

From: [Andy Marks](#)
To: [Education - Freedom of Speech Review](#)
Cc: sulcsj@bigpond.com; [Helen Barcham](#)
Subject: WSU submission to Freedom of Speech Review
Date: Thursday, 20 December 2018 3:49:25 PM
Attachments: [WSU Response to Freedom of Expression 19122018.pdf](#)

Dear Secretariat

Please find attached Western Sydney University's (WSU) response to the Review into University Freedom of Speech.

In addition to attached formal response, WSU Vice-Chancellor would like to add two further points with reference to point 5) of Justice French's correspondence of 19 November 2018:

5.1) As our submission states, WSU support the proposed establishment of a Model Code which might serve as a non-binding point of reference or resource for higher education providers. We view the July 2012 'Chicago Statement on Principles of Free Expression' as a worthy point of reference or framework in that regard: <https://freeexpression.uchicago.edu/page/statement-principles-free-expression>

5.2) WSU seek to make explicit that – as an institution – we require formal debate in instances where individuals or groups wish to use our facilities for contentious public presentations.

Please do not hesitate to contact me should you require further explanation or detail regarding our submission.

Sincerely

Dr Andy Marks

Assistant Vice-Chancellor
Western Sydney University

WESTERN SYDNEY UNIVERSITY



18 December 2018

The Secretariat
Review into University Freedom of Speech
Department of Education and Training
GPO Box 9880
Canberra ACT 2601
E. freedomofspeechreview@education.gov.au

Cc. The Hon Robert S French AC
E. sulcsj@bigpond.com

Dear Secretariat

At the invitation of the Hon Robert S French AC, I submit Western Sydney University's response to the review into the effectiveness of university policies and practices to address the requirements of the Higher Education Standards Framework to promote and protect freedom of expression and intellectual inquiry on Australian campuses.

The University's response (enclosed/attached) covers the full range of items denoted in the Terms of Reference. Broadly, this comprises items 1) to 4) relating to internal codes, policies and procedures related to expressive conduct and academic freedom; and item 5) which includes additional observations in support of Justice French's proposal for the development of a Moral Code for the Higher Education sector.

Should further information or clarification be sought, please contact Dr Andy Marks of my office (andy.marks@westernsydney.edu.au or 0428 165 084).

I trust the University's submission is a worthwhile contribution to the Review process, and I commend the Minister and Justice French for affording this important topic the priority and scope it deserves.

Sincerely

Professor Barney Glover FTSE
Vice-Chancellor and President

WESTERN SYDNEY UNIVERSITY



Statutes/Rules/Policies and other Documents that cover Freedom of Speech/Freedom of Expression at Western Sydney University, as per point 1-4 of the Information sought for the Freedom of Expression Review.

Statute/Rule/Policy or Document	Relevance
Western Sydney University Act	<p>Set out in our enabling legislation is our commitment to free inquiry:</p> <p>S 8 Object and Functions of the University -- (1) <i>The object of the University is the promotion, within the limits of the University's resources, of scholarship, research, free inquiry, the interaction of research and teaching, and academic excellence.</i></p> <p>Also</p> <p>(2) <i>The University has the following principal functions for the promotion of its object:</i></p> <p>(a)...</p> <p>(b) <i>the encouragement of the dissemination, advancement, development and application of knowledge informed by free inquiry,</i></p> <p>(c)...</p>
Academic Staff Enterprise Agreement Professional Staff Enterprise Agreement	<p>Specifically clause 56 (similar to clause 65 in Professional Staff Enterprise Agreement), which provides:</p> <p><i>56.1 The University recognises that intellectual freedom is an essential part of University employment and is therefore committed to act in a manner consistent with the protection and promotion of intellectual freedom within the University, including the right of an Employee: (a) to pursue critical and open inquiry and to freely discuss, teach, assess, develop curricula, publish, and research; (b) to participate in public debates and to express opinions about issues and ideas related to their discipline area and professional expertise, or higher education issues generally; (c) to participate in professional and representative bodies, including unions, and decision making processes and governance roles within the University, and to engage in community service without fear of harassment, intimidation, or unfair treatment; and (d) to</i></p>

	<i>express unpopular or controversial views, but this does not mean the right to harass, vilify, denigrate, or intimidate. Western Sydney University Academic Staff Agreement 2017 84 56.2 An Employee will not represent their individual opinions as being those of the University.</i>
Strategic Plan	Academic Freedom is listed as one of our Values – refer to the section on Mission, Vision, Values and Beliefs (page 4)
Draft Ethical Framework for University Governance (attached)	Sets out the University’s commitment to the promotion of Academic Freedom, but also to act with integrity and for the public good.
Code of Conduct	Applicable clauses, too numerous to itemise, set out the University’s commitment to being a ‘ <i>place to grow</i> ’ <i>in understanding, tolerance, compassion and insight; and it cherishes exploration and enquiry at the edge of disciplinary convention and at the forefront of professional practice.</i> The Code of Conduct applies to staff, students, visitors and contractors.
Respect and Inclusion in Learning and Working Policy	The most relevant policy, it sets out the University’s commitment to intellectual freedom and also respect.
Media, Social Media and Public Commentary Policy	Makes a number of references to freedom to express opinions <i>(4) These expectations [on staff] are not intended to restrict the right of any individual to freely express their opinions, or as a member or representative of any professional, community or representative body. Nor is it intended that anything in this policy should detract from the University's commitment to intellectual freedom as outlined in the relevant Academic and Professional Staff Agreements as amended or replaced from time to time.</i> <i>(8) The University recognises, values, and protects academic and intellectual freedom. However, all staff have a professional responsibility to conduct themselves in a professional manner when engaging with all forms of media and public comment, and to uphold the good reputation of the University.</i>
Social Media Guidelines	Similar to the Media, and Public Commentary Policy
Research Code of Practice	Section 3 provides <i>the University expects staff, students and other individuals acting in its name or using its facilities for research to:</i> a) <i>demonstrate integrity and professionalism in the conduct of their research;</i> b) <i>act in a manner that serves to promote the good name of the University; and</i>

	<i>c) augment the confidence of the public in its research credentials.</i>
Research Conducted by External Parties Approval Policy.	<i>Clause (23): The University acknowledges that research is an endeavour that should remain relatively autonomous with the ideal of academic freedom providing the foundation for the pursuit of knowledge without undue interference. The University also embraces the ideal of fair and open discussion, recognising the rights of individuals to their own opinions, and supporting the principles of freedom of speech. However, references to the University by name or in which its identity may be inferred may require specific agreement prior to the publication of the findings of the research.</i> Also, Part D – Minimisation of Risk or Harm – provides that research designs should not adversely affect participants' well-being.
Asset Management Policy	Only relevance is a clause that stipulates that University Assets must be protected. <i>(9) All University members, employees, contractors and appointees are responsible for the proper care, protection and maintenance of University assets under their control, and must ensure those assets are only used for proper and authorised purposes.</i>
Space Hiring Policy	Sets out the University's commitment to its mission and values when hiring venues to external parties: <i>(6) (c) the hiring of University space must not conflict in any way with the University's mission, goals or values, core business or damage or adversely affect the University's reputation.</i> <i>(24) Campus Safety and Security will determine any additional security measures required for space hire. The University will organise the additional security measures and the hiring party will meet all associated costs.</i>
Venue Hire website	States that: <i>As a leading institution in multicultural Sydney, Western Sydney University is deeply committed to supporting our local communities and promoting public discourse. Western Sydney University is also a proud supporter of gender equality and recognising its obligations under the Sexual Discrimination Act and indeed the University's own Discrimination, Harassment, Vilification and Victimisation Prevention Policy, the University does not support the segregation of men and women at any University event or public forum on our University campuses. As such the University requests that there be no 'directed segregation' in the form of written, verbal or directional instruction and supports the notion that people will be entitled to sit where they choose to at the event. We thank you for your acknowledgement of this and ask that you ensure this is communicated to those attending the event.</i>
Conference Policy	Stipulates restrictions on conferences:

	<p><i>(8) The University will not have any involvement with conferences that involve the promotion of the following:</i></p> <ul style="list-style-type: none"> <i>a) tobacco, alcohol or use of other addictive substances;</i> <i>b) gambling;</i> <i>c) use of weapons or ammunition;</i> <i>d) "Adult Services" and pornography;</i> <i>e) discrimination or vilification of a person or section of the community because of race, ethnicity, nationality, sex, age, religion, disability or political belief;</i> <i>f) any illegal activity; or</i> <i>g) portrays, promotes, implies or suggests any other thing which, in the reasonable view of the University Executive, would damage the reputation, standing or brand of the University (Refer to the Brand and Visual Identity Management Policy).</i>
<p>Student Placement Policy</p>	<p>It is the expectation that students on placements comply with the safety instructions and policies, rules or procedures that apply to the placement organisation (clause 22H). For example, students undertaking a placement at a NSW Health facility must abide by the NSW Health Code of Conduct.</p>

WESTERN SYDNEY UNIVERSITY



5. Any observations that you would like to make which you think might be helpful to the Review.

In addition to the information enclosed in this Review, Western Sydney University would like to reiterate its support of The Hon. Robert S French's proposal for the development of a Model Code for the Higher Education sector.

The University is of the firm belief that a Model Code will serve as a much-needed point of reference for the cultivation of freedom of expression and its cognates – freedom of intellectual inquiry and academic freedom. The principles and practices of freedom of expression are foundational to excellence in teaching and research, and more broadly, to democratic civil society.

Western Sydney University would like to see the Model Code act as a catalyst for improving university policies pertaining to freedom of expression. Refining and revisiting policy frameworks is essential to protecting and promoting academic rigour on and off our university campuses. This is needed now, more than ever, in a milieu where evidence and expertise is being directly undermined by algorithmic filter bubbles, post-truths and ideological regression. At this time, our university is reminded of the important role it must continue to play in leading our community with evidence and reason.

The University would like to see the Model Code serve as an opportunity for Australian universities to collectively reiterate our ongoing commitment to supporting robust debate. Challenging dialogue is part and parcel of intellectual inquiry. We recognise that vigorous discussion may, at times, extend into what may be subjectively viewed as 'contentious' intellectual terrain. But we affirm our position to support the contestation of intellectual voices and ideas, so long as they are expressed with civility, respect, and undertaken in dialogical ways where competing voices are afforded opportunities to respond and engage.

Supporting a culture of divergent point of views is especially important to Western Sydney University given that we are one of the most culturally diverse universities in Australia. We have more than 100 cultural and ethnic backgrounds represented in our student cohort and over 20% of staff coming from culturally and linguistically diverse backgrounds. Supporting the plurality of voices, then, preserves and promotes the university as a space for ideas and dialectics, rather than monoculture and polemicism – which, we believe are the antithesis of the university.

While much of the debate on freedom of expression in universities has focused on physical campuses, we note the importance of also acknowledging how this is played out across digital spaces. At the same time that digital and social media opens up opportunities for universities to

engage with wider audiences, digital and social media simultaneously provides the architecture for vitriol and abuse against staff¹ and students to take place in hyper-visible and mass ways².

Recognising that digitally mobilised attacks are often made on character rather than critical engagement with expertise, they do, however still have material effects on university life. Increasingly, academics exercising freedom of expression in public fora are compelled to undertake emotional and pedagogical labour³ to manage public backlash, both in their personal and professional lives. Digitised 'call-out' culture needs to be considered in the broader context of how freedom of expression⁴ is articulated both within and beyond university gates.

Western Sydney University is committed to continuing to pursuing research and teaching that challenges the frontiers of cultural and political hegemony. The University recognises that intellectual inquiry of this necessarily dynamic nature is particularly vulnerable in the current climate, where it can be perceived as, or reduced to, 'political correctness'⁵. This raises serious concerns about the cultural viability of some fields and disciplines. Western Sydney University would like to see the Review engage this issue critically and seriously, and we are able to contribute where our assistance is assessed as useful and appropriate.

* * *

¹ See: Rowe, D 2018, 'The university as a giant newsroom: the uses of academic knowledge revisited', *Culture Unbound: Journal of Current Cultural Research*, vol. 9, no. 3, pp. 228-239.

² Two recent Western Sydney University examples illustrate this point. The first, where a Senior Research Fellow invited to discuss 'white flight' on ABC's *The Drum* was trolled on Twitter by Mark Latham and his 24K plus Twitter followers, resulting in her digitally 'switching off' to manage the abuse. The second, where an Associate Professor discussing her expertise in structural racism was repeatedly ridiculed by Andrew Bolt in his Herald Sun column and other fora.

³ See: 'Statement of support and solidarity for University of Sydney academics', Asian Australian Studies Research Network, 14 August 2018.

⁴ See: MacKinnon, P 2018, *University commons divided: exploring debate and dissent on campus*, University of Toronto Press, Toronto.

⁵ See: 'Bizarre university classes on sex and white privilege', *The Daily Telegraph*, 7 August 2018 [behind paywall]; Lukianoff, G & Haidt, J 2015, 'Political correctness in US universities has gone crazy', *The Financial Review*, 11 September 2015.