Higher Education Governance (Scotland) Bill – Voice Scotland response

Q1 – What do you consider to be the existing problems (if any) with higher education governance, particularly around modernity, inclusion and accountability?

Many of the current governance structures developed historically during times when democratic accountability was less prized as a feature of public life, so this aspect of governance tends to be underdeveloped, particularly in terms of inclusion, diversity and representativeness. Although the new Scottish Code of Good Higher Education Governance has led to some significant improvements, such improvements are patchy across the sector as they lack the force of law which the current proposals would address. As current governance structures sometimes embody outmoded conceptions (particularly as regards composition), this can lead to decisions which are more management-led rather than in the interests of the whole collegiate community. Sometimes, the over-representation of management and business interests can lead to strategic decisions being taken which emphasise commercial and administrative interests over academic and educational priorities, and the lack of democratic accountability often means that such decisions are difficult to question or influence. Recent examples would include cutting courses, closing down departments, targeting particular faculties for staffing reductions, and awarding disproportionate pay rises to higher management personnel at the expense of the wider workforce.

Q2(a) – The extent to which the Bill will improve higher education governance, particularly in the areas above.

Voice Scotland welcomes the move towards the appointment of elected chairs as a matter of principle for all HEI governing bodies and the transparency and accountability this achieves. A good balance is also achieved in ensuring an increased voice for staff and students on those bodies. In terms of the selection of chairs, we submit that this detail should have formed part of the Bill; we look forward to having sight of the draft regulations from Ministers in due course.

The Bill appears to make what may be an impractical distinction between academic and support staff (requiring one person to be appointed from a trade union representing academic staff, and another from a union representing support staff). As many of the relevant trade unions (including Voice Scotland) represent all categories of staff, such a distinction may be difficult (and irrelevant) to implement in practice. Also, some aspects of the Bill are too vague to comment on intelligently – e.g. the reference to the development of “as consensual a model for elected chairs as possible” allows for no insight into how elections would be run or even who would make up the electorate.

It is submitted that votes should reflect the individual students and staff members of the institution. It is submitted that it would be difficult to set boundaries on who externally should be entitled to vote and conflict of interest issues would potentially arise. Voice Scotland are therefore of the view that voting rights are best restricted to those internal to the institution to ensure transparency and clarity.

It is submitted that it would be appropriate for the “staff-side” of the Board to be comprised of staff representatives on a pro-rata basis to reflect trade union membership levels, to ensure that this accurately reflects the staff body represented.

Q2(b) – The extent to which the Bill may alter the higher education sector’s current level of autonomy.

As public institutions receiving funding from the public purse, it is only right that open, transparent and accountable governance processes are in place.

Whilst there is always a risk that an increase in statutory obligations may reduce organisational autonomy, autonomy is not an end in itself and there is no merit in preserving antiquated arrangements which disenfranchise large sections of the academic community in inscrutable and undemocratic ways for the sake of defending autonomy. Any kind of accountability limits autonomy, but justifiably so, especially when it is recognised that the higher education sector is funded by so much public money. If the proposed legislation succeeds in making governance more democratic,
accountable and transparent, this should help to maintain autonomy by removing the need for Ministers to intervene directly in the decision-making processes of universities.

Q2(c) – The extent to which the Bill may affect lines of accountability…

Answered in 2(b) above.

Q3 – Has the correct balance been struck between legislative and non-legislative measures? Are any further measures needed?

A combination of legislative and non-legislative measures, in order to ensure change occurs and to support that change through guidance measures, is appropriate. With regards to the Scottish Code of Good Higher Education Governance, which was introduced in 2013, care should be taken to ensure that any changes to practice within institutions under that code which are better than that demanded under the terms of the legislation are not reversed in order to meet the requirements of that legislation.

Q4 – The Bill proposes a number of specific changes…provide your views on the merit of each of these proposals.

The proposal to require chairs to be appointed according to a process yet to be set out in regulations is difficult to respond to (see response to 2a above). The detail should be part of the Bill. We agree with the proposal to require HEIs to include both student and trade union governors, but some of the detail may need amending or clarifying for the purposes of practical implementation (see response to 2a above). We agree with the general thrust of the proposals for the composition of academic boards although, whilst we are aware that currently some of the more ancient universities have up to 120 members on their academic boards, this cannot make for effective decision-making; therefore, if it is thought necessary to specify a maximum size, a more optimal number should be given – otherwise, it may be better left unspecified.

Q5 – The likely practical effect of these provisions…

Enhancing accountability and inclusion is likely to lead to more effective decision-making, which can be expected to have positive benefits for all aspects of a university’s operations, including teaching, learning and research.

Q6 – Are there likely to be any significant constraints…on academic freedom…?

There are many constraints on academic freedom. Some of these constraints may be more imaginary than real, although people will act on their perceptions, so both real and imaginary constraints may have equal influence. Constraints such as organisational ethos, hierarchical management, performance appraisal structures, media pressure and security of tenure may all have an effect, which is why it is important to strengthen academic freedom and safeguard it in law.

Q7 – Are there situations in which relevant persons can exercise their academic freedom clear…?

Academic freedom should not be limited to specific work roles, as academics often have wider public profiles and so may be called upon to express views outwith the institution.