



Professor Attila Brungs FTSE FRSN
Vice-Chancellor and President
15 Broadway, Ultimo NSW 2007
T: +61 2 9514 1333
attila.brungs@uts.edu.au

PO Box 123
Broadway
NSW 2007 Australia
www.uts.edu.au

UTS CRICOS PROVIDER CODE 00099F

25 February 2019

The Hon Robert S French AC
Suite 2, Level 13 Allendale Square
77 St George's Terrace Perth WA 6000
E: sulcsj@bigpond.com

Independent Review of Freedom of Speech in Higher Education Providers

Dear Mr French

Thank you for your work on this important topic and the opportunity to comment on the proposed draft model code of conduct, and for your letter outlining the context for the code of conduct.

The separate but related matters of freedom of speech and academic freedom are weighty ones, neither of which is taken lightly by universities as evidenced by the number of policies and principles already extant that address these issues. We observe that both the definitions and the way in which the freedoms are defined, codified and applied differ from university to university according to their policy framework in order for them to operate effectively in conjunction with a wide range of other obligations and instruments. This includes, but not limited to, our Act, industrial agreements, policies in a range of areas (including the ethical conduct of research, publication policies and policies surrounding ownership and use of intellectual property) and extant codes of conduct. As you point out in your letter these matters are already captured within the Higher Education Standards Framework through a commitment to freedom of intellectual enquiry. In that context it is not clear to us that an additional code of conduct in the form suggested is desirable or workable. While in agreement with the principles and objectives highlighted in your accompanying letter, the very formal and detailed approach embodied in the suggested code, we believe, does not achieve this aim - given the regulatory and policy context within which universities operate.

On university campuses robust, contentious and challenging debate takes place, sometimes causing offence and provoking strong reactions. This is part of university life, and part of the role that universities commit to and play in advancing public discourse and thought. Universities already have detailed codes and policies in place to ensure that we acquit our obligations to conduct debate in a way that is consistent with Australian law, including anti-discrimination and other laws in all states and territories that deal with questions of vilification, defamation and hate-speech that may arise in public debate.

Furthermore, universities are also responsible for safety on campus (and in other domains within our control, including online and off-campus university supported events). It is our view that the obligation to assess, manage and mitigate any risks associated with speakers or events (in whatever way such speakers are invited) lies under the operational control of

universities. Accordingly, any security measures and costs should be and are already the responsibility of universities and borne by universities as a part of our core business of intellectual discourse.

If there is any ambiguity remaining that these matters are not being addressed in a way consistent with our legal and regulatory obligations, or with public expectations, then we suggest that a different approach might be adopted to provide assurance. That approach might involve the agreement of the Sector to a number of clearly articulated key principles against which universities would demonstrate how those principles are upheld. The principles may not be prescriptive but would provide the opportunity for universities to lay out how they are addressed within each university's specific policy framework and the regulatory and/or legislative jurisdiction we operate. Responses should be made publicly available, or provided to TEQSA as the Sector regulator as a part of (re)registration. Such an approach would also help promote consistency and transparency. Universities should also regularly publicly reaffirm their commitment to upholding these principles to ensure members of both the public and universities' communities understand the critical importance of the topic.

Thank you again for the opportunity to comment on your proposal, and for your work to clarify how universities can be more transparent about how we address the important matters of academic freedom and preserve freedom of speech in a respectful and safe environment.

Kind regards

A handwritten signature in black ink, appearing to read 'Brungs', with a stylized, flowing script.

Professor Attila Brungs FTSE FRSN
Vice-Chancellor and President