



SUBMISSION

OF THE

AUSTRALIAN ACADEMY OF THE HUMANITIES

TO THE

**SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
LEGISLATION COMMITTEE'S**

**INQUIRY INTO THE PROVISIONS OF THE
AUSTRALIAN RESEARCH COUNCIL AMENDMENT BILL 2006**

14 APRIL 2006

**PROFESSOR GRAEME TURNER FAHA
PRESIDENT**

PLEASE REFER ALL ENQUIRIES IN THE FIRST INSTANCE TO

DR KATE FULLAGAR

ACTING EXECUTIVE DIRECTOR

1. Preamble. The Academy holds the view that the independence of research funding bodies is integral to their effectiveness, and that public confidence in that independence is paramount. This matters for several reasons:
 - a. Public confidence in the independence of the Australian research enterprise is an essential aspect of the mandate that researchers derive from the community to conduct their work. It also informs to a significant degree the mandate of Parliament to devote taxation revenue to publicly funded research.
 - b. The international reputation of Australian research depends to a significant degree on the perception of our structures for funding research. Policymakers often overestimate the proportion of international esteem that depends upon the work of individual researchers or research teams: the quality and impact of particular research activities are certainly very important factors, but the assessment of the structure and function of the research system from which they come also plays a very significant role in determining international regard. This consideration has a direct impact upon international collaboration, citation and exchange, with consequences for researchers from the highest level to those undergoing their research training. Weak decisions in respect of the international standing of our research system can antagonise the chances of success of other research policy initiatives.

This aspect of the Australian Research Council's structure and function, as a matter of the highest national interest, is the central concern of this submission.

2. Selection of the template. The Academy would like to register its strong endorsement of the decision to ensure that the ARC remains a statutory agency outside the Department of Education, Science and Training. However, we are also of the view that it would be preferable to reconstitute the ARC on the Board template rather than on the Executive Management template. Briefly, the reasons for this view are:
 - a. The performance of the ARC – and in some respects the entire non-medical research enterprise in Australia – becomes unacceptably dependent upon the performance of a single individual. While the Academy would like to stress that it has the utmost faith in the incumbent, whom it regards as an individual of the highest integrity and capacities, there is no guarantee that future appointments will be so satisfactory.
 - b. The position becomes much more vulnerable to a substandard Ministerial appointment than would be a board structure, which is much more likely to involve the appointment of a range of people charged with the same responsibilities. Again, the Academy is not concerned about the motivations of or processes likely to be adopted by the present Minister, but there is no guarantee that such confidence will always be enjoyed in the future by the sector and the public.

- c. The structure puts unacceptably high pressure upon an individual to anticipate and please political masters for political reasons, to which a board with rolling appointments would be less vulnerable. The same caveats as above applies with respect to the performance of the incumbent and the likely behaviour of the present Minister, but this cannot be guaranteed into the future.
- d. More broadly, there is considerable risk that the ARC's mode of engagement may become, over time, one of reaction to Government whim, including political pressure, which would compromise its independence. We note that it is not necessary for Government actively to bring about this response: it is sufficient for the bureaucracy to anticipate that this is a tacit operational requirement for this vital independence to be lost.
- e. Under this template, the ARC loses its essential capacity to initiate its own inquiries into research matters, becoming reactive rather than proactive with respect to its core business.
- f. The use of the designated committee model for both the College of Experts and the Advisory Committee is of particular concern. This model entails considerable potential for the appointment of an increasingly narrow band of scholars and advisors (respectively) that may rank the political interests of Government and its core constituency over the broader public interest of robust, independent and quality-focussed research activity. This tendency will almost inevitably increase over time as replacement appointments are made, and will very likely be a feature under a Government from either side of politics.

Recommendations

That the Committee advise that the Bill should be altered to adopt instead the more suitable model for an independent Australian Research Council of the Board template.

That the Bill's provision for the retirement of the Board be replaced by a provision for the replacement of the present Board with a newly established Board in accordance with that template.

Recognising that it is the Government's intention to employ the executive management template, however, we approach the issues henceforth in light of the structure proposed, in the event that the above recommendation is not adopted.

3. The Chief Executive Officer. The Academy is concerned about two aspects of the concentration of the onus of the operation of the ARC upon the CEO (in addition to those misgivings expressed above in 2.a-c). These are both consequential to the significant increase in the CEO's workload.
 - a. This increase may be expected to have organisational management repercussions, unless provision is made to provide additional senior

management support to assist with the operational oversight that may come under pressure in light of the CEO's new substantive responsibilities.

- b. The CEO's dependence upon sound, timely and expert advice about research matters across the board will be paramount, increasing the importance of finding the right composition of the advisory committee (see below).

Recommendations

That the Bill be altered to include provision in subsection 34(2) for the solicitation of nominations from the Learned Academies and other interested parties to assist the Minister in making the appointment of the CEO.

That the Committee recommend that financial provision be made for additional senior management support for the CEO to assist with the expanded workload.

4. The College of Experts. Public, research sector and international confidence in the peer review system is significantly a question of the confidence that accrues to the peers conducting the reviews. The mode of their selection is as important as their individual identities and the methods they employ: indeed, to the non-expert public, the structural matters of selection and procedures are much more significant than those of individual identity. With the College of Experts functioning as a designated committee, and being subject to appointment by the Minister, obvious perils arise. The College of Experts must retain the confidence of the research sector, the general public and the international research community. The College's actual composition is probably most important to the first group, and the methods through which that composition is attained are most important to the latter two groups. The confidence of these groups can be underwritten by the incorporation in the legislation of a requirement to consult with relevant groups on the general composition of and on the occasion of specific appointments to the College of Experts. Given the eponymous expert nature of the College, the various constituencies need to be confident that (on the one hand) only active and expert scholars are appointed, and (on the other) the College possesses the full range of expertise necessary to make properly informed recommendations across the breadth of all research activity. This intention – somewhat central to the entire operation of the ARC – should be captured in the legislation. The Academy would like to see provision for consultation with the Learned Academies on appointments to the College of Experts. The Committee is reminded that the Learned Academies are funded under the Higher Education Support Act 2003 'as independent organisations that promote and undertake research and scholarship' and 'as focal points for contact with the communities represented by the Academies and as sources of advice to the Government relating to their fields of expertise.' It is therefore entirely consistent for the ARC legislation to nominate the Learned Academies as sources of advice on appointments to the College of Experts.

Recommendations

That the Bill be altered to include provision in subsection 30(2) for public consultation prior to the abolition of a designated committee, other than in the case of criminal or corrupt behaviour on the part of a designated committee as a whole.

That the Bill be altered to include provision in subsection 31(1) for public consultation in the development of the functions of designated committees.

That the Bill be altered to include provision in subsection 32(1) for the public release of the process by which the Minister intends to make appointments to designated committees.

That the Bill be altered to include provision in subsection 32(1) for public consultation in the process of the appointment of designated committees.

That the Bill be altered to include the stipulation in subsection 32(2) that appointments to the College of Experts should be active expert researchers.

That the Bill be altered to include provision in subsection 32(2) for nominations to be solicited from the Learned Academies, in addition to other stipulated relevant bodies as the Committee sees fit, to assist the Minister in the appointment of designated committees.

5. The Advisory Committee. A similar set of concerns exists with respect to the Advisory Committee. The Minister has said that it ‘will have a broad membership and will focus on providing strategic advice about the ARC’s operations.’ The Academy would like to see explicit provision for this intended structure and function in the legislation if possible. If the Committee considers this too cumbersome, the Academy would like to see provision for the ex officio membership on this body of the Presidents of the Learned Academies, or, at the very least, for consultation with the Learned Academies and other relevant bodies on appointment to the Advisory Committee. Given the appointed function mentioned above of the Academies as advisory bodies, it is, again, entirely consistent for the ARC legislation to nominate the Learned Academies as sources of either ex officio members or at least nominations for membership of the Advisory Committee.

Recommendation

That the Bill be altered to include provision in subsection 32(2) for the ex officio appointment of the Presidents of the Learned Academies or their nominees to the Advisory Committee.

6. Statement of Expectations. The Australian research sector and the wider community should have a formal opportunity to provide input into the Statement of Expectations. As these Ministerial directions will attract public and sector comment after they are made public, presumably by being tabled in Parliament in

accordance with section 33C, such comment could be harnessed more effectively to the end of perfecting such directions with the inclusion of a consultation process.

Recommendation

That the Bill be altered to stipulate that the Statement of Expectations mentioned in the Explanatory Memorandum constitutes a direction from the Minister to the CEO as provided in section 33C.

That the Bill be altered to include provision for a consultation process in the development of the Statement of Expectations.

7. Funding rules. Ministerial actions in determining the rules under which funding may be allocated to research should be subject to Parliamentary scrutiny and disallowance, in the interest of the preservation of public confidence in the apolitical formulation and application of rules governing research funding decisions.

Recommendation

That the Bill be altered to reverse the stipulation in subsection 60 (4) that rules made by the Minister are not subject to disallowance in accordance with subsection 44(2) of the Legislative Instruments Act 2003.