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LEGISLATION COMMITTEE

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SENATE
EMPLOYMENT, WORKPLACE RELATIONS, AND
EDUCATION LEGISLATION COMMITTEE

Thursday, 4 May 2006

Members: Senator Troeth (Chair), Senator Marshall (Deputy Chair), Senators Barnett, George Campbell, Johnston and Stott Despoja

Participating members: Senators Abetz, Allison, Bartlett, Boswell, Brandis, Bob Brown, Carr, Chapman, Colbeck, Coonan, Crossin, Eggleston, Chris Evans, Faulkner, Ferguson, Fielding, Fifield, Forshaw, Hogg, Humphries, Hutchins, Joyce, Lightfoot, Ludwig, Lundy, Mason, Ian Macdonald, McEwen, McGauran, Milne, Nash, Nettle, O'Brien, Patterson, Payne, Polley, Robert Ray, Santoro, Sherry, Siewert, Stephens, Sterle, Stott Despoja, Trood, Watson, Webber and Wong

Senators in attendance: Senators Crossin, Stott Despoja and Troeth

Terms of reference for the inquiry:

Australian Research Council Amendment Bill 2006

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Committee met at 9.46 am

CHAIR (Senator Troeth)—I declare open this public hearing of the inquiry into the provisions of the Australian Research Council Amendment Bill 2006. On 30 March 2006, the Senate referred this bill to the Employment, Workplace Relations and Education Legislation Committee for inquiry. The committee is due to report on 10 May. The bill reflects recommendations to the government in the Uhrig review of governance arrangements for statutory bodies. It provides for the abolition of the Australian Research Council Board and the assumption of most of its duties by the chief executive officer, advised by designated committees. The bill also updates annual funding caps and makes other administrative provisions. The committee notes that in some submissions concerns have been raised with regard to public confidence in the independence of the structures which administer the national research funding program and understands that these issues are likely to be raised today.

I remind all witnesses that in giving evidence they are protected by parliamentary privilege. Parliamentary privilege gives special rights and immunities to senators, members and those who appear before parliament's committees. Parliament must function without obstruction and people must be able to give evidence to its committees without prejudice to themselves. Any act by any person which disadvantages a witness as a result of evidence given before the Senate or any of its committees may be regarded as a contempt and dealt with accordingly. These proceedings are public. The committee may agree to conduct part of the hearing in camera, if a witness so requests. I welcome any observers to this public hearing.

[9.47 am]

FULLAGAR, Dr Kate, Acting Executive Director, and Senior Project Officer, The Australian Academy of the Humanities

MACINTYRE, Professor Stuart, Fellow, The Australian Academy of the Humanities

CHAIR—Welcome. The committee has before it your submission. Are there any changes or additions you wish to make to it?

Dr Fullagar—No.

CHAIR—I now invite you to make a brief opening statement before we begin our questions.

Prof. Macintyre—This submission was prepared by the academy executive and Graeme Turner, who regrets that he cannot be here. I am pleased to appear for him. Graeme Turner and I served together on an ARC panel for several years, and we have discussed the ARC extensively. I should also say for the record that, although I was dean of the arts faculty at the University of Melbourne, I ceased to be so at nine o'clock on Monday morning. So I am now just a feather duster.

CHAIR—I understand that you have a prestigious appointment that has just been announced, so on behalf of the committee I congratulate you on that.

Prof. Macintyre—Thank you for that; it is a terrific opportunity. It seems to me that there is a relationship that many countries try to get right about the way in which academic research is conducted. Universities and the academic research conducted in them by the research community clearly have public significance, serve national objectives and rely very heavily on public support. I think the people who are responsible for providing the public support necessarily have a concern that it is administered properly and that it achieves its outcomes. Yet, in order to achieve its outcomes, it requires a degree of independence. This is a long-standing issue. I was recently rereading about the establishment of the Australian Universities Commission by the Menzies government. Sir Robert paid particular attention to the need to protect the autonomy of universities. He was worried that as the Commonwealth was drawn in to funding them, it might well impair the very reasons for their existence.

I think the academy would take the view that these proposed changes to the act do imperil some of the forms of independence that are required for a research-funding body to work effectively. We see it as being in danger of compromising the reputation of Australian research, should it be thought that the research body is acting directly at the instructions of a minister. We think that a board plays a very important role in ensuring the necessary validity of decision-making processes of a grant-giving body. Equally, on page 4 of our submission, we say that we are concerned about the process of appointment of committees and members of committees—what is now called the college of experts. We think that some safeguards are required to make sure that appropriate members of those committees are appointed to make the decisions about individual grants. I will not go over the submission in great length, but will simply say that they are the principal concerns of the academy as I read them.

CHAIR—Dr Fullagar, would you like to comment?

Dr Fullagar—I support Stuart's opening statement. These are the primary issues that we would like to raise and put forward.

CHAIR—Thank you for that. Could you explain in more detail what the forms of independence are that you believe the ARC should possess?

Prof. Macintyre—There are several. One is the principle of peer assessment—that is, that applications should be assessed by experts in the field according to the standards that obtain in that field. I think that is very important for maintaining not only the integrity of the process but also respect for it. I know that one of the unfortunate consequences of the recent argument about vetoing grants is that some of the international assessors on whom the ARC relies feel disturbed about it. Some of my colleagues suggested that there might even be a boycott, and I said, 'Well, we would really be shooting ourselves in the foot if we were to do that.' It has already drawn some international attention and there is a concern that judgments may be being made on other than the merits of the application. So that would be one difficulty. The other one is that it would be of great concern if individual applicants or individual projects were subject to judgments that were based on something other than the merits of the application.

CHAIR—You have suggested in paragraph 4 on page 5 of your submission, re the college of experts, that there should be a requirement to consult with relevant groups on the general composition of and on the occasion of specific appointments to the college of experts. Do you think it would limit the ability of the ARC to respond quickly to research priorities if it had to engage in extensive public consultation each time?

Prof. Macintyre—I do not think so, because the normal term of appointment is for three years and the appointments are made well in advance. It is most unusual for a member of a college of experts not to serve the full term, although I note that the legislation does provide for any member to be dismissed. At the moment, the process is that, as vacancies arise, the ARC advertises them around the research community and to universities. It is a complex process. I think the question is an appropriate one, because the ARC is concerned not just to balance disciplines but to balance membership from different universities and to balance gender, and that is not always easy. The ARC has to make a call on who the people are who have the expertise and the capacity to perform this function. Parenthetically, I would say that there are some very good researchers, but you really doubt their ability to make an objective judgment about particular areas, and so they are not appropriate people to serve in the college of experts. Strict impartiality and the capacity to read things on their merit are important.

But I do think the process is one that could well benefit from wider consideration, such as by the four learned academies, where leading researchers are located, and that that would complement the current process whereby universities are invited to nominate potential members of the colleges.

CHAIR—You also suggested that the membership of the college of experts should be limited to active and expert scholars. Surely there are also members who are what you might call end users of research who would be suitable to play a vital role in identifying research.

Prof. Macintyre—Yes, I think that is true. Perhaps I just need to stretch the term 'scholars' to mean people who have expertise in the area. The college of experts has recently been

renamed; it was a panel when I was on it. On the one that considered the humanities, the creative arts, law and architecture we had several people drawn from industry, who I think made a very important contribution. Some of them found it difficult, I think, to assess the technicalities of particular applications. But I think that is a valuable addition. One of the people who has recently served a term is Phillipa McGuinness, who is the commissioning editor of the University of New South Wales Press and who has a degree but does not conduct research herself. But I think you could regard her as a scholar because she is regularly interacting with research in the area.

CHAIR—Right. If the funding rules were subject to disallowance, how would the academy propose to maintain certainty in the research sector about funding from one year to the next?

Prof. Macintyre—I am sorry, you have caught me out on that. Kate might be able to help.

CHAIR—It is under No. 7. Disallowance does introduce a certain element of uncertainty into funding arrangements.

Prof. Macintyre—Yes, it does. It seems to me that if it is disallowance of particular grants then the consequence to the expenditure in that particular year is relatively low. I do note that the bill sets out the appropriations for the next four or five years which are very flat, but that is separate to the issue we are considering.

CHAIR—Okay. You have nothing further to add to that, Dr Fullagar?

Dr Fullagar—No. I want to add something in answer to your second question about advice on the various committees and what is now the college. The four learned academies are explicitly funded by the government, as one of the key roles of all four academies is to serve as primary advisers for their sector to the government. It is another reason we like to underscore that.

Prof. Macintyre—Senator, one of the difficulties—and this was a point made particularly by my vice-chancellor late last year—is that, if there is a procedure that is laid down and the procedure is to be varied there is a real difficulty for those people who find that they have subjected themselves to the process, do not receive a grant and do not receive an explanation of why they did not get a grant. As I read paragraph 7 and the recommendation, it is a principle of administrative law that due process be followed and people be given advice about why they did not receive their grant.

Senator STOTT DESPOJA—In your submission you state that the maintenance of an independent research funding body is important for a couple of reasons: maintaining public confidence but also securing our international reputation. I am just wondering if you could elaborate for the committee on what you think the impact of this bill will be on both those areas—the independence element and public confidence in independence and, on the other hand, maintaining our international reputation.

Prof. Macintyre—As I have said, I think there is some evidence already—it is evidence of email and not necessarily a representative sample—of some of the international scholars who provide assessments for applications who, when they heard of the result last year, were concerned about it. I think they would be concerned if the changes that are proposed here go

through, because that would mean that the Australian Research Council was different in nature from its equivalent bodies in the United Kingdom, the United States, Canada and elsewhere. As with the ARC, those bodies have a statutory basis, but they also have more safeguards about their independence.

Senator STOTT DESPOJA—So internationally this is a different model, you would say, from academic and other counterparts?

Prof. Macintyre—Yes, they are. The arguments that arose about some of the funding decisions by the ARC in Australia are not unique to this country. There have been a number of examples in the United States, but the United States body is protected and once it makes those decisions those decisions stand.

Senator STOTT DESPOJA—Can I clarify something in relation to the last question you were asked by the chair as to disallowance. My understanding of the rationale behind that recommendation is that it is in relation to transparency and accountability. I am just checking that your recommendation reads as it should. It says:

That the Bill be altered to reverse the stipulation in subsection 60(4) that rules made by the Minister are not subject to disallowance in accordance with subsection 44(2) of the Legislative Instruments Act 2003.

Dr Fullagar—It should be actually ‘are subject to’.

Prof. Macintyre—There is a double negative there.

CHAIR—That is always dangerous.

Senator STOTT DESPOJA—In relation to the impact of this legislation on the ARC’s ability to initiate its own research or inquiries into research matters, I am wondering what impact you think that might have on the ARC’s core business.

Prof. Macintyre—I think that is quite important—and I can draw on my experience here—because, when the ARC was reorganised by David Kemp when he was the minister, one of the functions it assumed was not simply as a grant-giving body but as a body that was able to advise on research and initiate inquiries on research. One of the expectations was that each of the then six disciplinary groups would conduct reviews of research within their fields. It was while I was chair of the humanities one that we conducted a review of the impact of ARC funding and how we might measure the impact in that area.

This was a review undertaken very largely by Sue Rowley, who was then the executive director. It was a very important initiative. We were able to show what people who had received grants had done. Grant recipients make final reports at the end of the period of their funding. We were able to show there was a long-term effect in subsequent publications and the career development of researchers who had been employed with the grants and we were able to think about some metrics as to how you would measure the impact of that research. I think exercises such as that are very important. Yes, an opportunity for public funding of research, particularly basic research, is a very important element of any research system. I think the ARC should not simply be a body that funds research; it should be one that exercises a role in assessing, guiding, leading and raising questions about the efficacy of research in this country.

Senator STOTT DESPOJA—So would the example that you have used be one that you believe might not be able to go ahead as a consequence of the changes to the legislation? Are there any other examples?

Prof. Macintyre—That is the primary one. Indeed, it should be noted that that was an additional function of the ARC that was introduced in the late 1990s, which I welcomed as I thought it was a very important broadening of the role of the ARC. I would not want to see it jeopardised.

Senator STOTT DESPOJA—On the matter of the proposed advisory committee, in your submission you recommend enshrining in legislation the functions and structure of the committee. I am wondering if you could elaborate on that as to why you think it should be enshrined in legislation.

Prof. Macintyre—I noted when I looked at the bill that the minister can abolish any committee that he does not wish to continue—and Kate can give me more about the genesis of the paragraph in our submission. I know there was concern about the constitution and the increase in the functions of the committee that was exercising oversight of the recommendation of the college of experts. I assume, Kate, that we thought that the committees and their functions should be set out rather than be subject to arbitrary change.

Dr Fullagar—I think having certain ex officio appointments help secure that stability. Obviously, our submission is to say that the presidents or representatives of the learned academies do take part in some of those ex officio positions.

Senator STOTT DESPOJA—So in terms of certainty that would be the primary reason?

Dr Fullagar—I believe it is more about ensuring some stability.

Prof. Macintyre—It is the advisory committee that we have in mind. The college of experts has disciplinary panels that read a very large number of applications, send them out to reviewers, consider those assessments and the rejoinders made by the applicants, and then recommend funding decisions. Those funding decisions were finally approved by the board. But there was a committee which exercised oversight—not reading applications and second-guessing them, but doing some sampling to make sure there was consistent quality, there was always reserve money, and that, where the quality seemed to go furthest down the list of applications, that was where additional funding would go to ensure balance.

That committee seems to me to be an important one. In its former format, it was not prescribed as ex officio, but there were conventions that there would be a certain number of members drawn from universities. Usually you had deputy vice-chancellors with responsibility for research. I can well see the value in such a committee drawing on the four learned academies, which are constituted by senior scholars in the various fields, and which do stand, if you like, further removed from institutional interest.

Senator STOTT DESPOJA—I see you have a backup plan in here. You acknowledge that if it is too cumbersome to enshrine in legislation, which I think is debatable, then, at the very least, there should be consultation with the learned academies and other relevant bodies on appointments to the advisory committee.

Prof. Macintyre—Yes.

Senator STOTT DESPOJA—I know the Chair has asked you about the college of experts, and you have expressed your concerns about that operating as a designated committee. How do you imagine getting around or circumventing some of the concerns that you have outlined? You have a number of recommendations in relation to the submission that you might want to elaborate on for the committee's benefit.

Prof. Macintyre—First of all, we have discussed whether we think there should be a process of consultation prior to the abolition of a designated committee. The abolition of a designated committee is going to be something that will potentially undermine confidence in the operation of the ARC. Similarly, for its functions, the public list—the process by which the minister intends to make appointments to designated committees—would provide reassurance about the integrity of public consultation and the process of appointment. I have said that at the moment there is a process of consultation principally through universities, but that could be broadened while allowing that the ARC in the end has to take a number of factors into consideration in its own recommendations to the minister, which is the way it used to operate. I have stretched the idea that appointments should be active expert researchers by saying that some of the industry representatives with whom I dealt when I was on it made very useful contributions. It would be of concern if other people were appointed to the college of experts who were not active expert researchers. To have some reassurance that those drawn from the research committee would be active and expert would be helpful.

Senator CROSSIN—Professor Macintyre, you believe the ARC should remain what you call the board template rather than the executive management template. Can you tell us why you believe that is so, and why the government wants to move to an executive management template?

Dr Fullagar—I quickly want to say that we have taken that terminology from the Uhrig report; we are just taking our cue from that.

Senator CROSSIN—Yes, and it is my understanding that if you read the explanatory memorandum that is the basis on which these changes have been proposed.

Prof. Macintyre—In broad terms, it seems to me that the role of the CEO is manifestly an important one, but there is considerable value in having a board rather than simply a line management model, particularly in functions which require strong reputation and maintenance of integrity, and to forestall any suggestion that decisions are being made on other than appropriate grounds. The main function of the board—a board was only created for the ARC some way into the life of the national funding body—was a good and useful development in ensuring the robustness and the integrity of the grant-giving process.

Senator CROSSIN—You made some comments in your opening statement about grant applications being chosen and measured against a set of criteria and you said there was a view that there would be some concern that this new process might actually have those grant applications chosen other than by merit. Are there concerns that there would be political interference in the granting of applications?

Prof. Macintyre—I think that there has been concern after the last two rounds about the fact that some grant applications that were recommended for funding were not funded. Kate has just given me a copy of an article on the subject. We now have a good deal of explanation

from the former minister about what was happening. I think it did cause major concerns. The problem is that, once you begin to take away a board and to allow the minister to compose a committee with very few checks and balances or to dismiss it or to remove its powers, it does lead—this is not casting any aspersions on the current minister—to worries that this sort of thing can happen.

One of my concerns, as someone who had a bit to do with the ARC but also had some responsibility for encouraging my colleagues to apply, was that a very large number of them were quite sure that they were the ones whose grants were subjected to this veto. I did explain that the numbers did not add up, but I think academics feel under considerable pressure. There is an increasing importance placed on getting grants. The grants not only bring the opportunity to conduct research but have knock-on effects for the funding system for the university, for the reputation of the institution and for the career prospects of the individuals. Given that few of them—one in four—are going to be successful, I think you have to be very encouraging and supportive to people who subject themselves to the process. I think this additional hazard demoralised a large number of them.

Senator CROSSIN—What sorts of safeguards are needed to ensure appropriate members would be appointed to the college of experts?

Prof. Macintyre—I think the academy's submission would be very helpful. The process whereby the ARC has invited suggestions from universities and then finally made a decision is an understandable one, for the reasons I have given. But I do not think we would lose anything at all by a process of public consultation and taking advice from the academies. I am confident that the eventual appointments would be defensible. Some of the critics of the ARC have talked about the nature of the ARC, saying that it itself is not open to public scrutiny. You can understand that individual applicants are not named unless they are successful, that the assessors who are used are not named. These are standard processes. But they do lead people who feel aggrieved to think that the ARC has got it in for them. In the case of the composition of the panels, it would be reassurance to the community to see the process whereby they have been appointed and to be reassured that they are indeed appropriate appointments, as I am sure they would be.

Senator CROSSIN—I was looking at the proposed new process. When this bill was presented earlier this year, on 30 March, the minister said:

I will issue a statement of expectations to the ARC's chief executive officer to outline the government's current objectives ... The ARC CEO will reply with a statement of intent outlining how the ARC proposes to meet my expectations.

There does not seem to be any explanation as to how the CEO would arrive at whatever conclusions might come in the statement of intent. Has it been made clear to you how that process would work?

Prof. Macintyre—No, it has not. You assume that the CEO would consult with the executive directors of the organisation and with members of advisory committees. The legislation gives the CEO the authority and indeed the responsibility to do that.

Senator CROSSIN—Would the CEO need to consult with the college of experts or would they only come together when grant applications are actually to be looked at?

Prof. Macintyre—There would be some discussion. They come together usually on two occasions during the year. They meet early in the year when they are receiving applications and allocating them to assessors and then in June-July, in the depths of the Canberra winter, when they have all of those assessments and are making those decisions. It might well be that this is not much different from when the previous minister announced four research priority areas, and that goes back to my opening statement about the delicate balance between a public funding body and the necessary independence of its operations. I think it was legitimate, but I did have some discussion about the appropriateness of the priority areas. The government might well say that Australia has national research needs in certain areas and ask the ARC to take that into account, and then the ARC decides how it is going to do so in its funding and in its activities. Probably the passage that you mentioned from the current minister's tabling speech suggests that a similar process would continue to operate; but, as you say, it is a bit opaque as to how the CEO would respond to the minister or what advice the CEO would draw on to respond to the minister.

Senator CROSSIN—Yes. My concern is that it is not the CEO responding on behalf of or with the authority of a group of experts or even the directors of the main discipline areas.

Prof. Macintyre—No.

Senator CROSSIN—They would not actually own that response, if you know what I mean. The CEO could take it and completely change it. The intellectual property could totally be the CEO's.

Prof. Macintyre—Yes. You have drawn my attention to a concern, and it is one reason why you would want to have a board—that, previously, the chief executive of the ARC would have told the board that this communication had been received from the minister, that this was how she or he proposed to respond to it and that this was the basis on which they had reached those conclusions and those plans. There is no requirement to do that at all.

Senator CROSSIN—Thank you.

Senator STOTT DESPOJA—In your submission you talk about the dual problems in the reallocation of responsibilities to the CEO: the first is this increased reliance on one individual for decision making and the second is workload. And I notice that, with workload, one of the recommendations you have made relates to additional funding. Would you elaborate on that; is that something that is required because of a CEO? I think you have senior management to assist with an expanded workload, but I am not quite sure how you envisage this working.

Prof. Macintyre—I will rely on Kate, otherwise I would be guessing.

Dr Fullagar—What we are implicitly saying about the CEO's job without a board is that it is probably a larger responsibility than really should be given to a single individual. So it was to underscore that, if that were to go ahead, you really would need to put in more apparatus to help take on that responsibility—and just to do the basic research needed to make these very large decisions without advice from a board.

Prof. Macintyre—I think the previous director, Vicki Sara, relied very heavily on the six executive directors for the panels who were, I must say, of extraordinarily high calibre, most of whom have moved on to senior university positions. I think it has been a difficult time for

the staff of the ARC over the past 12 months. It would be difficult for me to go beyond that, but I think it has become more difficult to recruit high-quality executive directors when there is turnover.

Senator STOTT DESPOJA—Would we be making it more difficult if this legislation is passed?

Prof. Macintyre—I think we would be, yes. It would be a less attractive job and a more difficult job.

Senator STOTT DESPOJA—Thank you.

CHAIR—Thank you very much for appearing before us.

Prof. Macintyre—Thank you for giving us the chance to do so.

[10.19 am]

ALLPORT, Dr Carolyn, National President, National Tertiary Education Union

CULL, Ms Emma, Policy and Research Officer, National Tertiary Education Union

CHAIR—I welcome our next witnesses from the National Tertiary Education Union. Thank you for your submission. Are there any changes or additions?

Dr Allport—No.

CHAIR—I now invite you to make a brief opening statement.

Dr Allport—Thank you. The National Tertiary Education Union welcomes the opportunity to provide comments to the Senate inquiry on the Australian Research Council Amendment Bill 2006. In common with our colleagues who just presented to the inquiry, we are very concerned about and have highlighted in our submission the importance of safeguarding the processes of expert peer review assessment within our research agencies. Part of this is to safeguard the central role that an independent ARC can play in assuring the quality of peer review assessment. We are conscious of the recommendations of the Uhrig review, but we also note that there are significant differences in the way those recommendations have been interpreted in terms of proposed changes to the governance of the NHMRC compared to some of the proposed changes to the Australian Research Council that we are speaking about today.

In common with our colleagues across the sector, we believe that many of the recommendations put forward for this bill risk compromising our independence and accountability, with a consequent risk for our international reputation. We are particularly concerned about the removal of the board and the way in which that affects the transparency and decision-making processes of the ARC. Like the previous submitters here today, we also think it opens it up to the risk and makes it vulnerable to political influence from the government of the day, irrespective of the political party. We say this because we were very concerned about the increase in the number of peer review grants rejected in the last round. Also, we are concerned with the number that were rejected in the previous round.

Our first recommendation is that, if the minister is to continue to retain the powers that they currently hold and they are going to oppose a recommendation of the college of experts, that needs to be reported directly to our parliament. Only then can we suggest that the process will be one that retains its integrity. Like the AVCC, we also support the role that the board has played in providing some safeguarding and mechanism between the minister and the college of experts, thus ensuring both ministerial impartiality and the reliability of the peer review system.

We are not particularly happy with making the college of experts a designated committee. We do not particularly favour the definitions and the way in which the roles and functions of those committees remain at the behest of the minister. We would suggest—and we have suggested this in recommendation 2—that the functions, appointment processes and operational guidelines of the college of experts be included in the bill. The expert peer review process lies at the heart of Australia's international reputation. Therefore, it must be seen to be included in the bill and it must have some real rigour attached to its role under the bill. We

also believe that it is important that the college of experts also has some autonomous capacity to articulate how the college of experts might operate under a new bill. While of course the ultimate power always remains with the minister, the ARC college of experts should be taken from and influenced by existing peer review processes.

Finally, I think it is important that both the peer review process and the ministerial reporting to the parliament will assist in making sure that peer review remains the centrepiece of Australia's research processes. We say this because we operate in an international environment in the research area, we have done for many years and we currently have a credible and appropriate international reputation. That international reputation will be at risk if we depart from internationally agreed principles of peer review and if we allow political masters to influence what should and can be defined as research in this country. It would fly in the face of the commitment to academic freedom, the importance of autonomy and the importance of accountability.

CHAIR—I understand that under the existing legislation decisions made by the current ARC board are confidential and not on the public record—that is correct? How does your organisation see that removing the board will further reduce transparency and accountability?

Dr Allport—Our understanding of how the board operated in the past is that there were quite vigorous discussions. The board members had an ability to articulate issues raised by the minister as well as issues raised by the expert peer review committees, meaning the board acted not so much as a sorter, if you like, but as a place where these issues could be debated and where the minister as well as the peer review committees could bring items to the board's attention. I think the people who were on the board served both researchers and the minister in a very fine and useful way. Now it is proposed that there be nothing there, that it simply use a single line management model. We do not believe that will serve Australia's research interests as well as retaining the ARC board with its current functions.

CHAIR—But, if this discussion has gone on behind closed doors with the existing board up until now, won't this discussion still go on amongst other people and the CEO even if they do not hold positions as board members? That surely would still be possible.

Dr Allport—It would still be possible, but my understanding of the way the board worked is that of course it is confidential, and the fact that the comments, debates and so on of the board are confidential does not necessarily mean that there is no effective communication within the general guidelines of the ARC. That is my understanding of how the board worked.

CHAIR—I think you have probably already answered this in your comments, but I want to make sure that we have covered it: how would you propose to incorporate peer review in the legislation? You have mentioned accountability and transparency, but you might like to go over that again.

Dr Allport—If the committee is interested in the concept of incorporating the peer review system in the bill, we would be happy to send you after the hearing today draft amendments to the bill. I have not recommended in our submission or in my comments this morning an exact location for that in the legislation, although there are a couple of places that it could easily be put and be as transparent as I think people would want it to be. Equally, the procedures for the appointments process—for its roles and functions—could be put in the legislation in a

reasonably easy manner. I think it needs to be separated from the designated committees and be included on its own merit.

Senator CROSSIN—We have a range of submissions before us where the intent of the bill is being opposed—that is, the abolition of the board or the abolition of some public body that feeds recommendations through the minister, whether it is through a CEO or otherwise. Are there any people you know, perhaps in the circles of academia, that are supporting these changes?

Dr Allport—There is general concern about the abolition of the board. That concern was heightened by the numbers of peer reviewed grants that were knocked back by the minister. The two processes together have created a sense of uncertainty in the academic community. As Professor Stuart Macintyre, my colleague, mentioned earlier, it has led to some lack of confidence in the process. Whether without the grants being knocked back we would be having the same problems—whether we think that the board could easily go or the board should stay—is a very difficult question to answer. I think some difficulties with the board have been reported at an earlier Senate inquiry. But, generally speaking, within the academic community there is support for the board. The AVCC also supports the retention of the board and is concerned about the board going, which is a very important indication.

On the other hand, our colleagues in FASTS are not as concerned about the board and do not believe its loss will necessarily sacrifice quality—although no doubt they will be able to speak for themselves. But there is that lack of confidence, that concern about our international reputation. The research reputation is very fragile, and it does not take much for countries to lose it if they do not meet international standards such as peer review and being able to argue that it is an independent process funded and supported by national governments but nonetheless not subject to excessive interference by any government and any minister, for that matter.

Senator CROSSIN—The CEO is to be appointed by the minister.

Ms Cull—Yes.

Senator CROSSIN—Therefore the CEO is proposed to actually take over from the board. How can we be confident that there will be the same degree of independence in decision making, therefore?

Dr Allport—I do not think we can guarantee that there will be the same degree of independence. That is one of the chief concerns that many of us have had about the single-line management structure being suggested and proposed in this bill.

Senator CROSSIN—What impact, then, do the proposed changes have, say, on the research independence capacity of our academics in this country?

Dr Allport—I support the remarks made earlier this morning by my colleague Professor Macintyre, but I have also heard similar comments from many others within the academy. For our research effort to be taken seriously at an international level we must be able to assure its independence. We must be able to not only assure its independence from government, which is the issue we are looking at here, but also assure its independence in the way universities

and industry work together. These things are part of the research environment in which we work.

If we cannot guarantee that, then we are not accepted into international indexes for research performance, which are a very important international measure, and we risk losing our place in the international research community. We have worked hard, for a small economy and a small country, to be able to do that, but to sustain it we will have to meet international standards in the same way as the others have.

Senator CROSSIN—I want to go to the college of experts. The minister has said she is committed to retaining the peer review process through the college of experts, but you would put to us, as you do in at least three of your recommendations, which go to the college actually being listed in the bill—its function and how members would be appointed—that the bill should be amended in order to realise the minister's statements.

Dr Allport—We believe so. We have given evidence to almost every inquiry on the Australian Research Council in the last decade or so. We believe that, as it currently stands, the legislation and the way in which it gives the minister enormous powers over designated committees is not an appropriate way to deal with the college of experts. We have suggested, in recommendation 4, that there are ways in which there should be wider consultation about the appointment process. That is essentially consistent, I think, with some of the remarks made earlier this morning. We want to be very careful about the notion that the minister could immediately dispense with the services of a member of the college of experts, with no by-your-leave and no necessary criteria attached to that. We would be concerned that that again raises questions about the potential for lack of impartiality. None of my comments are suggestive of any particular person here.

Unless we ensure that the peer review system is guaranteed by the legislation, there will always be a residual power with the minister. But, if we are able to stress the independence of the peer review system and guarantee that in the structure that we put into the bill, then the minister can retain their residual power but their general practice of intervention will have some formative guide—the legislation will give some sort of formative guide to the minister so that hopefully we will not see as much intervention as we have in the past. But that depends on the nature of the bill and what eventually gets accepted by parliament.

Senator STOTT DESPOJA—On that note, the committee would be very grateful for your proposed amendments if you want to provide them to us.

Dr Allport—Certainly.

Senator STOTT DESPOJA—That might save some of us a bit of work. I want to ask you about the process. Did you feel you had enough time to analyse this bill, examine its impact, write a submission and present to another inquiry? Do you have any comment on the process?

Dr Allport—In a number of areas of higher education, each time an inquiry is announced the time period involved is much shorter than any of us have ever been used to before. We work very fast, but we have also had many inquiries over the last couple of years. This can be good thing—I am not saying it is a negative thing—but one does need to have more time, generally speaking, for some of these inquiries. We are a national organisation and we have to consult with our members, with the professions and with other parties interested in these

issues and so on. Although I have got used to it, nonetheless it is not the most favourable way of doing this type of thing.

Senator STOTT DESPOJA—I am glad someone is getting used to it! On the issue of consultation with your members, I am wondering if you can give us a bit of a snapshot of the views. You have expressed concern, presumably on behalf of your members, in relation not just to this legislation but also to the issue of knock-backs of other research projects. Do you, like the academy that gave evidence just before you, have a sense of concern—or are you neutral? Are people worried about this legislation specifically or are they worried about the cumulative effect if this is added to other legislation and other decisions?

Dr Allport—The first thing I would say is that, generally speaking, I have never had so much response from members as when the grants first started being knocked back in the first round. I am talking about phone calls, emails, letters and so on. I think there was even greater concern the second time around, especially when this was not something that any of the research community was used to receiving. Ministers have knocked back a grant or two in the past, but not to the degree that was suggested in the last two rounds. So there was much concern. One of our members who served on an ARC panel resigned because he was not prepared to work in an environment where there was, in his view, too much ministerial engagement and interference. So we lost one person who would normally be a candidate for the college of experts. I think that is what the academy was talking about when they talked about the lack of confidence in the process. It is very important for us to have that. I am sure the government wants to retain the confidence of the research community, and the research community certainly wants to ensure that they are able to continue to stress their independence.

We also, of course, work with the NHMRC. I have to say that the bill that I am looking at now is not the same bill with the same changes being mooted for the NHMRC. In fact, my understanding is that their council is being enhanced and that the general structure that is proposed to be eliminated in this bill is in fact, to the contrary, enhanced in the NHMRC. That also raises questions for people. They ask me: ‘Is it because I am working in humanities? Is that why some of these issues are being brought forward within the ARC environment? Why aren’t these issues being brought forward in the NHMRC in the same way?’ For a variety of reasons, there is at the moment a degree of wariness, a lack of confidence perhaps, as Professor Macintyre mentioned, and also real concern in the research community. I think we are looking to the government to send particular signals in the final legislation, which is why we have recommended the issue of putting a college of experts in the bill. We think that might alleviate some of the concerns raised by our members, but at the same time we recognise that the Uhrig recommendations are part of the process.

Senator STOTT DESPOJA—You have answered a number of points on the college of experts for Senator Crossin, but are you worried that the college of experts is under threat?

Dr Allport—Yes, I am. Again, I have had a lot of experience in this area. I have also worked in the environment of a different government. All governments like to intervene, but it is important to recognise that our research reputation is absolutely critical to us being able to extend our higher education commitments further afield at the international level. It will be a very competitive environment, if we are to continue the proposals that the minister has

announced under the Bologna process for Australia. We are looking at more and more international effort.

These things will count for nought if our reputation becomes tarnished. I do not think it is quite yet, but unless we send the right signals to our international colleagues, particularly in the Asia-Pacific region, where it is very competitive, then I think we do run the risk of people misunderstanding, for want of a better term, but also understanding correctly, that our independence may well have been compromised by government policy. I would not like that to happen and I do not think the government would either. If we send the right signals in this bill, and if we look at the way in which the NHMRC has been able to take advantage of the Uhrig recommendations, then perhaps we will end up with a better process and will not face that risk.

Senator STOTT DESPOJA—Is not the abolition of the ARC board a signal that may have an impact on our international reputation?

Dr Allport—Yes, I think it is.

Senator STOTT DESPOJA—Is that a negative or a positive? Is it potentially tarnishing or is it neutral?

Dr Allport—If the ARC board goes then it is a negative signal. I was hoping that if it looked at the NHMRC the committee might also perhaps see that there is a role for a broader body. It may not be like the old ARC board, but the NHMRC has a council with advisory capacities and so on. I would suggest that perhaps we need to look at the way the NHMRC has dealt with the Uhrig recommendations and see whether some of those are capable of being utilised in the ARC bill.

Senator STOTT DESPOJA—You are essentially saying that the interpretation of the Uhrig report for the ARC legislation is different from that of the NHMRC.

Dr Allport—That is my understanding.

Senator STOTT DESPOJA—I will not pursue any further the functions and composition of the college of experts, because I think that has been covered. Could you explain your concerns about the minister and the CEO being solely responsible for the forming of the designated committees.

Dr Allport—The area of administration of research funding councils is a difficult one. We do know that most of our allied countries—Canada, the UK, Europe and parts of the Asia-Pacific region—have a fairly complex bureaucratic structure. They are not operated as if they are a single-line hierarchy all the way down. In our submission I have given some examples of how that works in some of the jurisdictions. We need to recognise that we need to be able to represent the nature of the beast of research, researchers and the complexity of their work in the administration of that environment. Certainly, I think that the administrative environment of a more stripped back, managerial ARC has not served the profession to nearly the same excellent extent as the previous structure of the ARC.

CHAIR—Thank you very much for appearing before the committee today.

Dr Allport—Thank you very much for your time. I will send the suggested amendments through to the committee.

CHAIR—Thank you.

Proceedings suspended from 10.50 am to 11.06 am

MULLARVEY, Mr John, Chief Executive Officer, Australian Vice-Chancellors Committee

CHAIR—Welcome. The committee has before it your submission. Are there any changes or additions you wish to make to it?

Mr Mullarvey—No.

CHAIR—I now invite you to make a brief opening statement.

Mr Mullarvey—I apologise on behalf of the President of the Australian Vice-Chancellors Committee, Gerard Sutton, who sends his apologies for not being able to attend today. The AVCC welcomes the opportunity to provide further information, insofar as we can, to the inquiry. As we have detailed in our submission, there are a number of issues that are of concern to us. They mainly relate to the abolition of the board and the role of the chief executive officer. Rather than make a continuous statement, I am happy to answer questions and elaborate on our submission.

CHAIR—Do you know how many times the ARC board's power to conduct inquiries on its own motion has been used, especially since 2001?

Mr Mullarvey—We do note that they have not chosen, to date, to use that power. Despite that, we believe that it would be useful for that power to continue to be there and to operate into the future. However, we acknowledge that the ARC board as it currently exists has not used that power.

CHAIR—The Federation of Australian Scientific and Technical Societies—I am sure you have read its submission—has proposed that the minister be required to name the specific area and topic of any research proposal not approved for funding by the minister. Several other organisations have also made this comment. In an academic community of the size we have here in Australia, do you think that that would offer any dangers to the anonymity of the researcher, in terms of publicising that they had put up a research proposal that had failed?

Mr Mullarvey—I should mention that there is a diverse range of views on this subject amongst the vice-chancellors. We are concerned about having a transparent process, but we also acknowledge that naming individuals has the potential to impact upon their future careers. However, we believe the process that exists now is not sufficiently transparent. We have to find a better arrangement, in our view. We acknowledge the other submissions as well.

Senator CROSSIN—In your submission you have some concerns with the existing governance structure in relation to the intervention by the minister of the day. Do you think the proposed changes will alter this?

Mr Mullarvey—When the original ARC bill was put before parliament we expressed our concern that, if you have a college of experts and a board, you should not have a minister then intervening in the decisions that have been made by that body. We feel that by removing the board there is the potential to increase the possibility of political interference in the ARC process. That is our issue of concern.

Senator CROSSIN—Professor Macintyre was talking to us before about the model in the United States, where the recommendations of the board stand. Is that the way you believe we should move in this country?

Mr Mullarvey—Yes. We believe that you have a college of experts who are best able to make those decisions along with a board that has an oversighting role, and that is where it should stay.

Senator CROSSIN—Has the role of the Quality and Scrutiny Committee been further clarified for the AVCC?

Mr Mullarvey—I think it has brought into our mind the greater need for transparency. We are not sure it has helped at all in ensuring that a transparent process existed.

Senator CROSSIN—I also raised this morning with an earlier witness some of the comments that were made by the Minister for Employment and Workplace Relations in a tabling speech on this legislation. I am trying to understand here what checks and balances there are in the process. A CEO will be appointed by the minister, who will in fact reply to the minister's statement of expectations to the ARC's CEO, then the ARC's CEO will reply with a statement of intent, outlining how the ARC proposes to meet the expectations of the minister. I am trying to clarify here whether the CEO would have total intellectual property over the content of that intent or whether you understand there may be a requirement to consult with the college of experts or the main disciplines in this country. Has it been made clear to you how that process will work?

Mr Mullarvey—No, it has not. We do have some concerns about the process but, if the statement of expectations from the minister is appropriately developed, it might be very useful in enhancing the role of the ARC. So there are some positives but also potential negatives on that one, but it has not been explained to us in any greater detail.

Senator CROSSIN—You also say that you believe the CEO should appoint the college of experts, subject to approval by the minister. Wouldn't that still give the minister, though, the final say on such appointments?

Mr Mullarvey—We have been realistic and accept that it is a government organisation. In the end the minister of the day has to have the power to appoint the final group, but we believe that advice coming from the CEO will ensure that you get a balanced approach to it.

Senator CROSSIN—So you would be recommending the bill should be amended to ensure that that is part of the process?

Mr Mullarvey—Yes.

Senator CROSSIN—Could you elaborate on your views about the government issuing a statement of expectations to the CEO? I talked a moment ago about how the CEO might reply to that. It was put by Professor Macintyre this morning that he thought it might simply be as simple as the government outlining its research priority areas, for example. Have you had explained to you what will be in the statement of expectations?

Mr Mullarvey—No, we have not had explained to us what will be in the statement of expectations but it could be, as you say, very limiting and just simply setting priorities or it could be very broad ranging. Depending on where it fits in there, it could assist or it could

hinder the ARC. It could be seen as more political interference into the independence of the ARC or it could be seen as actually assisting the ARC in its processes. Until we go through the first process I think we have some difficulty and, until we get a better explanation from the government as to what the content of that statement will be, we are all sort of waiting.

Senator CROSSIN—The National Tertiary Education Union put to us this morning that they believe that the fact that the college of experts exists, its functions and how members are appointed should be part of the legislation. Do you agree with that and, if it is in the legislation, would that assist in providing confidence in the transparency of the process?

Mr Mullarvey—We have not directly addressed that position, because we see the college of experts as being part of the designated committees. Clearly, having the college of experts in the legislation would give greater support for the government's support of the peer review process, so we would support that approach, although we have not proposed that in our submission.

Senator CROSSIN—You have stated that part 4 of the bill, which establishes the designated committees, still gives the minister unprecedented control over the work of the committees. Can you elaborate for us your concerns about that section?

Mr Mullarvey—The section deals with the ability of the minister to decide whom to appoint, what the committee will do, how it will do it and when to abolish it. A minister of the day now or into the future, having got advice that they did not like, could simply abolish a committee. There need to be some checks and balances built in to protect the work associated with the approval of research grants. That applies to the college of experts. If, for instance, they were recommending grants that the government did not like, it might be very easy then to remove that group.

Senator CROSSIN—What is the driving force behind the changes to the legislation? Some would say that it is to establish or promote political goals and ideology. Does it present any true research value, excellence and greater accountability?

Mr Mullarvey—I think you need to ask the government why it has gone this approach other than the fact that it did undertake a review of various statutory bodies. Of course, we welcome the fact that it has remained as a statutory body. We simply believe that it is much better to have a board approach overseeing the work of the committee rather than the CEO reporting directly to the minister. In the end, the board reports to the minister of the day. Other than that, I do not think I would like to comment any further.

Senator CROSSIN—Thank you.

Senator STOTT DESPOJA—Firstly, could you outline the AVCC's view on the removal of the capacity of the ARC to initiate its own inquiries?

Mr Mullarvey—In answer to an earlier question, I need to acknowledge that the ARC has not used this power in the past. However, we believe that the power should remain because we do not know what is going to happen in the future. The power should be there for the ARC to initiate its own inquiries should it need to. The fact that it has not used it in the past is not a reason to remove it, in our view.

Senator STOTT DESPOJA—Do you have a concern that this may impact on the ARC's core business in any way, or is it a theoretical concern at the moment?

Mr Mullarvey—It is theoretical at the moment on the basis that it has been for some years that the legislation has been in place and it has not been needed. That was under a structure with a board. That had fairly wide-ranging powers. We are now in a different arrangement and I think it is more important that it is there.

Senator STOTT DESPOJA—With regard to funding, I note that the AVCC submission welcomed the funding that has been allocated. Does that funding meet the expectations of the Vice Chancellors Committee and is it in line with the kinds of predictions or amounts that you have suggested are needed for research in this area or the research sector?

Mr Mullarvey—No. It goes some way to meeting our expectations, but there is a need for a substantial increase in funding, not only for direct grants for universities but also for basic infrastructure.

Senator STOTT DESPOJA—Senator Crossin touched on the issue of designated committees. I want to clarify a couple of things. At the end of your last answer to Senator Crossin on this issue, you talked about the checks and balances that may be required. In your submission, you talk about the lack of limitations on the minister's power. I am trying to get a specific idea from the Australian Vice Chancellors Committee as to what changes or safeguards, if you like, they would put into the legislation. In relation to the appointments of the designated committees, for example—and a couple of recommendations have talked about building in public consultation—you refer in your submission to the fact that the bill says that the minister must try to ensure that the composition of the committee reflects the diversity et cetera. Do you have any further comments on that? You refer to that as the only limitations called on the minister, but you also go on to say:

... the AVCC is concerned that there may not be sufficient diversity in that selection process to ensure fair and reasonable advice is provided to the CEO.

What do you mean by that?

Mr Mullarvey—It comes back to the committee that is proposed to be set up to support the CEO. Again, that is going to be appointed by the government. You could get a biased committee providing advice. That is our concern. There needs to be an arrangement whereby there is consultation with the broader community. For instance, the academies would be one way of ensuring independent input into the committee, membership, how it operates and what it is going to do. They are the sorts of things we think should be clearly spelt out in the bill, not just left to the possibility that it might happen.

Senator STOTT DESPOJA—Have you seen the proposal in at least one of the submissions—in fact, a couple today—in relation to disallowance? I think both the NTEU and the Australian Academy of the Humanities suggest that there should be disallowance provisions in a couple of cases. Do you have any views on that?

Mr Mullarvey—We did note those in the submissions. We did not address that issue itself. But that may be one way of providing transparency—having some disallowance provisions built into the legislation.

Senator STOTT DESPOJA—You do not necessarily think it will be too cumbersome or will result in a lack of certainty in relation to ministerial and other decisions as a consequence of a disallowance provision?

Mr Mullarvey—The disallowance time frame in which to operate is very short. We believe it is a suitable way to go forward to provide that transparency.

Senator STOTT DESPOJA—Have members of the Australian Vice-Chancellors Committee—the vice-chancellors themselves—have had feedback from their overseas counterparts on the impact of this legislation? We heard some evidence today about the potential negative impact on Australia's research reputation, indeed on public confidence and the independence of our research funding body. I am just wondering if there are any views among vice-chancellors as to what the impact may or may not be internationally.

Mr Mullarvey—Nothing has been brought to my attention on that area from the vice-chancellors. That is not to say that they have had not had input, but it certainly has not been brought to my attention.

Senator STOTT DESPOJA—What is your understanding of the role of the advisory committee?

Mr Mullarvey—Very advisory—it is going to provide advice. But we do not know in detail what it is going to do because we have yet to see what the instrument of establishing the committee is going to be. What is its role going to be? How is it going to operate? Until we see that, it is very hard to make any concrete comments on it.

Senator STOTT DESPOJA—Thank you.

CHAIR—Mr Mullarvey, thank you very much for appearing before us today.

[11.23 am]

SMITH, Mr Bradley, Executive Director, Federation of Australian Scientists and Technological Societies

CHAIR—Thank you for your submission. Do you wish to make any changes or additions to it?

Mr Smith—No.

CHAIR—I invite you to make a brief opening statement before we begin questions.

Mr Smith—The Federation of Australian Scientific and Technological Societies is a peak body representing 60,000 working Australian scientists and technologists. The first point we would want to make is that we are very strong supporters of the notion that there should be an independent Australian Research Council, and that was flagged back in 1999 with the government's white paper *Knowledge and innovation*. We strongly supported that policy intent then and continue to do so. I think it is very important that there be an independent statutory organisation outside the department to give high-quality advice to the government on research funding opportunities and to provide high-quality advice to the government on matters relating to research.

In relation to this bill, we have a fairly clear view that the government should be entitled to publicly state its expectations, to provide broad direction to the Australian Research Council, to approve funding rules and criteria, to set the caps between the various programs and then to accept or not accept the advice. As part of that, we believe it is important that the Australian Research Council be entitled to determine and manage all the operational issues that go to fulfilling its statutory requirements in line with the scope specified by the government. We think there should be a fairly clear distinction between the operational issues and the broad parameters which are set by government.

It is our view that the legislation has got some serious weaknesses in that it does not spell out clearly the distinctions between those operational requirements and those broad possibilities for government. So we think a number of amendments are required to address the integrity of the selection of the various committees and to confirm the ARC has the power to initiate inquiries of its own volition. We have also suggested that there should be a bit more flexibility for the minister to delegate powers.

You would have already heard today and no doubt have read of the great deal of importance attached to the role of peer review, and FASTS would certainly support the comments to that effect made so far in this inquiry. I would like to make an additional comment on why peer review is important. There are a number of reasons, to do with integrity of the research and so on, but from a policy perspective I would like to point out, as we have done in our submission, that there is an asymmetry of knowledge between governments and the actual researchers and that governments are not and should not be required to be across the minutiae and the absolute detail at the cutting edge. Peer review is one process by which you address that asymmetry of knowledge. It is not the only possible one but it is the international standard as to the best way to provide governments—and the public, more broadly—with knowledge about the cutting edge of research, what is credible and where is

excellence. I think that is an important point to understand more broadly rather than just asserting that peer review is significant.

There are a number of issues around the establishment of the committees and the college of experts, which I expect us to discuss in a minute in a bit more detail. I have a quick comment on initiating inquiries, which is an important function of the ARC. I note that the previous speaker said that power had not been used. In fact, that is not correct. It has been used. It was used on quite a number of occasions after 1988. To the best of my knowledge, it has not been used in the last five years but most certainly that power has been used, and it is an important power to retain.

The final comment that I would make to try to make our position really clear is that there are statutory requirements in the act—in the objects of the act and in the statutory functions of the CEO—which are quite clear. They are that the ARC is to provide high-quality advice on what applications should be funded or not and also that it is to provide high-level advice to the government on matters relating to research. We have a very strong view that the ARC should be allowed to get on and manage its own process by which it discharges those statutory requirements without ministerial or political interference.

CHAIR—Thank you, Mr Smith. I would like to clarify one comment that you made. So the ARC board has used its power to conduct inquiries on its own motion between 1998 and 2001—

Mr Smith—Between 1988 and 2001.

CHAIR—Yes, thank you.

Mr Smith—But there are different ways in which it was established. It was part of the department, for instance.

CHAIR—That is right. But it has had that power since 2001.

Mr Smith—It has had the power to initiate its own inquiries since 1988 and it has had a circumscribed power to initiate its own inquiries since 2001. That power is circumscribed to the effect that with any inquiry that the ARC board wished to initiate it had to do so after consultation with the minister, so it was a constrained power in the current act.

CHAIR—But it has not used it in that five years?

Mr Smith—Yes, in that five years it has not been used. But it has been used prior to that. In fact, I cite one of the pages as a ‘for instance’.

CHAIR—Yes, I have noticed that. You have also proposed that the minister be required to name the specific area and topic of any research proposal that is not approved for funding by the minister—and I have asked this question previously as well. In an academic community of the size which we have here in Australia, how could you then ensure the anonymity of the researcher and wouldn’t your organisation be concerned that that may cast aspersions on the quality of the proposal that was being put forward if it were knocked back?

Mr Smith—Where you draw the line is a problematic area; a judgment would be required. If, for instance, we had a situation where all applications for research in embryonic stem cells had been knocked back, it is important the microbiology and biomedical sciences fields know

the government is not prepared to support that. That is the level of information we think should be in the public domain when things are knocked back. What if there was a specific project that was looking at the cancer in Tasmanian devils and the management on Port Arthur of that program? I do not imagine for one minute that any government would ever knock that back, but clearly that sort of specific project could reasonably identify an institution, or perhaps even a researcher. It needs to be a matter of judgment, but the clear point we are making it is not acceptable for a minister not to accept advice through peer review of the ARC without giving some indication to the public and the research industry as to why. It is important to know that.

Senator CROSSIN—There is a suggestion from the National Tertiary Education Union that any ministerial decision overriding the recommendations of the college should be reported to parliament within 15 days. Would you go so far as to say there should be that level of explanation provided publicly?

Mr Smith—Yes. You need to make a public statement, and the obvious way to do that is to make a statement to parliament, as distinct from a media release. Yes, that would be an appropriate process by which the broad grounds of a decision not to accept a recommendation was made known publicly.

Senator CROSSIN—Your submission says that you believe the disestablishment of the board does not undermine the capacity of the ARC to carry out its functions.

Mr Smith—That is right.

Senator CROSSIN—Would there be a view that the functions of the college of experts—how it is appointed, what its functions should be—should in fact be part of the legislation, and the legislation should be amended to include that?

Mr Smith—It is an interesting question. There are a lot of folks in the college of experts. First of all, I should say there are a number of committees that are analogous to the college of experts. Those committees make recommendations or oversee peer review or expert review to support the various programs of the ARC. So there is a federation fellowships committee, there are other committees that will look at determinations around centres of excellence. The college of experts is the most important as it is the top of the tree and oversees peer review for the discovery programs, which are individual projects to begin basic research. We need to look not just at the college of experts, but also at the underlying principle of what status you give those processes within the ARC that allow it to fulfil its statutory functions of providing high-level advice.

The college of experts is the end process of peer review in the discovery program. You have similar committees in the federation of fellowships and so on. Our view is it should be internally managed and run by the ARC, because its primary function is to fulfil its statutory obligations. Then you have two choices: you can either say the college of experts, and all committees that are designed to provide peer and expert review, should be protected somehow in legislation for the purposes of fulfilling its statutory requirements of giving that advice, or you can go another way and say that those committees, like the college of experts and the federation, are internal to the ARC and should be left alone. You can go either way. We would

not be unhappy at all if peer review and expert review were acknowledged in the legislation as fundamental to the selection.

Senator CROSSIN—What you are talking about here is self-regulation by the committees. How can you guarantee that if there is such a large degree of possible ministerial intervention in their outcomes?

Mr Smith—You cannot guarantee it, that is the short answer.

Senator CROSSIN—Isn't one way to guarantee it—its functions and its purpose and how people are appointed—to have it legislated?

Mr Smith—That is a start, but you know as well as I do that legislation is not sufficient enough to guarantee proper process will be carried out. You are always going to be relying on the depth of the culture and the nominative values that go around that operation.

Senator CROSSIN—Is it clear to FASTS how the CEO will reply to the minister's statement of expectations through the statement of intent? Is it clear how that statement will be formulated and developed and how its content will be derived?

Mr Smith—No. The first question is: what is the statement of expectations? That will obviously drive what the statement of intent will be. We have not had any advice from the department or the minister's office on what the nature and scope of that will be. Whether it has fairly broad directions, as was previously said, along the national research priorities or whether it is highly prescriptive, we will have to wait and see.

Senator CROSSIN—It is still unresolved.

Mr Smith—There is a benefit in that system in that it should make it very publicly clear what those expectations are. One can imagine that in principle that is going to be a useful addition to the governance and the public accountability of the organisation. If it is very clear that the minister, on behalf of government, expects specific things and they, as the ARC, will respond accordingly then that can be a useful instrument in principle.

Senator CROSSIN—The minister has also said:

The retirement of the ARC board will remove the potential for confusion between the responsibilities of the ARC board and those of the CEO.

But if you have got a college of experts, I still see that there is potential for confusion. Have you had clarified for you in any way how the relationship between the CEO and the college of experts is going to be somehow any better than a CEO and an ARC board, for example?

Mr Smith—No, I do not see why that is an issue. Normally with most governance a board has the final say and takes responsibility, but under the current act the board is heavily circumscribed in what it can and cannot do. It sets strategic plans and establishes designated committees and makes various other decisions, but all of them must be with the approval of the minister. So the board currently does not have the powers that you might expect from an analogous board in another organisation.

Senator CROSSIN—That is not going to change though when this bill is introduced, other than the minister having even more power than is currently the case. The board is being abolished.

Mr Smith—We have not seen a compelling case that there is confusion around the role of the board vis-a-vis the CEO and the minister at the moment.

Senator STOTT DESPOJA—The academy from which we heard this morning recommended that the structure and functions of the advisory committee be enshrined in the legislation. That was one option that they provided. Does FASTS have a view on the advisory committee?

Mr Smith—It depends which advisory committee you mean. In her second reading speech, the minister made reference to an advisory committee where I think the implication was that it would be analogous to the board providing some strategic advice. One assumes that what is intended there is that that will be advice outside the operations of its core legislative functions in providing advice on funding applications or other matters related to research. So it is not clear what that advisory committee is. Nor is it clear that there will just be one advisory committee for all time. The minister may well choose to set up an advisory committee now on strategic directions with a two-year life. To that extent, if you are assuming that this is not a permanent ongoing advisory committee, then it is not clear to me why you would establish specificities in the legislation.

Senator STOTT DESPOJA—Don't you think there is an argument to the contrary that the fact that it is so unclear means that perhaps the minister should put forward specifically what the government intends on whether its comments in the second reading speech—

Mr Smith—If you wish to have a permanent ongoing source of advice to the CEO on broad priorities and strategies and so on—in effect, similar to what you would have with a board at the moment—yes, that will be fine and there is good sense to that. Otherwise, if it is just to be an ad hoc committee from time to time then it is hard to see how you can legislate for each committee that may or may not arise in the future.

Senator STOTT DESPOJA—Sure.

Mr Smith—The pertinent issue is: what are the terms of reference of the committee, what are its purposes and how do you go about making it up? The minister would need to make sure that whatever process he or she followed had the confidence of the research community.

Senator STOTT DESPOJA—Fair enough. On the issue of committees, and I know that Senator Crossin probably covered this, do you have a view on the likely impact or the implications of the removal of the requirement for committees to have a minimum of five members? Is that an issue?

Mr Smith—Our submission makes a note of that. I do not think there is a strong argument to have prescriptive measures as to how many people should be on a committee. There is an expectation in the legislation, which in fact is the same provision that already applies to the board, that a committee would reflect the interests to do with that particular matter. I do not think it is absolutely necessary to say the unit must have at least five. But if a minister were to set up a little committee of one or two then they are going to struggle extremely hard to justify a committee with that low a number, given the other provision that it must reflect the range of interests in the matter.

Senator STOTT DESPOJA—On that stipulation, if you like, that the minister must try and ensure the composition reflects et cetera, do you think that is sufficient direction in the legislation? Do you see that there has to be any more specificity in relation to what the minister should hope to achieve by that part in 32(2)?

Mr Smith—It is a difficult one. You would hope that any minister would approach that role in good faith and undergo a genuine discussion with a range of organisations, individuals and so on. If you are asking whether we need to say the minister will consult with the AVCC, NTEU or whoever, that is a bit problematic too in that you may find that you come up with another particular body which is not represented. I can see the difficulty there of actually specifying who one should consult with. Unfortunately or fortunately, this will be a case of really relying on the good faith of the minister and that is a weakness perhaps in the whole arrangement. Under this model, what it really comes down to is that the government and the CEO operate in good faith and that they can operate in good faith. That is a big leap of trust there.

Senator STOTT DESPOJA—Indeed. I am wondering whether we have tried to enshrine in legislation before all those groups for consultation purposes—but anyway, that is another life, of yours anyway. There is an issue of the size of committees, which relates to something that the academy was referring to as well, and that is workload. In your submission you talk about an efficiency dividend in relation to the disestablishment of the ARC board. Does that really add up? Are you getting an efficiency dividend in a positive way as a consequence of that decision—is that what you are suggesting? Also, if you look at the academy's submission this morning, it was arguing that the expectations on the workload of the CEO would necessarily be rather large and thus required a funding increase. What do you mean by an efficiency dividend?

Mr Smith—It is quite simple. At the moment the process is that you have your internal workers, the ARC and peer review, so you have your assessors. Those reports get aggregated and then they get sorted by the college of experts and ranked and so on. That then goes to the board and then from the board to the minister. You are removing one step. That is simply what we mean by an efficiency dividend—removing one administrative step. That is not the reason to remove the board.

Senator STOTT DESPOJA—So it is not a value laden statement when you talk about efficiency?

Mr Smith—We are just saying if you are going to get rid of the board for reasons that you have argued, apropos of the Uhrig review, then one possible flow-on from that is there is now a case that, having removed an administrative step, you can be more efficient in making timely announcements of the decisions.

Senator STOTT DESPOJA—So you would not necessarily argue, on a slightly different but related matter, that removing that step means that you are removing a layer of accountability and transparency and thus, possibly, public confidence in the research funding body?

Mr Smith—I suppose the question is: how much does the board add to the accountability measures, given it is a highly circumscribed board in the current act? I certainly do not think it

detracts, but I am not sure it adds a great deal, to be frank. The issue is more: how robust is the assessment through to the college of experts? That is the more central issue. The potential politicisation of the college of experts—or of any other committees that play a significant role in fulfilling the statutory requirements and giving advice on funding applications or other matters—needs to be absolutely protected against. The minute it is politicised, and clearly if the minister is going to be making the appointments, then you run a high risk.

Senator STOTT DESPOJA—In the submission, FASTS argue for greater flexibility within the legislation when it comes to ministerial powers to delegate to the CEO and staff. Can you explain to us why you propose that additional power.

Mr Smith—There has been a problem in the last couple of years with announcements of successful ARC funding recipients being made very late in the year—in November and, I think, December one year. In the year before last there was an election in the latter half of the year, which delayed things. When you make announcements in November or December, that creates a great deal of uncertainty for individual researchers who are applying for funding, particularly those applying under the Discovery program and particularly early career researchers, most of whom are on short-term contracts or limited-term postdocs. We argue that making announcements earlier in the year—and we have suggested to the current minister and the previous minister that it could be 1 October—would provide for greater certainty. That is an argument that I think has been sympathetically heard by both the current minister and former minister.

CHAIR—Thank you very much, Mr Smith.

[11.47 am]

COOKE, Dr Alexander Paul Stuart, Acting Director, Department of Education, Science and Training

HARVEY, Ms Leanne Rae, Branch Manager, Department of Education, Science and Training

CHAIR—Welcome. Do you have any comments to make on the capacity in which you appear?

Ms Harvey—I am the acting group manager for the Innovation and Research Systems Group.

Dr Cooke—I am the acting director for the Research Systems Branch.

CHAIR—Thank you for your submission. Are there any changes or additions?

Ms Harvey—No.

CHAIR—I now invite you to make a brief opening statement.

Ms Harvey—We are really just here to answer questions on behalf of the department, so we will not be making an opening statement.

CHAIR—Thank you. Can you outline how the independence of the ARC will be maintained under the proposed changes in this legislation?

Ms Harvey—I think the first thing to point out is that the amendments actually maintain the minister's decision-making role in appointments to designated committees and in the grant approval processes. The legislation does not enhance or diminish that; it maintains it. The ARC will continue to produce a strategic plan, which is done on a rolling triennium. As with the current arrangements, there are restrictions on the minister's ability to request alterations to this plan, and the strategic plan will continue to be made public. Whilst the statement of expectations—which has been talked about a bit this morning—will be used to outline the minister's broad expectations of the operation of the ARC, this document will inform and not replace the ARC's strategic planning processes.

CHAIR—Will the CEO be able to initiate inquiries into research matters?

Ms Harvey—Another important thing to note is that in the drafting of the amendment bill it was intended to look at what powers, with the transfer to the CEO, are not embodied in other acts. That was a function of the board—the board had the power to initiate those things—and in fact the CEO of the ARC is able to do that under the Public Service Act, as an agency head, with regard to those provisions. So there will still be the ability to do that.

CHAIR—Could you tell us about the kinds of committees that will be designated and who will create them?

Dr Cooke—We can point at this stage to the creation of the advisory committee and the continuation of the college of experts, as the minister announced in her second reading speech. As is currently the case with designated committees, while they are recommended to the minister by the board, the minister has the final point of approval to agree to the existence

or nonexistence of a designated committee, and that is going to continue. The minister would be the one who approves their creation or continuation. I would emphasise that the second reading speech refers to the maintenance of the college of experts.

CHAIR—Can you tell us who will be members of the advisory committee and what its functions will be?

Dr Cooke—At this stage the minister has made no announcement. We can again point to the second reading speech, which says that the advisory committee would provide high-level, strategic advice. One of the intentions of the Uhrig review is obviously to ensure that there are effective and efficient governance arrangements. One of the results of that is that the college of experts will take responsibility for recommending to the minister through the ARC CEO the individual funding applications, whereas the advisory committee would take on the role of the strategic advice.

CHAIR—Could you also briefly outline why the Commercialisation Training Scheme is being transferred from the ARC to the department?

Ms Harvey—This is not an outcome of the Uhrig approach. This is the opportunity where we are amending legislation to look at what other amendments the minister would like to have put through. The commercialisation training scholarships were announced in the Backing Australia's Ability: Building Our Future Through Science and Innovation proposal in 2004. The department and the ARC have had conversations about the best way to implement those. Together we have decided it would be best to do that through the department. We have been looking at pulling that together with the area that looks after research training and the Australian postgraduate scholarships awards. We are also looking at how we can effectively maximise the number of research students going through the proposal and at whether it is more cost-effective to run that through a block arrangement to universities as opposed to a competitive peer review process. So together we have decided to arrange for that transfer. We have also used the opportunity with the bill to look at increasing the funding cap because of the indexation arrangements, but they are not as a result of Uhrig.

CHAIR—Does the ARC itself have a view about the changes outlined in the bill? Has it expressed a view?

Ms Harvey—We have had a number of conversations with them about it and other aspects of the bill. Certainly it is our understanding that they agree with it, but Dr Cooke might be able to add to that.

Dr Cooke—Since the implementation of the government's acceptance of the recommendations of the Uhrig report and it was decided that ministers would carry out the assessments of our statutory agencies, the department has obviously played a lead role in providing advice to the minister on that, but throughout the process there were regular consultations with the ARC, recognising that we do not have an understanding of the internal operations or even of the board's operations in the ARC. Throughout the process, the ARC and DEST were in agreement in providing their advice to the minister, and that continued through the development of the bill.

CHAIR—Can you tell us how the staff of the ARC will be employed under the proposed changes?

Ms Harvey—There is no change to the way that the staff of the ARC will be employed. They will continue to be employed under the Public Service Act, with the exception of the CEO. He is employed as an agency head under the ARC Act and with regard to his being an office holder under the Public Service Act. There is no change to the staff themselves.

CHAIR—We have had quite a few comments as well about the statement of expectations to be provided by the minister and the statement of intent to be provided by the CEO. Can you provide us with any further detail about that?

Dr Cooke—At this stage, DEST and the ARC have had preliminary discussions about what would be involved in a statement of expectation, which would be provided to the minister, obviously for her sign-off and for her to issue. I remind the committee that the statement of expectations and intent were part of the government's acceptance of the Uhrig recommendations and are going to be public documents. They are not intended to stand in the way of or impede the strategic planning processes of the ARC. While the statement of expectations have not been issued, I can point to existing statements of expectation that have been developed in the broader whole-of-government implementation of the Uhrig reforms.

CHAIR—Lastly, there has been an additional \$572 million added to the amount of research funding. Was that what you mentioned before, Ms Harvey?

Ms Harvey—Yes.

CHAIR—So that is indexation?

Ms Harvey—Yes.

CHAIR—To the amount of research funding?

Dr Cooke—It is indexation on top of an extension of the Department of Finance and Administration's forward estimates period, which is three years. The \$572 million was already accounted for in the government's announcement of the second iteration of Backing Australia's Ability: Building Our Future Through Science and Innovation. This merely reflects that third year, which also allows the ARC to ensure that it has an existing appropriation which it can allocate to people who apply for funding under the programs.

Senator STOTT DESPOJA—Dr Cooke, you have referred repeatedly to the interpretation or the implementation of the Uhrig report. You would have heard today from the NTEU the argument that the implementation of that has been applied differently across agencies. Specifically, it has been interpreted in a different way for the ARC as opposed to the NHMRC. Can you respond to those concerns and criticisms? Do you maintain that it is being implemented in a similar fashion across the board?

Dr Cooke—Yes. It is my understanding, based on my read of the NHMRC Amendment Bill, that the broad governance arrangements are the same. The research committee provides advice to the minister. That is my understanding. I am aware that the ethics advisory committee—I do not know the exact title—has a specific situation in which it provides what you might call binding advice to the CEO, who may either accept or reject en masse the recommendation before forwarding it to the minister. This is because of the specific role that the NHMRC has in issuing health and ethics guidelines rather than individual grant application processes. So it is my understanding that the decision-making process wherein a

committee reviews applications and makes a recommendation to the minister, who agrees or does not agree to the recommendations, is broadly the same for the ARC and NHMRC.

Senator STOTT DESPOJA—Ms Harvey, did you want to add anything to that?

Ms Harvey—No, that is certainly my understanding as well.

Senator STOTT DESPOJA—What about the notion that you are dealing with, arguably, the expansion of one board and the abolition of another?

Ms Harvey—It is important to note that they originally came from different perspectives with regard to where the two agencies were at the time. Through 2001, through the knowledge and innovation reforms, the ARC were separated from the department. Looking at what they were doing with regard to putting aside the ethics and the medical guidelines process, I think it has the potential to look like there are two different parts. But in looking at the grant applications and the role of the ARC, putting aside those medical and ethical guidelines, they are very similar. We have been involved with the Department of Health and Ageing and the NHMRC in looking at the review of the governance arrangements for the NHMRC with regard to an interdepartmental committee. That is what I would add there.

Senator STOTT DESPOJA—Can I move on to the college of experts. Your submission says:

Under the Act, the college of experts makes recommendations to the Board. Under the Bill, the college of experts makes recommendations to the CEO.

You have heard from people that there is a degree of concern about, even to the point of wondering about the future of, the college of experts. Can you explain how in the legislation you have guaranteed the continuity of the college of experts? What is its status as a designated committee?

Ms Harvey—The college of experts is explicitly covered under the transition provisions of the bill to ensure that designated committees continue in existence for the term of their appointment. The college of experts is identified in the explanatory memorandum, which states it will be maintained as a designated committee and will continue to play a key role in the ARC's peer review process. The minister has also stated that she is committed to the peer review process. The provision for designated committees is sufficient to allow the ARC's CEO to recommend the creation of committees other than those already identified by the minister should he or she wish to do so. So I think it is actually covered in that—specifically under the transitional arrangements it will continue.

Senator STOTT DESPOJA—Will its role in the peer review process be altered in anyway?

Ms Harvey—That would be a matter for the minister in the future but certainly she has said in a number of different forums that she is committed to the role of the peer review and how that will work.

Senator STOTT DESPOJA—I will return to the becoming vexed issue of the ability or otherwise of the ARC to initiate its own inquiries. First of all, is your understanding the same as Mr Smith's in his previous evidence, and that is that that power has been utilised but not

for the past five years. That is contrary to the evidence provided by Mr John Mullarvey. Is that your understanding?

Ms Harvey—My understanding is that the specific role with regard to own motion that Mr Smith referred to was with regard to the power invested in the board to initiate inquiries into matters, and that has not been exercised as far as I am aware since 2001. There were instances under the different arrangements prior to that, but the actual own motion inquiry and the ability to generate that since the 2001 reforms has not been exercised. But that was a power invested in that board, not the ARC. I think there was some confusion earlier on with some terminology regarding decision making—who actually, as opposed to the board, recommended. It was not a decision making body with regard to grants. The board itself did have the power to recommend inquiries. As we have said, when we are looking at the legislation and at how to rewrite the bill, we look, as we always do, to see whether things are already enshrined in legislation or acts somewhere else. You would not repeat that. Under the Public Service Act, as an agency head the CEO has the ability to do that.

Senator STOTT DESPOJA—That is under the Public Service Act.

Ms Harvey—Yes, as an agency head he has the ability to do that. Certainly, the board has never utilised that power, which it has had since 2001.

Senator STOTT DESPOJA—Can you clarify this for the committee? Can you state unequivocally that, under the provision whereby the CEO has this power, the CEO does not need to consult with or get approval from the minister in order to utilise that power to initiate.

Ms Harvey—No, I would not be able to state that unequivocally. It is my understanding that the CEO would consult with the minister if they were looking at initiating that—similar to what the board would have done.

Senator STOTT DESPOJA—I refer to the section of the bill where it deals with the appointment of designated committee members, in particular the provision that the minister must, in appointing members to designated committees, try to ensure the composition of the committee reflects the diversity of the interests, et cetera. Can you explain to the committee how this would, in practical terms, work?

Ms Harvey—I might get Dr Cooke to answer that and talk about how it works now and how it is envisaged that it will work in the future.

Dr Cooke—Can you please repeat the nub of the question? Are you asking how the designated committees are appointed?

Senator STOTT DESPOJA—I want to find out how you ensure that the minister carries out the intent of the legislation or the stipulation that he or she must ensure that diversity of interests is reflected and represented.

Dr Cooke—I am not sure I can answer that. I think it is outside the scope. Policing the minister's requirement under the legislation to ensure the diversity—

Ms Harvey—That would be up to the minister. What I was getting at is that in actual fact appointments to designated committees now are done in consultation with the minister so there is no extension or diminishment of that power with this bill. That is what we are looking at—the difference with the bill as opposed to what exists now.

Senator STOTT DESPOJA—The words ‘try to ensure’ are obviously pivotal. This power obviously rests with the minister but there is no direction or set of guidelines that the minister might have that facilitate this process of selection, and there is certainly no guarantee that the minister has to abide by this particular direction—he does not have to ensure that the composition of the committee reflects the diversity of interests. He or she just has to ‘try to ensure’ it.

Ms Harvey—In all honesty, it is a practical way of writing the legislation because it would depend on what the matter was. It would depend on what perspective was being taken at the time. It is trying to make the legislation workable with regard ‘to try to ensure’ because, as you would imagine, there would be a variety of views as to what would be appropriate representation in that. I think that is what the ‘try to’ is trying to cover in the act.

Dr Cooke—That is also the wording in the current act; that is not new wording.

Senator STOTT DESPOJA—Wiggle room is not new.

Ms Harvey—No.

Senator STOTT DESPOJA—I am not saying it is necessarily unjustified either in legislation but, given the emphasis on diversity, why is the requirement regarding the minimum of five members of a committee being dropped? I would have thought that would have been one way of ensuring a level of diversity to an extent in terms of representation on committees.

Ms Harvey—I think it was looking at not having a constrained element in the act with regard to five. It is an advisory capacity. It may be appropriate that there may be one or two people that are relevant to provide that advice as opposed to a minimum of five.

Senator STOTT DESPOJA—In relation to the CEO—and again I go to the issue of workloads—leaving aside issues that have been put forward on, say, accountability or transparency, given that the CEO is going to have a large number of responsibilities, including compiling the annual report, for example, what measures have been taken, either within the legislation or more generally, to offset what seems to be a rather large workload? Have provisions been entertained or been put in this legislation?

Dr Cooke—Part of the legislation—I cannot cite you the provision off the top of my head—refers to the ability of the CEO to delegate functions as CEO to SES. I think it is that explicit and also to EL2s. This goes to the specific corporate structure of the ARC which consists of a CEO, a deputy CEO, chief operating officer and six executive directors, who are all appointed at SES level. This gives the CEO the ability to delegate the functions which are given to him to any at that level. Additionally, it gives the CEO the ability to delegate functions to an EL2 level. The intent behind that is to allow their finance area to streamline their financial administration around budget time and to roll the money out the door to grant recipients. We think this is going to strengthen the ability of the CEO to delegate functions. Additionally, with the role of the secretariat, which currently serves the board for its meetings, while we would not want to specify what the ARC is planning to do in its internal operations at that level, we would envisage that those sorts of resources would be freed up to assist the CEO to do those sorts of functions.

Senator STOTT DESPOJA—When we are talking about resources, we have heard about the additional funding allocation. Does that additional funding allocation relate to the functions and responsibilities of the CEO so that money is just for grants?

Ms Harvey—No.

Dr Cooke—It is administrative appropriation that is funding for research proposals.

Senator STOTT DESPOJA—Are there additional resources in the form of money that is not already allocated being provided for the ARC in terms of the CEO and related administrative work?

Ms Harvey—No, there is not but, as Dr Cooke has specified, there is a range of resources. The way they are undertaken in the ARC is that the CEO would be able to look at how they are used, once you have the abolition of the board should that occur through this legislation, and how he would like to be supported in that range of functions, but there is no additional new money.

Senator STOTT DESPOJA—This is going to make for interesting estimates questions, but you probably already knew that. On the issue of the integrity of the relationship between the minister and the CEO in the FASTS submission, as you have probably seen, they have talked about the abolition of the board placing an emphasis on the importance of the integrity in that relationship. What is in the legislation in the form of safeguards to ensure that?

Ms Harvey—The bill is actually to enact the changes as a result of the Uhrig review—the streamlining of the board's functions to the CEO's functions. With regard to the increase in the minister's powers, there is no change allowing the minister to ask that the strategic planning process be changed or things put in, nor that a grant application be recommended or not recommended. But I do not think there are any explicit provisions in the act there.

Senator STOTT DESPOJA—Finally, again on the FASTS submission, I was asking Mr Smith about the issue of additional delegation—the possibility of the minister delegating additional responsibilities to the CEO and staff. Is that a recommendation that you would consider or that you think is worthy of consideration? I am just trying to frame it the right way. Is that something that is necessary?

Ms Harvey—That would be a matter for the minister to consider.

Senator STOTT DESPOJA—You still got me! Thank you very much for that.

Senator CROSSIN—I want to go to some of the issues I raised previously. You have been sitting at the back, so you know what they are. In the minister's speech tabling this legislation, she says:

The retirement of the ARC board will remove the potential for confusion between the responsibilities of the ARC board and those of the CEO.

And you just said it streamlines the board's functions to the CEO's functions.

Ms Harvey—It transfers a number of those functions to the CEO.

Senator CROSSIN—Okay. I want you to explain to me, though, what is meant in that sentence from the minister. How does the retirement of the board actually remove the potential for confusion between the responsibilities of the board and those of the CEO, when

you now have this college of experts? You are telling us that this bill neither enhances nor diminishes the role of research.

Ms Harvey—That is certainly my understanding.

Senator CROSSIN—So I am still trying to understand why we have a retirement of the board but the establishment of a college of experts, and how this all now fits into what the minister was trying to explain on 30 March.

Ms Harvey—I cannot pretend to know what the minister was thinking when she said that, but I would be happy to talk about my understanding of that. Certainly, there have been occasions where that issue of confusion has been raised, and you even heard some of it this morning, with regard to the minister's role and the board's role—whether it made recommendations or was a decision-making body. A couple of times this morning people talked about the minister overriding the board's decision on different applications it recommended for funding. The college of experts is there already as well as the board, the CEO and the minister. As we know, the Uhrig review was a whole-of-government review of statutory agencies and their governance arrangements. So it is about looking at the various templates provided by John Uhrig, which ones would be appropriate and how to move forward. We are in fact moving from the college of experts, the board, the CEO and the minister, to the college of experts providing recommendations to the CEO, who looks at those and provides recommendations to the minister.

Senator CROSSIN—In the past, though, technically the college of experts would make recommendations to the board, who would make recommendations; it is a process. You have now taken away one level of that process. I do not see how removing the board actually removes the potential for confusion about the responsibilities of the college of experts, those of the CEO and those of the minister. All I see is one player out of four being removed. What is it in the act that will clarify the roles of each of these players so that that confusion is no longer there? Because I still see the potential for that confusion. I cannot see that anything has really changed, except for taking someone out of the process, basically.

Dr Cooke—Under the current arrangements, the CEO serves the board by reporting to them on effectively managing as an ARC the arrangements which the board gives effect to through its recommendations to the minister. The CEO also reports to the minister, and a similar situation is currently the case for the NHMRC. It was identified as one of the key issues for introducing their governance changes. The CEO of the NHMRC serves the Department of Health and Ageing, the Minister for Health and Ageing and the NHMRC council. Moving from the current ARC arrangements to the executive management template, as the previous minister announced last year, removed that level of confusion wherein the CEO served two masters. He now reports directly to the minister. The other option under the Uhrig templates which the government endorsed was for the line to go from the CEO to the board to the minister in some way, with a variation in the accountability arrangements between the board and the minister based on the independence that was required, for example, for commercial entities. The removal of the confusion is to ensure that there is one line of accountability from the CEO to the minister.

Senator CROSSIN—So the CEO will now be accountable to the minister not to the board?

Dr Cooke—That is correct.

Ms Harvey—Not to both.

Dr Cooke—Yes, not to both.

Ms Harvey—The issue is about being accountable to both.

Senator CROSSIN—They will be accountable to both?

Ms Harvey—No. They are currently accountable to both. In the new one they are accountable to the minister.

Senator CROSSIN—When we get a statement of intent being developed by the CEO in response to the expectations from the minister, where will the intellectual content for the statement of intent come from? The CEO will no doubt be expected to consult with the college of experts and other designated committees, but there will not be, as I see it, a requirement for the CEO to reflect those discussions. The CEO may use the committees as advisory bodies but the statement of intent could actually be generated by the CEO, could it not?

Dr Cooke—That is correct. The CEO is responsible for the financial operations of the ARC and is accountable under the Public Service Act and the ARC Act for those provisions.

Senator CROSSIN—He would probably consult the strategic plan, you would hope, but there is no requirement for him to.

Dr Cooke—That is correct.

Senator CROSSIN—And there is no requirement to consult the college of experts or the committees.

Dr Cooke—That is correct.

Senator CROSSIN—There is an expectation but not a requirement perhaps. Would there be an expectation?

Dr Cooke—It would be the minister's decision as to whether there was an expectation or not.

Senator CROSSIN—The CEO can still initiate research, I understand. Can the college of experts or any of the other designated committees also propose and initiate research? What is the process there? Would they have to put that proposal to the CEO, who would give it to the minister? How will that now work?

Dr Cooke—There would a question as to the resourcing for that which would drive how that decision was reached.

Senator CROSSIN—That is true but, if the resources are there, who decides at the end of the day? What is the process for saying, 'Yes, this will happen' or 'No, this won't happen'? Let us set aside the issue of resources; for this exercise let us say that they are there. What happens?

Ms Harvey—The CEO, as the agency head under the Public Service Act, would be able to initiate those inquiries.

Senator CROSSIN—Based on a recommendation from any of the committees?

Ms Harvey—It would be up to them how they manage the authority.

Senator CROSSIN—They will still determine that themselves. Is that correct?

Ms Harvey—Yes.

Senator CROSSIN—Someone said in some evidence before that the NHMRC board had been enhanced. What is the difference between what the arrangements for the ARC and the NHMRC will be?

Ms Harvey—Dr Cooke, would you like to go through that again?

Dr Cooke—I can try.

Senator CROSSIN—Does this go to the CEO reporting directly to the minister?

Dr Cooke—Yes. The NHMRC is no longer involved in that complicated three-line accountability.

Senator CROSSIN—So that is what is meant by ‘enhancing the NHMRC’s board’.

Dr Cooke—As I understand the meaning.

Senator CROSSIN—We previously talked about the quality and scrutiny committee. What has been its role? What do you see as its role?

Dr Cooke—Currently the quality and scrutiny committee is a designated committee of the board. I understand that it is no longer constituted as a committee. You would have to ask the ARC to clarify these details. It is my understanding that they constitute and reconstitute that every year to look at the funding at the margin of the applications that are accepted or not accepted, which typically has constituted deputy vice-chancellors of research and additional members, as we know from last year. Under the proposed arrangements, the quality and scrutiny committee could be constituted again as a designated committee. The minister would have that ability. Additionally, the CEO, under his other powers as an agency head, may wish to constitute that committee to assist him.

Senator CROSSIN—He or she would not need to get approval from the minister to constitute that committee?

Ms Harvey—Apparently there is no committee, but I understood that any proposal to reconvene this would be a matter decided in consultation with the minister.

Senator CROSSIN—I want to go back to the issue of initiating research. I have just seen a note here that I want to ask you about. Are there amendments proposed that will remove the power of the ARC to initiate inquiries or reviews without the direction of the minister, or are you telling me they can initiate those reviews through the CEO?

Ms Harvey—I think it is important that it is about initiating inquiries. When you say that the ARC can initiate those now, that is what I was referring to earlier. The power to do that is invested in the board, not the ARC. With the change to the governance arrangements, this

would be a matter for the CEO, and he currently has that power under the Public Service Act as an agency head. That is why it is not in the new bill: it is already covered in another act.

Senator CROSSIN—I see. But technically the power is moved from the board to the CEO by the abolition of the board.

Ms Harvey—That is exactly right, and by the introduction of this bill, because that is what the streamlining of governance is about.

Senator CROSSIN—What is the real advantage of removing the board and having a CEO? Is it simply that you want to implement the recommendations of the Uhrig report?

Dr Cooke—It is not a matter of us wanting to implement them. We are required by the government's endorsement of the recommendations to implement the recommendations in all statutory agencies and portfolio bodies. That goes across the whole of government.

Senator CROSSIN—The minister will appoint the CEO—is that correct?

Dr Cooke—Yes, that is correct.

Ms Harvey—As is currently the case.

Senator CROSSIN—On what advice? Is there a general selection process or is it by appointment?

Dr Cooke—That is not outlined in the act.

Ms Harvey—And it is no change from the previous act. It was always the case that the minister appoints the CEO.

Senator CROSSIN—Yes, but how? Is the minister given a list of names? Is it by public advertisement?

Ms Harvey—That would be a matter for the minister.

Senator CROSSIN—It is a matter for the minister how that person is appointed and the process?

Ms Harvey—It is for them to determine what process they would like to use at the time.

Senator CROSSIN—That has not been determined yet?

Dr Cooke—There is no need to determine the process.

Ms Harvey—It is a matter for the minister.

Senator CROSSIN—It has not been announced? It is not publicly known yet how it is going to happen?

Dr Cooke—The CEO as currently appointed will continue to be the CEO. There are no plans that I am aware of to change that.

Senator CROSSIN—What is the term of the appointment?

Dr Cooke—I believe it is five years under the current arrangements, and that will not change.

Senator CROSSIN—Will designated committees continue to have the role that they currently have?

Dr Cooke—The designated committees that exist at the moment under the transitional provisions will continue to serve the same function as they do now for the term of their appointment.

Senator CROSSIN—And future committees?

Dr Cooke—That is for the minister to determine.

Senator CROSSIN—And we do not know what that is going to be yet.

Dr Cooke—Other than the advisory committee and the college of experts.

Senator CROSSIN—The minister clearly gains a lot more power under these changes and quite often would not have any expertise in research or in a particular area. So who then advises the ministers on appointments and functions of the committee? Is that solely the CEO or is it the CEO in conjunction with the department? How does that work?

Ms Harvey—As I mentioned earlier, the minister's role in this has not changed with regard to current arrangements. Under the Uhrig arrangements the minister takes advice from the ARC and from the department if required.

Senator CROSSIN—So advice on appointment could come from both sources?

Ms Harvey—Yes.

Dr Cooke—There are currently no formal arrangements required.

Senator CROSSIN—Are there any guarantees in the act that the CEO remains fully independent from the minister? The CEO reports to the minister, but are they always at the direction of the minister or are they independent of the minister?

Ms Harvey—If the minister makes any direction of the CEO, that is required to be tabled in parliament, as is currently the case. As you said, the CEO is appointed by the minister and reports to the minister. But, if the minister directs the CEO to do anything, that is required to be tabled in parliament.

Senator CROSSIN—There has been a suggestion that, if the minister overrides decisions about grants, that in fact should be publicly tabled in parliament within 15 days and not just done through a press release. Has the department given any thought to recommending that action to the minister?

Ms Harvey—The first point to make is that, as it currently stands, the board and the CEO, under the proposals and the amendment, recommend to the minister. So the minister is not overriding any decision. The minister is actually the decision-making person under the current act and the new one. With regard to deciding not to fund a recommendation—and that is different to overriding a decision—and tabling that in parliament, we have not given any advice on that that I am aware of. But I would note that it is within 15 days of sitting days for both houses of parliament. That can be quite some time depending on the time of year. An earlier witness said that was a very short time frame. On occasions, when you have instruments and things being tabled, it can sometimes be a couple of months to be within those 15 days of sitting of both houses of parliament. I just wanted to bring that to the committee's attention.

Senator CROSSIN—There has been some suggestion that the college of experts should be instituted in the act and that amendments to the act should be made to actually list the functions of that committee or how that committee is appointed. Has thought been given to that or would that be seen as just a replacement or de facto ARC board?

Ms Harvey—It is something that we have thought about, but that would be a matter for the minister.

Senator CROSSIN—Have you had any interested parties or stakeholders in the higher education sector actually support the changes?

Ms Harvey—I do not think we have actually run a consultation process with regard to that. Whilst we might have had approaches from different people at a personal level, we have not run a consultation process to actually ask that question.

Senator STOTT DESPOJA—Can I just take up that issue of consultation. I just want to clarify this. Apart from the discussions that have taken place with the ARC specifically or the current board, has there been no consultation with stakeholders in the higher education sector? Have there been meetings either between the current or former minister with different representative groups within the sector, including those who are witnesses today—notably the Australian Vice-Chancellors Committee, for example? Have they been engaged in this process throughout the deliberation on the bill?

Ms Harvey—The minister meets with a number of different stakeholders. Certainly stakeholders approach her and the previous minister with regard to meetings. So there may have been conversations on this. The minister is actually the one who ran the process of doing the determination under Uhrig, which was the appropriate template as per the whole-of-government approach. With regard to whether we have been involved in that, Dr Cooke can clarify that.

Dr Cooke—We have not been involved at a departmental level with formal consultations. The ARC may have taken indirect soundings from people to inform its view. The previous minister, when carrying out the Uhrig assessment itself, sought the views of a range of stakeholders, including the Australian Vice-Chancellors Committee, the Group of Eight and the other self-identified university groupings, as well as the Business Council of Australia and the ACCI. He got his views through those people at that point.

Senator STOTT DESPOJA—Thank you, that is helpful. I guess the pivotal word was ‘formal’. I understand that there are conversations and informal discussions that go on, but I was interested in whether the previous minister sought information. Can you take on notice if there is any information available. I can ask the minister directly but I am interested in whether there were letters, for example, that were sent out to various stakeholders inviting them to respond to the discussion, the debate, the Uhrig report or, indeed, a preliminary or exploratory draft bill or what have you. I am curious to know to what extent that occurred.

Ms Harvey—Yes, we will take that on notice.

Senator STOTT DESPOJA—I have a question on a slightly different matter. It relates to a submission that we received relatively late from Dr Neil Hamilton, Executive Director of

the Forum for European-Australian Science and Technology Co-operation at the ANU. He has quite an interesting point to make. I will quote from his second paragraph:

Under the provisions of the current Bill, it is not possible for Australian researchers to be funded by the ARC to participate in international research projects that are peer reviewed and approved outside Australia. This is having a significant impact on our ability to compete in the rapidly internationalising world of science.

He goes on to talk about loss of trust and faith and of embarrassment for them with their European counterparts as a consequence of this. I am wondering if you are aware of the submission and also if the government or the department have examined this issue and come up with possibilities for rectifying the circumstance to which he refers. I am happy for you to take that on notice.

Ms Harvey—I would initially just say with regard to the time line for the grant processes and how they fit in within Australia and then in the international programs that the minister has indicated that she wants a calendar of when the granting processes would be decided within Australia. It is my understanding that she is considering how we link that into any international programs so we are not precluding Australian researchers from being involved in those other things. That is currently under her consideration.

Senator STOTT DESPOJA—Right. When you mention a calendar, does this mean that the FASTS and other people's idea of an October 1 deadline might be a possibility?

Ms Harvey—I think the minister has already indicated that.

Dr Cooke—I am not sure if she has indicated a specific date at this point.

Ms Harvey—No, that is right. I just want to clarify that the minister did actually write to stakeholders asking for their views with regard to the proposed restructure of the ARC under the Uhrig review. The ones that responded were the ones that Dr Cooke went through.

Senator STOTT DESPOJA—That was the previous minister?

Ms Harvey—Yes, the previous minister.

Senator STOTT DESPOJA—Can we have a example copy of that letter, if that is possible?

Ms Harvey—We will take that on notice.

Senator STOTT DESPOJA—Thank you.

CHAIR—As there are no further questions, thank you very much for appearing before us today.

Committee adjourned at 12.33 pm