

A Commission for Higher and Tertiary Education: Submission in response to the Australian Universities Accord Discussion Paper

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Introduction

This submission focuses on the establishment of a Commission for higher and tertiary education in Australia, as complement and enabler of the other reforms the Panel might consider.

This is a significant opportunity for the Panel to propose a bold, aspirational vision for the Australian higher education system that is coherent, adaptive, sustainable and diverse to meet the country's future research and industry needs.

The Panel has an enormous challenge to deliver a report that will materially reshape the system, be accepted by government and implemented. The last such reports prepared by an independent body and fully implemented were the Murray and Martin Reports of the late 1950s and early 1960s. Since then we have had many reports by eminent reviewers but some were ignored and the most recent, the Bradley Report, was only partly implemented and its most significant change to remove quotas and fund all students enrolled by universities was quickly abolished.

The significant restructuring and funding reforms during the late 1980s were driven by a Minister, Dawkins, who was clear about his objectives and was able to persuade Cabinet to back the scheme, so that its implementation was assured. However, there were many issues that emerged from the Dawkins reforms which should have been foreseen and fixed before they materialised and there are others which have emerged as a result of unintended outcomes from well-meaning decisions to fix other problems. One notable example was the need in the early 2000s to quickly draw up a definition of a university to stop a new private university being established on Norfolk Island. Since then, that definition has been in effect legislated as part of the criteria for university designation despite the likelihood that several universities may not be able to meet the research requirements.

This and other examples mean the Panel has a major task ahead of it, if it is to be bold in its recommendations. The system needs a long term, sustainable and cohesive vision and the organising principles and road map that can form the foundations for a successful and diverse sector.

The Panel has the opportunity to ask how the current system needs to be changed to get us to a better ideal. It must also ask how the nation begins a process of moving towards the ideal given the facts on the ground.

This is not a task that can be accomplished by a discrete review over a short timeline, so the Panel might focus on outlining the ideal end result with a roadmap and timeline for reaching it, as well as the most immediate reforms that would be necessary to achieve the initial changes.

Crucially, the Panel could optimally refer long-term implementation to an expert policy body that will have the longevity and research and planning capacities for long term planning and to adjust to changes in the situation over time. Its primary purpose would be to lead the development of the higher education and research system with the objective of creating a coherent system of diverse institutions with distinct missions.

To do this it will need the capacity to undertake continuous expert analysis on the health of the system, the changing needs of society and the fitness of the system's structure to deliver on its mission.

What long term challenges can a Commission help address?

Universities and other public higher education providers have significant public obligations yet face an uncertain environment in terms of funding and resourcing, which can drive their actions. For instance, there is an incentive for universities to maximise overall revenues, invest in high margin areas and continually seek growth as they mitigate resourcing risks. There may not be sufficient capacity in institutions to continue to conduct research and teaching in some of the most expensive areas which are of national significance, but which may be too expensive for an institution to undertake on its own. The disincentive to invest in some areas of education and incentive to invest in others leads can lead to an oversupply in some disciplines and geographical areas, and undersupply in others.

Equally, governments face a difficult challenge in steering the system to meet national needs and purposes. Even where universities and other higher education providers act legitimately within their own remit, there is a risk that outcomes can be undesirable and that there can be suboptimal allocation of higher education resources and places across the system. For example, in not meeting labour market demands or student demand. Where competitive and other mechanisms have been implemented to assist in resolving this issue, they have been either fiscally unsustainable or simply have not addressed the issue (in part a problem of the natural information asymmetries between students/government and universities).

Meeting these challenges and other governance issues suggests a guiding principle for a Commission: That it should facilitate better coordination and consistency across the system at the same time as ensuring universities and other higher education providers maintain autonomy over their operations, as this underpins their capacity to deliver quality teaching and research.

What remit would a Commission have?

Broadly stated, the purpose of a Commission would be to enhance the operation of the Australian higher education and tertiary education sectors, ensuring they can meet the needs of the different stakeholders. Its functions and remit can be summarised as: providing advice to government that would be made public; acting as an intermediary (or negotiator) to broker agreements between institutions and government; and collecting and maintaining a research capacity and data repository. Each is expanded here.

Advisory: A key function would be providing expert advice to the Commonwealth government on matters of significance for Australian higher education and tertiary education, including funding allocation and other matters within the Commonwealth's remit, and that also match the prescribed mechanisms and a funding envelope determined by the Government of the day. In this the commission would use its capacity to develop information on and reviews of the system to make recommendations on costs, providing the government and the sector with comprehensive advice.

Previous experience with the earlier Universities Commission (AUC) and the subsequent Commonwealth Tertiary Education Commission (CTEC) suggests that clarity around the advice function is crucial to effective operations. The role of a Commission is in part to bring coherence to central questions around allocation and funding within the prescribed framework.

The Commission could develop a depth of specialised knowledge to assist in its role in overseeing the delivery of national policies and priorities and to ensure that the government, while at arm's length from the specifics would have a reliable organisation to advise it on policy.

Significantly there would be a legislated requirement that a Commission publish advice publicly to ensure transparency. This would be a threshold feature for the Commission to operate in an effective manner.

There is a significant question that would need to be resolved around how to integrate regulatory functions with the advisory and other functions of a Commission. The Tertiary Education Quality and Standards Agency (TEQSA) could optimally continue to be the regulator but with a codified relationship to the Commission. This would help maintain regulatory and quality assurance as separate to negotiating agreements and accords with institutions.

The initial idea when TEQSA was established was that the Agency would have a level of independence with a Chief Executive responsible only to the Minister, to align it with the pure regulatory structures of bodies such as the Australian Prudential Regulation Authority (APRA) and Australian Competition and Consumer Commission (ACCC). While the model has evolved, there is utility in separating some functions of TEQSA from that of a Commission, while ensuring they can be aligned. How this can be resolved is discussed below.

Convener and broker: Another function of a Commission would be to act as a convener to assist brokering accords or other agreements between public higher education providers and government, such as for funding agreements.

Agreements that require a complex process must be managed carefully by negotiators who have a deep knowledge of the system and an understanding of its ambiguities. Careful calibration of specific solutions and expectations from institutions, while building nationally coherent outcomes, suggests the need for a convener/negotiator function, where a Commission can maintain independence from institutions, while advocating and working for all stakeholders.

If negotiations are to be able to reach a range of different but complementary agreements between universities and government, for example, it could be possible for universities to choose what they do on the basis of their strengths rather than on diversifying their activities beyond their capacity to perform. Such an approach is only possible if negotiators are clear about the set of systemic objectives within which they can negotiate.

A Commission also provides a synthesising function. Past experience has clearly shown that having several Ministers each setting the agenda which can impinge on higher education – education, research, and health – further complicates matters, as occurred with the Compacts where interim agreements did not appear to be based on a common set of objectives from the two Ministries represented; nor were they based on a discussion of emphasising a university's strengths while allowing the flexibility not to do things that it did not feel were in its interests or expertise.

Models that have worked in the past have included the Tertiary Education Commission which had overall policy responsibility and specialist staff to make informed judgements and the Higher Education Council which was involved in negotiations with universities in association with Departmental officers. There is much to be said for returning to one of those models.

Negotiating teams must have a national agenda and must be comprised of people from within the system as well as government if there is to be a rational conversation that can lead to compacts that are both achievable and worthwhile in meeting national objectives.

Research and data: Undertaking research and collecting higher education data, including publishing reports on the sector on matters of significance would be a central function. A Commission should have a significant capacity for data collection, analysis and dissemination functions and maintain a watching brief on the health of the system and the actions that should be taken to maintain and improve it so that it continues to meet the nation's objectives.

In this, it would be free to test new ideas and set new boundaries. There is currently less capacity for the system as whole to respond to truly innovative solutions, despite the innovation of individual universities. A Commission would be able to canvass ideas and options without committing the government while providing options that the government can adopt or reject as it chooses.

How would a Commission be governed and operate?

A Commission could operate as follows:

- The Commission should optimally be a Commonwealth statutory authority with an independent governance structure to ensure accountability to the government of the day while providing for its independence.
- Models should be considered that provide for clear independent governance. For example, the federal Minister might appoint a governing board for the Commission, with commissioners, part-time commissioners and a chief commissioner to act as chair, as well as other members from industry, the sector and with specialist expertise.
- In such a model a *minority* of all the members could be appointed by the board itself and some would be *ex officio*, such as the TEQSA Chief Commissioner who would sit on the board. Following the CTEC model, a set of Councils could be considered, such as for higher education and VET.
- Ideally a formal Letter of Expectation from the Minister would set out budget allocation and other directions, including the government's expectations for the forthcoming triennium. This would ensure the Commission would have an advisory role, with funding decisions remaining with the Minister and government, informed by the Department.
- A Commission governing board would appoint its CEO to further ensure independence. The Commission would also need to have access to strong policy research centres specialising in higher education and VET or have its own expert staff.

A note on accords and other agreements

The need for diversity in the system has been a matter of discussion for many years and it can be achieved by allowing institutions to decide on their missions with the policy body having the role of entering into negotiations with each institution to negotiate the mission that will be funded by government as well as holding institutions to account for delivering on their agreed missions through a system or triennial reviews to measure what has been achieved and what the institution plans to do in the following triennium.

Any new model should promote strong and autonomous institutions with strong system planning, co-ordination and accountability measures. Assessing the performance of institutions against their agreed contracts and missions will be dependent on having accurate and timely data and a capacity for data analysis and well developed and relevant metrics. Reaching agreement on the contractual basis upon which institutions will receive funds to achieve their missions will require a sophisticated and professional group of experts to negotiate on behalf of the government.

Any process of negotiating accords will be complex and should be facilitated by a knowledgeable, independent and expert group which can identify weaknesses in claims and capacity to deliver, ensuring they are realistic and in line with the broad aims set out for higher education.