Higher Education Governance (Scotland) Bill

Call for Evidence by Education and Culture Committee

Submission by Fife Council

Fife Council welcomes and endorses the Bill’s aim to make university governance structures more transparent, accountable and inclusive.

However, it has some concerns relating to the threat to the autonomy of universities and the practical challenges posed by the legislation as detailed below.

Q2 (b) and (c) Higher Education Sector's current level of autonomy & lines of accountability

The Council is concerned about the power the Bill gives to Scottish Government Ministers to make future changes to both the appointment of chairs and to the composition of governing bodies through secondary legislation, without the safeguard of full parliamentary scrutiny.

The new degree of Ministerial control and political influence over how universities function introduced by the Bill threatens the autonomy and independence of universities. In turn this could threaten the ability of universities to ensure academic freedom and act as sources of independent thinking, restricting universities’ ability to offer analysis and comment without fear or favour. This could risk universities’ academic standing in an increasingly competitive international environment and thereby reduce the benefits they currently bring to the Scottish economy.

Q3 Other Measures Needed

There is a need for the introduction of parliamentary scrutiny to safeguard the autonomy of universities. Sections 1, 8 and 13 of the Bill allow Ministers to enable future changes to the composition of governing bodies through secondary legislation. Section 14 of the Bill also gives Ministers an open-ended power to ‘make different provision for different purposes’. All of these should be properly exercised by Parliament through primary legislation.

Q4 a) Appointment of Chairs to Governing Bodies

The current HE Code of Governance already requires the chair of a university’s governing body to be appointed through a transparent process, following open advertisement, and sets limits on the period of appointment. It is unclear how appointing the chair through an election between competing candidates or by a wider electorate than the governing body itself, would deliver better governance.

The suggestion that Scottish Ministers should be able to set through Regulations the criteria for selection of a chair introduces a new degree of political control and influence.
Specifically for the University of St Andrews, it is unclear what role the Government sees for the University’s Rector who is already elected by the entire student body and whose function is to preside over the current University Court. The consequence of the legislation would be to reduce this ancient tradition to a purely ceremonial role.

**Q4b) Requirement to include various persons within the membership of their governing bodies**

Currently members of the University of St Andrews' Court are trustees of a charitable foundation and, as such, act in the interest of the University as a whole rather than particular interest groups. Having members nominated by particular interest groups could place the individuals concerned in a difficult position.

The legislation also poses major practical challenges for HEIs. At the University of St Andrews, for example, fitting in the requirement for the composition of governing bodies with existing statute and ordinance prescribing the composition of the current Court will be problematic and time-consuming.

The power given to Ministers under section 8 to make further changes to the composition of governing bodies without the safeguard of full Parliamentary scrutiny introduces an additional level of potential political control that runs directly counter to the assurance given in the Consultation document that ‘*The Scottish Government does not want to increase Ministerial control over universities*’.