CHAPTER 4

GOVERNANCE AND REGULATION OF UNIVERSITIES

> Universities are not private institutions producing predominantly private goods. Regardless of the share of financing provided by government at any one time, universities are constituted by legislation, and produce a wide range of public and private goods, deriving their core functions in teaching and research. As such, the universities are part of the national infrastructure and a major public responsibility.[1]

> The quality of management correlates well with the reality of managers' image of their university; there are as many examples of delusions of grandeur as of failure of nerve.[2]

4.1 The governance of universities is a matter of primary concern in this inquiry. Governance covers the wide ambit of relationships between the universities, governments and the community on the one hand, and internal management of the university on the other. Governance embraces consideration of the role, the values, and the strategic planning of universities, together with decision-making processes, resource allocation, patterns of authority and regulation or management of all the intersecting relationships which the university forges with its stakeholders. If universities are under stress, as they appear to be, this will be obvious in the tensions that are reflected in institutions of governance. These structures are themselves under challenge, being considered by some to be too unwieldy to cope with the demands of universities in their current state of evolution.

4.2 In considering the governance of Australian universities the Committee looks both at the evolution of changing Commonwealth higher education policies and at the management response of universities to these changes. To begin with, the role of the Commonwealth has developed to the point where it has become strongly influential, not to say heavily intrusive, in forcing universities to adopt a market approach to teaching and learning. On the other hand it has been less interested than ever before on assisting universities to meet their broader social responsibilities. Government policy emphasises the autonomy of universities: government financial arrangements limit this autonomy. This compliance even prevents universities willing to extend the logic of Government policy from exercising the freedoms which the Government extols.

4.3 The Committee has heard evidence from universities that they are upholding standards while they are adapting to new challenges, including the raising of private income and adjusting their course structures to attract new students. The Committee has also heard evidence of a looming crisis, although no one is prepared to predict

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1 Submission 81, Professor Simon Marginson, p.19

2 Submission 88, Emeritus Professor Campbell Macknight, p.7

when this 'imminent' event will be upon us. Evidence of the symptoms of this crisis is provided in abundance in several chapters of this report. The condition of universities has been difficult for the Committee to assess. It is inclined to accept as reasonable and credible the observations of one recently retired academic, whose submission stated:

> Across the system, [the management of universities] is, not surprisingly, rather uneven in quality. While it is fashionable to bemoan the failings of particular Vice-Chancellors and other senior managers, as well as point to notable failures of procedure and process, there are also many cases of imaginative and effective management leading to a range of excellent outcomes. University staff typically display remarkable dedication to their work, and especially to the interests of students, in even the worst managed institution.[3]

The enterprise university

4.4 One of the most obvious consequences of government policies since 1988 has been the evolution of the 'enterprise' university, also called the entrepreneurial university. This is an evolution achieved both through necessity and design: through necessity because public sources of revenue are diminishing: through design because some universities are determined to see the public funding crisis as a catalyst for a radical change in the delivery of teaching and research functions, with a search for new sources of private funding and consequential changes to the way a university is run. An 'enterprise' university is one that knows its market and can offer desirable courses at costs that represent good market value. An 'enterprise' model university is characterised by strong executive control, with traditional university values preserved within an entrepreneurial culture.[4]

4.5 The dynamics of managerial change which is a necessary accompaniment to this development has been influenced as much by globalisation as by Commonwealth funding policies, and these two influences are mutually reinforcing. 'Enterprise' universities see themselves competing for students against universities worldwide. They form alliances and partnerships with global learning networks. This strategy is aimed at cutting costs and bringing in revenue from abroad to compensate in some measure for reductions in Commonwealth funding. Evidence to the Committee from critics of this trend point to several consequences of these developments: the reduced autonomy and diversity of universities; the emergence of a managerial culture which is said to be at odds with traditional academic values; and a declining level of commitment to serving the public good through the provision of essential skills. Universities tending down the enterprise path may not be justly criticised for abandoning traditional commitments. It is simply that government policy frameworks

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3 ibid.

4 Simon Marginson and Mark Considine, *The Enterprise University: Power, Governance and Reinvention in Australia*, CUP 2000, p.4-5. The Committee has drawn on a great deal of research from this work.

have made them less affordable. The Committee considers that there is some substance to these claims.

4.6 The point needs to be made that while all universities have had to embrace some of the enterprise characteristics described above, they have done so with varying degrees of enthusiasm. In the case of the University of Melbourne enthusiasm is based partly on an ideological affinity with a commercialised approach to university funding, an attitude reflecting both its relative affluence, and the conviction of its vice-chancellor that Commonwealth funding is in inexorable decline. Other institutions as diverse as Murdoch University and the University of Central Queensland also embrace this concept to the limits that their more modest reputations and resources allow. Despite this, as the Committee heard from several vice-chancellors, the limitations of the enterprise culture are plain to see. Even the most enthusiastic proponents of enterprise universities decry the Commonwealth's neglect of the financial needs of higher education. More recently established universities are least enthusiastic about financial rewards of the enterprise path, but they too have embraced those characteristics of enterprise universities that relate to governance.

Academy to corporation

4.7 The evolution of Australian universities over the past fifty years has been the subject of many studies. Nearly all universities were established under colonial or state legislation and are still subject to these statutes, in amended form. The Commonwealth has established two universities in the Australian Capital Territory, one of which reports directly to the Commonwealth Parliament.[5] Universities specialised in the first hundred years or more of the existence of the older institutions in training the higher professions; particularly medicine, other clinical disciplines, together with arts and law. A relatively small number of graduates entered the state and Commonwealth public services and the teaching profession. The retrospective view is that university education in the middle of the twentieth century was elitist. This is not true to the extent that the university was a rite of passage for members of a wealthy class as it was in Britain at the time.[6] The attitude of Australians to university education has always been utilitarian rather than idealistic. That cultural attitude of long standing has particular relevance to the situation which universities find themselves in today.

4.8 During the so-called 'elitist' phase of university existence the numbers of graduates in public life was small. The universities were not held in particularly high regard by the populace at large at a time when completion of a full secondary education was exceptional. Alternative avenues for post-secondary education were available in professions like law and engineering and for most teachers. It was unusual

5 Responsibility for the University of Canberra was handed over to the ACT Legislative Assembly after self-government for the Territory was granted in 1988.

6 In 1940, according to visiting British higher education expert Sir Eric Ashby, twice as many Australians were incarcerated in mental asylums as were enrolled at university.

for those entering a business career, regardless of their means or background, to consider a university education as a prerequisite.

Foundations of a system

4.9 The early 1950s saw a change in policy. The expansion of higher education under the Menzies government was a recognition of the training requirements of a modern state at a time of economic expansion. A Universities Commission, headed by former university administrators, was established in 1959 to administer funding to universities. This 'hands-off' approach to university funding was characteristic of the so called 'golden age' of Australian universities when high levels of collegial governance were experienced within universities and within the sector nationally. Many of those who led this resurgence of university growth, as well as those who served in the front rank of academics who built up the new or expanded institutions, were products of ancient universities in Europe and of less ancient but more richly endowed universities in the United States. Utilitarian values may have prevailed in the running of Australian universities in this early period of growth, but they jostled on fairly equal terms with notions of a liberal education, of social benefit and of national development. The advent of Commonwealth Scholarships reinforced this view of universities as agencies of improvement and development, and many state bodies – education departments, water and electricity boards, agriculture departments – gave financial support to bonded students on a scale which is unknown today. A generation which has been the beneficiary of this higher education system is unprepared to extend this benefit to the generation it begot.

4.10 This view of higher education was reinforced by the adoption of the Martin Report of 1964. Martin saw the expansion of the higher education sector as a way to link education to national economic interests. The establishment of colleges of advanced education (CAEs), founded in many cases on existing teachers colleges and agricultural colleges, were Commonwealth –funded entities offering diplomas and later, on the recommendation of the Wiltshire and Sweeney reports, undergraduate degrees. This was known as the binary system; the co-existence of two classes of universities. The CAEs were intended to be vocational in emphasis and did not provide for research. By 1978 the CAEs enrolled almost as many students as did the universities.

4.11 The role of the states in higher education declined markedly in this period. In 1974 the Commonwealth assumed full responsibility for the funding of higher education. Tuition fees, then comprising about 15 per cent of university income, were also abolished in 1974. This was the high water mark in the fortunes of higher education. In 1975 expenditure on higher education peaked at 1.36 per cent of GDP. From then on expenditure levels declined steadily as the economy weakened.

The Dawkins 'revolution'

4.12 The appointment of the Hon John Dawkins MP as Minister for Employment, Education and Training in 1987 marked a watershed in the development of higher education. Dawkins was the first minister to view higher education as serving wider

policy ends. Dawkins saw the universities as institutions that needed to focus on community and economic needs and priorities, acting through their own initiative and through Commonwealth policies. This involved more than an administrative shake-up. It required a repositioning of universities as institutions with responsibility for fitting graduates into an increasingly demanding economy and a more dynamic society.

4.13 The restructuring of higher education under what became known as the Unified National System also brought considerable change to the management culture of Australian universities. Dawkins removed the apparently ossified and paternalistic statutory authorities responsible for the administration of grant programs, the Tertiary Education Commission and its subsidiary Councils, which the Government apparently believed had become a captive to its clients.[7] These were replaced by purely advisory bodies (NBEET and its councils) in July 1988.

4.14 Dawkins was the first minister to provide incentives for vice-chancellors to centralise their administrations and to increase their control over otherwise diverse local traditions and influences. The Dawkins Green Paper specifically criticised the traditional practice of electing faculty deans, and most universities moved quickly to abolish this practice.[8] Deans thus became more formally part of university management, being tied to a management executive, rather than a being faculty 'delegate' to a collegiate administration. This was not an unforeseen consequence: it was an eagerly anticipated outcome from the beginning, as the Green and White Papers indicate.

4.15 The Department of Employment, Education and Training became directly responsible for grant administration, providing for tighter ministerial control over expenditure. The previous States Grants legislation, which contained stipulated amounts for institutions, was replaced with the *Higher Education Funding Act 1988*, which legislated global amounts to be distributed by ministerial determination. The education profiles process (see below) also helped ensure that institutions were more responsive to ministerial and departmental concerns.

4.16 Most famously, Dawkins abolished the binary system for the reason that it was obviously retarding the development of some CAEs with potential to compete on equal terms with universities in both teaching and research. Dawkins saw the potential of new universities to create a fresh dynamic in higher education, unencumbered by what some saw as an overly conservative attitude of older established universities. Thus a competitive element was injected into higher education, with universities encouraged to find new undergraduate markets and broaden their research base.

4.17 In recasting higher education, Dawkins did not intend to shift them into the private sector, even though his changes were accompanied by a marked increase in

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7 Donald BeBats & Alan Ward, *Degrees of Difference: Reshaping the Universities in Australia and the United States*, Univ of Syd 1998, p.45

8 Marginson and Considine, p.71

emphasis on commercial sources of income. He wanted to ensure that universities were sensitive to government policy priorities, through funding and the conditions applying to that funding. The *Higher Education Funding Act 1988* established a direct relationship between the universities and the Commonwealth that enabled his goals to be realised. Dawkins thought of the Commonwealth primarily as the client of the university system: his vision was to retain the system largely captive to the public agenda as expressed by the Commonwealth. The rapid slide toward commercialisation, evident since 1996, depended on this fundamental shift in thinking as a necessary preliminary condition, but was in no way an inevitable outcome of the Dawkins revolution.

4.18 The Unified National System (UNS) was introduced in 1989 following the publication of the White Paper, *Higher Education: A Policy Statement* in July 1988. The distinction between the universities and colleges of advanced education was abolished. All institutions could become members of the UNS if they met certain size criteria, being a minimum of 2000 equivalent full-time student units, or EFTSU. Membership of the UNS was necessary if an institution was to be eligible for the full range of Commonwealth grants. Non-members would be funded on a contract basis for teaching purposes only. This led to a significant reduction in the number of institutions through amalgamations, from 75 Commonwealth funded separate institutions in 1989 to 36 members of the UNS and 8 non-members in 1991, although the numbers of students in the system grew significantly, from 441,076 students in 1989 to 631,025 in 1996.

4.19 UNS members gained guaranteed triennial funding and more freedom with the expenditure of grants when specific allocations for special purposes were folded into a single operating grant. However, overall ministerial control was strengthened as each institution was required to abide by a performance profile that the Department had approved. This set out the broad parameters of institution's development, together with the target student load for which it would be funded.

4.20 Capital grants, which had been administered closely by the Department, were largely merged with operating grants - giving the institutions greater freedom in their spending (the ‘capital roll-in’). On the other hand, a proportion of operating grants was transferred to a competitive system of research grants (the ‘research clawback’). Programs to promote quality in institutions also contained a competitive element.

4.21 According to the 1988 White Paper, the Government's higher education reforms had these major objectives:

- Increasing the output of the system - an indicative target of 125 000 graduates per annum by the year 2000.[9] This target was easily accomplished, with non-overseas award course completions reaching 126 587 in 1994 (from a base of 88 000 in 1988). The UNS was also successful in increasing participation rates. The

9 Higher Education: A Policy Statement, July 1988, p.13

participation of 17-64 year olds in higher education increased from 36 per thousand in 1985 to 48 per thousand in 1995, excluding overseas students.[10]

- Increasing the efficiency of the system. The Government considered that a smaller number of larger institutions would improve educational effectiveness and financial efficiency. It is difficult to assess this objective, as there is a lack of monitoring and accountability mechanisms for the relevant period.[11]

- Achieving national equity goals, which were set out in the 1990 document *A Fair Chance for All.* The goals included increasing participation and graduation rates for six groups: Aboriginal and Torres Strait islander people, people with socio-economically disadvantaged backgrounds, from non-English speaking backgrounds, people with disabilities, people from rural and isolated areas, and women. The 1991-96 period saw mixed results for these objectives: women's participation in non-traditional subjects grew steadily, as did participation by people of non-English speaking background. While enrolments of the other disadvantaged groups increased, the significant growth in the system meant that the numbers of some of these groups, as a proportion of all higher education students, declined.

- Improving higher education opportunities for regional and rural Australia. The White Paper argued that the amalgamation of small regional colleges with larger more diversified institutions would improve student access to a wider range of study options. This objective has been achieved: there are now many regional university campuses providing access to a wide range of courses. The only 'failed' amalgamation was that of the University of New England and Northern Rivers CAE at Lismore. However, the latter has since become Southern Cross University. The UNS structure has enabled a number of institutions to expand regional places: Charles Sturt University and Central Queensland University are examples. By March 1996 there was a total of 45 regional higher education campuses throughout Australia, compared to about 30 in 1985.

4.22 From 1989 undergraduate students were required to pay a contribution towards the cost of their courses through the Higher Education Contribution Scheme (HECS). The Government's objective in introducing HECS was to increase the sources of higher education funding so that there could be a significant expansion of the sector in an period of restricted budgetary circumstances. By 1996, universities were receiving a total of $933 million in operating revenue from HECS. This was equivalent to around 12 per cent of university income.

4.23 The HECS represented a significant shift in funding responsibilities from the Commonwealth to students and provided a basis for the expansion of the UNS. The

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10 DEETYA, Annual Report 1995-96, p.56

11 See *Industry Assistance Commission Submission to the Review of Higher Education Financing and Policy*, July 1997, p.10

introduction of HECS enabled the Government to maintain real expenditure per student, despite the large increase in student numbers. In terms of funding per equivalent full-time student (or EFTSU) adjusted for inflation, expenditure increased from $12 295 in 1983 to $12 809 in 1996, with a low of $11 842 in 1987 (constant 1996 prices).[12]

4.24 When introducing HECS, the Labor Government was also anxious to ensure that the scheme did not reduce access to higher education for disadvantaged groups. Provision was made for annual reports by the Higher Education Council to assess the impact of HECS. In most of its reports the Council concluded that HECS was not deterring students from participating in higher education. However, it also noted that it was not possible to draw conclusions relating to the precise impact of the scheme from general enrolment statistics because demand fluctuated over time and enrolments were influenced by factors other than HECS. To obtain more information, the Council commissioned a number of surveys. These concluded that HECS did not have a significant adverse impact on participation in higher education.[13] It should be noted that these surveys were undertaken in the early 1990s, before the major increases in HECS introduced by the Howard Government in 1996.

4.25 The Labor Government also enhanced the sources of university revenue by deregulating the overseas student market. The system whereby private overseas students paid a charge equivalent to around 20 per cent of the cost of their courses was ended. Cost considerations had meant that the numbers of such students had been strictly limited. The market for overseas students was opened up, and from 1986 institutions were able to charge private overseas students fees which covered the full cost of their courses. Overseas student numbers increased substantially: from 2,393 in higher education in 1988, to 54,315 in 1996. By 1996 fees from overseas students were contributing $531 million to university operating revenue. The creation of the overseas student market also had significant economic benefits for Australia: total overseas student expenditure in 1996 was estimated at $2.9 billion.

4.26 The Dawkins restructuring of higher education gave universities the biggest shake-up they had experienced before or since. With 36 universities now operating in place of the existing sixteen, an age of ‘mass’ higher education had moved ahead.

Post 1996 development

4.27 The Coalition government which came to office in 1996 abolished NBEET. The most significant policy change was the increased emphasis placed on the concept of the ‘enterprise university’. Much of this policy was built on that which preceded it, particularly in regard to the changes in the management culture which were ushered in by the Dawkins initiatives. By the mid-1990s universities were being ‘encouraged’ to

12 DETYA Annual Report, 1995-96, p.56

13 Higher Education Council, *Sixth Report to NBEET on the Operation of Section 14 of the Higher Education Funding Act and the Higher Education Contribution Scheme,* March 1992

respond more urgently to market signals. The 1996-97 budget reduced the operating grants for universities by 6 per cent over four years. It also signalled a halt to further funding for growth in student places at full subsidy levels, while introducing a mechanism for marginal funding of students enrolled above fully funded targets. The level of student contribution through HECS was also increased. Marginal funding was introduced in 1998.

4.28 The one public policy foray undertaken by the Coalition government in regard to higher education was the abortive Review of Higher Education Financing and Policy, better known as the West Review. It was appointed in January 1997 and reported in the following year. The recommendations flowing from the review were not only consistent with the trend toward 'enterprise universities': they proposed changes to funding arrangements that would see universities being more responsive to student choice through the deregulation of fees, the institution of payment vouchers (or equivalent processes) and easier access to loans by both students and universities. Overall, the Review found that the funding of higher education was subject to excessive degrees of central regulation. It might be argued that the West recommendations followed logically from current policy, but it was effectively shelved when it proved to be a political liability.

4.29 The concept of the enterprise university has been enthusiastically embraced by the Government, partly it appears for ideological reasons, and partly for the same kinds of pragmatic and financial reasons that motivated the Dawkins restructuring. The Committee notes varying degrees of enthusiasm for the concept of the 'enterprise university' among vice-chancellors. Most members of the Australian Vice-Chancellors' Committee (AVCC) appear to be sceptical of the concept in that they see no alternative to continued heavy reliance on Commonwealth direct funding, given the particular domestic and global environment which Australia finds itself part of, and given that the unlikelihood of Australian higher education accommodating an entrepreneurial culture. The reduction in operating grants has been extensively criticised in submissions to the inquiry. These grants, which are the only source of discretionary funding available to universities, have been labelled 'patient capital by the Australian Vice-Chancellors' Committee, as distinct from 'impatient capital', which, being for specific purposes, cannot be spent at the discretion of universities.

4.30 Strong proponents of the enterprise university have carefully qualified the reasons for their support. Professor Alan Gilbert, Vice-Chancellor of the University of Melbourne has indicated that his motivation stems from his reading of history. Gilbert believes that no Australian government is likely to be able to close so immense a resource gap through public outlays, irrespective of which party is in power.[14] Increased measures of self reliance secured through commercial partnerships and global connections is the obvious and necessary imperative, according to Gilbert.

14 Professor Alan Gilbert (University of Melbourne), *Hansard*, Canberra, 22 June 2001, p.576

4.31 This particular historical perspective should not go unchallenged. It assumes an inevitable diminution of the role of the state in education. Although posited in global terms, Professor Gilbert's attitude appears to be largely shaped by recent Australian experience. The attack on university funding security in this country has not been the experience of most OECD countries. Nearly all OECD countries are increasing the proportion of GDP spent on higher education, some by quite dramatic margins. Britain, for instance is set to increase expenditure in 2003-4 by 10 per cent in real terms.[15] The reason for this undoubtedly lies in the value placed on publicly funded universities in leading industrial countries, where universities are regarded as part of the essential infrastructure of the modern economy. That connection is less well established in Australia, despite occasional rhetorical flourishes by the current government. Professor Gilbert's trust in the market may make sense if all countries were following Australia's example in reducing public funding, but the reverse is the case, particularly in the near north, from where Australia customarily attracts the majority of its overseas students. While vibrant (mostly) state-funded universities exist anywhere, they will be patronised by the 'entrepreneurial classes' as much as any other class of students. The Committee notes here in passing (and in more detail in Chapter 6) that the record so far of Melbourne University's commercial endeavours has fallen far short of expectations.

4.32 The management challenges posed by the enterprise university have been taken up with varying degrees of success, and the Committee notes that success is achieved at a very high price. It has been estimated by one university that for every dollar earned in the open market across all its commercial activities, the outlay required is 92 cents.[16] This small return comes at the expense of teaching and learning programs that have been deprived of adequate funding in order to support a university marketing and administrative arm. Success has been achieved in cost-cutting efficiencies and in improved financial and risk management. Some universities have made serious attempts to capitalise on their strengths, and to reward faculties and departments for entrepreneurial success. Management action, however, sometimes result in anything other than success, as described by a senior DETYA official:

> Where leadership is weak and corporate policy unclear, there are signs of balkanisation within the university. On the one hand the aggressive external earners defy central limitations on their behaviour, resent any reporting, avoid putting their consultancies through the university's commercial arm, refuse to pay for university overheads, evade institutional approval requirements, and put their time into those activities which provide private returns rather than contribute to the university-wide good. On the other hand, those who cannot see themselves benefiting from university-wide

15 Australian Vice-Chancellors' Committee, *Our Universities:Our Future*,Support Paper D: International Examples of Commitment to Quality and Expansion, 2001, p.39

16 Michael Gallagher, Department of Education, Training and Youth Affairs, *The Emergence of Entrepreneurial Public Universities in Australia*, Occasional Paper Series 00/E, Canberra 2000, p.23

> developments reject the validity and appropriateness of commercial activities within the university and become active in creating institutional procedures to discourage and undermine them.[17]

4.33 The types of response to commercialisation of universities described above are reflected to an extent in the evidence before the Committee. Professor Patrick Troy of the Australian National University refers to the degree which the central administrations of universities allow departures from the requirement to observe due process in staff appointments or traditional management processes because of the need to generate additional funds. Troy states that senior academics are valued for their perceived ability to generate external income regardless of the quality of the appointments they make or the quality and direction of the research they are supervising.[18] An academic from the University of Technology Sydney refers to the fact that in times of financial stringency, senior staff are frequently on overseas trips.[19] These are perceptions of the rise of an entrepreneurial class of academics, who receive favourable treatment, and a perception of the existence of academic 'carpet baggers' who operate in off-shore campuses. It is difficult not to give credence to the resentment that this situation provokes, and easy to understand why 'institutional procedures' are used to undermine such activities. This is likely to occur in universities where 'corporate enterprise' culture assumes a dominance over the council or the senate, and where vice-chancellors and council members mistake their institution for an enterprise rather than a university.

Governance and external accountability

4.34 Processes that ensure full accountability for the decisions of university councils and administrations are central to the issue of governance. The advent of the 'enterprise university' puts a much greater level of responsibility on councils and administrations to ensure that taxpayers, students and providers of private funds have some guarantee that quality higher education and research is being delivered.

4.35 Accountability has two dimensions: external and internal. External accountability relates to the performance of the university in accordance with its establishment act and the requirements of state auditors-general, and requirements of Commonwealth legislation relating to performance measures laid down by DETYA. When this matter was examined by the Hoare Committee in 1995, it reported that there was general agreement in universities on the need for improved accountability requirements and the need to ensure sufficient autonomy to maintain academic integrity and independence.[20]

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17 ibid., p.24

18 Submission 43, Professor Patrick Troy, p.7

19 Submission 309, Dr Graham Barnsley, p.2

20 Higher Education Management Review (Hoare Committee), *Report of the Committee of Inquiry*, December 1995, p.36

4.36 Universities are governed under both state and Commonwealth legislation. Under the Commonwealth Higher Education Funding Act 1988, universities must provide information to DETYA about student numbers, staffing, financial data and academic performance of staff. That must also follow DETYA guidelines for preparing annual reports. State legislation requires universities to provide annual audited reports.

4.37 On the issue of external accountability, the Committee took a strong interest in the extent to which state auditors-general were able to effectively audit university accounts, particularly the newly-established commercial arms of universities. The Committee was alerted to this potential problem by a report of the New South Wales Auditor-General, who in 2001 reported to the New South Wales Parliament that university involvement in companies and in joint ventures was outside his mandate. The report continued:

> Such organisations usually have one or more universities as owners with no one university having more than 50 per cent ownership. A number of these, through their Minister, have requested the Auditor-General to be the auditor, however others have not. Consequently, those not audited by the Auditor-General are unlikely to be commented on in Auditor-General's reports to Parliament. This may lead to Parliament not being informed on financial audit outcomes of such entities. Also, allowing public sector entities to choose their auditor is not in accordance with generally accepted views on the accountability of public sector organisations.[21]

4.38 The effectiveness of university audits was questioned in one submission. The former chair of NBEET, Mr Peter Laver stated his belief that accounting standards, disclosure requirements, external reporting and audit practices should be as close as possible to the standards applying to public companies. 'The Annual Reports of some universities are masterpieces in obfuscation and State Governments should be demanding more transparency.'[22]

4.39 The Committee notes that the governments of New South Wales, Victoria and the Australian Capital Territory have all now instituted inquiries into corporate governance. In all cases these have resulted from a realisation of deficiencies in the processes of accountability, particularly in relation to audit requirements. For this reason, auditors-general have either been given the task of reviewing the legislative requirements, as in the case of New South Wales, or will be consulted as part of the review, as in Victoria. This outcome is due in no small measure to the work of this Committee in highlighting questionable commercial practices of universities.

4.40 A comparison of annual reports of universities in New South Wales was made in one submission to the inquiry. It was noted that all reports carried qualifications; some caused by differences in accounting standards; some by agency conflicts

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21 Auditor-General's Report to Parliament 2001,Volume 2, p.37

22 Submission 22, Mr Peter Laver, p.3

regarding responsibility for unfunded superannuation liabilities. The analysis suggests that the University of New South Wales has the most comprehensive breakdown of its activities placed on the public record, including its investment activities and income and full details of executive remuneration. It was noted that much less information was provided in the reports of Sydney University and UTS.[23]

4.41 In her submission, Dr Carolyn Currie makes the point that university annual reports are of limited usefulness as a means of accounting for annual expenditure. This results from flaws in DETYA's instructions regarding categories of expenditure that must be reported, and because of the excessively wide definition of 'academic activity'. Currie quotes one study that points out that universities have adopted the practice of 'top slicing' budgeted revenue to fund indirect service costs, and 'charging' faculties on the basis of quantum of services provided. The residual is then allocated to internal budgetary units. In addition, 'on-costs' are added to researchers salaries funded by external grants, and quality rebates taken from suppliers to central administration while academic units are charged for gross amounts, and central administration credited with interest revenues generated from the investment of short-term cash surpluses.[24]

4.42 From this is can be established, according to Dr Currie, that the category of 'administration' is consuming an undue proportion of funds, at the expense of teaching and research.[25] The West Report stated that Australian universities appeared to lack information about costs and did not have a good understanding of their cost structures. The report blamed the absence of price competition for the fact that universities were able to pocket the difference between the funding they received from the Government and the actual costs of delivery, for the use of 'activities that they or the Government value'.[26] West made no mention of the possibility of universities exploiting accounting loopholes, which appears to the Committee to be a more likely prospect than an ignorance of their own cost structures.

4.43 The Committee is concerned that there appears to be laxity in the way that universities report their financial affairs. It appears that there are many unresolved issues standing in the way of an agreement about accounting standards. The quest for diversity should not extend to variations in the way in which university accounts are audited. As the main source of revenue to universities the initiative clearly lies with DETYA to coordinate a move toward uniform standards of reporting. The Committee points out that universities are embarking on commercial schemes of varying complexity at a time when their financial regulation is currently ill-defined. Some of these ventures are of high risk. All of them will need to be approved by governing

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23 Submission 86, Dr Carolyn Currie, pp.12-13

24 R G Walker, Statutory Budgetary and Financial Reporting by Australian Universities, *The Australian Accounting Review*, March 2000, p.4

25 Submission 89, op.cit., p.13

26 *Learning for Life*, Final Report, Review of Higher Education Financing and Policy (West Report), April 1998, p.90

bodies whose make-up does not guarantee that effective or expert scrutiny of the proposals. Elsewhere in this chapter the credentials of student representatives to sit on governing bodies, which are making commercial decisions, is shown to have been called into question. The Committee does not believe that appointed members, even those drawn from business circles, are necessarily less prone to errors of commercial judgement.

4.44 The Committee endeavoured to find out from universities the proportion of their expenditure which was directed to administration and marketing. It had little success. The Committee considers that this question should be taken up by DETYA. It should not be considered one of the many areas of university autonomy beyond the scope of DETYA's reach, particularly as it affects the programs over which DETYA maintains its firm grip.

4.45 The Committee was informed that a joint State-Commonwealth review was currently under way of the commercial powers of universities and the effect of the existing regulatory structure on their capacity to engage in commercial ventures, and at the same time protect both the universities themselves and the state governments from unnecessary risk. The Commonwealth-funded project has employed Phillips Fox as consultant, and a scoping study has reported on the regulatory arrangements applying to universities and their financial powers in all states. The Committee understands that a more deductive, analytical statement is son to be produced. It was advised that the results would see changes in the regulatory arrangements at least in New South Wales, Queensland and Western Australia.[27]

4.46 The Committee believes that this issue requires cooperation and agreement from all states and should be formally addressed by MCEETYA. If the Government is determined to pursue policies which give greater weight to commercial practices, the changes will have to be national, and consistent with companies legislation. Submissions to the Committee have called into question the unfair advantages which universities have in operating in the commercial market. The Australian Council for Private Education and Training has advised the Committee of its strong objection to the current practice whereby universities , as entities, receive a range of benefits and exemptions instead of the focus being on specific activities undertaken by universities in the marketplace. These entities are provided with taxation and other concessions, thereby minimising administrative and compliance costs, and therefore having an unfair advantage over private operators.[28]

4.47 Another submission raises the issue of universities engaging in commercial activities which compete unfairly with industry. An example is cited of the University of Canberra, which has formed a company to provide remote sensing equipment to agriculture. RMIT is in the same business. The submission argues that universities enjoy a commercial edge in that they are commercially linked to a university that has

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27 Ms Leigh Tabbrett (Queensland Government),*Hansard*, Townsville, 12 July 2001, p.919

28 Submission 177, ACPET, p.4

prestige in the market place.[29] Such commercial activity is not in accord with national competition policy. The Committee believes it arguable at least that the commercial activities cited above may be considered a misuse of market power, and contrary to the provisions of section 46 of the Trade Practices Act.

4.48 The Committee is mindful of broader community concerns about the direction in which commercialisation policy may take universities. A report of the Victorian Auditor-General about the sale of Melbourne IT by the University of Melbourne described it as the privatisation of a public asset, requiring consultation with state government agencies, and stated that the process undertaken by the university involved some legally doubtful processes.[30] The Committee is concerned with the institutions of governance and the relationship between stakeholders in the institutions. It is concerned with the adequacy of state legislation to ensure the most thorough auditing processes of university accounts. It is concerned that the requirements to ensure that there is proper public disclosure of university accounts and transactions are not hindered by spurious claims of 'commercial-in-confidence' details and proceedings. While the 'enterprise' university may have evolved as a result of prevailing government policies it remains a public institution, and its credibility as a seat of learning depends upon forms of information disclosure that are commonly accepted obligations in both the public sector, under parliamentary scrutiny, and in the private sector under the companies acts and other regulatory instruments.

Recommendation Nine

The Committee recommends that a formal inquiry be conducted into the auditing requirements of universities, covering both the scope of DETYA guidelines and the varying requirements of State foundation and audit acts.

University governing bodies and accountability

4.49 University councils or senates are the bodies to which executives, headed by the vice-chancellor, are responsible. Before 1988 university councils were quite large, and were representative of the wide range of stakeholders: including academic staff, students, members of convocations, parliamentarians and ministerial appointees from business, law, the arts and other community bodies. The Dawkins papers criticised the representative aspect of governing bodies, seeing them as impediments to streamlined university administration. The White Paper stated that governing bodies worked best where their roles and responsibilities were closely defined in relation to senior management, and where managers are held clearly accountable for their actions.

The size and the role of governing bodies

4.50 The White Paper stated that some Councils were too large for effective governance and that there was a tendency for members of councils to see their primary

29 Submission 324, Mr Robert Gourlay, p.1

30 Submission 283, National Tertiary Education Union, p.26

role as advocates for particular interests. Such tendencies allegedly operated to the detriment of strong and decisive management. 'While some members may feel responsibility to represent the views of particular sections of the institution or the wider community from which they are drawn, they have an overriding responsibility to act in the best interests of the institution.'[31] There appears to be a powerful cabal (which includes many leading academics) that holds the view that old ideas of a council as a legislative or deliberative body devised to represent the university to itself and the community are no longer appropriate.[32]

4.51 States were persuaded to amend university establishment acts to reduce the size of governing bodies and restrict the categories of representation to allow for a stronger emphasis on business expertise. Councils took on a quasi board of directors' role. At the same time the status and powers of the chief executive officer - the vice-chancellor – was enhanced with the expectation that the council would work with the vice-chancellor in a way the was analogous to a corporation.

4.52 These changes received strong endorsement in the 1995 Hoare Report on higher education management. The Hoare Committee of 1995 recommended a reduction in the size of university councils or senates to between 10 to 15, as a mechanism to enhance efficiency. And it also recommended that the number of external independent members should outnumber internal members. In practice, the reduction in the size of councils and the dominance of external members, usually appointed by the vice-chancellor, has tended to further concentrate the power of the vice-chancellor.

4.53 The Hoare Report also stressed that governing bodies should have a strategic planning oversight for the university, setting a broad policy framework in which the vice-chancellor and senior management could work within. Hoare states the importance of governing bodies not being caught up in a 'local response syndrome',[33] which the Committee takes to mean descending to detail on matters which which relate to internal management issues. One response to this is to question whether governing bodies should in all cases detach themselves from administrative minutiae if there is a possibility that a crises may result from their neglect of detail. Senators on this Committee are frequently reminded that administrative oversights can result in major problems for government. They do not presume that university administration is any less prone to embarrassing errors than are government agencies. Governing bodies, like parliaments, have an accountability function, and there is wide community expectation that they will deal with them. Indeed, a council holds fiscal and legal responsibility for the operations of a university, which is not an incorporated body.[34]

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31 Hon J S Dawkins MP, *Higher Education :a policy statement,* AGPS 1988, p.102

32 Marginson and Considine, p.103

33 Hoare Committee Review, p.42

34 Marginson and Considine, p.102

4.54 The administrative culture change initiated by Minister Dawkins was not as thoroughgoing as some enterprise university proponents would have wished. The current position is that governing bodies are smaller, and they are less representative than they were, but they are not analogous to company boards because there are no shareholders. The Committee believes that there should be a formal review of changes made to governance structures of universities over the past decade so that the benefits and disadvantages to accountability process arising from these changes should be better understood. This should include the effect of such changes to council structure and membership.

Internal accountability

4.55 Internal accountability relates to systems of resource allocation within universities. Two issues arise in regard to internal accountability. The first is to the extent to which universities are implementing transparent mechanisms for showing how responsibilities are delegated within universities and how, when and why resources are allocated as they are. The second is to the extent that councils or senates are properly and effectively able to hold university executives to account. There is general agreement that a vice-chancellor is responsible for placing before the council or senate the documents required by transparent administration, and that the council or senate is responsible for ensuring that this is done.

4.56 Issues of internal accountability centre on the extent to which governing bodies are properly informed about important decisions made by university executives and the extent to which they have access to the details of administration, particularly that related to finance and the allocation of resources. As against this, views presented to the Committee by those who hold more collegial views described, with some dismay, the rise of the vice-chancellor's committees wherein real power lay. The most important 'case study' in this conflict over internal accountability is described in some detail elsewhere in this report: the saga of commercial activity at the University of Melbourne and the role of the university council.

4.57 It may be claimed in some accounts of changes in university administration that executive-led administration allows for more accountability by simplifying decision-making processes.[35] The Committee found no evidence of this, although it has no difficulty in believing that administration would be made simpler. The issue is whether the decisions made by administrative committees would be acceptable to those most affected by them, and how they might be overturned in the event that they were against the best interests of the university. This is the real issue of internal accountability. Submissions to the Committee make it clear that academics and students assume that changes to governance arrangements over the past decade are initiatives of university executives, who have persuaded state legislatures to amend the foundation acts. This has led, in many cases, to the strategic direction of the university being determined by factors which may compromise its academic purpose.

35 ibid., p.96

Student perspectives

4.58 Many student organisations have good reason to question changed attitudes to university governance. The Committee has some understanding of how student unions believe that they are either patronised, or, treated by vice-chancellors as incorrigibly hostile stakeholders who must be excluded from decision-making processes as far as possible. The Melbourne University Student Union has commented that this situation has been exacerbated by a culture which sees the views of elected members of council as tainted by sectional interest or ideological commitments. Requests for additional information on a proposal or decision of the management which indicates a possibly hostile view are simply shrugged off on the assumption that only those with an intimate knowledge of the university could be expected to have a responsible position on the issue. More distressing to the student representatives is that this view only seems to prevail when the challenge comes from either staff or students, who in fact have a greater understanding of the university than the larger numbers of external members of the council 'This culture is also fortified by the rejection of legitimate participation in council business as "you're a student, of course you would say that, naturally that is your position." '

4.59 There is no doubt that in the current climate of the enterprise university, the participation of students on governing bodies may appear anomalous. There is no equivalent role for consumer representatives on the board of any other major enterprise, like a bank or an airline. The point is that universities find their equivalence in no other institution. Nor are universities established for the purpose of generating profits. There are many stakeholders in a university, but there are no shareholders. And if the Hoare committee believed that they were on safe ground in recommending that governing bodies restrict themselves to strategic planning, it was naïve of them to assume that this task could be achieved without protracted disagreement. As the submission from the Melbourne University Students' Union indicates, debate over long-term strategy is as problematic in its implications for administrators as a 'local response syndrome'.

> Combined with the domination of *in camera* business is the prevailing management culture that they alone represent the Universities interests. As mentioned earlier, senior levels of management have either dismissed alternative view or critical debate as a lack of vision or understanding of the strategic future of the University. There is no room for varying political or policy choices and dissent is viewed as problematic and troublesome. This has lead in large part to senior management censuring, reprimanding or intimidating any dissenting parties or individuals as has been illustrated by the Finance committee example. This has lead to a culture that quashes opinions, which conflict with management's line. It has reduced the accountability of the University and undermined strategic planning as a process, which takes into account the interests of all University stakeholders.[36]

36 Submission 229, Melbourne University Students Union, p.40

Stakeholders v 'shareholders' at Melbourne University

4.60 In the case of Melbourne University, amendments to the University Act in 1997 have resulted in the university moving away from 'stakeholder' governance structures toward a more corporate structure, and reduced in size from 40 members to 21, two-thirds of members being external appointments. Graduate representation was eliminated, and representation of academics was reduced from six to two (who are both, in practice, university officers); and representation by students from four to two. The student union claims that the main collegial constituents of the university have had their ability to participate in university governance dramatically reduced, with 7 of the 21 members of Council coming from the senior management of the University. Additionally, the majority of the Council is formed from political appointments.

4.61 The student union claims that as a result of the reduction of 'collegial' representation on the council, critical and independent expression on the has been dramatically reduced, and that new appointments to the Council are likely to be selected on the basis of their ability to support and contribute to the strategic directions of the university. This will occur at a time when the University is increasingly involved in speculative decision-making. Furthermore, external members will require the continuing support of their fellow Council members in order to remain members. It is highly unlikely in these circumstances that there would be any dissent from the views of the Vice-Chancellor, or any expression of support from them for staff or student member opinion on an issue where staff or students disagree with the management policy. External members of council, who are appointed for their commitment to furthering an existing agenda, will always approve, at least in principle, a strategic plan written by the Vice-Chancellor. The Vice-Chancellor in turn exercises considerable influence in their appointment.[37] It is thus argued that the governance of the university is completely in the hands of the senior executives of the university. As Professor Kim Sawyer observed, 'They have created governance structures which depend on them, rather than oversee them.'[38]

4.62 The student submission considered it unfortunate that the University Council no longer performs like, or takes its responsibilities as, a 'public institution' more seriously. Even the Storey report acknowledged that 'University Councils are different from company boards. They must act in the interests of a broad range of clients, not just in the interests of shareholders.'[39]

4.63 The Committee was informed that the changing nature of decision-making and structures at Melbourne University had resulted in the reconstituting of the membership and composition of a considerable number of committees. It was intended to remove student representatives from the finance committee. The apparent reason for this was the extent of public criticism of the university's financial

37 Submission 237, University of Melbourne Postgraduate Association, p.37

38 Submission 91, Dr Kim Sawyer, p.11

39 Submission 229, Melbourne University Students Union, p.39

consideration and decision-making processes by the University of Melbourne Postgraduates Association. The Committee was told that this was 'a typical heavy-handed response to public scrutiny and criticism by the current administrations senior management.'[40]

4.64 The Committee was also informed that all council meetings are held in varying degrees *in camera*; that minutes are no longer posted on the University website, and serious errors in judgement on several key issues have been made without the Council being held to account. The Committee was informed that at a university council meeting the Vice-Chancellor tabled a number of documents indicating his dissatisfaction and embarrassment resulting from the public disclosure of important financial deliberations of the University, including a decision that would see the University investing $US5 million of public funds into a private for profit speculative online venture. In two documents included in the submission from UMPA, the Vice-Chancellor proposed the reconstitution the finance committee as result of the public dissent.[41]

4.65 Vice-Chancellor Gilbert stated that:[42]

> A person privy to confidential discussions in a University Council or Council Committee meeting should not engage in detailed public criticism of the University, particularly in relation to decisions and information to which they have had privileged access.

4.66 He went on to emphasise that:

> As a general rule, therefore it is inappropriate for Council members or members of Council Committees to issue press releases hostile to the University, to engage in public criticism of the University or to provide to others information on which public criticism is based.

4.67 The Committee however notes that given the circumstances in which decisions were made by the Council, the public interest would not have been served by maintaining the confidentiality of the Council's deliberations. The Committee has been told that the Council's finance committee recommended the commitment of $US5 million to Universitas 21 without the benefit of independent financial modelling and market analysis. There is some irony in the Vice-Chancellor's comment that release of such information is an act which is hostile to the University, when the motivation of the students was nothing less than the preservation of the University's reputation.

4.68 The University's commercial endeavours are too complex to describe here, involving at least three separate, though related, projects. What they have in common,

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40 ibid., p.38

41 ibid.

42 Submission 229, Melbourne University Students Union, Appendix F

however, is that they show the University's resistance to transparent processes of decision making in regard to these strategic investments, and this is the main point of the Committee's concern. In relation to one of these ventures, the float of Melbourne IT, the University attempted to deny public access to tapes and documents relating to the deliberations of the university council on this float; an action tested in an appeal by the NTEU to the Victorian Civil and Administration Tribunal. A decision handed down in April 2001 denied the University's claims that release of tapes of a council meeting would have a deleterious effect, as claimed, on decision-making processes in the University. As the Tribunal senior member stated after hearing the tapes in dispute:

> What is clear to me is that the extracts themselves are non-controversial, they contain no secrets, no legal advice, nothing which could possibly cause embarrassment, nothing that could titillate even the most ardent newshound and nothing that could possibly expose the university to adverse comment. Insomuch as the deliberations had a confidential nature to them at the time of the deliberations, that need for confidentiality has long been overtaken by events. …Indeed the Tribunal finds it difficult to understand why disclosure of the relevant portions of the proceedings… has been resisted with such vigour and at such expense.[43]

4.69 The Tribunal further stated that the University's raft of objections, based on disclosure being contrary to the public interest, demonstrated a 'complete misunderstanding' of the thrust of the Freedom of Information Act. Nor was disclosure of information in any way constrained by provisions of the University Statutes. The Committee believes that the determination of the University of Melbourne to 'resist with such rigour' the normal processes of accountable governance results from a distorted view of the responsibilities of a university council; a distortion arising from placing commercial values on a higher level of importance than the values which the university has a duty to follow and to represent.

4.70 The Committee recognises a clash of principles here which are very difficult to reconcile, and which arise from a fundamental difference over what constitutes the role of a governing body. For a vice-chancellor the paramount concern is the reputation and cohesion of an institution operating in a competitive market. There is an understandable concern for the sensitive handling of commercial dealings in a free investment market. It is hard to conceive of a financial institution tolerating public dissent on its board in similar circumstances. When there has been dissent, resignations have generally followed, often with a fall in share price.

4.71 For students, and probably academic staff as well, there is a different order of priorities. The MUSU view was that if the university council was to approve such restructuring, the integrity of the university as a public institution would be severely undermined. The finance committee was considered to be one of the key functioning bodies of the University and to remove from its membership the few democratic

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43 Victorian Civil and Administration Tribunal, General List No 2000/70113, 13 March 2001, p.9

positions remaining would clearly jeopardise the public accountability and veracity the University. For the student union the predominant principle of university governance rests on democratic participation and the accountability of the council for the direction of the University's financial strategy. For students, their exclusion from the finance committee is an act to silence critical debate. For any vice-chancellor it may well appear as a justifiable reaction to a betrayal of trust and to an action inimical to the interests of the university.

4.72 The Melbourne University Private issue highlights a need for transparency in the way universities conduct their business. As the Committee notes at several points in this report, universities are not private corporations but public institutions. As such they cannot put up the shutters against the public interest. The Committee believes that state governments and parliaments need to be reminded of this. It is the firm view of the Committee that the universities advisory body (see Recommendation 12) should consider developing general rules or principles ensuring that governing bodies maintain collegiality and transparency of decision making processes and outcome, and that these processes are matters for the public record. A number of submissions, from senior academics, and from the NTEU, have all suggested protocols and elements of such a set of rules or principles.

Other issues

4.73 Governance issues affecting Melbourne University have been well-publicised because of controversies involving Melbourne University Private and possible conflicts of interest, dealt with elsewhere in this report. A different kind of problem came to the attention of the Committee in the submission by Dr Battin from the University of New England, who characterised the Council of the university as a cabinet operating on the Westminster principle except that it was not accountable to anyone. As the Committee noted, however, the governance issue which he was complaining about was the of power exercised by the chancellor and vice-chancellor in an apparently arbitrary fashion. The issue was one which reflected upon the personal managerial style of the senior executives. The Committee noted the tone of internal correspondence tabled at the Sydney hearing, directed from UNE senior management to an academic, and concludes from it that poor management of staff relations at the university probably has a basis in truth.

4.74 A rather different point of view was put to the Committee by a Sydney University academic in health sciences who saw governance as important from the perspective of organising universities to serve the national interest. The claim was made that current management structures of the University render it unable to serve consumer, industry, and community needs effectively. It is claimed that there is a danger that the ten Fellows elected by University staff and graduates of the University will represent the interests of those who elected them, rather than perceiving themselves as trusted with the management of an organisation established in the public interest, and as established by statute. It is argued that students are key stakeholders of the University, along with industry, other service consumers and the wider community.

4.75 On the basis of evidence that it has received the Committee sees no advantage to universities in reducing the representative natures of councils and senates. The narrow view of a council as a board of directors takes no account of the role of universities as places of learning and having wide public responsibilities.

4.76 The Committee believes that there would be benefit in reviewing changes that have been made to the governance structures of universities over the past decade, with a view to establishing ways in which accountability processes are managed, and addressing the benefits and losses resulting from changes to governance.

The anomalous position of the states in higher education

4.77 State funding for higher education had been declining significantly as a proportion of total government funding since the mid 1950s. The states maintained a degree of influence over planning and course development in CAEs, but this was also reduced significantly when in 1977 the Commonwealth merged the Universities Commission with the Commission on Advanced Education to form the Tertiary Education Commission. The weakening of state powers in higher education was not only the result of their assessment of their limited financial capacity. By the late 1980s it appears that the states were losing interest in making any impact on higher education policy. In rapid succession, states abolished their statutory co-ordinating bodies, along with their regulatory and administrative functions, and with these, according to one authority, much of their authority to determine the direction of institutional development within the state.[44] DETYA's educational profile process was then given free rein. The loss to the states was their relegation to the peripheries of policy influence generally, and more crucially for them, a diminished voice from non-metropolitan regions.

> The states' previous statutory authorities contained a number of part-time representatives from various sectors of the community….Linkages with communities have been further reduced by the relative absence of working parties and standing committees – drawn from local professional associations and other groups – which allowed the input of specialist advice on particular issues.[45]

4.78 Regional development matters affecting cities outside metropolitan areas remains a matter of concern for the states, but they have only the informal discussions which are still held annually with DETYA in association with profiles negotiations, to put their case for regional university needs. Even the role of governments and parliaments in the filling of positions on university councils as provided for under the university establishment acts is being questioned in some quarters as being contrary to the spirit of university governance reform. Higher education sections in state departments have minimal funding, appropriate no doubt to their minimal

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44 Neil Marshall, Intergovernmental Relations in Higher Education: A Critique, in *The Governance and Funding of Australian Higher Education*, Federalism Research Centre, 1992, p.44

45 ibid., p.45

responsibilities. Information provided by some states at the request of the Committee gave staffing details for their higher education sections, with Queensland having the largest establishment of eleven FTE officers, while South Australia appeared to have about three FTE staff. The Committee heard anecdotally that Western Australia had two FTE staff. This may provide some explanation as to why state departments whose officers appeared before the Committee were not able to say, even approximately, how much funding was provided to universities by various state agencies.[46]

4.79 In view of the general attitude of the states, the Committee sees their role in higher education as anomalous. Both in theory and in practice it is desirable for an agency which has control over the funding of a program to maintain legislative responsibility for its dealings. The role of the Commonwealth in funding higher education is provided for under section 96 of the Constitution, and the funds are transmitted through States Grants (Higher Education) Acts, even though there is no intermediate state agency which formally transfers this funding. The Commonwealth administers the funds, laying down conditions for their transfer to individual institutions, which each has negotiated with DETYA. The states which made submissions to the inquiry were mainly concerned about reductions in Commonwealth funding, an interest which they would expect to have, but which added little to the Committees knowledge of issue from a state perspective.

4.80 That is not to say that all states ignore their diminished responsibilities in higher education. The Queensland government has put more than $400 million of its own money into higher education over the last 10 years—$100 million of that in the last two years. Historically, the bulk of that money has been directed to supporting regional universities through the acquisition of campuses. James Cook University has had money for capital works at both its Cairns campus and its Townsville campus.[47] The record of Queensland shows proactive policies at work. The first of these is aimed at giving some measure of access to higher education to those living in more isolated population centres. The second to building the research capability of universities in the state.

4.81 The Committee heard in Townsville that over a ten year period a network of campus centres has been established by the state government. Based on a Canadian model, the network has a technical support centre and head office in Brisbane and 50 small centres. They are based in community facilities, with local councils, local communities or local committees providing accommodation. They include all the technical support necessary: three or four state-of-the-art computers, Internet access, access to careers advice and course materials from universities; a part-time coordinator who provides mediation and support. There are facsimile, television, video and audiographics conferencing facilities. In addition to their support for higher education students, these centres support people who preparing to enter higher education and who are doing preparatory materials. They support TAFE students

46 See, for instance, *Hansard*, Sydney, 18 July 2001, p.1135

47 Ms Leigh Tabbrett, (Queensland Government), *Hansard*, Townsville, 12 July 2001, p.924

studying by distance education. They support a whole range of return to employment and return to work programs funded by the state government.[48]

4.82 The submission from the New South Wales Government complained that the states were being compelled to accept greater responsibility for the higher education sector at a time when the formal role of state governments in policy and planning in higher education was been steadily eroded. This was a reference to the 1991 *Agreement Between Commonwealth and States in Relation to Higher Education* which provided for consultative arrangements on national higher education policy. The submission noted that this has been largely Commonwealth driven, resulting in state and regional priorities being compromised, a situation made worse in recent years due to a paucity of independent advice to the Commonwealth Government.[49]

4.83 The Victorian Government submission referred to its review of post-compulsory education, noting that in this review it had been repeatedly apprised of examples of how the Commonwealth makes decisions. This process, it complained, was is marked by: remoteness of decision making; lack of consultation; inappropriate mechanisms for evaluating research performance for funding; an assumption that all universities operate from much the same base for funding; a failure to recognise the specific needs of communities; and a failure to understand and appropriately support courses aimed at skills development.[50]

4.84 The West Report referred to funding anomalies resulting from the mix of Commonwealth and state involvement in higher education but was not specific in its criticisms. It quoted with approval the recommendation of the National Committee of Audit for a clearer delineation of Commonwealth and state roles in education, and added its own recommendation that the Commonwealth negotiate with the states to allow changes in regard to governance and management reform, regulatory arrangements concerning the interface between the VET and higher education sector, and competition reform.[51]

4.85 The Committee notes the concerns of the states in relation to what they perceive to be funding anomalies. While it notes that some states may have used carefully selected interpretations of funding statistics to demonstrate their case, the principal issue they raised, and which the Committee recognises as valid, is that such anomalies point to the lack of an effective national system of higher education. Comments from the Victorian Government submission above indicate state perceptions of this deficiency, a perception shared by nearly all states.

4.86 The submission from RMIT noted briefly the particularities of Victoria and the status of universities which incorporated TAFE institutes, namely RMIT and

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48 Ms Leigh Tabbrett, (Queensland Government)*, Hansard,,* p.924

49 Submission 358, New South Wales Government, p.3

50 Submission 362, Victorian Government, p.6

51 West Report, p.87

Victoria University. It was explained that in response to diminished Commonwealth funding and increased market competition, Victorian universities offering VET courses could find themselves in stronger competition from the state's Department of Employment, Education and Training which denounces the notion of creating 'teaching only' institutions and continues to look for delivery across a comprehensive range of disciplines.[52]

4.87 Another point raised in the RMIT submission concerned tensions resulting from a Commonwealth redirection of funded places from states which have lower demographic growth to states which have a higher growth rate, even though state education policies may have encouraged higher participation rates in higher education irrespective of population trends.

4.88 Given the marginal interest shown in higher education by state governments and parliaments, the Committee believes it is time to re-negotiate the current legislative responsibilities of the Commonwealth and the states. The practical consequences of a transfer of statutory powers from the states to the Commonwealth would be minimal, involving only the cessation of the appointment of state parliamentarians to university governing bodies, and new auditing arrangements.

Recommendation Ten

The Committee recommends that MCEETYA examine the current balance between Commonwealth and state responsibilities for higher education and consider the possible transfer of statutory powers for universities to the Commonwealth.

Recommendation Eleven

The Committee also recommends the appointment of Commonwealth parliamentary representatives, or parliamentary nominees, to governing bodies of universities in receipt of Commonwealth monies.

Managers versus academics

4.89 Increased academic workloads and the higher profile and increased influence of centralised management in universities have together created tensions between many academics and the management of universities in which they work. The Committee received scores of submissions broadly related to this issue. Particular concerns have ranged widely and include: additional layers of management; the devolution of budgets; changing academic priorities consequent upon 'marketing' of courses to students; income generation and restructuring. There are a number of interrelated influences bearing on staff-management relations which effect morale, but they may be conveniently grouped into two broad issues: the effects of budget

52 Submission 281, RMIT, p.24

pressures on faculty and staffing structures; and the perception of the growth of 'managerialism' as a dominant influence in university work.

Restructuring

4.90 While the Committee was reluctant to enter into the merits of disputes between academics and university administrators that were brought to its attention, it was interested to the extent that such disputes highlight tensions which have been exacerbated by funding stringencies. This was put most emphatically in a submission from an academic at the University of New England who wrote:

> In a by-gone era in which universities were properly publicly funded and in which the industrial sphere was not fixed against workers and their elected representatives, the rather quaint governance of universities was less apparent, or, in any case, could be circumvented to a large degree. Today this is not possible. First, the squeeze on funds means that managers of universities will apply enormous pressure on unelected (and sometimes elected) members of university councils/senates to concur with their demand for managerial prerogative. Second, the industrial context in Australia at present gives a 'wink and a nod' to both university managers, backed by their supporters on councils/senates, to behave in the most appalling manner towards staff and students.[53]

4.91 It is clear to the Committee that while the restructuring of university administration was, and remains, highly desirable in many cases, the process has become complicated by the coincidence of steadily reduced funding. Budget cuts and demands from government that universities do more with less have placed considerable strain on the morale of universities. The good will of many academics has been seriously eroded. The Committee has heard and read a considerable body of evidence about shabby treatment of academics by managers who are insensitive to the needs of personnel who are experiencing greatly altered teaching and research conditions. There may be a case for saying that while restructuring decisions are necessary and desirable, the quality of management process, in particular human relations management, has often been lamentable. As one critic has stated:

> Too much restructuring can be characterised as across-the-board cost cutting in response to revenue shortage, which damages the good with the bad…restructuring has led to a chronic decline in employee morale and the development of highly adversarial relations between teaching staff and administration; both of these are inimical to sensible university management. Poor morale can be the result of economic conditions or capricious government policies over which the university has no control, but it can also be the result of the way decisions are made within the university.[54]

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53 Submission 356a, Dr Tim Battin, p.1

54 BeBats & Ward, p.78

4.92 Critics of current university administration trends see the dramatic restructuring and reorganisation of schools and faculties partly as a natural product of managerialism since it produces visible evidence of managerial activity, whether or not it is beneficial. In the particular circumstances of Australian universities, reorganisation has been driven by the need for an organisational structure amenable to control by full-time managers, replacing a system in which managerial tasks were once undertaken on a part-time basis by senior academic staff. The Committee considers that some of this comment may reflect a degree of nostalgia, but it also notes that in the 1988 White Paper it was proposed that the key to reform of university management was to imagine the university as a corporation in its own right. As Marginson and Considine have observed, the White Paper was punctuated with images of speed, strength and aggression. It demanded strong managerial modes of operation and more streamlined decision making processes.[55] The collegial processes which many academics lament the absence of were given short shrift in the Dawkins papers.

Managerialism

4.93 The term managerialism is used here in a pejorative sense: where management becomes an objective in itself rather than as a facilitation of a higher level goal. One of the most persistent complaints made by academics in their submissions to the inquiry was the extent to which the concerns of management were given a higher priority than the needs of the academic program. Academics regarded themselves as engaged in 'core business'. As universities are in the business of teaching and research, academics expect that these would be given first priority. Instead, many academics believe that they are being marginalised in matters relating to university planning, and in areas directly related to their teaching. Layers of management are imposed between the vice-chancellor and heads of departments or faculties. It is claimed that many who hold management positions have little understanding of the role of universities or of academic culture. One academic summed it up:

> The main features of managerialist policy in Australian higher education have been incessant organisational restructuring, sharpening of incentives, and expansion in the number, power and remuneration of senior managers, with a corresponding downgrading of academic staff.[56]

4.94 It is clear that expenditure on senior management has grown rapidly. In the sample of seventeen universities studied by Marginson and Considine, the total number of deputy vice-chancellors and pro-vice-chancellors rose from 19 in 1987 to 69 in 1998, an increase of nearly 300 per cent during a period in which student numbers have increased only 70 per cent and academic staff numbers have been virtually static. Marginson and Considine do not give figures for full-time executive

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55 Marginson and Considine, p.60-61

56 Submission 49, Professor John Quiggin (ANU), pp.19-20

deans, but the number was negligible in 1987 and is almost certainly more than 100 today. As senior executives require support staff, the additional employment associated with these extra managers is estimated in one submission to be around 600 positions, or about the number of academic staff in a medium-sized university. This figure does not cover all universities and does not include the proliferation of highly paid senior managers outside the academic hierarchy like marketing directors, promoters of research commercialisation, and public relations personnel.[57]

4.95 The appointment of executive deans in place of elected deans is another feature of Australian university reorganisation has been associated with the Dawkins inspired changes, and with the rationalisation of faculties and departments. Elected deans were a feature of collegial management. Appointed deans are a feature of centralised, thus 'managerialist', administration. Although the logic of appointing executive deans is defended in terms with comparison with the private sector, most deans, as Professor Quiggin has pointed out, have been selected from the same pool of senior academic staff as before, with the same limited experience of private sector management. 'Only in salary are Australian executive deans comparable to the private sector. The need to pay greatly increased salaries and perquisites has generally been justified in terms of the possibility of administrative savings associated with a smaller number of faculties.'[58]

4.96 Quiggin has pointed out that the same logic has not been applied at the department level, despite the fact that most decisions with real effects on students are made at this level. Department heads continue to be academic staff who typically receive modest enhancements to their standard salary and limited relief from teaching duties in return for performing this role. To departmental heads falls the task of organising, and living with, the greatly restructured entities that eventuate when discipline-based departments are merged into a smaller number of 'schools', defined on a basis of administrative convenience rather than disciplinary boundaries. Quiggin views the abolition of the name 'department' as reflecting the hostility to academic disciplines which pervades the managerial structure of the 'enterprise university'.[59]

4.97 Another aspect of managerialism that has been noted is the creation of layers of management so that a wide gulf now exists between academic staff and the vice-chancellor. This was put most clearly by an academic from James Cook University:

> An anecdotal, but illuminating, example of the current management innocence of our universities can be drawn from my own position as a Professor and Head of Department at James Cook University (JCU). In 1981 I was appointed to these positions by a Committee chaired by the Vice-Chancellor, and in subsequently running the Geology Department I reported directly to the Vice-Chancellor. When I finally stepped aside (exhausted!)

57 ibid., p.21

58 ibid., p.20

59 ibid.

> from the descendant position of Head of the School of Earth Sciences at JCU in 1998, it was within a management system where I reported to an Executive Dean, who, for some purposes, such as research, communicated with the Vice-Chancellor through first a Pro-Vice-Chancellor and second a Deputy Vice Chancellor. In other words - and this is not atypical - the management position of Heads of Schools at JCU has moved from reporting directly to the CEO to reporting to the CEO through THREE other levels of executive manager, all of whom now have their own turf and interests to protect. Pity particularly, however, the Professor who during the JCU management restructure was not appointed as a Head of School; he or she is now FOUR steps removed from the Vice-Chancellor. Little wonder that Professors who do not hold management positions are now a threatened species on many Australian campuses.
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> The damage which has been caused by interposing a bureaucratic level of Executive Deans between Departments/Schools and higher management - as is currently the fashion in Australian universities - is far too little appreciated. Such a management structure not only adds to direct costs (those of running the Dean's office), but also reduces the key academic leadership role of Professor and Head of Department/School to that of a middle or junior manager. The result has been a loss of entrepreneurship, a loss of productivity, a loss of trust, and a huge loss of academic integrity and leadership.[60]

4.98 Quiggin has been notably critical of the effects of managerialism on the traditional academic culture of universities. His view is that managerialism is associated with a neo-liberal and pseudo market approach to university reform in which the crucial element is the removal of obstacles to the 'right to manage'. This is explained thus:

> More importantly, managerialism and neoliberalism are at one in their rejection of notions of professionalism and the idea of autonomous academic disciplines. Both managerialists and neoliberals reject as special pleading the idea that there is any fundamental difference between higher education and say, the manufacturing and marketing of soft drinks. In both cases, it is claimed the optimal policy is to design organisations that respond directly to consumer demand, and to operate such institutions using the generic management techniques applicable to corporations of all kind.[61]

4.99 The Committee received reports of a number of views from academics on the subject of management, including the results of the Academic Work Environment Survey conducted in 2000 by Winter, Taylor and Sarros, and both the Workload Survey and the University Stress Study undertaken by the NTEU with ARC funding. Over 1000 academics responded to the first survey, the majority being middle-aged

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60 Submission 342, Professor Robert Carter, pp.1-2

61 ibid.

male academics, the majority being full-time tenured academics. On governance issues there was general dissatisfaction, as these samples indicate:

> The environment is becoming increasingly overmanaged, less sensitive to educative rather than economic end, less supportive of staff who have to work with students rather than with "administrators" and hence less attractive as a location in which to follow one's vocation. All in all, this place is the merest shadow of what it was just 10 years ago, a sad reflection of federal government fiscal policy, and of the lack of vision of both vice chancellors and their underlings in Australia. (Lecturer/Science, metropolitan university)
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> Managerialism pervades everything. Many of its features actually reduce productivity due to staff alienation eg. resentment, reduced cooperation/communication, feelings of being exploited. The informal side of productivity has been squeezed out. It seems that staff and student morale are not seen as important, yet ought to be, "belief" in the university sinks. Staff loyalty has reduced, as staff openly state their belief that they are "fodder". (Senior Lecturer/Architecture, university of technology)
>
> Managerial practices have alienated us from the workplace to a considerable degree. This has not reduced my passionate commitment to my research and teaching but it often saps all my energy so I literally waste moments agonising over the latest humiliating treatment. I am struggling to learn to ignore the environment I work in so that I can put my energy into my work. There is a huge human cost of this on me, my health and on the others I work with. (Professor/Education, regional university)
>
> The current environment is debilitating. There is an increasing mood of anxiety and insecurity about continuing employment which has encouraged a defensive attitude among staff. This has heightened staff emphasis on their careers rather than the job. The result is an uncoordinated pursuit of individual agendas at the cost of collegial, collective objectives for the university. There is an increasing belief that university "managers" do things to staff rather than for staff. (Senior Lecturer/Humanities, university of technology).[62]

4.100 The Committee is concerned at the level of discontent revealed in many of the submissions that it has received. It does not read into this wholesale alienation, but has been told informally that the level of complaint expressed through submissions represents only a small proportion of the total. Several academics have contacted the Committee anonymously for fear of reprisal. The Committee finds it hard to accept that this can be dismissed by reference to the incapacity of academics to adjust to the changes in university culture over the past fifteen years. But the scope and scale of complaints and concerns are too general for such an explanation to stand. Effective leadership of vice-chancellors includes their taking up the challenge *through collegial processes* to ensure that academic staff remain committed and effective. This will not

62 Submission 300, Mr Richard Winter, pp.6-7

always achieve high rates of success, given an eight centuries tradition of academic factionalism and individualism, but it must be strived for, and the Committee sensed that some universities have been more successful in coping with change than have others.

Autonomy within a funding straitjacket

4.101 The Committee notes the frequent claim by the Government that Australian universities enjoy levels of administrative autonomy that are matched in few other countries. Autonomy, however, is secured only by reliable access to funding. Just as the states have found themselves sidelined in higher education policy-making as a result of their relinquishing any significant financial contribution to the sector, so the degree to which universities may consider themselves autonomous depends upon their financial well-being. The autonomy of universities is increasingly restricted through diminished discretionary funding which limits the extent to which it can be used. As the Australian Vice-Chancellors' Committee (AVCC) have pointed out, autonomy without the capacity to exploit its value is hollow.[63]

4.102 The view was also expressed that since the introduction of the Unified National System, the management of universities had been made difficult by inconstant and uncertain government policies.

> It is a strange situation where the Commonwealth government is at one and the same time the major customer of universities (in that it still provides the major portion of their budgets), fixes the prices which will be paid for set services and puts in place a host of rules limiting institutional discretion and initiative.[64]

4.103 The Committee infers from the AVCC paper *Our Universities: Our Future*, that claims of record expenditure levels in higher education, and arguments that Australian universities have never before had such levels of funding available, take no account of the greatly reduced level of flexibility that now exists as to how this funding can be used. The funding mix has been altered to the extent that a higher proportion of the total funds are tied to specific purposes, while the level of discretionary funds has been cut. As the report states in regard to tied funds, they are tied in small bundles from research granting agencies; tied to 'special projects' usually in the form of small grants; tied by a requirement to match government funds; tied by contracts with government or industry to particular projects; or tied to a significant extent to international student support.[65] In the meantime the diminished operating grant provides little scope for experimentation or even, as will be detailed in other sections of this report, to provide adequate support for undergraduate teaching.

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63 Australian Vice-Chancellors' Committee, *Our Universities: Our Future*, 2001, p.16

64 Submission 88, Associate Professor Campbell Macknight, p.6

65 ibid.

4.104 It is the insufficiency of discretionary funding that focuses attention on the reality of the present administration of the higher education system in Australia as being highly centralised, with a concentration of authority over the system as a whole in the hands of a government department – the Department of Education, Training and Youth Affairs (DETYA). For all the rhetoric about university autonomy, it is argued, higher education policies have a strong flavour of centralised planning with ever increasing emphases on measurable outcomes and quantitative performance indicators. As Professor Peter Karmel told the Committee:

> Present government involvement is highly centralising despite all the talk of deregulation and the views of many people involved with universities that we ought to have less deregulation. Despite the commercialisation aspects, there is more direct intervention from the government through DETYA than there used to be. For example, if you look at the minister's report for the 2001 to 2003 triennium, it is filled with the specification of plans in terms of resources available and student numbers and the requirements which the government expects universities to meet.
>
> In that report, there is reference to 37 programs, projects and schemes managed by DETYA—that is as many schemes managed by DETYA as there are universities. There are requirements about submitting plans like research plans, equity plans, mission statements and so on and for regular annual profile discussions between universities and the government. So there is a strong flavour of central planning, with an emphasis on national priorities as expressed by the Commonwealth government.[66]

4.105 Professor Peter Karmel has claimed that the current system is permeated with policies which often fail to match the particular circumstances of an institution and produce some bizarre and unintended consequences. He gives as an example the detailed regulations relating to research output for the calculation of the 'research quantum', which give little reward to the work of the dedicated editor of a scholarly journal. He states that it is time to recognise that the diversity of universities depends on rejecting generalised management policies: that institutions should be left to manage themselves. Quality assurance should be based on retrospective assessment of actual performance, with managers praised or blamed on what they have been able to do, not what they might do.[67]

4.106 Other submissions have taken up the argument that Australian universities are more remarkable for their conformity than their diversity. Professor John Quiggin has noted that developments in universities during the current funding downturn has seen the same kind of restructuring in every university, the same kind of responses to funds shortages and the same kind of expansion and proliferation of senior management across the university sector. In Professor Quiggin's view, this is the response to

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66 Emeritus Professor Peter Karmel (ANU), *Hansard*, Canberra, 22 June 2001, p.610

67 ibid.

pressure from central government, even if it is not the response that the government intended to elicit.[68] Quiggin has stated:

> For example, a feature that clearly encourages proliferation of senior management is a continued emphasis by DETYA on various process initiatives. DETYA continually says, 'You should have processes for this and processes for that.' When DETYA was talking about quality a few years ago, that did not mean that they would go into the classrooms and say, 'This classroom is overcrowded,' or 'This course is not very good,' it meant that we had to have a senior, highly paid official in charge of quality, delivering quality processes and providing reports on quality and so forth. …There is also the pressure for competition. The pressure for universities to become more business-like has meant an expansion of marketing functions and that has created a series of additional cost imposts which, from a national point of view, are essentially wasted because we are still getting a uniform, publicly-funded system. We have seen more convergence rather than less in terms of the actual offerings of the system, but resources are being diverted into essentially misleading advertising which suggests that there are big differences between the universities.[69]

Governance and the handling of disputes

4.107 The university's traditional self-image as a 'community of scholars' and as body devoted to the free exchange of ideas is matched by the equally strong tradition of an institution fascinated with the exercise of power and the encouragement of personal and academic vendettas. In literature, the 'university novel' is a distinct genre. In reality disputes which occur in universities often have serious consequences for the personal and professional lives of academics and students. At stake is position or appointment or promotion, or a desired level of academic achievement or recognition. There is scope for corruption and for unprincipled behaviour generally.

4.108 The resolution of disputes depends on the adequacy of formal and accepted mechanisms for dispute resolution, as well as the managerial skill and judgement of those responsible for using these processes. From a council and executive perspective, what is most clearly at stake is the reputation of the university. More often than not this appears to be more important than justice to individuals. As recent events have demonstrated, however, indifference to principles of fairness has the potential to do far more harm to the reputation of a university than pre-emptive executive actions or attempts to suppress complaints or evidence of improper or unprofessional conduct.

4.109 Several events occurred before this inquiry opened which indicated the difficulties which university authorities sometimes have in handling disputes. The timing and circumstances of these disputes resulted in the Committee devoting more attention to them than was expected. As has been stated elsewhere, the merits of

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68 Professor John Quiggin (ANU), *Hansard*, Canberra, 22 June 2001, p.556

69 ibid.

particular cases, and their causes, were not as important to the Committee as the circumstances which gave rise to them, and the manner in which they were handled. Furthermore, the Committee believes that the generally depressed state of morale among students and academics, itself the result of inadequate living allowances, low pay and overwork, has resulted in a work climate that is more than normally vulnerable to vexatious behaviour and unprofessional conduct. An impression is gained that universities are increasingly fragile workplaces, where personal and professional relations are easily poisoned.

4.110 The difficulty faced by the Committee in considering the many cases of alleged victimisation made known to it in submissions is to sift the incidents which clearly point to those relevant to aspects of governance from those which appear to be result of personal differences, or from breakdowns in collegial relationships. To the extent that the Committee was able to make an assessment of these matters, there were far more in the latter category than in the first. Under Senate Standing Orders the Committee is obliged to write to those who have been subject to adverse comment in submissions. The record shows that about 100 individuals and 12 institutions were the subject of adverse comment, although many of the issues which were the subject of adverse comments related to cases that were over ten years old.

4.111 The cases described illustrate a range of issues touching on governance and a variety of responses from universities. It is significant that in most cases the issues centre on the maintenance of academic standards, and an underlying perception that exists among some academic staff that university administrators are prepared to sacrifice standards in the interests of what they see as the 'bottom line', which is the maintenance of enrolments. That this perception may be false or misleading is beside the point. As several vice-chancellors have told the Committee, quality assurance is paramount, and it remains a selling point for Australian universities. The Committee believes this to be all the more reason for vigilance against actions by deans which may appear to compromise standards. The Committee received a substantial number of submissions on some of these cases, and while this information often contains little more substance than would be found in press reports, their brief treatment here illustrates the difficulties created for, and sometimes by, university administrators.

Sydney University and the Fraser affair

4.112 This case received considerable publicity in Sydney. It concerned a student who appealed against a result awarded to her on the grounds that she had been disadvantaged by plagiarism of her work by fellow students and harassment by her supervisor. The case eventually went to the New South Wales Ombudsman who found that the University had acted unreasonably and unjustly in granting the level of consideration it did to the student: action which included awarding a first class degrees in lieu of the lower earlier assessment. The Ombudsman also criticised the University for its failure to deal with conflicts of interest which arose when the student was advised in her course of action by a relative who was the University's manager of industrial relations. It also appeared that the University did not keep proper records or insist on proper documents in support of claims.

4.113 In evidence to the Committee, the Vice-Chancellor, Professor Gavin Brown admitted that the University had not the systems and protocols in place to deal effectively with the case, and that the methods for handling cases of this kind were insufficiently robust, but that this was being addressed. It was an experience, the lessons of which, Professor Brown wanted to share with other universities.[70]

The Curtin University plagiarism affair

4.114 In this case a foreign student was given a conceded pass in a subject even though it was known that she had plagiarised an essay from the website on two occasions, the second after she had been warned of the adverse consequences of her action. The point at issue was the action of the acting dean of the faculty concerned in conceding the pass, and in doing so overriding the advice of two of the student's supervisors. According to evidence given to the Committee in Perth, the pass was conceded before the student had received all of the work required for assessment of the unit.[71] The university had the matter investigated by the former vice-chancellor of the Australian National University, whose report criticised the School of Media for failure to institute policies and proper procedures for dealing with deferred grades. The Terrell Report nonetheless came to the conclusion that the university had no option but to concede the result. There the matter rests at the time of tabling this report.

4.115 The Committee draws the obvious conclusion from this episode: that the absence of proper principles and guidelines for the handling of such cases as this will always result in violations of university standards and professional ethics whenever commercial pressures are allowed to override them.

The case of Marks and the Department of Accounting and Finance at Melbourne University

4.116 The Committee received evidence from Associate Professor Kim Sawyer in relation to this case, which began in 1998 with the offer of a $2 million donation to the university, and the offer of consultancies to academics in the department from a student of accounting, Mr Paul Marks. Concerned about the propriety of this offer, Professor Sawyer informed relevant university administrators. As a result, the Vice-Chancellor sought a report on the matter from the Dean of Law, Professor Crommelin. The report did not conclude that there had been any misconduct by the academics approached by Mr Marks, or by Mr Marks himself, although it recommended that academic staff exercise care in avoiding apparent conflicts of interest. Dissatisfied with this conclusion, Professor Sawyer sought an independent legal opinion which concluded that academic staff may have misconducted themselves and there was

70 Professor Gavin Brown (University of Sydney), *Hansard*, Sydney, 17 July 2001, p.1025

71 Mr Tony Rees (Curtin University), *Hansard*, Perth, 2 July 2001, p.631

sufficient evidence that Mr Marks sought to obtain academic advantage in making his offers.[72]

4.117 Through his involvement in this controversy, as the instigator of the Crommelin Inquiry, Professor Sawyer believes that there has been retribution. He has not been reappointed as Associate Dean, nor considered for three advertised professorships in finance.[73] In evidence to the Committee, the Vice-Chancellor of the University of Melbourne, Professor Alan Gilbert, stood by the Crommelin Report and invoked the opinion of his own Chancellor, Sir Edward Woodward, that there was no case to answer.[74] This assertion, dispassionate or not, is unlikely to be tested.

The Steele case at the University of Wollongong

4.118 This controversy erupted in January 2001, just before the Committee's work began. The case once again involved the issue of academic standards: a dispute between Associate Professor Steele and some of his colleagues about whether the standard of a student's work merited the mark that was awarded. Professor Steele's complaints of 'soft-marking' were given extensive press coverage, with the result that he was summarily dismissed by the Vice-Chancellor of the university.

4.119 The dismissal of Professor Steele, the first academic dismissal since the Orr case, became something of a *cause celebre*, being contested in both the Federal Court and the Australian Industrial Relations Commission. The NTEU took a prominent part in defending the action, seeing it as a direct threat to academic freedom, as well as being an action in breach of the local enterprise agreement. The NTEU also organised international awareness of the issues involved, resulting in strong criticism of Wollongong University from academics in the United States, Canada, Britain and other European countries and in Asia and Africa.

4.120 The Committee notes the differences of opinion between Dr Steele and his departmental colleagues and does not enter into any judgement of the merits of Dr Steele's allegations. The Committee's interest in the issue is that it represents a breakdown in internal governance processes, including what some may see as a lack of prudence on the part of the Vice-Chancellor in failing to notify or consult the university council of his decision to dismiss Professor Steele. The Federal Court ruling that the universities action in dismissing Dr Steele was improper appears to lend weight to this view.

4.121 The Committee outlines the cases above to demonstrate that concern for propriety, for ethical behaviour and for the academic reputation of universities is a matter for all members of the university community. In all cases described the onus has been placed on university managements to show that they have maintained the

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72 Submission 91, Associate Professor Kim Sawyer, Appendix 1

73 Associate Professor Kim Sawyer (University of Melbourne), *Hansard*, Melbourne, 15 May 2001, p.436

74 Professor Alan Gilbert (University of Melbourne), *Hansard*, Canberra, 22 June 2001, p.592

high standards of which they boast. The outcomes were mixed. There is a perception developing which sees academic standards being eroded as the result of a managerialist culture, while the traditional quality of the university is being upheld by 'chalkface' academic staff. The Committee is aware of the dangers of erroneous perceptions, but makes the point that the onus is now – as ever – on university managements to ensure that such perceptions are overturned.

A universities ombudsman

4.122 An important step in achieving a larger measure of management integrity, and of renewing confidence in university processes has been proposed with the institution of a universities' ombudsman. During its inquiry the Committee found that few academics or university managers had considered the idea. Professor John Niland, Vice-Chancellor of the University of New South Wales, expressed his support, in principle, to a federal ombudsman to look after the interests of universities, stating that issues to be dealt with by the new quality assurance agency would not encompass those that would normally go to an ombudsman.[75]

4.123 Some academics had given the issue more thought. Dr Clive Hamilton of the Australia Institute told the Committee:

> …I have my own preference for the establishment of a university ombudsman whose role would be specifically to hear complaints from academics and from students about university practices and which would have sufficient legal powers and ability to conduct inquiries in-confidence to try to resolve some of these difficult situations. At the moment academics do not know where to turn. Some of them do turn to the general ombudsman – the New South Wales Ombudsman, for example – but I really do not think that is a satisfactory solution, because institutional circumstances and the cultures of universities are unique, and it is difficult for people outside to understand the culture, politics and structures of institutions and, indeed, the moral codes that prevail – or ought to prevail – in universities.[76]

4.124 The recently appointed Executive Director of the Australian universities Quality Agency, Dr David Woodhouse, has also endorsed the value of having a universities ombudsman. Such a position, he believes, would complement the role of AUQA and would help protect the integrity of the sector.[77]

4.125 Given the increasing support within universities for the ombudsman proposal, the Committee believes that there is strong justification for investigating the institution of a Universities Ombudsman with the power to call for papers and to conduct *in camera* interviews with parties to disputes over issues that commonly arise in universities. There is a precedent for such an arrangement: the Private Health

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75 Professor John Niland (UNSW), *Hansard*, Sydney, 17 July 2001, p.951

76 Dr Clive Hamilton (Australia Institute), *Hansard*, Canberra 22 June 2001, p.537

77 *Sydney Morning Herald*, 30 August 2001, p.4

Insurance Ombudsman was established in 1996 to deal with complaints from across Australia in relation to private health insurance arrangements.[78] The Committee believes that were such an institution to be established it would relieve some of the burdens currently carried by academics who believe themselves to be in a helpless position in their dealings with university authorities on issues of governance. Universities should welcome an ombudsman as an institution able to measure their performance in the management of disputes, and as an indicator of the effectiveness of their own grievance procedures.

Recommendation Twelve

The Committee recommends that a national Universities Ombudsman be appointed, funded by the Commonwealth, after consultation with the states and national representative bodies on higher education, including staff and students, and that such an office include the power to investigate ancillary fees and charges and to conciliate complaints. Students enrolled in Australian programs off-shore should have equal rights of access to the Ombudsman.

An independent advisory body

4.126 The government has been without an independent advisory body on higher education since the repeal of legislation establishing the National Board of Employment, Education and Training (NBEET). Since the end of the 1980s there has been an increased tendency of governments to rely more exclusively on advice received from departmental officials. The Committee would not be surprised if that advice included convincing arguments against the establishment of a formal body providing an alternative source of advice. Instead of consistent advice, as one submission has noted, 'we have had *ad hoc* bodies like the extraordinary West Committee, or knee-jerk responses like the tampering with the levels of HECS repayment, which no doubt "seemed like a good idea at the time".'[79]

4.127 In his submission to the Committee, the former Chair of NBEET, Mr Peter Laver, suggested that the reason that NBEET was abolished was the statutory provision for education unions to be represented on the Board. While a minister could be sure that any recommendation received from NBEET represented a consensus view, the difficulty arose of having certain areas of policy closed off for investigation because it was understood that no consensus view could be achieved.[80] The Committee believes that this issue could be overcome on any reconstituted advisory board. The Committee notes Mr Laver's comment on the advantages to government of independent advisory boards:

78 Private Health Insurance Ombudsman Annual Report 2000, Role and Function

79 Submission 29, Emeritus Professor Richard Johnson, p.6

80 Submission 22, Mr Peter Laver, p.7

> A great benefit for the Minister from having an independent advisory group is that it can shield him from the multiplicity of pressure groups that exist in education. The NBEET process of receiving submissions and undertaking public consultations was a useful way of ensuring all those with an interest can be heard and their views accommodated where possible in formulating advice. The only alternative way would be to run a continuous series of independent inquiries, which is expensive and inefficient, is only really applicable for major issues and means the corporate memory is constantly lost.[81]

4.128 The need for an independent advisory body may be demonstrated by the perception of those working in higher education that there is a policy void. The implementation of a program of funding reductions hardly amounts to a policy on higher education. It says nothing about the expected role of universities, except in nebulous terms. The purpose of a standing advisory body is to ensure that the ephemeral administrative concerns that inevitably preoccupy ministers and departments do not prevent the objective assessment of long-term planning options and the formulation of implementation strategies. As one authority has noted, Australia has a poor record in subjecting its higher education policies to rigorous analysis and informed comment, which is lamentable given the billions spent on higher education.[82]

4.129 There is clearly a need for independent objective study of higher education: ideally the task of a publicly-funded body of researchers to back an independent advisory body. Melbourne University and the University of New England have higher education research units, but a national organisation is needed to provide the capability which is beyond the resources of these units. The work of the National Council for Vocational Education and Research (NCVER) is widely recognised in the VET sector for the range and quality of its research, and provides a model for a higher education sector research body. Dr Lynn Meek of the University of New England Centre for Higher Education Management and Policy has proposed the establishment of a national centre at the forefront of theoretical and empirical studies of higher education and research policy, the objective being to generate leading-edge research through projects and publications.[83]

4.130 An energetic higher education advisory board can be expected to champion the cause of higher education more effectively than lobby groups like the AVCC, and with a much greater degree than DETYA, whose function is the execution of policy rather than its making. The autonomous nature of universities allows governments to distance them from arguments about funding levels. Higher education is in this respect different from the school sector, or even the TAFE sector in that its condition has never been regarded as a sensitive political issue. Public opinion is more easily

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81 ibid.

82 V Lynn Meek, Uses of Higher Education Policy Research, *The OZ Higher Ed*, 6 December 2000

83 Submission 180, Professor V Lynn Meek, p.4

mobilised over an overcrowded school classroom that an overcrowded tutorial class at a university. Independent advisory bodies have a public education role which is as important as their advisory role. As the Chairman of the AVCC, Professor Ian Chubb, told the Committee:

> I think that a government benefits from having a group of people sitting out there who can put the policy on the table and have to own the consequences of their action. We have seen different forms of that over the years. Different people engaged over that period of time would have different views on the relative strengths and weaknesses of it. The one that I was involved really did, in my personal judgment, create some opportunities for the identification of policy issues that did not have to be sheeted home to the minister of the day and were not the responsibility of the bureaucrats. I think it gives capacity to engage appropriately in policy development. It is much harder with a lobby group. Whichever major party is in government, I know that we will say, 'We need more money,' and you will say, 'They would say that, wouldn't they?'[84]

4.131 This opinion is not shared by all current vice-chancellors, some of whom appear to believe that the AVCC is itself the most appropriate body to advise governments, even though it finds difficulty in establishing common ground on issues which affect member universities in varying degrees. Chubb's views are certainly echoed by that of a former vice-chancellor and chairman of the Tertiary Education Commission, Emeritus Professor Peter Karmel:

> The manner in which the government receives advice on higher education issues, the nature of that advice and the context in which government policy, programs and funds are administered, require reform. The government needs objective advice unaffected by political/ideological and political/electoral considerations and by the pressures of lobby groups. It cannot receive such advice from a government department subject to ministerial direction and the lobbying of individual institutions. The advice needs to be based on sound knowledge and an understanding of how universities operate and of their role in society. Much more open, objective and informed arrangements are required. Likewise, for the preservation of institutional autonomy, the universities need a "buffer" body to stand between them and the government[85].

4.132 There was support from the Queensland Government for an independent advisory body. The submission stated:

> Without an independent source of advice, the capacity of the Government to develop a longer term, strategic view of the system's needs, development and performance is limited, and parts of the agenda can be captured by unproductive, short-term contingencies, or by particular groups. The

84 Professor Ian Chubb (ANU), *Hansard*, Sydney 17 July 2001, p.1005

85 Submission 8, Associate Professor Peter Karmel, p.5

> capacity for national planning and policy on participation across all educational sectors, and for public reporting and analysis of system-wide data, independent of the Government, is essential to the system.[86]

4.133 The Committee's strong interest in reconstituting an independent advisory body results from seeing the effects of a policy debate vacuum in higher education over the past six years. The current political debate on higher education has not been assisted by the absence of advice independent from DETYA and the AVCC lobby. Neither the Government nor the stakeholders in higher education have been well-served by this advice vacuum. Individual academics have engaged in public debate, but it has been all too easy for these civic-minded individuals to be branded as malcontents and reactionaries when they have attempted to bring some academic perspectives to bear on the higher education issue. An advisory body, acknowledged as independent and non-partisan would serve the purpose of heightening public awareness of the importance of higher education to the life of the nation, and help maintain the public debate of higher education issues in such a way as to preserve it from zealotry and populism.

Recommendation Thirteen

The Committee recommends that a cross-sectoral advisory body be established to provide independent advice to government, and that this body include respected and experienced individuals reflecting community interests as well as those of higher education.

Issues to be referred to such a body could include:

- **a review of the adequacy of student income support measures, particularly the impact of changes to the age of independence requirements for student income support, especially in relation to participation rates in higher education;**
- **a review of the cost for rural and regional families and students of participating in higher education;**
- **the effects of convergence between the higher education and VET sectors; and**
- **examination of the applicability of the Research Assessment Exercise developed in Britain as a basis for distributing public research funds on the basis of quality.**

86 Submission 339, Queensland Government, p.20