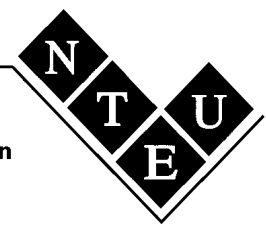


**National
Tertiary
Education
Industry
Union**



NATIONAL OFFICE

ABN 38 579 396 344
First floor, 120 Clarendon St, South Melbourne 3205
PO Box 1323, South Melbourne 3205
Tel: (03) 9254 1910 Fax (03) 9254 1915
Email: nteunat@nteu.org.au
Web: www.nteu.org.au

NTEU SUBMISSION

to

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

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

Submitter: Dr Carolyn Allport

Organisation: National Tertiary Education Union

Address: PO Box 1323, South Melbourne, Victoria, 3205

Phone: 03 9254 1910

Fax: 03 9254 1915

Email: ecull@nteu.org.au

Recommendations

NTEU makes the following recommendations in regard to the *Australian Research Council Amendment Bill 2006*:

Recommendation 1

That the *Australian Research Council Amendment Bill 2006* be amended to state that any Ministerial decision overriding the recommendations of the College of Experts must be reported to Parliament by subject area, within 15 sitting days of the decision.

Recommendation 2

That the *Australian Research Council Amendment Bill 2006* be amended so that the College of Experts is listed in the Act and that it is not subject to the same Ministerial determinations as the “designated committees” under 4:30-33 of the *ARC Amendment Bill 2006*, including provision for the Minister to dissolve a committee at any time and determine and direct the functions of a committee.

Recommendation 3

That changes are made to the *Australian Research Council Amendment Bill 2006* to ensure that the College of Experts’ functions are listed in the Act and that these functions are determined in consultation with the existing College of Experts.

Recommendation 4

That the appointment process for the College of Experts is listed in the Act and that this process must include requirements for consultation with external bodies and key higher education and research stakeholders such as the Australian learned Academies, business peaks and research organisations such as Cooperative Research Centres.

1. Introduction

The National Tertiary Education Union (NTEU) represents the professional and industrial interests of over 27,000 academic and general staff employed in Australian higher education institutions. NTEU welcomes the opportunity to provide comment to the Senate Employment, Workplace Relations and Education Committee Legislative Inquiry into the *Australian Research Council Amendment Bill 2006*.

NTEU has a number of concerns about the Bill, particularly in relation to the abolition of the Australian Research Council (ARC) Board and some of the associated amendments to the Bill. The NTEU believes these will undermine the independence and accountability of the ARC with implications for Australia's international research reputation.

In particular, the Union is concerned that the removal of the Board and the transfer of its functions to the CEO will subvert the ARC's transparency and objectivity, thus leaving the peer review system vulnerable to political influence from the Government of the day.

NTEU believes that the internationally recognised system of peer review should be the primary element in deciding how research funding should be allocated and distributed. Peer review is widely considered to be the most effective means of ensuring that research excellence is being funded. The removal of the Board makes the integrity of the peer review process critical to the ARC's accountability framework and to maintaining Australia's reputation for funding high quality independent research.

While the current Government has publicly stated that the College of Experts will be maintained as a Designated Committee and will continue to play a key role in the ARC's peer review processes¹, this is not explicitly provided for in the current Bill. Under the proposed amendments, while it is possible for a peer review system to be established, there are no legislative functions, terms or conditions to ensure its establishment and operation, nor any guarantee of its ongoing existence.

NTEU believes that it is essential that we protect Australia's reputation for research excellence through ensuring independence, transparency and accountability in the distribution of research funding. Accordingly the following submission suggests a number of proposed amendments to the *Australian Research Council Amendment Bill 2006*. The rationales for these amendments are discussed in the body of the submission.

2. The ARC Board

NTEU understands that the *ARC Amendment Bill 2006* seeks to implement changes to the governance of the ARC in response to the recommendations arising out of the Government's 2003 review of the Corporate Governance of Statutory Authorities and Office Holders (Uhrig Review).

While it is not the intention of this submission to dispute Uhrig's findings and recommendations, the Union notes that the Government's interpretations of these findings are being applied differently across agencies. The review recommended that statutory agencies should only use boards where they could be given genuine

¹ Parliament of the Commonwealth of Australia, *Australian Research Council Amendment Bill 2006 Explanatory Memorandum*, pg.1.

independence and full power to act and that where boards are not afforded this autonomy, they should be replaced by an executive management system of governance.²

While Uhrig argued that “*given the nature of the government, the circumstances in which a board can be given full power to act are going to be rare and are most likely to be limited to those authorities which are commercial in nature*”,³ this recommendation is not universally applicable as shown by the *National Health and Medical Research Council (NHMRC) Amendment Bill 2006*, also currently before Parliament. This Bill proposes changes to the governance of the NHMRC to provide its advisory Council with greater independence.

The *NHMRC Amendment Bill 2006* specifically addresses the Uhrig review recommendations in enacting governance changes to provide a “*more accountable and independent NHMRC*” and to “*provide greater transparency and accountability in its operations*”. These changes separate the role of the CEO and the Council to ensure that the Council can focus on providing the Government “*with expert scientific advice*”. It is the ability of *both* these agencies to provide independent expert advice which affords Australia its international research reputation. The Union therefore believes that Uhrig’s recommendations do not necessarily demand the abolition of the ARC Board, but rather, as with the NHMRC, could suggest providing it with greater autonomy. In this way both research funding agencies are strengthened and the Government can be assured that it is receiving independent expert advice from both agencies.

While the ARC Board, as established under the *Australian Research Council Act 2001*, is not independent in the sense that it makes funding recommendations which then have to be approved by the Minister, the Board has played a vital role in ensuring a level of independent oversight in the allocation of research funding. Recommendations from the Board are currently based on the advice of the ARC College of Experts, which assesses and ranks research grant applications, as well as providing advice to the Board on emerging disciplines and cross disciplinary development. Under the Amendment Bill’s proposed ‘executive management system’, the ARC Chief Executive Officer will be the only check between the objective peer review process and the Minister’s political judgement.

The move to an executive management model could exacerbate the accountability problems exposed by recent Ministerial intervention in funding decisions. Thus, if the Board is going to be abolished, it is essential that additional safeguards are built into the Amendment Bill to ensure that the ARC maintains a level of independence from government and that clear processes which ensure transparency in the allocation of research funding are enshrined in the legislation. The Union believes that this is best achieved through protecting the peer review process in legislation.

While past Education Ministers have generally relied on the expert advice of the Board and allocated funding according to their recommendations, the previous Education

² Parliamentary Library, *The Uhrig Review and the future of statutory authorities*, Research Note no 50 2004-05.

³ Uhrig, J (2003), *Review of the Corporate Governance of Statutory Authorities and Office Holders Report*, Commonwealth of Australia, pg.10

Minister demonstrated on more than one occasion his preparedness to intervene in research funding, rejecting three grants recommended for funding by the Board in 2004 and a further seven grants in 2005.

While the Education Minister plays a key role in the determination of research policy, in particular in relation to the funding of research, it is imperative that decisions about what research is funded are unequivocally independent and free from political interference. It is only through demonstrated impartiality that research is given integrity and value.

While the Minister was able to override the advice of expert assessors, the existence of the Board meant that this intervention was at least reported and publicly exposed through media commentary and senate estimates questions. Not only does the abolition of the Board remove an additional safeguard between the Minister and the peer review process, but given that the CEO will be appointed by the Minister rather than by the Board, it also erodes an additional layer of transparency.

NTEU believes that the ARC Board has played a crucial role in safeguarding both the reliability of the peer review system as well as providing assurance of Ministerial impartiality. Without the Board, the peer review process is the only mechanism in place for the independent assessment of research. As such, it is crucial that the peer review process is enshrined in legislation and that the Minister's role and relationship to this process are clearly defined.

Recommendation 1

That the *Australian Research Council Amendment Bill 2006* be amended to state that any Ministerial decision overriding the recommendations of the College of Experts must be reported to Parliament by subject area, within 15 sitting days of the decision.

Recommendation 2

That the *Australian Research Council Amendment Bill 2006* be amended so that the College of Experts is listed in the Act and that it is not subject to the same Ministerial determinations as the "designated committees" under 4:30-33 of the *ARC Amendment Bill 2006*, including provision for the Minister to dissolve a committee at any time and determine and direct the functions of a committee.

3. The importance of peer review

Peer review is an internationally recognised and valued system for ensuring research quality. The system is based on experts from a particular field or discipline, assessing the quality of research proposals within their field(s) and ensuring that they meet the standards of the discipline(s). Apart from attesting to its value, peer review also ensures that the reasons for funding or publishing particular research are objective, rather than dependent on external influences such as the relevance of particular findings to political or commercial concerns. It is this process that ensures research excellence rather than ideologically driven research is supported.

While there has been some criticism of the peer review process being subject to 'cronyism' or elitism, these potential obstacles are overcome by ensuring rigorous processes in the establishment and operation of peer review panels or committees. This includes processes to ensure independent appointment procedures for reviewers, as well as assessment processes such as the use of multiple reviewers and 'blind' or

anonymous assessments. These processes generally safeguard research against any potential bias of particular reviewers.

The effectiveness and objectivity of the peer review process is also borne out through its widespread international application, in assessing and funding quality research. It is common practice in the United States, Canada, New Zealand, parts of Asia, the United Kingdom and much of Europe. The Social Sciences and Humanities Research Council of Canada (SSHRC), a federal agency that promotes, supports and funds university based research and training in the social sciences, states that "*peer review is universally recognised as the most objective and effective way to allocate public research funds*" and that its utilisation of a "*rigorous and independent peer review process ensures that only the best research projects are recommended for funding*"⁴.

The ARC College of Experts was established under section 30 of the *ARC Bill 2001*, which allowed the ARC Board to establish committees to assist them in carrying out their functions. The Board was also responsible for defining the functions of the committees and the appointment and terms and conditions of their members.

There are currently 75 members, who are "*experts of international standing drawn from the Australian research community: from higher education, industry and public sector research organisations*"⁵. While the *ARC Amendment Bill 2006* allows for the establishment of "designated committees", the appointment, function and terms and conditions of these committees and their members are now to be determined by the Minister, rather than by the Board. While the Minister has always been responsible for approving appointments, the existence of the Board ensured that this was a transparent, consultative process and that any objections by the Minister to the Board's recommendations would be a matter of public record.

While the current Education Minister has stated her intention to maintain the College of Experts, there is no provision for its *ongoing* existence in the *ARC Amendment Bill 2006*. Provisions under Section 48 of the Bill allow for the continuation of committees in existence prior to the Bill's commencement, however, this is only for the balance of the term of appointment under the old law. Direct Ministerial determination of the establishment, appointment and functions of committees leaves the ARC vulnerable to the goals and ideologies of the Government of the day. Not only could a particular Minister or Government change the powers, functions and members of a particular committee, but it also has the power to dissolve a designated committee at any time.

NTEU believes that the dissolution of the Board and its associated powers makes a strong case for the peer review process to be incorporated into the legislation. This should include instruments which determine the functions, appointment processes and powers of a peer review panel. This would not only ensure advice free from political influence, but would ensure that there is clarity and consistency in the allocation of research funding, despite changes in the Government and/or Minister of the day.

Many international agencies responsible for the allocation of public research funds not only have an independent board or council, but also maintain an independent peer review process through incorporating this process in their legislation.

⁴ Social Science and Humanities Research Council Website, http://www.sshrc.ca/web/about/about_e.asp

⁵ Australian Research Council website, http://www.arc.gov.au/about_arc/expert.htm

The Canadian SSHRC provides a particularly relevant point of comparison to Australia's ARC. Established under the *Social Science and Humanities Research Council Act 1976-77*, the SSHRC is governed by a 22 member Council which reports to and is appointed by Parliament through the Minister of Industry. The Council, which plays a similar role to the soon to be obsolete ARC Board, is advised by committees, some of which are listed in the *Act*. The Council is also given legislative power to make bylaws for the regulation and establishment of committees, such as the selection committees, whose role is to assess "research proposals and, based on academic excellence and other key criteria, make recommendations about which projects to fund....to help the review committees in their decision making"⁶. Thus the need to engage in the peer review process as well as to consult with a range of committees in making funding decisions is part of the legislative requirements governing the operation of the SSHRC.

In the United Kingdom, there are eight Research Councils, which are independent Non-Departmental Public Bodies (NDPB), established by Royal Charter. Each Research Council is governed by a Council, whose appointment processes are set out in the Royal Charter.

For example, *The Charter of the Medical Research Council (MRC)* sets out the terms and conditions for the appointment of a Council. While the Secretary of State for Trade and Industry is responsible for the appointment of Council members, the *Charter* also includes the criteria that at least half the council must be appointed by reason of their qualification in science and that before appointing any member, the Secretary of State must consult the President of the Royal Society and other members of the Council.⁷

The Council and the consultation requirements in the appointment process of committee members afford the UK Research Councils with an additional layer of autonomy from Government. As in the above example, the Council is also given the power, under the Charter, to establish and appoint committees and their members to carry out and /or advise it on any of its functions, including evaluating and awarding publicly funded research grants.

These examples demonstrate the importance of peer review and of a transparent and collaborative process in the appointment and establishment of councils and peer review committees. While it is clear that the Minister, or international equivalent, of these research agencies plays a key role in overseeing the selection and appointment of these committee members, in both these examples there are also a number of external checks in this process. This includes requirements for consultation with other bodies and with the Council themselves in the appointment process, as well as the necessity of members to meet external criteria such as having particular qualifications. In addition, the establishment and even the conditions and functions of the committees themselves are protected through legislation. It is these processes that ensure the research that is funded is independent research of the highest quality.

Recommendation 3

That changes are made to the *Australian Research Council Amendment Bill 2006* to ensure that the College of Experts' functions are listed in the Act and that these

⁶ Social Science and Humanities Research Council Website, http://www.sshrc.ca/web/about/about_e.asp

⁷ *The Charter of the Medical Research Council*, 2003

functions are determined in consultation with the existing College of Experts.

Recommendation 4

That the appointment process for the College of Experts is listed in the Act and that this process must include requirements for consultation with external bodies and key higher education and research stakeholders such as the Australian learned Academies, business peaks and research organisations such as Cooperative Research Centres.

NTEU believes that without processes that assure the independence of the ARC from Government, Australia's national and international research reputation could be jeopardised. Mistrust in the peer review system and greater political influence over funding decisions has the potential to directly affect the type of research being carried out, as individual researchers as well as industry alter their projects to those areas that might attract funding. The abolition of the Board poses particular problems for the transparency and accountability of ARC's funding decisions, however the NTEU believes that the integrity of the peer review system is the key to ensuring the quality of publicly funded research.