



Australian Higher Education Accord Panel  
Department of Education

29 May 2023

Dear Professor O'Kane,

Thank you and the Higher Education Accord Panel for your continued engagement with the University Chancellors Council (UCC) on the consultation phase of the Accord process. Your participation at the UCC Plenary meeting on 20 April and your follow up letter of 2 May have provided welcome opportunities for the Chancellors to provide input to the Panel's thinking.

The UCC Executive has considered both the discussion that took place on 20 April and the questions raised in your letter and have provided comments here on the following matters:

1. Examples of how governing bodies ensure the integration of institutional values into tangible actions with demonstrable consequences.
2. The tensions between corporate and collegiate approaches to managing institutions, including whether views on this tension vary across institutions.
3. Further detail on how governing bodies approach determining their risk tolerances, including how risk tolerances are set across different aspects under the purview of the governing bodies.
4. What does good university governance look like?
5. Universities as good employers.
6. A national view: simplification and clarification of the sector.
7. Uniformity and diversity of the sector.

We look forward to further discussion and we are happy to provide further detail as required.

Best wishes

A handwritten signature in blue ink, appearing to read 'John Stanhope', is written over a light blue horizontal line.

John Stanhope AM  
**Convenor, University Chancellors Council**  
**Chancellor, Deakin University**



## **University Chancellors Council Response to Australian Higher Education Accord Panel further questions.**

### **1. Examples of how governing bodies ensure the integration of institutional values into tangible actions with demonstrable consequences.**

Explicit institutional values can be found in the legislation incorporating each of our universities, and as part of the mission statements and strategic plans that all governing bodies require of their institution.

For example, Federation University Australia has a strategic mission that includes a focus on regional Australia, and it demonstrates this through the establishment of a Future Regions Research Centre. The University of New England's commitment to its regional economy is manifested in its collaborative centre with the cotton industry, called *The Cotton Hub*. It also supports a Centre for Agribusiness.

In some instances, university functions relate to serving a particular geographical region or community. For example, under section 6(2) of the University of Canberra Act 1989, in the performance of its functions, the University must pay special attention to the needs of the Australian Capital Territory and the surrounding regions.

We could multiply these examples many times over and we suggest that 'institutional values' in the sense of commitments to external communities are readily demonstrated throughout the sector.

The Higher Education Standards Framework 2021 also embodies academic values, and the mere fact of re-registration by TEQSA after rigorous processes every seven years evidences the practical application of these values in the work of our universities.

Governing bodies have a key role in ensuring that our universities really live the values they espouse. In each instance, they review progress against strategic plan commitments, normally annually.

Governing bodies also take a keen interest in the results of staff surveys, which we return to below. Those surveys all ask questions about the university's values, whether they are being lived in practice and whether staff are aligned with them.

Finally, one of the features which attracts independent Council members to serve on governing bodies is the values-driven nature of universities. This is not an area they are likely to neglect.

### **2. The tensions between corporate and collegiate approaches to managing institutions including whether views on this tension vary across institutions**

The premise underlying this wording needs some examination; in particular whether "corporate" and "collegiate" are opposites of a kind where a university could take one approach to the exclusion of the other.

All of the universities that are members of the University Chancellors Council are bodies corporate established under state, territory or federal legislation. The Acts are framed differently, but governing bodies are charged with the oversight of the management of the university, in some instances have the "entire management" of the university directly assigned to them, which is then exercised through a Vice-Chancellor Chief Executive Officer and a power to delegate.

Examples include the Monash University Act 2009, s9(2)(b), with counterparts in other Victorian Acts, which provides that the University Council has the general direction and superintendence of the University; and the University of Canberra Act 1989 section 10(1), which provides that, subject to the Act and the Statutes, the Council has the entire management of the University.

Under the Higher Education Standards Framework 2021, 6.1.1 there must be a formally constituted governing body, which includes independent members, that exercises competent governance oversight of and is accountable for all of the higher education provider's operations in or from Australia, including accountability for the award of higher education qualifications, for continuing to meet the requirements of the Higher Education Standards Framework and for the provider's representation of itself.

There is no alternative, therefore, to a "corporate approach" to managing the institution in the sense that universities are corporations and their governing body has responsibility for their management.

We assume that your point is somewhat different and is perhaps about the extent to which "the collegium" - be that academic or professional staff, or perhaps even graduates and the wider community - participate in the setting of the institution's directions and influencing management decisions.

We would be pleased to provide the Panel with examples of the processes by which university strategic plans, and important subsidiary documents such as academic plans, have been developed. Often these involve consultations with hundreds or thousands of employees, staff and community members. There are town halls, surveys, suggestion boxes and numerous other mechanisms to enable input. Governing bodies, when approving strategic plans, satisfy themselves about the participatory processes that have been undertaken.

All governing bodies keep top of mind the vital roles of academic boards, and the functions that are properly bestowed upon them in their incorporating legislation. Chancellors place heavy reliance on the decisions of academic boards and on the views of the chairs of those boards. For example, the final decision to create a course or academic program rests with the governing body, but it assures itself that the Academic Board has explicitly considered the academic merits and integrity of the proposal, and would not seek to override that judgement, which has been arrived at following committee scrutiny and the collective input of academic staff members in the field.

The Higher Education Standards Framework also requires, at 5.1.2, that course approval and self-accreditation processes are overseen by peak institutional academic governance processes and they are applied consistently to all courses of study, before the courses are first offered and during re-approval or re-accreditation of the courses.

The Standards also require that mechanisms for competent academic governance and leadership of higher education provision and other academic activities have been implemented and these are operating according to an institutional academic governance policy framework and are effective in maintaining the quality of higher education offered. Students must have opportunities to participate in academic governance under the Standards.

Governing bodies are very aware and supportive of these requirements This point needs emphasising because it highlights the academic collegial approach that is deeply entrenched in our system. They are aware of their obligation under the Standards to take steps "to develop and maintain an institutional environment in which freedom of speech and academic freedom are upheld and protected, students and staff are treated equitably, the wellbeing of students and staff is

fostered, informed decision making by students is supported and students have opportunities to participate in the deliberative and decision-making processes of the higher education provider.”

However, to continue with the example of a new course, it is properly within the remit of a governing body to satisfy itself of the strategic and business case for the proposal: Does it align with the institution’s strategic directions. Will it be loss-making? Can it be sustained at a high level of quality? Are there specific risks to be considered?

Instances are rare, but no governing body would shy away from a decision that is within its remit and that relates to the best interests of the university.

Universities are large and complex organisations. Governing bodies have solemn responsibilities to safeguard substantial investments in them by taxpayers, students and their families, and also to protect the livelihoods of many employees. In exercising their responsibilities there is participation by staff and student members of the governing bodies, but it is for the governing body as a whole to discharge their statutory and fiduciary duties.

Finally on this issue is the question of performance monitoring. The Standards require governing bodies to monitor and if required correct under-performance. This is not a duty that can be delegated.

We do not doubt that there are practical differences between institutions in the way that the views of the academic community are taken into account. Due to the diverse nature of Australian universities: old and new, small and large, multi-campus, metro or regional focus; there can be no one-size-fits-all approach to how collegial views are gathered and considered.

The University Chancellors Council therefore does not accept that there is a "tension" between two available alternative approaches that somehow plays out differently from one institution to another. Rather, the basic corporate responsibility for management is assigned by legislation and the Higher Education Standards. That responsibility itself requires participation by staff and students. Tensions may be perceived when a governing body makes a decision that some in the academic community or student body disagree with, but sometimes there is no alternative and that is a different kind of tension.

We accept the need for good communication within an institution and with external stakeholders. No doubt this can always be improved in particular instances, but the UCC would not want to mislead the Panel into thinking that its duties of governance will be derogated from.

### **3. Further detail on how governing bodies approach determining their risk tolerances, including how risk tolerances are set across different aspects under the purview of the governing bodies.**

All of our institutions have risk management policies, plans, systems and processes designed to identify and mitigate the key operational and strategic risks that they face. Initial responsibility at governance level may be exercised by an Audit and Risk Management Committee, or equivalent, but governing bodies as a whole take this responsibility very seriously.

Under the Higher Education Standards there is a requirement that risks to higher education operations have been identified and material risks are being managed and mitigated effectively.

A typical approach is to assign an acceptable tolerance or appetite for risk issue by issue. For example, there would be zero tolerance of risk when it comes to the safety and security of staff, students and the general public. There may be variable levels of acceptable financial risk, however,

depending on the institution's context, current financial position and the potential rewards from an activity.

As Chancellors coming from diverse walks of life in commerce, government, the judiciary, defence and public service we are keenly aware of the risk environment of our institutions. If the panel would like examples of documentation that illustrates these points, we would be pleased to supply them.

You ask "how governing bodies approach" this task. Naturally, they receive the advice of executive management, but they also receive independent advice as appropriate. The Audit and Risk Management Committee is often the committee that contains independent, external members (not part of the governing body) to ensure there is sufficient informed, professional input into the process. Again, examples can be supplied.

In addition to this general approach to risk tolerance and appetite, some of the decisions that governing bodies make relate to new ventures such as major construction works or new campuses. These proposals would always be accompanied by a thorough business case and business plan, with risk a central feature. In many instances there has been external professional input into the assessment of that risk.

#### **4. What does good university governance look like?**

In addressing the three specific issues above we have also dealt with aspects of a bigger issue that the Panel raised with us; what best practice university governance looks like and how we know that it is in place. In 2018 in conjunction with Universities Australia the UCC endorsed the [Voluntary Code of Best Practice for Governance of Australian Public Universities](#). This document provides guidance on best practice governance for the sector, sitting alongside existing legislations and individual acts.

In our view, good governance begins with the people appointed. Governing bodies develop skills matrices and have composition and competency frameworks in place to help ensure that the people serving on them, complementing the staff and student members, can exercise their responsibilities at a high level. The staff and student members bring valuable insights into the institution. The Chair of Academic Board is a vital link to the academic community whose reports and perspectives are relied upon heavily, as mentioned above.

The task of ensuring the right composition is complicated in some parts of Australia where governments appoint some or all of the independent members. Those governments do consult with councils and senates in exercising this power of appointment, and no criticism of the appointees is intended here, but the UCC firmly believes that governing bodies themselves should appoint the independent members to ensure that the best possible people available can be attracted and the appropriate composition is achieved.

Governing bodies are obliged under the Standards at least every seven years to undertake independent reviews of their effectiveness and the effectiveness of academic governance processes. They are under a duty to consider the findings and ensure that agreed actions are implemented. In practice, these reviews are conducted much more frequently than seven years, with one common pattern being internal and external reviews in alternate years. Amongst other things, these provide regular occasions to take stock of the skills, competency and composition requirements and to ensure they are being met.

These points, together with our response to your three specific issues, amount in our view to best practice governance in a university context.

## 5. Universities as good employers

At the plenary meeting, the panel discussed with us whether universities are good employers and what that amounts to. We assert that they are, and that there is strong evidence to this effect.

Separate from the HR policies that TEQSA requires for registration as a university, governing bodies ensure that the full range of policies and processes are in place, covering, for example, whistleblowing, diversity, anti-bullying and non-discrimination.

Chancellors take very seriously the monitoring of executive management's performance as employers. Chancellors tend to have held senior positions in large organisations and know the importance of people and culture to institutional success.

Universities perform well in staff surveys when compared with the all-organisations averages. Universities have worked with the Workplace Gender Equality Agency to be selected as Employers of Choice for Women and its successor citation, Employer of Choice for Gender Equality, since those schemes began.

The UCC responds to this point in four parts exploring the following: wages, salaries and conditions; salary benchmarking; enterprise agreements and the ratio of professional staff to academic staff.

### Working terms and conditions

Best practice employment continues to evolve, but universities on the whole demonstrate significant benefits when compared to many private and public sector employers. Some of the conditions available both professional and academic staff employed by universities are described below:

- 17 per cent superannuation contributions
- recognition of prior service from other institutions (in certain circumstances) for calculation of long service leave
- accrued but untaken personal leave is transferable between Australian Higher Education Institutions
- fixed-term employees receive severance pay in certain circumstances
- salaries well-above minimum wage and modern awards
- payment of leave loading
- generous Paid Parental Leave
- payment of Primary Carer Leave
- Long service leave accrual is greater than what is prescribed by the *Long Service Leave Act 2018* (Vic)
- leave entitlements (e.g. Blood Donor Leave, Defence Force Leave, Emergency Services Leave, Sporting Leave, Special Leave, Ceremonial Leave, Religious Purposes Leave, Contesting Elections Leave, Arbitration Leave, Infectious Disease Leave and Repatriation Leave)
- recognition of an additional public holidays (i.e. Easter Tuesday)
- generous redundancy payments
- part-year employment opportunities
- flexible working conditions
- internal secondment opportunities
- Access to library facilities and databases (including newspaper subscriptions)
- 36.75 hour working week

- learning and development opportunities (year-round catalogue of a variety of professional development opportunities)
- access to discounted health insurance plans
- workplace giving
- onsite child care
- access to school holiday programs for school age children.

### Salary benchmarking

Most universities participate in the HR benchmarking exercise currently run annually by the Australian Higher Education Industrial Association; a process that has been organised since 2004, providing valuable time series data as well as helping share best practice. The staff surveys include aggregated data from other kinds of employers, which is a form of benchmarking.

In 2021, the UCC published the [Voluntary Australian Public Universities Vice-Chancellor and Senior Staff Remuneration Code](#), in which the UCC undertakes to conduct annual independent benchmarking of vice-chancellors and senior staff as a guide to governing bodies and their nominations and appointments committees.

### Enterprise agreements

The experience of incoming Chancellors has often been one of surprise at the length and complexity of enterprise agreements in higher education. There is clearly a movement under way to shorten and simplify these agreements, which we support.

We do not support the idea of a single agreement covering the university sector, nor anything like it. In our view, the circumstances of each university can be materially different. Their strategies can differ, their context and stage of development clearly differ. We support a diverse university system where differentiation is clear. This would be seriously undermined by the idea of a common agreement.

### The ratio of professional staff to academic staff

The Panel raised an issue with the UCC of why professional staff are a higher proportion of total employees in Australia than, say, in Europe. If this were to become a matter on which policy recommendations are to be made we would urge the Panel to engage with us further about the data on which they rely.

From our observation, there are material differences between university sectors around the world. One is the extent to which ministries of education continue to perform administrative functions of universities in some countries which are now fully devolved to institutions in Australia. Another is the extent of compliance and regulatory requirements that are imposed on Australian universities through overlapping jurisdictions of federal and state or territory governments.

In addition to compliance with the Federal Department of Education Skills and Employment requirements as a condition of funding, Australian universities are answerable to other Federal Government departments and agencies, not least TEQSA. State governments and Auditors-General have their own separate requirements. In addition, as universities are also public entities which are within, for example, Freedom of Information and Public Interest Disclosure legislation.

The recent phase of the sector's development has explicitly embraced competition between institutions as a spur to innovation and responsiveness. This has necessitated a focus on marketing and student attraction, which requires professional staffing.

There are no simple answers but our overall view is that professional staff levels are generally no higher than they realistically need to be. If unnecessary and duplicative compliance obligations are removed from the system, professional staffing levels will move further in the direction of academic staff. As Chancellors we would expect any increases in funding to go towards academic and research staffing levels.

## **6. A national view: simplification and clarification and the legislative responsibility for the sector**

In the UCC's original submission to the Panel we urged the need for simplification and clarification of the sector at both state and federal jurisdictions.

There are arguments both ways on a complex issue like this, and disentangling from one level of government or the other might entail a major program of legislative change. In any event, we recognise the historic and current legitimate interests of states and territories in the universities operating in their jurisdiction. We also recognise substantial contributions to research and capital programs by state and territory governments and by local industry.

Instead, and in the light of subsequent discussion with the Panel, we propose that a Ministerial Council be established covering all tertiary education, with appropriate expert advice and with a mission that includes clarifying, simplifying and removing duplication from the sector. All jurisdictions must be involved. The end product may or may not be a significant shift in actual legislative responsibility, but the main aims will have been achieved.

At present there is no Ministerial Council, although there is an Education Ministers' Meeting which, according to its website, has terms of reference covering the whole range of education from early childhood education and care, school education, higher education and international education. Crucially, vocational education and training matters are progressed separately through a Skills Ministers' meeting.

We stress that a new Ministerial Council must be properly advised, one reason being that ministers' tenure in this portfolio may not be long enough for a full command of the issues. The commission could be an advisory one, made up of experts who are fully across the data, understand higher education and research in its international as well as local context and who can focus on what the future holds.

As to the future, it is not fanciful to suggest that artificial intelligence and quantum computing, particularly in combination, will fundamentally change our world, and will pose challenges as well as opportunities for our universities. Expert advice to Ministers on policies that will help universities navigate what is potentially a major scientific revolution will be needed.

Alternatively, the commission could have regulatory and decision-making powers of the kind presently exercised by TEQSA.

The establishment of the Ministerial Council and a commission is likely to require Commonwealth legislation supported by the states in one of two ways:

- A referral of power to the Commonwealth to enact the law according to an agreed text - to the extent that the proposed law lies beyond Commonwealth powers. The referral would be subject to a condition that any amendments must be agreed by the Ministerial Council.
- A Commonwealth Act supported by complementary state and territory acts conferring the same functions on the Council and commission as does the Commonwealth Act.



The first option, a wholesale referral of powers to the Commonwealth by the states under section 51(37) of the Constitution to make laws with respect to higher education (and potentially vocational education) would give the Commonwealth legislative power at large but it would leave existing state laws unaffected unless and until the Commonwealth enacted a law inconsistent with a state law, which would then be inoperative to the extent of the inconsistency.

The UCC would be pleased to engage in more detailed discussion about how these measures might work in practice, noting that there are numerous possible models or versions of models, some of which are implemented in other higher education systems with which Australia has features in common.

The central point is that we need to embark on a long-term program to simplify and clarify tertiary education and ensure it is fit for the future. We need to harness all the talents, pointing in the same direction, and the combination of ministerial responsibility and expert advice is the approach we recommend.

## **7. Uniformity and Diversity**

The Panel raised the question of why there isn't greater diversity between institutions if it is so important. There is an "eye of the beholder" aspect to this issue. Where some see homogeneity others see heterogeneity.

To be a university in the Australian sector there are certain mandatory requirements. The Higher Education Standards Framework and regulatory decisions may have a tendency to uniformity. State governments periodically require commonality in incorporating legislation for all the universities in their jurisdiction. The sector could never be a free for all.

The current formulaic, and still largely demand-driven, approach to core funding has also, over the years, incentivised institutions to become more comprehensive, in order to attract as wide a range of students as possible. This too has led to many institutions offering apparently similar ranges of programs.

However, maintaining a sector of 40 or so substantial university organisations, each with its own mission and strategy, is an important way of ensuring difference.

And even though on the surface it may appear that two institutions offer the same program there are usually important differences in approach and emphasis, which is inevitable as academics take pride in bringing their own research and scholarship to their field.