I would like to comment on one particular aspect of the proposed Bill, namely the removal of the explicit statement that the Academic Board of each University will remain the final arbiter on academic matters.

Especially in the old universities of Scotland, Senate (the Academic Board) has served as an essential regulatory authority in all matters relating to the academic core activities of each university, as prescribed in legislation going back more than 150 years, and inherent in the old universities even longer than that. To have final authority in academic matters taken away from the Academic Board would substantially undermine the academic integrity and strength of each university. The impact of such a measure should not be underestimated: the vitality and development of a university depends to a large extent on the ability of its academic community to directly influence decision-making on educational and research matters. The Court or Governing Body is not equipped to deal on its own with academic policy at this level. If the Governing Body is given final and absolute authority over all aspects of university governance, fundamental and long-term academic judgment would undoubtedly be marginalised by managerial interests.

This is not a worst-case scenario, but a real and present risk, clearly demonstrated already for example at the University of Glasgow. There, Senate (the Academic Board) has worked with Court, in constructive partnership often involving protracted negotiations, to find solutions acceptable to both the academic and managerial interests of the University. As in modern democratic governments, having a separation of powers is not only beneficial, but essential, and ensures a measure of accountability and consensus without which government would loose all credibility. Universities, too, are very complex institutions with major academic, financial and public responsibilities which can sometimes appear to be difficult to reconcile. To have final and arbitrary power located solely in the Governing Body, many of whose members by their own admission are not aware of the full academic implications of some of their decisions, would risk damaging Scottish universities permanently.

The explanation for the removal of this part of the legislation, as offered in the accompanying Policy Memorandum, is wholly inadequate. To change the whole governance of Scotland's leading academic institutions merely in order to comply with OSCR guidelines, which are naturally designed for all kinds of charitable bodies, is totally unacceptable and absurd. It would surely not be difficult to devise a simple exclusion clause, exempting universities from this particular part of the Charities and Trustees Investment (Scotland) Act of 2005. I totally accept that Scottish Universities do need to comply absolutely with the requirements of their charitable status (which is very important) - but to make one particular detail of Charity regulation the reason for changing the fundamental balance of good governance in all of the Scottish universities would be a disastrous misapplication of this regulation, way beyond its original intent and purpose.

I sincerely hope the HE Governance (Scotland) Bill will be amended, to ensure that the Academic Board of each of Scotland's great universities will continue to have final authority in all academic matters. This is essential for their future strength, and for the well-being of research and higher education teaching in Scotland.

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