Submission from Dr Andrew Craig

Dear Sir

Comments on the Higher Education Governance (Scotland) Bill

I am writing to express my opposition to the intent and the content of the Higher Education Governance (Scotland) Bill and to record my hope that it will be withdrawn.

Through years of consultancy practice, I am experienced in advising on governance in the public, private and third-sectors. Having reviewed the draft legislation and explanatory information, I am not persuaded that the Bill is needed in order to improve governance in Scotland’s higher education institutions. If it is implemented it is likely to be unwieldly and costly in practice for little benefit. More importantly, it is likely to have perverse impacts on the distinct profiles of Scotland’s HE institutions, particularly the internationally attractive ancient foundations. Enforced governance uniformity would place some of the country’s most valuable international educational assets at risk of continuing to attract high levels of inward research investment and internationally diverse students and staff. To take just one example, St Andrews University calculates that it delivers £12 benefit to the economy for every £1 received in government funding.

It is a misunderstanding of good governance to assume that it always implies consistency and identical processes as the Bill intends. Consistency for the sake of mere bureaucratic neatness is not a virtue. One size does not fit all where governance is concerned. On the contrary, with institutions having widely varying historical patterns of evolution and unique characteristics, what is needed is flexibility around common principles of governance linking all Scotland’s HE institutions. These principles can then be expressed and complied with in individual ways.

The Scottish HE sector is fortunate in already having this set of common principles in the Scottish Code of Higher Education Governance (2013). The most recent review demonstrated good progress in implementation and the next review in 2016 will no doubt show even more progress. As compliance is a condition of funding from the Scottish Funding Council, there is a clear link in place already between good governance and resourcing which is open to scrutiny. This is the framework that is needed to achieve good governance objectives rather than the proposed legislation. The Code has all the scope that is needed for being developed further while retaining the unique characteristics and diversity of the individual HEIs.

Having been an undergraduate at St Andrews University and a PhD research student at Edinburgh University, I know at first hand the tremendous benefit that direct election of the Rector as chair of the University Court (governing body) can have. In recent years the individuals who have been elected to those offices have been very able in attracting both participation from within the institutions and public interest and support from the Scottish and wider world public. This is a significant asset that must not be tossed aside. It would be a pointless loss if the institution of
elected Rectors at the ancient universities were lost in seeking an homogenised election process for chairs of HEI governing bodies. In addition, proceeding as the Bill proposes in adding trade union representatives to the governing body also risks compromising the legal role of all governing body members as charity trustees. Another perverse consequence.

I am aware of the negative response to the Bill from the Royal Society of Edinburgh. Having reviewed the RSE’s advice paper on the Bill, I agree with the detail of their criticisms and their conclusion that the Bill is unnecessary. Legislation of this sort needs to address a clearly defined problem. This Bill fails to identify the problem to which it purports to be the remedy. There is no evidence that such a problem even exists. The Bill does not make out a case to answer in terms of governance deficiencies in the Scottish HE sector.

In light of the above, I strongly urge the Scottish Government to reconsider and to withdraw this Bill. I have no objections to this response being published.

Yours faithfully

Dr Andrew Craig