Edinburgh University Students’ Association’s (EUSA) submission

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

Many current higher education governance structures are outdated, lack transparency and are unrepresentative of the university community. Higher education institutions are publicly funded and exist to serve the interests of their students, staff and society, yet even most students know very little about their university’s governance. Governance structures and decision making processes need to be clearer and student and staff representation must be stronger. Whilst some students’ associations enjoy good representation on governing bodies this is not the case at all institutions. The Bill is an opportunity to improve higher education governance, to provide consistency across the sector and to make institutions more transparent, representative and democratic.

2. The extent to which the Bill
(a) will improve higher education governance, particularly in the areas above
(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

We believe that the provisions in the Bill relating to elected chairs and membership of governing bodies will help to improve representation and accountability in higher education governance. Whilst The Scottish Code of Good Governance has begun to have a positive impact on institutions, legislation will ensure that there is consistency across the sector and that all institutions have governance structures that are transparent, representative and democratic. However, we believe that the Bill could go further, particularly in relation to the regulation of senior management pay.

The Bill provides an opportunity to ensure that principals’ pay is set more transparently. There should be measures to ensure that any pay increases received by Principals are fairly proportioned to other members of staff, and that principals and senior managers should be placed on the same pay scale as other members of staff. We also believe that there should be guaranteed student, staff and trade union representation on remuneration committees to ensure that senior staff pay is set by elected representatives of the university community.

We are concerned about the potential for adverse secondary legislation in section 8 of the Bill, namely the Scottish Ministers’ ‘power to modify’ the ‘categories of membership’ of the governing body. We concede that some fears around the potential for secondary legislation are overblown; however we are worried by the possibility of future Ministers negatively
modifying aspects of this legislation we fully support, namely student, staff and trade union representation.

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

Many institutions are making good progress in improving the way that they are governed following the introduction of The Scottish Code of Good Higher Education Governance. However, the Code is not mandatory. The Bill provides a welcome opportunity to enshrine into legislation aspects of the Code, such as appropriate representation on university courts.

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

EUSA supports free elections of chairs, open to all staff and students, of university governing bodies, specifically the university court. The University of Edinburgh is one of five institutions that already have an elected chair of its highest governing body, through the role of Rector. The existing processes used by institutions for electing the role of Rector are a good example of how all chairs of governing bodies could be elected. As well as chairing Court this is an important role in representing students and staff to the University. New legislation should take into account the existing role of Rector within these universities and ensure that this role is not undermined.

The chairs of university governing bodies should be openly elected by students and staff and this process should not involve a selection process or panel prior to election. An internal shortlisting process could contradict the election of chair and rule out potential candidates preferred by staff and students. Chairs should come from a diverse range of backgrounds. If only one candidate is shortlisted then staff and students are simply ratifying that candidate rather than having a true democratic say. We believe that this is not the most transparent or democratic way to appoint chairs, and therefore, contradicts the purpose of the Bill. However, if a shortlisting and interviewing process is implemented then it is crucial that students and staff are involved in this and that the selection panel is gender balanced.

- 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

EUSA strongly supports the proposals which relate to the membership and composition of governing bodies and academic boards. These should help to provide consistency across the sector. We particularly welcome the proposal to require governing bodies to reserve two places for student representatives nominated by students’ associations and for academic boards to include student representation. It is crucial that bodies making decisions on behalf
of members of the institution are made up of representatives from that membership. We also support the provision for two elected staff representatives on governing boards. Students and staff are a vital part of our HE institutions and must be a part of the decision-making process.

In addition to having representation on university governing bodies we believe that students and staff should be represented on other university decision-making bodies and all committees that work to the governing board. This would increase transparency and democracy. We particularly believe that students and staff should have reserved seats on remuneration committees.

It is crucial that students who sit on governing bodies receive thorough training to enable them to participate and contribute confidently and meaningfully. EUSA’s student officers are well trained and involved in the University’s governing structures, but it is important that similar standards are in place across all institutions.

Furthermore, we believe that the membership of governing bodies should be representative of our diverse society. The Review of Higher Education Governance in Scotland recommended that each governing body should be required to ensure that at least 40% of its membership is female, as well as reflective of the diversity of society more widely.\(^1\) The Code of Good Governance makes recommendations relating to this but has not resolved the issue of women’s underrepresentation in higher education governance. We believe that the Scottish Government should demand the power to legislate on gender quotas for public bodies. Legislation should require 50% women representation on all boards of public institutions. Work should also be done to ensure better representation of other underrepresented groups such as those from Black and Minority Ethnic backgrounds. Furthermore, we believe that institutions should be encouraged to collect equal opportunities information from members and make publicly available the demographic makeup of their governing bodies.

7. Are the situations in which relevant persons can exercise their academic freedom clear? For example, should their freedom be limited to their work within an institution, as opposed to views they may express outwith the institution?”

We welcome the proposals and think it is key that academics retain protection to express their views, regardless of how controversial, both within and outside of the institution.

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