

The University of Sydney submission to the Senate Education and Employment Legislative Committee inquiry into the Australian Research Council Amendment (Review Response) Bill 2023, January 2024

The University of Sydney welcomes the opportunity to make a submission to the Senate Education and Employment Legislation Committee's inquiry into the *Australian Research Council Amendment (Review Response) Bill 2023* (the Bill).

We broadly support the amendments to the *Australian Research Council Act 2001* (ARC Act) proposed by the Bill, which we are pleased to see progress several key recommendations from the *ARC Review final report, Trusting Australia's Ability: Review of the Australian Research Council Act 2001* (the Review) intended to strengthen the operation of the Australian Research Council (ARC). While we support the intent of the changes, the amendments to the legislation are significant and technical. Given there has not been the opportunity to undertake a comprehensive analysis of all the details, we strongly suggest a review after 12 months, particularly to ensure that the Board is functioning effectively, and its membership, composition and size are appropriate.

The University of Sydney endorses the submission made by the Group of Eight, which our institutional response is intended to complement.

Object of the Act

We support the amendments made to the Object of Act (Section 3) to reflect the full scope of the ARC's role and mission. However, we suggest that further consideration of the following matters would give additional clarity on the ARC's role in shaping the national research landscape as the principal funder of research outside of the health and medical domain in Australia.

The ARC's role in supporting pure basic research, which is critically important in building and sustaining our long-term national capacity for innovation and productivity improvements, is without parallel. The Bill should emphasise and protect the ARC's ability to invest in basic research, both that is assessed as likely to lead to social or economic benefits and that which is highly diverse and unknowable (in an outcomes sense). These types of novel pure basic research are unlikely to be funded from other sources and often deliver the most significant breakthroughs in understanding and in delivering innovative real-world applications. Here we also note the large shift that has occurred in Australia's higher education expenditure on R&D (HERD) from basic to applied research over the last 30 years, and the very limited alternative sources of external funding to support basic research in non-HMR fields.

The ARC is also in a unique position to assess national and collaborative research performance and to identify gaps or weaknesses in Australia's research capability. The ARC's mission to promote and conduct activities to shape and foster the Australian research landscape and community would be best served by the reference to 'evaluating the excellence, impact, and depth of Australian research' in clause 3(b) involving such a focus.

ARC Board, CEO and Advisory Committee

We welcome the re-establishment of a skills-based Board, which implements Recommendation 6 of the Review, and is intended to allow the ARC to better perform its functions as a key provider of impartial, high-quality recommendations and advice about research to the Minister. While the amendments provide for independence in the Board's operation, making the independence of the Board explicit in the Bill would ensure these functions are robustly supported.

The membership and composition of the Board will ensure it is comprised with the appropriate skills and capabilities to perform the Objects of the Bill, and we support the requirement for the majority of members to possess substantial research or research management experience or expertise, for one member to be an Indigenous person and for one member who can represent rural, regional, and remote Australia. We are concerned that the small size of the Board (3-5 members in addition to the Chair and Deputy-Chair) will make it challenging to meet these requirements and we strongly suggest that consideration is given to expanding the Board to ensure an appropriate breadth of expertise to support the activities it will undertake. It may also be appropriate to provide more explicit guidance on the expertise and experience expected of Board members, such as:

- highlighting other diversity factors, such as gender balance and career stage;
- expertise or qualities that reflect the collaborative and interdisciplinary nature of the research community and its research efforts; and
- experience with university research or research management, given the high proportion of ARC funding that is administered through higher education institutions.

In addition to establishing a College of Experts to assist the Board in the performance of its functions (clause 29(1)), the Board should also ensure that there is senior academic expertise on the ARC staff to provide advice on the operations of the ARC and engagement with the academic community. Overall, the ARC's longstanding practice of appointing Executive Directors (EDs) with high standing in the research community has worked well. Codifying these positions in the ARC Act would avoid the situation where ED roles become vacant and are not filled. The value of these positions, if they are utilised to provide strategic engagement, policy advice and to channel expertise from the sector to the ARC, and vice versa, cannot be overstated.

It is not currently clear whether the CEO, as the responsible and accountable officer, is a member (ex officio or otherwise) of the Board or the extent to which they will participate in Board activities. It is also unclear how the ARC Advisory Committee will interact with the Board and CEO. These matters should be clarified and made explicit in the Bill.

Funding approvals and peer review

Rigorous and independent peer review is a vital function upon which the ARC bases funding decisions and recommendations to the Minister. Funding approvals should be made on the basis of expert peer review (even when the Board has responsibility). This requirement should be included explicitly in the Act as it relates to funding approvals and program guidelines and not just as a principle in the Object of the Act.

Funding of research

We strongly support the recognition of the ARC's independence with respect to funding decisions and welcome modernisation of the funding arrangements. However, before the Bill is placed before Parliament, we believe two areas warrant closer consideration.

The process for seeking approval of funding rules (clause 59(3))

Clause 59(3) of the Bill states that:

'Rules (including revised rules) prepared by the Board and approved by the Minister are a legislative instrument made by the Minister on the day on which the rules are approved.'

The Explanatory Memorandum (paragraph 92) notes that:



'The rules made under this provision will be subject to Parliamentary scrutiny as part of the normal disallowance processes specified in the Legislation Act 2003, and the regulations made for the purposes of paragraph 44(2)(b) of that Act will be updated to reflect this.'

We are concerned that subjecting the funding rules to disallowable motions risks holding up the National Competitive Grants Program as Discovery and Linkage schemes cannot be released, applied for, or assessed unless the funding rules for each grant opportunity are approved. We recommend that the approval pathway mirrors that of other government funding programs or that consideration is given to exempting the funding rules from disallowance.

The addition of a new requirement under funding agreements for independent auditor statements (clause 49(2)(f))

Clause 49(2)(f) states that all funding agreements must:

'include terms or conditions relating to the organisation giving the CEO regular independent auditor statements relating to the organisation's compliance with some or all of the terms and conditions set out in the agreement'.

The proposed requirement to provide 'independent auditor statements' does not appear in the Review recommendations, is not defined in the Bill or Explanatory Memorandum and consultation with the sector would be required to ensure it is appropriate. Given the certifications and annual reporting already undertaken by grant eligible organisations, which we suggest already provide sufficient measures of assurance, we recommend the removal of this clause.

Resourcing

The Financial Impact Statement of the Bill included in the Explanatory Memorandum (page 5) notes that the establishment of the ARC Board and restructure of the ARC's governance arrangements will cost approximately \$1.5 million per annum, and that these costs will be met from existing resources through reprioritisation of the ARC's annual budget. Given the scale and scope of the ARC's mission, we strongly recommend that these much-needed reforms attract a specific budget uplift so as not to diminish the ARC's annual grant spend. It is relevant to note that Australia spends twice as much on medical and health research as on all other research combined, including the research that is necessary to solve most of the major global challenges facing our society.

We thank the Committee for considering our submission and would be happy to provide further information or advice if that would assist its consideration of this important draft legislation. Please contact Professor Emma Johnston, Deputy Vice-Chancellor (Research) on emma.l.johnston@sydney.edu.au should the Committee wish to discuss any aspect of our submission.