Submission from Mr Ian Johnson

I am grateful to the Scottish Government for the opportunity to participate in the consultation on the Higher Education (Governance) Scotland Bill. I am neither employed by a Higher Education Institution (HEI) nor am I a member of one of their governing bodies, but with degrees from two separate Scottish universities I have a personal interest in that sector.

I welcome the moves that there have been in recent years to increase accountability and transparency in public life, and hope that this will be taken forward in many other areas. From such a perspective I am concerned by a number of aspects of the Bill as published:

- If the public are asked to comment on proposed legislation, I would hope that the draft legislation gives a clear indication of how the Act will operate. However in this Bill a great deal of detail seems to be left in the hands of the appropriate Scottish Government minister to bring forward at a later stage. As a general rule I am deeply unhappy about Governments being given wide-ranging unspecified powers. If the detail is not available for public scrutiny or debate in Parliament when the billed is presented, then do not enact the legislation until it is available.

- The Higher Education sector is one of Scotland’s strengths. Within that sector a key element is that, even though the funding may come largely from public bodies, the institutions have autonomy from Government control and direction, operating within a loose legislative framework. I am concerned that in what is proposed the framework may be too tight, giving public authorities too much control over the way in which HEIs work – leading ultimately to a decline in the sector’s standing and role in the economy.

- As part of the move to greater accountability and transparency in public life, a key element has been encouraging the electorate to take ownership of their own future and to participate in elections. (Indeed this has been reflected in the Scottish Government’s own statements on the future structure of a Second Chamber at Westminster). The idea of ensuring that different ‘constituencies’ in the life of HEIs – such as staff, students – have an opportunity to be involved in the future planning and oversight of the university is entirely to be commended. Against this the notion of ‘nomination’ sounds decidedly archaic and anachronistic. The trend is to open election, not nomination! Why should a group like the trade unions be specifically represented? Why not other ‘special interest groups’ like single parents, LGBTI, people with special needs etc? If we believe in democracy then it must be democracy, with special interest groups taking the risk of facing the electorate.

- What is so special about the number ‘120’ that it should be the maximum size of a governing body? Different public bodies, such as Councils or even Parliaments, have differing sizes according to their needs. It may be that some institutions need larger academic bodies, others can manage with fewer. Can we not trust these able and well-qualified people to decide for themselves what they need? We so often hear in life generally that ‘one size does not fit all’. If we want Scotland to be a country where people are empowered to have a vision and to strive for it, then surely we need to allow people the freedom to take decisions for themselves – and not have their lives micro-managed by the Government?
• Some HEIs have their governing body chaired by a Rector. Students who have had the opportunity to elect Rectors have at times indulged in the ‘eccentric’ notions of youth and occasionally elected people who were not particularly conversant with the ins and outs of Higher Education management and oversight. But that’s democracy! That’s what happens when we allow young people to participate in elections. We may not like the results, but we must accept and respect them. (And any hint by a politician that the electorate cannot be trusted to choose an appropriate leader could be walking on very thin ice!)

• HEIs have traditionally been places where staff and students can explore, express, argue and debate, in freedom. It is a freedom that has at times been hard-won, and must be valued as there are many places around the world where such freedom is not available. In recent years freedom of expression has been a much-debated issue, not only in the context of HEIs but in the wider community, the media etc. We strive to be a liberal democracy, with freedom of expression – but when freedom of expression comes up against racism, incitement to hatred, abuse etc the question is asked “Do we need some restriction on such freedom?” Within the Western world we are still striving for the answer.

Within the academic sphere there are from time to time academics who put forward views on racial supremacy etc which, within the HEI academic context, should be capable of facing reasoned argument from colleagues. When does ‘academic freedom to debate your ideas’ turn into incitement to hatred, racism etc that breaks criminal laws or creates major offence? There may also be times when certain academics, whose views are widely out of line with the mainstream, wish to teach courses or conduct experiments that fly in the face of what the academic or wider community regard as ‘acceptable’ (Cf the ‘medical’ experiments conducted in Nazi Germany). Although such issues may be highly unusual, the existing phraseology on academic freedom allows HEIs to handle them much more easily than the proposed wording.

Ian Johnson