated by senior management teams is negligible. In addition, other members of governing bodies increasingly rely on senior management teams for their appointments. Where senate used to be elected by academics (senate is responsible for all academic decisions), it is now often made up automatically of heads of department who themselves have been directly appointed by senior management teams. There are very few routes onto a governing body other than by the 'grace and favour' of senior management teams, almost no chance of ever having a majority on those bodies not selected by senior managers and potentially in some universities no chance whatsoever of a non-management-approved individual getting onto governing bodies (other than a student representative).

It is inherently risky to have the governing body (which is supposed to hold senior managers to account) to be effectively appointed by senior managers. A simple example of how this model fails the wider university community is the extent to which the almost
universal dismay at the constant inflation-busting salary increases of senior management staff cannot express itself as any form of governance-driven restraint on pay settlements. The more substantial risk is that there is a real reason to worry that a determined senior management team can force through extremely radical and irreversible changes to a university and there is little or nothing that staff, students or other stakeholders can do to moderate those decisions.

This model is recent and a result of two decades of increasing centralisation and control within the Scottish university sector. In the recent past governing bodies were more independent and able to hold managers to account. Few believe this to be the case now. It is simply bad practice to allow administrators this degree of control over those who should be holding them to account.

Some basic principles

Common Weal believes that the days of governance by self-selecting elites without any democratic element and with little or no attempt to reflect diversity should be coming to an end. If you look at the profile of those who populate governing bodies you will find little reflection of diversity. It is extremely unlikely that any will be from low-pay sectors of the economy. The vast majority will be made up of very senior figures from the professions. They will often know each other and be in social circles together. There will be little or no transparency in their recruitment and no opportunity for groups other than senior management teams to nominate or recommend people who should be appointed. Voices representing students or staff are likely to be in very small minorities and in some cases are required to leave during certain decisions. ‘Controversial’ decision (such as the appointment of a new principal or the setting of principals' salaries) will be handled in a small subcommittee, narrowing further the diversity of people making the decision and reducing substantially the already low level of transparency. All of this is defended in precisely the same way that other elite social groups defend their positions – that this is all necessary to ensure that the ‘right’ people are appointed. The definition of ‘right’ is not up for discussion.

That a big and essential public institution in 21st century Scotland should be run almost entirely divorced from principles of stakeholder representation, democratic accountability, reflection of social diversity and expectation of transparency is clearly anomalous. Common Weal believes that these principles ought to underpin the governance of all public institutions – and certainly public institutions of the size and importance of universities.

Solution

Common Weal would favour wholly-elected governing bodies of universities (a model used in other successful university sectors). Democratic elections to court would provide a forum for wide and participatory debate and discussion about the purpose, future and strategy of a university. It would inject fresh and diverse thinking into institutions which have been governed by small elites – who in 2015 really believes that only people on very high salaries have something to bring to the administration of the public realm? Debate and discussion is healthy and should be supported. People elected to govern institutions can be expected to carry out that duty with every bit as much commitment, skill and dedication as those appointed by senior managers. Requiring universities to at least have
an election and debate in selecting the chairs of governing bodies is an important start (though it is a very modest proposal). Universities have complained that this is some kind of interference with their ‘autonomy’. However, billions of pounds of public money are given to universities and it is entirely reasonable that the public should wish to be assured that the governance arrangements in an institution are sufficient to safeguard the use of that money. An alternative means of doing this would be to apply conditions to the grant given to universities – if they wish to receive public money then they would be required to have at least a democratic element to their governance. Universities would then be free to exert their autonomy and choose not to accept grants of public money.

Some arguments

The following arguments against reform have been put forward but do not appear to stack up:

- **This breaches academic freedom.** Academics freedom is the protection of academics from politicians – and senior managers. This is generally viewed as an era which has seen greatly increased management interference in the work of academics. There is a good case for an inquiry to see if there really is a threat to academic freedom from management practice. Institutional autonomy (the right for universities to act free from external influence) has nothing to do with academic freedom and the deliberate conflation of these completely different concepts should be challenged.

- **You can’t let trade unions onto governing bodies.** This claim is remarkable. Across most of Europe, having employee representatives on governing bodies is standard in the private sector never mind the public realm (it is legally mandatory in many). Good managers recognise that having staff involvement in governance is essential to effective management of an institution (this has been shown many times in research). It is difficult to comprehend why the universities oppose this.

- **This will prevent universities taking radical decisions quickly.** Good governance will support good ideas and implement them quickly. But it will give proper time and consideration to risky decisions. Universities appear to be arguing either that their existing governance simply rubber-stamps their decisions or that democratic governance is inherently bad. Either of these claims should be examined very carefully.

- **It will put ‘good people’ off.** Almost every element of this statement gives great reason for concern. The assumption that only management teams are capable of identifying 'good people', that only wealthy professionals can be considered 'good people', that democratic elections cannot select 'good people', that self-selecting elites are the only true 'meritocracy' – it is rare to hear these kind of 19th century attitudes in the modern world.

- **It will mean the end of rectors.** It is difficult to see why electing a chair of court would prevent the existing limited cases where staff and students can elect a chair of court. There is a good case for creating the role of 'rector' in every university and to make this the title of the chair of court.

- **This is anti-democratic.** Perhaps the most remarkable claim of all – it is simply impossible to engage with the argument that some democracy is less democratic than no democracy.

Conclusion
Universities and university principals have a freedom to act independently and autonomously which is probably unmatched in any institution or organisation that receives anything like the level of public funding they receive. The unbalanced nature of the aggressive lobbying campaign that the universities have run against this very modest proposal (effectively using public money to run that campaign) shows how little restraint can be placed on them. We do not believe this position reflects the majority of views in the university sector – yet neither managements nor governing bodies have any requirement to do so much as have even a cursory consultation with the wider university community. If the principles which underpin university governance do not include democracy, diversity, representativeness and transparency, then what principles drive the oversight of universities?

The democratic university – run by and for its staff, learners and other stakeholders – should be the ultimate aim. This Bill is a first step in that direction and really must be supported.

Robin McAlpine
Director, Common Weal