



Committee Secretary
Senate Education and Employment Committees
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600
AUSTRALIA

16 January 2024

Dear Committee Secretary

Universities Australia appreciates the ongoing engagement on the implementation of the ARC Review recommendations. UA considers that the *Australian Research Council Amendment (Review Response) Bill 2023* (the Bill) as currently drafted would largely deliver on the recommendations of the *Trusting Australia's Ability: Review of the Australian Research Council Act 2001* (the Review) and we are appreciative of how receptive Minister Clare, his office and his department have been to constructive feedback from the university sector.

While the Bill and Explanatory Memorandum largely address and clarify UA's concerns as expressed to the Department of Education on 6 November (see [Attachment A](#)), there remains the opportunity to strengthen the Bill to ensure a strong, properly resourced and future proof Australian Research Council.

Funding for a strong ARC

In order to implement the measures contained in the Bill, the Explanatory Memorandum identifies a direct financial impact of approximately \$0.6m per annum plus an additional \$0.9m per annum in indirect support costs. These costs are to be absorbed from within ARC's current annual departmental budget.

This is before considering the expansion of the ARC's legislated role and purpose to include support for the research community through fostering academic pathways, expanding Indigenous knowledge systems and supporting research integrity.

Government investment in research and development is already at its lowest ever level. If Australia wants to remain a competitive, forward-looking and safe nation with a high and sustainable standard of living, we must continue to invest in our researchers and the vital work they do to drive productivity and deliver better outcomes for all Australians. This should start with appropriate funding for core institutions like the ARC to ensure they are able to attract and retain the staff they need to discharge their responsibilities to a world-class standard. With these reforms to the ARC, Australia's research environment is at a pivotal point, and it is vital that we get it right. As such, UA urges the Government to ensure adequate funding to allow the ARC to take on the additional responsibilities – at a minimum this should include assurances that there will be no further reduction in program funding.

Noting that the Review called for a shift from Special Appropriations to Annual Appropriations - which the current Bill would deliver - it unfortunately does not include an indexation formula which is also called for under Recommendation 9. This omission appears contrary to the Australian Government response to the Review which indicated that:

"Amendments to the ARC Act will be introduced to replace the current Special Appropriation arrangements with a more durable arrangement for managing the allocation of Administered funding, including an agreed formula for indexation."

The Explanatory Memorandum does indicate that annual indexation will be applied (based on some variation of the Consumer Price Index) and with a ‘floor’ to guard against CPI fluctuations below zero. However, UA does not consider this a strong enough assurance and recommends the Government include a specific, simple indexation formula in the ARC Act itself.

An existing example to consider is the **SRS Indexation Factor** found at section 11A of the *Australian Education Act 2013* which enshrines a minimum of 3 per cent growth while deferring to a specific calculation based on clearly defined indices should that calculation produce an indexation factor greater than 3 per cent.¹

The sector would welcome the certainty of a legislated indexation factor – one with an indexation floor which is not simply a protection against negative indexation, but a guarantee of at least some nominal funding growth.

Size and composition of the Board

UA welcomes the establishment of a Board which includes Indigenous and regional representation and where the majority of the members have substantial experience or expertise in one or more fields of research or management of research.

We are concerned that with such a small Board it may be difficult to meet these and other equity aims (for example gender balance, cultural heritage and academic discipline) and urge consideration of a larger Board which may also reduce the need for the continuation of the ARC Advisory Committee.

Funding Rules and Grant Approval

UA welcomes the clarity the Bill provides around the preparation of Funding Rules and that the Board will be responsible for approving NCGP grants. We do however remain concerned around the security of grant approval arrangements into the future.

The Bill’s definition of **designated research program** lists three existing initiatives for which the Minister would retain decision making power – as noted previously, UA is broadly comfortable with this. Our concern arises from the last part of the definition² which would appear to allow any future Minister to resume control of funding decisions of any other existing (or future) programs by the simple act of making a legislative instrument.

The Explanatory Memorandum does provide some clarity around the apparent intent, noting:

“The Minister will approve grants of financial assistance for designated research programs to recognise the role of such programs in creating research capability rather than programs that award individual research grants.”

UA accepts this rationale but notes that this is nowhere in the Bill itself and therefore recommends that the legislated definition of **designated research program** be altered to include the differentiation between programs focused on research capability and those designed to provide individual research grants – with the latter clearly excluded from the possibility of being extricated from Board based decision making.

Additionally, while we acknowledge and accept the Minister retaining the power to block funding on national security grounds, we ask that this include adequate consultation with impacted universities and note that all of our members have significant safeguards in place with regard to international research engagement which mitigate the need for a Minister to exercise this power.

¹ UA notes that the SRS Indexation Factor applies to a key variable which is then used to calculate funding for a demand driven program, but this could easily be adapted for the overall indexation of an annual appropriation.

² Designated research program means...Section 4(d) any other research program specified in an instrument under subsection (2)

UA reiterates that this is a strong Bill overall which, with the relatively simple changes as outlined above, will fully deliver on the Review recommendations in full and in good faith. We look forward to the committee's report and to the passage of an appropriately revised Bill. We also look forward to working with the ARC to support their efforts with respect to their new areas of legislated responsibility, in particular with respect to determining appropriate research integrity policy and governance arrangements.

Yours sincerely

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6 November 2023

Dear ARC Review Secretariat

UA appreciates the ongoing engagement on the implementation of the ARC Review recommendations. Noting that we have had only a short amount of time to consult with members, below is an initial set of comments and concerns around the direction of implementation thus far.

As a general point, it must be noted that given the unequivocal Government response to *Trusting Australia's Ability: Review of the Australian Research Council Act 2001* (the Review) and the Minister's public comments UA expects that the recommendations will be implemented in full and in good faith.

UA notes that, in several critical areas, the discussion document provides less detail than the Review recommendations and Government response. It is unclear in such cases if omissions/changes in phrasing represent changes in policy or are merely the result of summarising key themes – making it difficult to be precise in our feedback. A clear remedy for this would be for the Department to undertake to provide (at an appropriate time) an Exposure Draft of legislative amendments for the consideration of the sector.

Role and Purpose

UA notes that critical elements relating to the role and purpose of the ARC recommended by the Review Panel are missing from the proposed amendment, and that legislative amendments should include recognition of the role that the ARC plays in evaluating research quality, impact and capability as well as supporting investigator-led research.

This appears to be a deliberate policy decision, noting the significant emphasis the Consultation Paper places on priority-based research. While the Review recommended the removal of legislative split between Discovery and Linkage funding, it did so while emphasising the importance of basic research and with the proviso that the Act "...include an explicit statement about the value such investigator-led basic research affords in underpinning the remainder of the research ecosystem".

ARC Board and CEO Appointment

UA welcomes the reiteration of the commitment to appointing a First Nations representative on the ARC Board. However, UA considers the Board/Governance changes articulated in the Consultation Paper to be completely at odds with the intent of the Review.

It is clear that the Review gave deep consideration to current arrangements (including the functions of the ARC Advisory Council) as well as to the specific governance requirements which stem from the ARC's particular purpose. As the Review notes:

"The overriding consideration is the establishment of the Board with the powers and functions above, not simply an enhanced advisory body"

Recommendation 6 read in context is completely unambiguous in requiring that members bring experience and perspectives spanning the spectrum of ARC funded disciplines and collaborating agencies, as well research administration and evaluation expertise and sufficient senior management and governance experience.

In UA's view, the Board as described in the Consultation Paper - which would defer much of this expertise to an ongoing ARC Advisory Committee with no decision-making powers - undermines the fundamental intent of this recommendation.

UA also notes that the Consultation Paper suggests a smaller Board than the Review – further limiting the ability to achieve the desired mix of skills and experience described above.

Similarly, the reference to the research experience and academic standing of potential CEO appointees has also been removed. There is also no reference to terms of appointment of a CEO - meaning that the Consultation Paper only appears to address 1 out of 3 components of Recommendation 7.

Funding Rules and Grant Approval

UA has concerns about the Consultation Paper's description of the funding rules approval process, which would see the Board merely providing advice to the Minister.

UA considers that a version of the current process should be retained – i.e. the CEO (or the Board in future) **prepares** the funding rules with the Minister's prerogative to a) approve, or b) request a new version based on specified concerns set out in writing.

UA is broadly comfortable with the notion of funding rules as disallowable legislative instruments.

UA welcomes that the Board will be responsible for approving NCGP grants and is broadly comfortable with the rationale provided for the Minister retaining the ability to approve funding for ARC Centres of Excellence and the Industrial Transformation Training Centres and Research Hubs, noting that any such Ministerial decisions should be informed by existing ARC application and assessment processes and made on the basis of the Board recommendations.

The apparent 'catch all' concerning the Minister retaining the ability to approve funding recommendations outside of the NCGP process is a significant source of concern and UA would welcome greater clarity on this point.

UA has long advocated for protecting the limited funding available for basic research. The apparent proposed changes to the funding rules in combination with the Minister retaining approval of funding for "national significant investments" would appear to allow significant scope for Ministerial carve outs which may further erode funding for investigator-led research.

Funding arrangements

The Consultation Paper flags the removal of the requirement for the Minister to split funding between different categories of research programs. UA acknowledges that the sector proposed this as part of the ARC Review consultation process. However as stated above, this was intended to be supported by a commitment to funding basic research along with an explicit statement about the value of such investigator-led research.

The Consultation Paper also omits any reference to the inclusion of an indexation formula within the ARC Act (Recommendation 9). The sector would welcome insight into the Department's thinking on how this might be implemented.

National security reporting

The Consultation Paper appears to omit a key transparency element which was proposed by the Review. Recommendation 5, clearly indicates that in the event of a Minister giving a funding direction on national security grounds the default process would be that they must notify parliament, stating the reasons for any such direction. **Only, if that level of public visibility is not in the national interest** (due to the nature of the security concerns), would the fall back be to notify (again, stating reasons) the Parliamentary Joint Committee on Intelligence and Security (PJCIS). The Consultation Paper fails to match this level of parliamentary scrutiny – only considering PJCIS and omitting the requirement to state reasons.

I trust that the legislation which ultimately goes before the Parliament will deliver on the vision of the ARC Review panel. UA and the university sector look forward to continuing to work with the Department to shape the implementation of these important reforms.

Yours sincerely

Rene Hindmarsh
Deputy Chief Executive