Submission from Pamela J Chesters

Dear Sirs

While I agree that a periodic review of the governance of any organisation or sector is desirable, I write to express my strong reservations about many of the proposed changes.

My concerns relate both to the lack of clarity about the perceived problems which the Bill is seeking to address and to the proposed "solutions". Good governance is essential if Scotland's higher education institutions are to play the optimal role they are capable of, not just in terms of education and research but also in the wider economic benefit they bring to the country as a whole.

This has the potential to be severely compromised if the arrangements for appointing the Chair, when published, are such that an appointment could be made which does not carry the unequivocal support of the clear majority of the voting members. Where this has occurred in other sectors, organisations almost invariably degenerate into introspection and internal, energy sapping debate. It is not clear how this logjam could then be resolved and such a situation might encourage some to assert that further intervention by the Scottish Government was appropriate notwithstanding statements already made by this Government confirming institutional autonomy. It is also not clear how universities can be assured that the changes ultimately put in place will be such that the very best candidates will be encouraged to put themselves forward (or indeed that this is the criteria against which the proposals will be judged).

As a very experienced public sector chair, I would also have concerns about prescribing the membership as proposed. Organisations need to be able to have a degree of flex to deal with circumstances as they may arise. While it is important that the voice of key stakeholders is present and has the opportunity to influence debate prior to decisions being made, it is the Court members acting collectively that take the organisation forward. Systems that require very large membership and/or encourage members to think they are simply there to represent the best interests of their particular constituency do not generally get the best outcome for the organisation as a whole.

Given the pressures on the public sector, the role of lay members in ensuring that the Court rises above the inevitable short term pressures and acts to secure and enhance the long term viability of the organisation, has never been more important. The proposed changes produce a very unwieldy group if lay members are to be in the majority.

Again it would be helpful to understand what exactly the deficiencies of the current system are perceived to be, and thus how these proposed changes rectify them.

The issue of academic freedom is one which is paramount if the institution is to fulfil its potential and indeed the Government itself suggests that it it is seeking to enhance this which is to be welcomed. However in the absence of a much clearer rationale behind the proposed changes in definition and wording, it is hard to be confident that the stated intention of the
current administration will be so interpreted by others relying on this legislation in the generations to come. Consequently I would oppose this unless a much clearer proposition is brought forward.

I accept the role of Rector is in one sense unusual - but would highlight it is a role that works and the selection and support of “their Rector” has encouraged students over the generations to engage, and feel engaged, in the University's governance. (I write here as a former Rector's Assessor.) At a time when we are encouraging young people to participate in the democratic process it seems bizarre to be considering the removal of an institution which contributes to this broad engagement.

Finally on a technical point, if the Bill is to give increased powers to Ministers to address issues of governance through Regulation, then I think this would further diminish confidence that these important matters, which could have major impact on the long term success of the institutions, and consequently the country as a whole, will be subject to full Parliamentary scrutiny. The level of interest shown in this whole debate surely underscores the importance of operating through legislation and not regulation so that all voices can be heard in Parliament and proper scrutiny can take place.

I hope these comments assist in the consideration of these issues and would repeat in conclusion, far greater clarity on the problems the proposed legislation is trying to fix and how the proposed solutions can be shown to be the best options to address them is necessary if the legislation is to carry public confidence.

Yours faithfully

Pamela J Chesters CBE