

Submission

to

Senate Employment, Workplace Relations and Education
Legislation Committee

Inquiry into the provisions of the Higher Education Support Amendment (Abolition of Compulsory Up-front Union Fees) Bill 2005

Submitter: Manoj Dias-Abey

Organisation: University of New South Wales Student Guild

Address: Level 1, East Wing, Quadrangle Building
University of New South Wales Sydney 2052

Phone: (02) 9385 5454

Fax: (02) 9385 6721

Email: president@guild.unsw.edu.au



**HIGHER EDUCATION SUPPORT AMENDMENT BILL (ABOLITION OF
COMPULSORY UP-FRONT UNION FEES) 2005**

**Submission to the Employment, Workplace Relations
and Education References Committee**

Presented by

MANOJ DIAS-ABEY
President
UNSW Student Guild

Prepared by Scott Carn, Student Guild Executive Officer
and Manoj Dias-Abey, Student Guild President.

UNIVERSITY OF NEW SOUTH WALES STUDENT GUILD

Level 1 East Wing Quadrangle Building
University of New South Wales Kensington NSW 2052

t. +61 2 9385 5454
f. +61 2 9385 6721
w. www.studentguild.unsw.edu.au

ORGANISATIONAL SUMMARY

The University of New South Wales Student Guild is the representative body for UNSW students, a group of students currently numbering over 36,000. The Guild operates with an annual budget of approximately \$1.6 million and currently employs eight full-time staff members, all located at the Kensington campus.

The Guild has a number of departments including Education, Welfare, Women's, International Students, Gay, Lesbian, Indigenous Students, Ethnic Affairs, and Activities. The Guild also funds the activities of approximately 175 student clubs and societies that are active in and around the Kensington campus, as well as providing services to all students including a free advocacy and legal service, as well as the *Tharunka* newspaper and numerous other publications.

INTRODUCTION

On the March 16 2005, the Minister for Education, Science and Training, the Honourable Dr Brendan Nelson MP (hereinafter 'the Minister'), introduced the *Higher Education Support Amendment (Abolition of Compulsory Up-front Student Union Fees) Bill 2005* (hereinafter 'the Bill') into the House of Representatives.

On May 11 2005, the Bill was referred to the Senate Employment, Workplace Relations and Education Legislative Committee (hereinafter 'the Committee'). According to the Explanatory Memorandum circulated by the Minister, the Bill seeks to:

“... prohibit all higher education providers (public and private) from: requiring a person to become a member of a student organisation (union or guild) and requiring a student to pay fees for non-academic student services.”¹

The broad terms of reference identified for the Committee include:

- i. Assessment of the likely effect of the legislation on the provision of student services, and related consequences; and,
- ii. Consideration of the experience of universities and students where legislation has been adopted to regulate student unions, such as in Victoria and Western Australia.

The University of New South Wales Student Guild (hereinafter 'Guild') is opposed to the proposed legislation for a number of reasons, which will be addressed in the final section of the submission. These include:

- i. the provision of student support services by the Guild, and the effect of the legislation on these services,
- ii. the provision of funding for clubs and societies on campus;
- iii. the deleterious effect on student representation; and
- iv. equity considerations and the negative impact on participation of students from a low socio-economic background in the tertiary education sector.

The next section of this submission will consider in detail the two models of Voluntary Student Unionism introduced in the Australian context, and their effect on the services and representations provided by student organisations.

¹ Dr Brendan Nelson, Explanatory Memorandum, *Higher Education Amendment (Abolition of Compulsory Up-front Student Union Fees) Bill 2005* (2004-2005).

I started my tertiary education in 2003 at UNSW. I decided to move from the regional town of Armidale in order to access the increased educational opportunities available in Sydney. My first contact with the student organisations at UNSW was Orientation Week (O'Week). During O'Week I joined a number of clubs that offered a diverse range of cultural activities, including: a Japanese speakers' club, a political club and the Chemistry society. These clubs were a useful means to make friends and to broaden my educational experience at UNSW.

Volunteers from the student organisations led tours that showed me around such a large, and at times, imposing university campus. They also helped explain the practical aspects of public transport in the city, very useful considering Armidale only has three bus routes.

I am very thankful for the student organisations at UNSW because they really helped to minimise the potential stress caused by a major transition in my life.

Michael, 22 (Armidale, NSW)

The Guild believes that the Western Australian model of voluntary student unionism (hereinafter 'VSU') is the most damaging to universities in general, and student organisations in particular. The completely voluntary model offered by the Western Australian model would see a huge reduction in the number of members

Model

Western Australia had a limited form of anti-student organisation legislation in place from 1978 to 1982. The *Acts Amendment (Student Guilds and Associations) Act 1977* prevented the use of compulsory levied student fees to be used for affiliation fees to the Australian Union of Students (AUS). Upon reelection in 1993, the Liberal government again pursued anti-student organisation legislation, although this time the legislation was much farther reaching. The *Acts Amendment (Student Guilds and Associations) Act 1994* provided that:

- i. It was not compulsory for any student to be a member of a student association;
- ii. It was not compulsory for a student to pay any fees to a student association or any service not directly related to an educational course provided by the university;
- iii. Criminal penalties for anyone who discriminates against non-members; and
- iv. The removal of the Guild President as a member of University Council.²

A change in government in Western Australia led to the partial, and protracted, repeal of the *Acts Amendment (Student Guilds and Associations) Act 1994*. The Gallop government held the view that in light of the continued support of VSU legislation by the Liberal/National coalition opposition, a full repeal of the Act would mean that at the next change of government, VSU would again be implemented, thus ensuring that the student organisations were in a state of permanent restructure.

In response to this, the Gallop government framed the repeal legislation in terms of voluntary membership to the student organisations, but the universities would be able to levy a compulsory fee. The student organisations would receive income equivalent to those who chose to join.

The *Acts Amendment (Student Guilds and Associations) Act 2002* provided that:

- i. It is not compulsory to be a member of the Student Guild;
- ii. An annual amenities and services fee shall be set at an amount approved by the University Council, after receiving a recommendation from the Student Guild;
- iii. The amenities and services fee is payable to the university council by each enrolled student, except students exempted from doing so, or made ineligible by statute;
- iv. The University Council shall pay to the Student Guild a percentage of the amenities and services fee

² Graham Hastings, *At Risk With Anti Student Organisation Legislation*, Melbourne, National Union of Students, 2005, p. 22.

- collected that is not less than the percentage of enrolled students who are members of the Guild;
- v. Regardless of the number of enrolled students who are members of the student guild, the percentage of the collected amenities and services fee paid to the Student Guild must exceed 50 per cent of those fees;
- vi. The part of the amenities and services fee not paid to the student guild is to be spent on student amenities and services in the manner agreed by the Council and the Student Guild

Effect

After the legislation was introduced in 1994, the then Labor Commonwealth government provided emergency funding to the four student organisations³ in Western Australia in 1995 and to a lesser extent in 1996. The clause inserted into the *State Grants (General Purposes) Act 1993* stated that the Commonwealth would “protect the right of higher education institutions to decide the most appropriate range and level of services and amenities for their students”. The result of the *States Grants Act* was that the Commonwealth provided compensation to the Western Australian student organisations for income lost due to state-based VSU legislation. The Act also allowed for the Commonwealth to reduce grants made to an offending state by the amount of the compensation, thus, the states were effectively funding the student organisations through foregone revenue.

In 1995, the funding provided under the *State Grants (General Purposes) Act 1993* was:⁴

- i. Curtin University of Technology: \$0.0m
- ii. Edith Cowan University Student Guild: \$1.54m
- iii. Murdoch University Guild of Students: \$0.72m
- iv. The University of Western Australia: \$1.56m

In 1996, the funding provided under the *State Grants (General Purposes) Act 1993* was:⁵

- i. Curtin University of Technology: \$1.82m
- ii. Edith Cowan University Student Guild: \$1.20m
- iii. Murdoch University Guild of Students: \$0.69m
- iv. The University of Western Australia: \$1.66m

The 1995 membership rates after the legislation came into force were:

- 1. Murdoch University: 38 per cent;
- 2. The University of Western Australia: 28 per cent;
- 3. Edith Cowan University: 13 per cent; and
- 4. Curtin University of Technology: 10 per cent.

Interestingly, even prior to the introduction of the *Acts Amendment (Student Guilds and Associations) Act 1994* the student organisations in Western Australia were unusual in that all campuses had a unitary Student Guild, which combined representation, commercial services, and recreation and sporting clubs in one body. This structure is unusual at many interstate campuses, and the advantage of this structure meant that the Guilds did not have to go through the protracted process of organisation mergers in order to continue functioning.

Based on the best-case membership take-up in the first year after the introduction of the Western Australian legislation⁶, the Guild could expect an annual income of \$608,000; under the worse case membership take-up⁷, the Guild could expect an annual income of just \$160,000.

³ The University of Western Australia Student Guild, the Curtin University of Technology Student Guild, the Murdoch University Guild of Students, and the Edith Cowan University Student Guild.

⁴ Hastings, *At Risk With Anti Student Organisation Legislation*, p. 21.

⁵ *Ibid.*

⁶ In the first year after the introduction of the legislation, the Murdoch University Guild of Students had a membership rate of 38 per cent.

This quantum of income reduction would obviously have a devastating effect on the activities of the Guild.

⁷ In the first year after the introduction of the legislation, the Curtin University of Technology Student Guild had a membership rate of 10 per cent.

THE VICTORIAN MODEL

The Guild believes that the Victorian model of VSU is, in relative terms, less damaging to universities in general, and student organisations in particular. However, the concept of less damaging is entirely relative. The Victorian VSU model still removes a number of essential elements of student organisational control over student fees.

Model

When the Kennett government was elected in 1992 it pursued a different path from Western Australia; it still wanted students to pay for essential services but wanted to restrict the range of activities that student organisations undertook, particularly those perceived to be damaging to conservative governments. The *Tertiary Education Amendment Act 1994* provided that:

- i. Universities and TAFES were still able to charge compulsory student service fee for services, but the services could only be those listed in the Act or specifically approved by the Education Minister;
- ii. Automatic membership of student organisations was banned;
- iii. It was unlawful for the university to discriminate against non-members provided they have paid the approved fee;
- iv. The approved services were: food services; meeting rooms; sports and physical recreation facilities; child care facilities; counselling, health care, legal, health, housing and employment services; visual and performing arts and audio-visual media facilities; academic support and overseas student services.

I started my tertiary education in 2003 at UNSW. I was one of the few people from my high school, in Gurraveen, to gain acceptance to UNSW. As I did not know many other students when I started, O'Week provided me with an excellent opportunity to become involve with the University community. I joined clubs, including the debating club and the French Society.

I am from an Indian family. The existence of an Indian students' club and a Hindu chaplaincy funded by the UNSW student organisations meant I was able to integrate, through links with my cultural heritage, successfully with the campus community.

Without the student organisations at UNSW I would have not enjoyed my time at university to the extent that I have.

Anita, 20 (Westmead, NSW)

The regulations required universities to negotiate funding agreements with the student organisations to ensure compliance with the Act. There were provisions in the Act for the list of approved services to be extended but only on recommendation from Victorian Vice-Chancellors.

In 1995 the approved services were expanded by the *Tertiary Education (Student Representation) Regulations 1995* to include the conduct of student elections to university council and its committees, and other management committees of the institution.

The 1999 election of the Bracks Government did not lead to a repeal of the *Tertiary Education Amendment Act 1994*, as the balance of power in the Legislative Council was held by several conservative independents. Instead, under the *Tertiary Education Regulations 2000*, the list of the approved activities were extended again to include:

- i. student publications, including student newspapers that meet generally accepted community standards including accuracy and fairness;
- ii. clubs and societies for students;
- iii. student elections; and
- iv. opinion surveys, research, and other facilities, services and activities that provide for the consideration of issues relevant to student welfare.

The *Tertiary Education Regulations 2000* were soon superseded by the *Tertiary Education Act 2000* which substantially amended the *Tertiary Education Amendment Act 1994*. The *Tertiary Education*

Amendment Act 2000 removed the sections prescribing the list of approved activities. The new arrangements became:

- i. post-secondary education institutions are allowed to charge a compulsory amenities fee so long as it was used to provide 'facilities, services or activities of direct benefit to students at the institution';
- ii. post-secondary education institutions must ensure that a student who does not wish to be a member is provided with an opportunity to do this at the time of enrolment;
- iii. that the governing body of a post-secondary education institution must ensure that the institution's annual report includes a financial statement about compulsory non-academic charges payable in the preceding financial year.

Effect

The *Tertiary Education Amendment Act 1994* was in operation from 1995 to 2000, and was aimed primarily at the departments of student organisations that might criticise government policy. Non-sporting clubs, women's support services, and student newspapers were excluded in the list of allowable items.

As in Western Australia, the Victorian student organisations were initially eligible for compensatory funding. In 1995, only two organisations received such funding, the Melbourne University Student Union (\$1.23m) and the Swinburne Student Union (\$0.07m). In 1996, more campuses received funding: Ballarat University Students' Association (\$0.12m), Victoria University of Technology Western Institute Student Union (\$0.05m), and the La Trobe University Students' Representative Council (\$0.57m).⁸ Some Victorian student organisations did not receive their funding in 1996, as their applications were not processed before the Howard government suspended the programme.

Due to the nature of the Victorian legislation, after 1996 Victorian student organisations were generally able to continue to offer a comprehensive range of services, representation and relatively high staffing levels. Voluntary membership in 1996 and 1997 ranged from between 60 and 70 per cent, with the Melbourne University Student Union having the highest membership rate of 85 per cent. The disallowed items, such as student newspapers and student office bearer honoraria, were generally funded from profits from commercial activities.

⁸ Hastings, *At Risk With Anti Student Organisation Legislation*, p. 27.

Service Reduction

The Guild provides significant funding to a number of key service provision areas within the university. These include subsidies to student childcare centres in excess of \$50,000; a co-sponsor subsidy of an on-campus information and referral centre⁹ of \$9,000; and a no-cost advocacy and legal service to members at a cost of \$140,000. This funding is entirely derived from the compulsory student fee collected by the University on behalf of the Guild.

Advocacy and Legal Service

The Guild employs two full-time staff members to provide direct one-on-one advocacy services to the student body. The two staff members, the Advocacy Officer and Solicitor, aim to provide a no-fault resolution to academic and general grievances for students. The Advocacy Officer not only deals with individual grievances, but also provides written research papers on the effect of internal University policies, and changes in legislation that may affect the higher education sector.

I am a Science/ Arts student in my final year of my study. I completed my High School Certificate in 1998 and began at UNSW in 1999.

Earlier this year, I was charged with non-academic misconduct and threatened with suspension. This was a serious source of concern for me as I was only months away from graduation.

I had a meeting with the Guild solicitor and his advice was invaluable. He ensured that the University followed the dictates of natural justice and also made certain that I had legal representation throughout the process.

Without this service, I am doubtful as to whether the University would have dealt with my case fairly.

Andrew, 23 (Sydney, NSW)

The primary areas in which the Advocacy Officer provides advice are in enrolment, assessment, administrative, or other general problems. The Advocacy Officer assists students at all levels of a grievance, and will assist students in making representations to the University administration regarding their grievances. The Advocacy Officer ensures that students are resourced with an understanding of the correct procedures for advancing a grievance, and will provide independent advice on the likelihood of success in a particular case.

Further, the Advocacy Officer provides advice and assistance in applying for, and undertaking grievances with, government bodies, such as Centrelink and the Department of Veterans Affairs. Where the complaint or grievance is beyond the scope of the Advocacy Officer, they will provide a referral to an appropriate body to assist in their complaint.

In addition to the employment of the Advocacy Officer, the Guild employs a full-time Solicitor. The Solicitor provides a no-cost service to students, and primarily advises in minor cases.

The majority of casework is conduct in higher end academic grievances, tenancy, industrial relations, and traffic infringements.

The introduction of the Bill will mean that the Guild may not be able to continue to employ the two full-time staff members to provide independent and free advocacy services. The impact of this upon the student community would be great; the independence of this service provides students with a no-fault dispute resolution process that would disappear without the service provided by the Guild. Without this service, the escalation rate of grievances would increase, and the University's student services would be clogged with complaints. This would increase the length of time required to resolve problems, and decrease the ability of the University to respond promptly to grievances.

⁹ The CONTACT Centre: www.contact.unsw.edu.au.

Childcare

The Guild currently provides subsidies to two childcare centres at the University: House at Pooh Corner¹⁰ and Honeypot. These subsidies, at approximately \$25,000 per centre provide for price reductions at both centres. Without the on-going financial support of the Student Guild, Postgraduate Board and University Union, these centres would be forced to charge market rates to students who are on low incomes. Representatives of the Guild sit on the Boards of Management of both centres.

Waiting lists for childcare centres at the university currently sit at approximately 700 children; many parents do not bother to place their children onto the waiting lists at university childcare centres. These waiting lists pose a serious barrier to students with children wishing to study at the University.

Clubs and Societies

The Guild currently spends in excess of \$180,000 per year on clubs and societies. This includes the wages of a full-time CASOC Coordinator to administer the day-to-day operations of clubs. In addition to this, the CASOC Department of the Guild projects that it will spend \$135,000 on subsidising student clubs and societies in 2005.

It is worthwhile noting that only \$315 or 0.3 per cent of the total departmental budget was spent on political clubs in 2004. This should be contrasted with the amount spent on religious and cultural clubs, which totalled \$16,337 or 17 per cent of the total department spending. The remaining 82.7 per cent of the subsidies budget was spent on on-campus social- and faculty-based clubs and societies.

Under VSU these it is inconceivable that clubs and societies could be funded to the same extent as they currently are. In addition, the Guild would not have sufficient funding to continue to employ a full-time CASOC Coordinator.

Representation

Political representation is one of the fundamental functions of the Guild. Representation is made by the Guild on behalf of its members to the University at all levels; the Guild provides representation and research to external university bodies including, but not limited to, the Commonwealth and State governments. The representation and research often arise as a result of student inquiries and as a result of the trends within student advocacy. This representation may take many forms, including the formal responses to proposed policy changes within the University, monitoring student resource issues across the University.

The primary responsibility of research and representation falls to the President, Advocacy Officer, and Executive Officer. The President attends many university committees and working-groups to provide an independent student voice. The Executive Officer is employed to provide strategic direction for the Guild, and work closely with the Advocacy Officer to provide official Guild responses on issues within the higher education sector. These responses generally take the form of written submissions, and the Guild has recently provided submissions to the NSW Ombudsman and the Senate Employment, Workplace Relations and Education References Committee.

Specialised departments such as Education, Women and International Students provide support, program and representation on issues related to specific constituencies.

¹⁰ House at Pooh Corner: www.poohcorner.unsw.edu.au.

In contrast to the many non-political uses of the \$1.6m student fee paid annually to the Guild, approximately \$220,000 or 14 per cent is spent on what be broadly described as political purposes, such as grants to political clubs, NUS affiliation fees and departmental campaign budgets. Affiliation to NUS provides an effective national student voice and the Guild believes its affiliation forms an important component of student representation.

Political student organisations, such as the Guild, have played an important historical role in gaining recognition for students as key stakeholders in the University. VSU puts at risk the gains that have been made to date, and also threatens to disregard student perspectives in university decision-making.

Negative Impact on Participation by Marginalised Groups

Despite the assertions made by the Minister that fees for adjunct, non-academic services act as a disincentive to university study¹¹, there is very little evidence to suggest this.

The welfare services offered by student organisations increases students' abilities to access quality higher education, and assist them in completing their study. In fact, the proposed Bill has the potential to limit the ability of a student to access and complete their higher education, because of a lack of independent advocacy, welfare and representational services.

Furthermore, it is our understanding that most student organisations have flexible payment options (including a complete fee waiver) for students who are suffering financial hardship. For example, the Guild provides short-term and long-term loans at no interest to students facing extreme financial difficulties.

We believe that the ancillary fees charged by many universities (such as compulsory course materials), which are an illegal academic fee act as a greater disincentive and cause more hardship for students than a compulsory amenities fee levied by student organisations.

¹¹ There is very little evidence, either anecdotal or research, that supports the assertions made by the Minister in "Nelson Set to Destroy Student Fees", *The Guardian*, 23/03/2005.

CONCLUSION

I started studying Human Anatomy and Physiology in 2002 at UNSW. In my time at university I have used a number of the services offered by the student organisations on campus. In order to study at UNSW I had to move away from home. The Guild helped me to overcome the increased financial burden that I was put under by explaining Centrelink procedures. They helped me to apply for Youth Allowance and Rent Assistance so I could afford to live in Sydney.

During my time at university my family has been through a period of disruption. The support that I received, particularly from the Women's Department, was of great comfort. This emotional support allowed me to concentrate on my studies when, at times, I even considered leaving university completely.

The student organisations on campus have provided me with an important support network during my time at university. Had this network not existed, I may not still be studying the courses I enjoy.

Jennifer, 21 (Armidale, NSW)

The Guild believes that the Bill, as proposed by the Minister, does not serve the best interests of current or future students. The Guild believes that in its current form the Bill will have the same devastating effect on student and campus life as the *Acts Amendment (Student Guilds and Associations) Act 1994* had on student and campus life at Western Australian universities after the cessation of support funding from the Commonwealth government in 1996.

It is obvious that some of the services offered by student organisations will have to be provided by university administrations. This includes fundamental equity access services like childcare, as well as services such as Orientation activities, student facilities support, and so on.

Given the current downward trend for international students to study in Australia, it would be remiss of the Senate to support this legislation. Without these services and facilities, Australian universities will not continue to be attractive study destinations for international students. A further decrease in international enrolments would have a devastating affect on the already strained budgets of university administrations, and would continue the downward trend for of quality teaching at Australian universities.

Should the Senate support the Bill it is widely expected that student organisation memberships will mimic the trend of voluntary membership in Western Australia. Despite initial membership take-up rates of 13 per cent at Edith Cowan University, by 1999 membership had fallen to only 6 per cent. Such low membership rates would effectively remove all student activities from university campuses across the country.

This submission has not covered the potential impact that VSU will have upon regional centres in which student organisations play a vital role not just in student life, but in the life of the entire community, for it is beyond the scope of a metropolitan student organisation to comment on this issue. However, the Guild sincerely hopes that in its considerations of the Bill, the Committee shall consider the negative impact this legislation will have on these communities.

Whilst the Bill clearly aims to restrain the efficacy of political agitation by student organisations, its possibly unintended side effects include the destruction of so many other vital student support services, activities and facilities that ensure that students are able to complete their university studies. It is for these, and numerous other reasons, that the Guild believes this legislation is short-sighted and ill-considered. For these reasons the Guild makes the following recommendation:

That the Higher Education Support Amendment (Abolition of Compulsory Up-front Student Union Fees) Bill 2005 be abandoned.