Dear Mr Hanson/Sir Edward Leigh,

Thank you for the recent invitation to attend the Committee session on the Higher Education and Research Bill held on 6 September. Unfortunately, due to Scottish Parliamentary commitments, I was unable to attend. I would be happy to consider any future invitation to appear before the Committee.

I thought it might be helpful to reflect on the engagement between the Scottish Government and the UK Government on this Bill to date. Overall, I have found the engagement to be productive, and I am grateful to Jo Johnson MP, the Minister of State for Universities, Science, Research and Innovation for that. Although focused on reform of arrangements in England, the Bill has relevance to, and impact on, the future of higher education and research in Scotland. Throughout our dialogue to date, my priority has been the interests of Scotland, its higher education sector, and its students.

On proposed creation of the Office for Students, and its ability to operate a new Teaching Excellence Framework, engagement between officials in both governments on this element of the Bill has been satisfactory. The Scottish Government is content for Scottish institutions to participate in TEF if that is a choice they wish to make. However, at the same time, I am clear that the current system of quality assurance in Scotland works. The Scottish Government and the higher education sector in Scotland fully support teaching excellence and value the well-established approach taken in Scotland to quality assessment involving students, institutions, the QAA in Scotland and the Scottish Funding Council. In parallel with work relevant to the Bill, there has been a great deal of discussion between my officials, UK government officials and the higher education sector in Scotland, in respect of development of the TEF. Chief among the issues addressed are its interplay with the Scottish system of quality enhancement and its ability to reflect the uniqueness of the Scottish context.

Although TEF is a UK Government policy, I am satisfied that, so far, Scottish interests have been considered, and the Scottish Government remains content to enable voluntary participation of Scottish institutions should they wish to participate. Recent correspondence from Mr Johnson has been helpful in this regard, offering as it does, more involvement by Scottish stakeholders in development of TEF.
In recent correspondence to Mr Johnson, I indicated that the Scottish Government was content, in principle, to support a legislative consent motion to address three key areas of the Higher Education and Research Bill. The three relevant areas are: TEF and involvement of institutions in the devolved governments; joint working between Research England, the Office for Students and Funding Councils in the devolved administrations; and funding of research.

However, I think there are still areas in the Bill as introduced, specifically related to the research architecture that would benefit from further consideration. I noted the evidence provided to the Committee on 7 September by John Kemp of the Scottish Funding Council, Alastair Sim of Universities Scotland and Professor Jonathan Seckl of the Royal Society of Edinburgh, and am supportive of the views expressed.

As emphasised at the evidence session, the Scottish quality assurance system is “a very collaborative system, which involves students very much at the heart of assessing whether quality and enhancement is what it should be”. We value this system and are committed to its retention and evolution.

Evidently, the higher education sector in Scotland is “very keen for TEF to recognise the differences in the Scottish system, to recognise the equivalent but different nature of what we do and maybe celebrate that and incorporate the best of the best”. The Scottish Government is supportive of this view and I will be happy to work with the UK Government to determine how this might be achieved in practice.

Mr Kemp and Mr Sim highlighted concerns in relation to the proposed new research infrastructure and the challenges and risks of establishing a hybrid body with both England-only and UK responsibilities. I recognise the concerns expressed. Mr Sim suggested how this might be addressed through possible amendments to the Bill.

My officials have also suggested a number of potential areas of amendment to the Bill with the potential to address the issues raised by Mr Kemp and Mr Sim at the Committee. These are intended to ensure that there are no unintended consequences for research and innovation policy in Scotland while taking the opportunity of new legislation to improve the current system and to clarify some aspects where appropriate. In this context, I would wish to ensure that the new body, UK Research and Innovation (UKRI), takes a proportionate and appropriate approach across the UK, including in Scotland, consistent with that described by Sir Paul Nurse.

As you know, Sir Paul Nurse noted in his Review that “there is a need to solicit and respond to distinct research priorities and evidence requirements identified by the devolved administrations...” He also noted that “it is essential that the Research Councils should play a strong role in ...... shaping research priorities and promoting the distinctive requirements of UK research, including in association with the devolved administrations.” I would suggest that the Board of UKRI, as well as the individual Research Councils and Innovate UK, should have experience and understanding of the research and innovation policy context and landscape across the whole of the UK, including in Scotland, in order to perform their functions effectively.

The White Paper “Higher Education: Success as a Knowledge Economy” noted that the Secretary of State (SoS) will set out funding flexibilities that the SoS will grant to the board of UKRI in respect of the transfer of funding between Councils – which would include Research England.
There is a potential tension around ensuring the integrity of the dual support system is protected while both funding streams are allocated to UKRI; one stream of competitive funding allocated through the Research Councils for the UK and the other through Research England, with the potential for flexibility across the funding streams. In contrast, the White Paper indicated that Innovate UK would retain its separate funding stream. This is not, however, set out on the face of the Bill.

The White Paper suggests that the UK Government intends to “strengthen the existing protections for the dual support system in England” through the Bill. However, the Bill does not address how the balance of funding allocated through competitive funding streams via the Research Councils and via Research England would be supported. The creation of UKRI provides an opportunity to support the Secretary of State in determining the appropriate balance through the provision of advice. The indirect consequences for Scotland of any decisions by the UK Government to change the balance of funding emphasise the importance of ensuring an effective input from Scotland (and from the other devolved administrations) to the governance of UKRI. Mr Sim also referred to this and suggested a possible “legislative firewall” was needed between UK and England-only functions.

As noted above, my officials have offered support to their counterparts in the UK in considering possible areas of amendments covering: the governance of UKRI, including membership, strategy and the Secretary of State’s direction and guidance; the administrative functions of UKRI across the UK; and protection of and clarity over the dual support system and integrity of its separate funding elements. These are set out in the annex to this letter.

I hope this is helpful. I have copied this letter to Mr Johnson MP, Mr Sim and Mr Kemp.

SHIRLEY-ANNE SOMERVILLE
ANNEX
HIGHER EDUCATION AND RESEARCH BILL: PROPOSED AREAS OF AMENDMENTS
RELEVANT TO RESEARCH PROVISIONS

**UKRI governance (membership, strategy, direction and guidance)**

- require the SoS to take account of the need for UKRI members to have experience of the different research and innovation policy and structural landscapes across the UK, including in the devolved administrations; and consults Scottish Ministers (and their equivalents in other devolved administrations) before appointing UKRI members (Schedule 9);

- impose a general duty on UKRI to ensure that it discharges its functions (clause 85) and develops its research and innovation strategy (clause 91) to take account of the different research and innovation policy and structural landscapes across the UK, including those in the devolved administrations; and that the Bill be amended to require the Secretary of State to consult and to take account of the views of Scottish Ministers (and their equivalents in other devolved administrations) before approving the UKRI’s research and innovation strategy; and

- impose a general duty on the SoS that, in issuing direction to UKRI (clause 94), to take account of the different research and innovation policy and structural landscapes across the UK, including those in the devolved administrations; and to consult and to take account of the views of Scottish Ministers (and their equivalents in other devolved administrations) prior to issuing direction to the UKRI.

**UKRI administrative functions**

- include a provision to allow UKRI to undertake activities jointly with or on behalf of other funding bodies across the UK; and for Research England to work jointly with its equivalent bodies (such as SFC) in the devolved administrations (for example, in relation to the Research Excellence Framework); and

- include a provision to give UKRI the power to provide other funding bodies (including SFC) in the rest of the UK with reserved UK funding for research (such as the UK Partnership Investment Fund currently distributed via HEFCE).

**Dual support system**

- define the “balanced funding principle” (clause 95) to ensure it can be measured in relation to the proportion of funding allocated by the SoS for reserved (UK) and for devolved (England only) funding and to provide clarity of when it might not be achieved;

- include a provision in the current Bill to ensure separate funding streams from the SoS to the Research Councils (collectively), to Innovate UK, and to Research England which are agreed annually by the UK Parliament on a transparent basis; and

- include a provision which does not permit any in-year virement of funding between the Research Councils (collectively), Innovate UK, and Research England.