



Response to
'Meeting the Challenges: The Governance and Management of Universities'
Issues Paper

INTRODUCTION

1. This submission does not attempt to address all the issues raised in the paper. Rather it addresses selected key issues under five general headings.

KEY ISSUES

2. Legal and Accountability Frameworks and Associated Issues

- 2.1 UWA places a high value on its status as an autonomous body, with authority to accredit its own awards, to determine its own systems of governance and management and to make its own decisions within those systems.
- 2.2 UWA would not wish to see the *minutiae* of its governance arrangements, such as the detailed functions of its governing body or the responsibilities of the members of that body, enshrined in the University Act or indeed in a Statute. However, it would be happy to have a Statute which gave a broad general overview of the role and responsibilities of the governing body and its members, to serve as a framework within which more detailed documents approved by the Senate would apply. It is important that the details of governance are in documents which can be reasonably quickly amended by the governing body to respond to rapidly changing circumstances.
- 2.3 UWA recognises that autonomy must be accompanied by appropriate accountability and fully accepts its obligation to be publicly accountable as an institution using public funding for public benefits. However, as indicated in our '*Crossroads*' response, we believe that the current requirements for reporting are excessive, involve considerable duplication and in some cases involve the collection of data which is arguably of value neither to the institution nor to government. Accordingly, UWA will warmly welcome moves to rationalise and reduce the current burden of reporting requirements.
- 2.4 UWA supports the establishment of the independent Australian Universities' Quality Agency, to promote, audit and report on quality assurance in Australian universities, seeing it as a valuable means of assisting the universities with their management of quality improvement. However, the AUQA process, which involves the submission of a comprehensive portfolio of information and data, will certainly overlap with existing reporting requirements and it will therefore be essential to determine at an appropriate stage whether some of the reporting requirements in the process make other current requirements redundant.
- 2.5 In its '*Crossroads*' response UWA has supported the establishment of an independent policy advisory council to Government, which is at arms length both from the universities and DEST, but has appropriate sector and government representation. It does not support the establishment of a body which would play a role in the regulatory environment.

3. Commercialisation - The Legislative Framework and Related Issues

- 3.1 UWA supports in principle the concept of national consistency in legislation regulating the commercialisation of intellectual property, provided that such legislation is designed to encourage and support the formation of commercial relationships and does not inhibit entrepreneurial freedom. UWA is conscious of its responsibilities in relation to governance and risk management of its commercial activities, and has prepared formal policies, procedures and authorisation limits for both licensing and start-up companies for the Senate's consideration later this year.
- 3.2 While supporting legislation along the lines outlined above to facilitate commercialisation activities, UWA cautions against unrealistic expectations in relation to future income to the university sector from such activities. We strongly favour the development of commercial relationships and commercialisation of our intellectual property where possible, and have had considerable success in this area to date with such spin-off companies as Advanced Powder Technology, Innervision Biometrics and Atmosphere Networks. However, UWA does not expect that income from such activities (excluding consulting and education provision outcomes) will amount to more than some 1-3% of total institutional income in any given year, for this and other universities. It will therefore be a relatively small proportion of revenue, albeit growing, and future regulatory and accountability frameworks should be cognisant of this.
- 3.3 Despite the likelihood of relatively limited revenue from licensing and company start-up activities, UWA sees other related benefits in pursuing commercial activities. Some of the major benefits to be gained from early stage commercialisation are the research contracts from the investing parties, which are usually required to progress the intellectual property at this stage of development.
- 3.4 The current tax environment is a significant impediment to commercial activity. The fact that assigning equity to researchers can generate capital gains tax which they have no capacity to pay is an unacceptable outcome of tax law. The current tax disincentives make it difficult not only for university inventors but also less attractive for investors thus acting as a "brake" on early stage start-ups. We are aware of some initiatives by the Australian Venture Capital Association to submit a proposal to the Commonwealth that start up companies emanating from publicly funded research institutions be treated in a separate tax category, and we strongly support this.
- 3.5 The tax environment aside, the major impediment to UWA's activities in commercialisation is not the legislative framework in which it operates but the lack of appropriate funding to support them. Commercialisation of university intellectual property is a complex and lengthy process which requires professionals with a mix of business and technical skills, extensive industrial experience and marketing skills. UWA has established a very effective Office of Industry and Innovation, with highly skilled staff, but this has inevitably come at a cost. In this context, the Government also needs to be aware that universities themselves are currently meeting the patenting costs associated with the early stages of commercialisation.
- 3.6 Universities also need to build in-house capabilities to handle the routine work in developing contractual frameworks. The current inadequate level of research infrastructure funding does not give universities the capacity to supply the necessary infrastructure.
- 3.7 If the Commonwealth seeks improvements in the commercialisation of University intellectual property, it must recognise and assist with the funding of the significant costs necessarily associated with effective commercialisation activities.

4. Governance and Management Issues - General

- 4.1 The University of Western Australia agrees that good governance and management in universities are "critical to the effectiveness of universities and the contribution they can make to Australia's economic and social development" and welcomes the paper's recognition of this.
- 4.2 UWA agrees with the view expressed in the Victorian *Review of Governance* (arising from consideration of the location of responsibility for universities' commercial activities) that university governing bodies, Vice Chancellors and Academic Boards should retain responsibility for making critical decisions for their own universities.
- 4.3 UWA's autonomous status enables it to focus on 'fitness for purpose' in the design of its systems of governance and management. It is essential to the success of the institution that its systems of governance and management take account both of the collegial culture of the institution and of its particular mission. UWA has a long tradition of collegiality which has served it well, but recognises that some models of collegiality are excessively time-consuming and incapable of producing the rapid responses often required in the contemporary University. We are therefore in the process of developing new approaches to our governance systems aimed at introducing a new model of collegiality to meet the current needs of the University.
- 4.4 UWA is committed to regular self-review of its systems of governance and management at all levels, and to reform of those systems as required to meet changing circumstances. This commitment is enshrined in the "Values Statement" in the Strategic Plan, and has been amply demonstrated by a plethora of reforms over the past decade. We are therefore quietly confident that our governance structures are, and will continue to be, "appropriate to meet the changing nature of university activities in the 21st century."
- 4.5 UWA accepts its obligation to make explicit the details of its governance arrangements at all levels of the organisation. The University is currently engaged in reviews of faculty governance, of committees of the Vice Chancellor and of the Academic Board, and there is wide participation in the debate on these matters across the University. The Senate Standing Committees are also under review. The outcomes will be enshrined in formal constitutions which are public documents published on the Web. The Senate has produced a number of public documents which describe its own role and responsibilities and those of its members.
- 4.6 The University welcomes suggestions in the paper for increased guidance and support in developing a clear understanding of the roles of governing bodies, and indeed in any other areas of governance and management. We already make extensive use, through a range of mechanisms (such as benchmarking, conference attendance and personal contacts) of the experience and ideas generously shared by other institutions and would be very pleased to receive documents such as national guidelines and manuals of best practice, which would assist with our own determinations on the best governance models for UWA's particular role and circumstances.

- 4.7 UWA places great emphasis on excellence in organisation and management as an essential underpinning for excellence in teaching and research. This commitment is incorporated as the primary goal statement for "Organisation and Management" in the Strategic Plan. As indicated in the '*Crossroads*' response, the University has been recognised (by DEST and others) as a well-managed institution in many diverse areas, including the management of financial and physical assets and investments, of student intakes, enrolments and load targets, of human resources and industrial relations, and of planning and quality assurance processes. There is ample evidence of the University's commitment to continuous improvement of effectiveness and efficiency in organisation and management. The response to '*Crossroads*' makes mention of major activities (for example, significant structural reform, and development of a comprehensive and integrated planning process). In the last few years there have been numerous other activities within the University aimed at improving efficiency and effectiveness: for example, the introduction of the position of School Manager within the restructured University; enhanced training programmes for managers; the use of regular Working Life Surveys; the introduction of the Syllabus Plus timetable management system; preparation for the introduction of a new Student Records Management System; investigation of a three semester year; and ongoing work on electronic document management systems.
- 4.8 UWA supports ongoing exploration potential for gains in efficiency and effectiveness in the sector through inter-institutional collaboration. The University has already embarked on a number of collaborative inter-institutional activities (for example, The West Australian Centre for Oral Health, the Australian Institute of Education, the Institute of Music, and a number of collaborative degrees) and will continue to explore opportunities in this area, including the potential for collaborative "back-office" administration and shared service agreements touched on in the response to '*Crossroads*'. Outcomes of collaborative ventures to date have been mixed, and significant difficulties and workloads have emerged in some activities. It is therefore essential that the University explore the merits of all proposals on a case by case basis and not embark on collaborative ventures simply as an end in themselves.

5. Issues Related to the Governing Body

- 5.1 Following the Hoare Report, the University engaged in a significant reform of its governing body, effective from 2000, which among other things reduced the size of the body, changed its composition and shortened members' terms of appointment.
- 5.2 As indicated in its '*Crossroads*' response, UWA believes that the boards of trustees in North American universities are a more appropriate model for governing bodies in the higher education sector than are boards of directors in the private sector.
- 5.3 In the Board of Trustees model, broad input from a range of individuals with an interest in the organisation and with a variety of experience, interests and skills is appropriate. The UWA Senate comprises 21 members: the Chancellor, the Vice Chancellor, the Chair of the Academic Board, the Warden of Convocation, the President of the Guild of Undergraduates, the President of the Postgraduate Students' Association, four members appointed the Governor, three elected by Convocation, three elected by academic staff, one elected by general staff, one elected by students and three coopted members. We believe that this size and composition provide both a useful breadth of membership, and a good balance of internal stakeholders who are experts in academia, external members who offer a more detached and dispassionate perspective, and alumni.

- 5.4 We see it as important to the maintenance of our commitment to a reasonable level of collegiality at all levels of governance of UWA that our governing body include both staff (academic and general) and student members. While it may be possible to ensure the input of staff and students by means other than membership, we believe that their membership is the best means of ensuring that the deliberations of the governing body are informed by experts in the academic arena.
- 5.5 We agree with the Hoare Review's statement that "size is less important than the quality of the membership and the quality of information made available to them." UWA's 21 Senate members, comprised as described in 5.3, bring skills and experience from diverse backgrounds in industry, business, the private sector, the public sector and academia, and their combined expertise provides a quality membership. In order to operate effectively the governing body must be provided with good information and advice, and in the past few years the University has worked closely with the Chancellor and Senate to ensure that the information and advice provided to Senate are timely, appropriate to its needs, and of high quality. Expert advice is provided to Senate by members of the Executive, the Academic Board, expert invitees and expert co-optees to Senate committees. The provision of high quality information and advice enables members to utilise their skills and fulfil their roles more effectively, and thereby enhances the quality of their deliberations and decision-making.
- 5.6 UWA believes that the Senate's standing sub-committees have an important role to play in ensuring the effective exercise of its responsibilities. It is possible and desirable to co-opt expert members to these committees to fill particular needs which are not met by current Senate members. Senate's existing standing committee system was introduced in 2000 and its effectiveness is currently under review.
- 5.7 UWA sees possible dangers in governing bodies which have significant control over their own membership. There is the potential in such arrangements, because of the tendency for people to select others of like mind, for assembling a body of people which does not offer sufficient variety of experience and viewpoint.
- 5.8 The Senate is well aware of the critical importance of having a clear understanding of, and agreement on, its role and responsibilities and those of its individual members. In the past three years it has devoted substantial time in seminars and special Senate meetings to the task, and has taken a number of key steps. For example, it has formulated a Senate Charter outlining its key roles, and a Senate Code, which sets out members' responsibilities and liabilities. It has introduced an Induction Process, developed a comprehensive Handbook for Senators, formulated an agreement on the management of business, and approved a Cycle of Accountability (which describes a process for ensuring that the University systematically monitors and accounts for its performance in relation to its plans and clearly sets out the Senate's role in this process).
- 5.9 While much has been achieved to date, the Senate is aware that there is always room for improvement. It is committed to continuous improvement through regular review, and through the adjustment of its role and responsibilities to meet changing circumstances: for example, work is in progress on its role in Risk Management (including oversight of commercial activities), on the introduction of a Register of Interests and on the formulation of an instrument for annual assessment of the effectiveness of the Senate. The process of reviewing the governing body's annual activities against the agreed role, as suggested in the Victorian *Review of University Governance*, was initiated at UWA in 2001 and will continue. The Senate has also

clarified the obligations of its individual members and has achieved broad acceptance of the trustee role of senators.

6. Workplace relations issues

6.1 Given the competitive international market for academic staff (and some senior general staff) UWA believes it is critical, if Australia is to remain an attractive career destination for high quality staff, that the conditions applying in the higher education workplace in this country should not be greatly out of step with international standards.

6.2 UWA agrees that investment is required to improve leadership and management skills in universities and to expand workplace planning activities, particularly in the context of a significant demographic shift that will occur over the next decade. The Commonwealth's role in this should be limited to offering strategic direction and providing funding support for programmes to be developed and run at a local level. Specifically we would like Commonwealth support for the development of:

- strategies to develop leadership and management skills;
- a performance management system focused on improving the skills of the many rather than disciplining the few;
- strategies to support the recruitment, development and retention of high quality junior academic staff

Programmes offered by the AVCC remain important, particularly for senior academics and administrators, and for specialist areas in which an adequate number of participants could not be generated at a local or state level.

6.3 UWA is pleased that the Government appears to have retreated somewhat from an undue emphasis on the "industrial relations" aspects of the relationship between universities and their staff. The Workplace Reform programme has focused on technical industrial relations issues, and has wrongly assumed that universities are restricted in their employment relations by industry awards. In practice, many of the best achievements of universities occur outside the context of industrial negotiations. UWA sees formal industrial relations processes as one tool amongst a variety which can be used to achieve its objectives.

6.4 As indicated in our response to 'Crossroads', UWA has not experienced industrial disruption and believes that its continuing healthy relationship with its staff in difficult times illustrates that it is possible to effectively manage staff and industrial relations in a university through effective local management, rather than dogma-driven central "reform". We agree with the point that "promoting trust through direct employer/employee communication can contribute to developing a workplace culture that is conducive to better agreement-making processes and workplace harmony" but question the implicit assumption that talking to unions does not represent direct communication. While UWA broadens its consultative process during enterprise bargaining negotiations (through such mechanisms as all-staff emails, and open forums) it finds that its regular (fortnightly) discussions with unions are very useful in identifying, at an early stage, issues affecting staff which could, without immediate attention develop into significant problems. With this approach, the unions provide valuable support to management and at the same time a relationship of trust is developed more broadly with employees across the campus.

- 6.5 While UWA believes there is a strong argument for flexibility in employment conditions, we recognise that there are inevitably trade-offs between quality and flexibility and do not favour forms of flexibility which endanger the quality of teaching and research. As indicated in the *'Crossroads'* response, UWA has not pursued a process of casualisation, as it believes that any significant level of casualisation would have an adverse impact on the quality of teaching and research, as a result of both discontinuity of employment and poor morale.
- 6.6 The paper suggests that consideration might be given to "the engagement of academic staff for the full-time academic year (that is, for around nine months), a practice common in the United States." UWA does not support this idea and is concerned that those who do (for example the ARC) have not made a convincing case. In our view, the matter should not be further pursued without a very thorough and detailed analysis of the likely impact in the Australian context, which differs very significantly from that of the USA. On the face of it, there would appear to be limited advantages to the approach and a range of potentially serious problems, including:
- the need for a complete reconstruction of research funding arrangements;
 - reduced freedom for universities in determining their strategic priorities, which particularly for UWA, involve a close relationship between research and teaching;
 - the impact on academics whose disciplines do not lend themselves readily to winning research grants or additional teaching opportunities;
 - issues about where the intellectual property rights would lie for research undertaken by academics while not formally employed by the University.
- 6.7 UWA believes that a move to nine month engagements would be contrary to the spirit of recent sensible reforms in higher education employment conditions (such as the treatment of research staff as ongoing employees with rights to redundancy payments). It would also undermine the ability of universities to manage their staff strategically to achieve agreed outcomes.
- 6.8 UWA would also be concerned if the nine-month engagement proposal was seen as a means of saving money on salaries in a context where there is already morale problems associated with high work loads and low salary levels. UWA would be interested in any national workload data which measures academic working hours against a societal norm.
- 6.9 There needs to be a clearer understanding of the current meaning of "tenure" in relation to university staff. Tenure in its traditional form (ie a job for life) no longer exists in Australian universities. Tenured employment in universities is essentially the same as the ongoing employment that exists in any industry. Academic staff can be released for reasons of financial exigency or if there is no longer a demand for their knowledge and skill base, and standard redundancy provisions pertain. Tenure is not therefore an industrial problem for universities. The term is now used to indicate ongoing (as opposed to contract) employment and, as well as being a key recruitment tool in a competitive international labour market, carries with it important traditional associations with academic freedom.

- 6.10 UWA believes that the application of quotas on academic promotions in a research-intensive University are inappropriate. Our current promotion system is based on performance and is in accordance with international practice. We do not apply quotas because we recognise that it cannot and should not be assumed that the number of staff who merit promotion follow a normal curve. The application of quotas would severely limit UWA's capacity to compete for top-quality staff in the international labour market.
- 6.11 UWA does not support the notion of Faculty level agreements. There is insufficient expertise at faculty level to carry out negotiations and it would not be cost-effective to devolve this function. It is, in any case, difficult to identify any benefits from formal agreements that could not be negotiated locally as a management prerogative.

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