The University of Aberdeen welcomes the opportunity to submit to the Finance Committee its comments on the Higher Education Governance (Scotland) Bill. Our responses to the Committee’s questions are provided below, however, the issues we would highlight as being of particular importance are, as follows:

1) **Loss of Charitable Status and/or ONS Reclassification**

The University is concerned that the Bill proposes Ministers taking significant new powers over the governance of institutions which will fundamentally reduce the current level of institutional autonomy. The University intends to make a separate submission to the Education and Culture Committee to outline its specific concerns regarding the implications of the Bill in terms of the principle of the autonomy of universities and the specific changes to internal governance that are proposed. The University wishes, however, to highlight to the Finance Committee its significant concern that should the Bill progress in its current form, the addition of significant new Ministerial powers over the governance of Universities could result in the loss of charitable status and/or Office of National Statistics (ONS) reclassification as a public sector body.

1.1 *Loss of Charitable Status*: The University is concerned that the consequences of the Bill, in particular the addition of Ministerial powers over internal governance, could lead to the loss of charitable status. Our charitable status is of fundamental importance to our ability to attract funding and philanthropic support. The loss of that status would have major and far reaching consequences for the future sustainability of the University.

1.2 *ONS Reclassification as a Public Sector Body*: The University is aware of the problems which arose following reform of the Scottish Further Education sector with Colleges being reclassified as public sector bodies by the ONS due to the increased powers given to Ministers in the Post-16 Education (Scotland) Act. Given the increased powers to Ministers that are proposed in this Bill, the University is concerned that a similar reclassification of higher education institutions could take place. Such a reclassification could result in higher education institutions being unable to retain surpluses, remove our ability to borrow to invest in the modernisation of our facilities for students and staff, which would be disastrous for universities. It would cause significant damage to our ability to work with business and our role in driving innovation and supporting the economic growth of Scotland. It would also potentially remove philanthropy as an income stream as donors generally do not tend to give to government bodies.

2) **Remuneration of Chairs: Underestimation of Time Commitment**

The Financial Memorandum significantly underestimates the amount of time that is required of the Chair of a University governing body. The University estimates the time commitment required to be approximately 50 days a year rather than 6 days.
**Consultation**

1. *Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?*

   Yes. The Consultation did not, however, outline in detail the potential costs of proposals.

2. *If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?*

   Not applicable.

3. *Did you have sufficient time to contribute to the consultation exercise?*

   Yes.

**Costs**

4. *If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.*

   Advertisement of Chairs: The University already routinely advertises the position of Senior Governor (Chairperson) and other vacancies for independent members. The Financial Memorandum states (page 16) that the costs of external advertising range from “£750 to £2,000.” The cost to the University of Aberdeen of advertising a position for an independent member in a national UK newspaper in January 2015 was £6,000. We would, therefore, suggest that £2,000 would be the minimum estimate of cost of such external advertising in the media rather than the maximum.

   Appointment of Chair by Election: The Financial Memorandum notes (page 17) that it has assumed that the costs of running a ballot will not be significant if the electorate are confined to staff or students of an institution. We would emphasise, however, that the cost of running election will very much depend on who the electorate is and if it were to be extended to other parties that would incur potentially much more significant costs to institutions, particularly where data had to be gathered and/or only postal communication was possible. It may also be helpful to note that the cost incurred by the University of Aberdeen in running an election to Court for representatives of its General Council (Alumni) is approximately £30k. This does not include the cost of staff time.

   Provision of Reasonable Remuneration to Chair of Governing Body: The Financial Memorandum’s estimate of the cost of remunerating assumes (page 17) that the time commitment expected of a Chair is six days a year which is based on
attendance at six meetings of the governing body a year. The University of Aberdeen considers this to significantly underestimate the time commitment required of Chairs the duties of which extend well beyond attending meetings of Court. The University of Aberdeen estimates that the time commitment of a Chair is around 50 days per year rather than six.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

See response to Q4.

6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

This depends on the detail of the Bill. However, the University would argue that any additional costs of compliance with the Bill should be met through public funds as part of recurrent funding provided by the Scottish Funding Council. This does not include any further financial implications arising from the Bill with regard to loss of charitable status or ONS reclassification which go significantly beyond the cost of compliance with the provisions of the Bill.

7. Does the FM accurately reflect the margins of uncertainty associated with the Bill’s estimated costs and with the timescales over which they would be expected to arise?

The Financial Memorandum does not provide us with assurance regarding the business critical issues of charitable status and ONS reclassification.

Wider Issues

8. Do you believe that the FM reasonably captures any costs associated with the Bill? If not, which other costs might be incurred and by whom?

As referred to above, the University is concerned that due to the extension of Ministerial powers over the governance of the University, the Bill will result in the loss of charitable status.

For the same reasons, the University is also concerned that the Bill will result in the reclassification of universities as public sector bodies by the ONS.

Either would have far reaching, fundamental and potentially hugely damaging consequences for the financial sustainability of the University. We consider these two questions should be key concerns for the Finance Committee in its scrutiny of the Bill.
9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

The Financial Memorandum has not referred to the cost of University staff time or legal fees that would be required to amend the University’s Ordinances, resolutions and other formal governance processes to comply with the Bill and to implement the consequential changes that would be required. We estimate this to be much greater than the figure of 2-3 days per legislative change referred to at paragraph 7 of the Memorandum which is cited with regard to Scottish Government officials’ time.