

Ms Lynn Lovelock
Clerk of the Legislative Council &
Clerk of the Parliaments
Parliament House
Macquarie Street
SYDNEY NSW 2000

MT 10/190

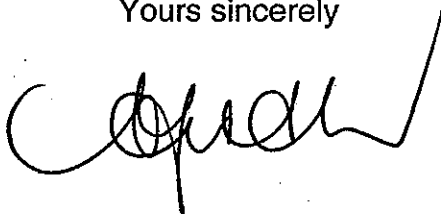
23 MAR 2010

Dear Ms Lovelock *Lynn,*

I write again in relation to the Report of the Legislative Council's Inquiry into the Governance of NSW Universities tabled on 1 June 2009.

Please find attached, in accordance with Legislative Council Standing Order 233, a response covering each recommendation made by the Legislative Council General Purpose Standing Committee No. 2 in its Report.

Yours sincerely



Verity Firth MP
Minister for Education and Training

*Received at 10am
Friday 26 March 2010
Julia Lyons
on behalf of
Clerk of the Parliaments*

REPORT INTO THE GOVERNANCE OF NSW UNIVERSITIES

Recommendation 1

That the Minister for Education and Training investigate the most appropriate method to ensure the full disclosure of the terms and conditions of employment contracts for university staff.

In the context of a Freedom of Information issue at the University of Newcastle regarding remuneration paid to senior university officers, the NSW Ombudsman has recommended that the Department of Premier and Cabinet should give consideration to amending the Annual Reports (Statutory Bodies) Regulation 2005 so that its application to executive staff in all NSW universities is beyond doubt.

The Ombudsman refers to the case in his Annual Report, tabled in Parliament on 22 October 2009 (see pp 97-98 of the Annual Report).

The Department of Premier and Cabinet is currently considering the Ombudsman's recommendation.

Recommendation 2

That the Minister for Education and Training amend the provisions in the University of New South Wales Act 1989 regarding the number of mandated alumni positions, in line with other universities. This should occur following consultation by the University with its alumni.

Recommendation 3

That the Minister for Education and Training amend the university Acts to provide all university governing bodies with the flexibility to either appoint or elect their alumni (or Convocation) members.

Recommendation 4

That the Minister for Education and Training amend the university Acts to increase the minimum term for all members of university governing bodies from one to two years, with half the number being retired at each election.

Recommendation 5

That the Minister for Education and Training amend the university Acts to allow university governing bodies to remunerate their members, giving consideration to:

- *eligibility for remuneration*
- *the appropriate level of remuneration.*

Recommendation 8

That the Minister for Education and Training amend the university Acts to allow for the dismissal of a Chancellor or Deputy Chancellor, similar to the provisions contained in the University of Sydney By-Law 1999.

The Government has initiated a process of consultation with all NSW Chancellors and university governing bodies on changes to university Acts and/or By-laws that include the issues concerning university governance raised in Recommendations 2,3,4,5 and 8 above. This process of consultation is currently in train.

The Government, therefore, is willing to consider amendments to university Acts affecting the size and composition of university governing bodies and related matters. Such amendments would need to be supported by the governing body and the broader university community, including stakeholders at university level whose membership numbers on the governing body may be subject to change if amendments are made to the university legislation and/or By-laws.

Recommendation 6

That the Minister for Education and Training recommend to university governing bodies that they investigate separating risk management considerations from the work of an audit committee.

Recommendation 7

That the Minister for Education and Training investigate whether the inappropriate application of material interest declaration provisions is being used to exclude individuals from governing body debates on the grounds of the nature of their appointments to that governing body.

Recommendation 9

That the Minister for Education and Training ensure that in the forthcoming consultation regarding the development of a voluntary code of best governance practice, the professional development of governing bodies is accorded high priority.

Recommendation 10

That the Minister for Education and Training conduct a review of university induction and professional development programs in NSW universities, with a view to encouraging best practice approaches to professional development.

This review should be mindful of the issues raised in this Inquiry regarding professional development, including that such programs should be:

- *tailored to meet the diverse needs of governing body members*
- *focused on developing the cultural capability of governing body members as well as their technical skills*
- *provided throughout governing body members' terms of office*
- *designed to ensure access to institutional data.*

That the findings of the review be published no later than December 2009.

Recommendation 11

That the Minister for Education and Training ensure that in the forthcoming consultation regarding the development of a voluntary code of best governance practice, the performance evaluation practices of governing bodies is accorded a high priority.

Recommendation 12

That the Minister for Education and Training conduct a review of the performance evaluation practices of university governing bodies. This review should be mindful of the issues raised in this Inquiry regarding performance evaluation, including that such programs should be:

- *conducted at regular intervals*
- *involve both self-reviews and external reviews*
- *conducted openly and transparently, and provide for public reporting of outcomes.*

Further, that the Minister investigate whether individual members of a governing body, including the Chancellor, should be subject to regular performance evaluation.

That the findings of the review be published no later than December 2009.

All of the substantive matters covered in Recommendations 6,7,9,10,11 and 12 above are the responsibility of the governing bodies of each university under the terms of their enabling legislation. They are not the responsibility of the Minister.

The Minister has asked for the report of the Legislative Council Inquiry into University Governance – and the above recommendations in particular – to be brought to the attention of the national working party currently developing a voluntary code of best practice governance for higher education providers. This national approach was agreed to by the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA) in 2009.

Along with the University Chancellors Council, Universities Australia (representing Vice-Chancellors) and an officer of the Commonwealth Department of Education, Employment and Workplace Relations (DEEWR), an officer of the Higher Education Directorate, NSW Department of Education and Training, is a member of this working party.

The NSW representative on this working party will ensure that the issues raised in these recommendations are fully considered in the development of a voluntary national code of best practice governance for higher education providers.
