

Submission
No 18

INQUIRY INTO THE GOVERNANCE OF NSW UNIVERSITIES

Organisation: Australian Institute of Company Directors
Name: Mr John Colvin
Position: Chief Executive Officer
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The Hon Robyn Parker MLC
Committee Chair
Inquiry into the Governance of NSW Universities
c/- The Director, General Purpose Standing Committee No. 2
Legislative Council
Parliament House
Macquarie Street
Sydney NSW 2000

By email: gpscno2@parliament.nsw.gov.au

Dear Ms Parker

Submission to Inquiry into the Governance of NSW Universities

AICD is the peak organisation representing the interests of company directors in Australia. Our current membership consists of over 24,000 individuals drawn from large and small organisations, across all industries, and from private, public and the not-for-profit sectors including universities. AICD strongly supports all types of organisations having efficient and effective governance practices. This benefits the Australian economy and community.

Thank you for the opportunity to make a submission to the inquiry into the governance of NSW universities. The inquiry is welcome and timely. We also note that the recently released Final Report of the Review of Australian Higher Education (Bradley Report) has made several recommendations regarding governance of the sector.

Universities operate in an increasingly competitive environment, administer large budgets and have a substantial proportion of their revenue derived from non-Government sources. This means that their historical governance arrangements do not necessarily maximize the contribution universities can make to the community, nor do they reflect their increasing corporate responsibilities. AICD considers that a more flexible governance model for universities would be beneficial given the importance of universities to the State and the nation's economic and social prosperity.

We have not commented on all of the Inquiry's terms of reference. Rather, our comments in relation to university governance are of a more general nature. We hope they will provide some helpful context for the Committee's deliberations.



Role of University Governing Bodies (TOR 1 & 5)

The role of the board is to act on behalf of shareholders in overseeing and governing a company. Generally, it is the board's responsibility to identify a company's directions and goals and management's responsibility to decide how to implement the plans that come from these directions and goals. Specifically, this means that the board is responsible for strategy, approving budgets, monitoring business performance, appointing a chief executive officer, approving large investments and major financial decisions and ensuring that the legal and financial reporting requirements for the company are met.

University governing bodies have responsibilities that are akin to company boards. This means that they must maintain a strategic focus, with operational matters being the sole responsibility of the chief executive officer (Vice-Chancellor). To the extent that the division of responsibility between governance and management in universities is not clear, it should be made so. Role clarity is essential for the effective working of governing bodies of all types of organisations. This can be accomplished through statute and board charters, but it also needs to be reinforced through induction and continuing education programs for governing body members and management.

Duties of Members of University Governing Bodies (TOR 2, 4 & 8)

Board directors are required to exercise their powers with care and diligence and use their powers in the best interests of the organization. They must not allow conflicts of interest to arise nor favour other interests over those of the whole organisation. This applies even if directors believe they represent certain community interests or groups.

Equally, members of university governing bodies have a duty to act in the best interest of the whole university. Such governing bodies usually have amongst their membership elected academic staff members, alumni, professional and technical staff members, undergraduate and postgraduate students and union officials. Those elected members provide valuable perspectives to the governing body but have a duty to act in the interests of the whole university, not just the groups who elected them.

The law is clear on this issue, so communicating a practical understanding of the duties of representatives on university governing bodies is vital. Again, tailored induction and continuing education programs would be one way of developing awareness. Such programming is as important for the directors of listed companies as it is for members of university governing bodies.

Composition of University Governing Bodies

University governing bodies are usually large in size. A large governing body can be detrimental to its effectiveness because discussions become lengthy and parliamentary in style. It can lead to factions developing amongst members, difficulty in obtaining agreement and less focus on strategic matters which are the province of a governing body. An observation has been made that one of the factors mitigating against the workings of university governing bodies is that half of their members believe they are members of a parliamentary body and others, members of a company board. In any event a reduction in size could facilitate the effective function of university governing bodies.

Effective boards determine the skills and expertise they require to best equip themselves and they recruit directors to match the identified skills and expertise. University governing bodies often have several elected members which could make it more challenging to achieve the required mix of skills and expertise and independence amongst its membership. The option to increase the number of appointed positions on university governing bodies could allow universities to access the diversity of skills, experience and perspectives it needs to ensure that it operates to the maximum benefit of all its stakeholders. Indeed, different models of size and composition could be appropriate for different universities.

Evaluation of University Governing Bodies (TOR 6 & 7)

Evaluation is an important part of a board improving its performance. A board can monitor the effectiveness of its performance by regularly reviewing its composition, internal processes and governance framework.¹ It can also ensure that directors have access to relevant training and development. Evaluation can focus on how a board functions as a whole, rather than on reviewing the performance of individual board members. Whatever form such an evaluation takes, it should be confidential so that a candid sharing of views is encouraged.

General Comments

Cultural issues are as important as structural and procedural ones for a governing body. Trust, respect and engagement amongst governing body members directly impact a governing body's effectiveness, as does the relationship between the chair (Chancellor) and chief executive officer (Vice Chancellor). Without this constructive context, the formal legal requirements will not lead to an effective governing body.

The role of the chair (Chancellor)² is important in harnessing the skills, qualities and resources of a governing body and mitigating against issues of personality and style interfering with its proper workings. Similarly, the relationship between the chair (Chancellor) and the chief executive officer (Vice Chancellor) is critical to the organisation's success. It should be based on them affording one another mutual respect and understanding the boundaries of their respective roles. Again, education can assist in creating such role clarity.

Thank you for the opportunity to make a submission. If you require any further information on effective governance practices we are happy to assist. If you have any questions in relation to the submission please do not hesitate to contact me on

Yours sincerely


John H C Colvin
Chief Executive Officer

¹ <http://www.companydirectors.com.au/Bookshop/Book+Categories/PDF001.htm>

² <http://www.companydirectors.com.au/Bookshop/Book+Categories/BK0157.htm>