The Higher Education Governance (Scotland) Bill is a measure designed by the Scottish Government to implement some key proposals from the Review of Higher Education Governance that I chaired and which reported in January 2012.

For the avoidance of any doubt, I remain committed to the proposals my panel made in 2012, and I am of the view that the substantive intentions of the Bill are appropriate and timely. It remains important that governance is open, transparent and inclusive, while also being effective and capable of supporting the educational, scholarly and material aspirations of Scotland's universities. This was the balance we were aiming to strike in our proposals.

The Code of Good Governance drafted under the direction of the Committee of Scottish Chairs marked an important improvement in governance arrangements. This did however still leave some issues to be addressed, which by their nature would require legislation to be implemented.

In terms of the method of implementation chosen in the Bill, it is my view that it would be preferable for Parliament to legislate directly for the key measures proposed, including the appointment/election of governing body chairs, rather than to leave the implementation to ministerial regulations; this particular method would create uncertainty about future governance and could be seen as compromising institutional autonomy. As other submissions will rightly have emphasized, it remains vital that universities are not classified as state bodies and do not have their charitable status compromised.

The key substantive aims of the Bill are however sound. The arguments for the reforms are set out in my governance review, and it is not perhaps necessary for me to rehearse them again here. I remain committed in particular to the need for a more inclusive approach to appointing governing body chairs. This is needed in part to avoid the impression that governing bodies are not accountable to anyone other than themselves, which could be said to be the current position. This places them in a very different position from other non-state bodies – company boards for example are accountable to shareholders and can be removed by them; there is no equivalent (or any) stakeholder group to which governing bodies of universities are accountable. Direct accountability of universities to government would be inappropriate, so that the method we recommended would be the best solution and in line with the principles of the ‘democratic intellect’.
I accept that it is necessary for a governing body to have confidence in its chair. To secure this, we recommended that there would be an open recruitment and selection process run by the governing body, which would include interviews and shortlisting. This would ensure that all those presenting themselves for election would have the confidence of the governing body.

It is to be hoped that these reforms can take place against a backdrop of constructive dialogue, with a recognition of the importance of institutional autonomy and integrity, but also a recognition that universities must be able to work with the support and engagement of the wider stakeholder community. I should perhaps emphasise that the proposals of 2012 were not directed specifically again governing bodies as they were then operating, and my own personal experience with governors and chairs has been excellent. But it is important that the system carries public confidence and secures stakeholder engagement.