The Australian Universities Quality Agency (AUQA) welcomes this opportunity to participate in the Review of the National Governance Protocols. The comments below have been considered by the AUQA Board.

In this brief submission, AUQA does not address every single question for consultation but rather seeks to draw out main findings from its audit reports that are relevant to the Review, together with some general comments.

A review of the impact of the National Governance Protocols is appropriate, given they have now been in effect since mid-2004. However, a recent analysis of AUQA audit reports (Baird 2007) does not indicate any cause for undue concern about the overall performance of Australian university governing bodies. Audit findings suggest that the improvements that are now required are more of the nature of fine-tuning and ongoing attention by councils to their own governance processes than prescriptive reform of governance structures.

AUQA’s view is that additional compliance requirements for higher education provider governing bodies should be imposed only if there is clear evidence of ongoing poor performance and a failure to meet minimum expected standards for effective governing board operation. AUQA audits and other external reviews have not revealed that either of these conditions holds across the university sector in Australia.

That is, while there are certainly some areas of governing body operations that require continued vigilance by councils and senates, and specific problems do occur from time to time, the imposition of additional regulations is not likely to add significantly to the usefulness of the Protocols. The comments below should be read in this light.

3.1 Contribution of the National Governance Protocols to good governance

The existing Protocols have codified and formalised several good governance practices that were identified in AUQA audit reports from 2002 onwards, and in doing so are likely to have contributed to good governance within the sector. Examples include requirements for induction programs and governing board self-review. It should not be forgotten that the Protocols are only one of a number of developments over the past few years that support improvements to university governance. Apart from AUQA audits, annual meetings of chancellors and governance conferences will also have played a role in the growing professionalism of Australian university governing boards (Baird 2006). It is important that the Protocols operate in such a way as to reinforce self-regulation and ongoing quality enhancement by councils and senates.
3.2 The role and composition of the governing body

There is little evidence, from AUQA audit reports or other sources, that members of university governing bodies do not understand their roles. The roles of governing body members are highly codified and board members are usually quite clear about their roles, so more precise specification of university governing member roles in the Protocols is unlikely to be useful. Where new council members may experience more uncertainty is in the actual practice of their roles, particularly if there are barriers such as a lack of relevant information. Rather than attempting to reflect the nuances of lived experience through expanded description in the Protocols, it may be of more value to governing body members to ensure there are augmented opportunities nationally for their professional development through the use of role play, simulations and case studies.

There are, however, two areas for governance improvement identified in audit reports of self-accrediting institutions relevant to the specification of governing body roles and responsibilities. These are:

- The need for continuous attention to ensuring that different layers of responsibility are clear, including the need for ongoing review of the responsibilities of governing body committees
- The need for clarity regarding governance structures and oversight in regard to controlled entities and other partnerships.

Given the wide variety of committees, subsidiary organisations and controlled entities of higher education providers, it seems unlikely that revised National Governance Protocols could cover in details all requirements for their structures and oversight. It may however be worthwhile for the Protocols to set out some general principles for oversight and review of committees and controlled entities, consistent with the requirements of corporations law or other mechanisms under which subsidiary bodies are established. In this regard, the Protocols might state that they do not and cannot override the requirements of corporations law. It would be useful if authoritative advice in regard to the respective obligations of corporations law and the Protocols could be provided to all higher education providers.

It may also be helpful to set out a general requirement for the governing body to assure itself that academic standards are being upheld within the institution through the effective operation of the academic board or equivalent.

Regarding the size and composition of governing bodies, AUQA’s experience does not support either an inverse correlation between size and effectiveness, or an inverse correlation between the presence of staff and students and effectiveness. The audit report for the University of Queensland, which at the time had a governing body of 35, commended that institution for the effective relationship that existed between the senate (governing body), executive and the wider university community.

AUQA audit findings do not suggest a general need for changing the membership or essential operations of university governing bodies. The message to higher education providers is to carefully manage their internal processes to ensure that they are ‘fit for purpose’ for the individual institution.
3.3 Leadership and 3.4 Accountability

AUQA encourages universities to ensure that strategies to implement their missions are as focused and achievable as possible. Realistically, universities can only be as diverse as national educational policies and market conditions allow them to be. One suggestion would be for the Protocols to indicate an expectation that governing bodies regularly review the extent to which their institutions are able to differentiate themselves and how this is to be achieved, within the broader national context. However, as governing bodies are already doing so routinely, such a statement is unlikely to add value.

On accountability, one issue frequently identified in audit reports is the need for better management reporting and internal accountability to the governing body, especially in regard to KPI data and the identification and management of risk. AUQA considers that governing bodies might be required to assure themselves that institutional management reporting represents good practice, having regard to norms within the sector and business more widely.

The discussion paper makes a large number of other suggestions for specification of the operation of governing bodies and asks whether this would improve overall accountability. AUQA’s view is that such additional requirements, each of which would need to be checked and documented, could add considerably to the regulatory burden without improving performance. While AUQA does not consider that detailed additional guidance needs to be provided through the Protocols, recognition of the governing body’s responsibility for operation of an audit committee is supported.

3.5 Continuous improvement

AUQA supports the inclusion in the Protocols of a reference to the governing body’s responsibility for its own continuous improvement. Several university governing bodies have received commendations in AUQA audit reports for adopting a continuous improvement approach to their own operations. The 2007 analysis referred to above states: “A recurring motif in audit reports is the need for the university council to lead by example in demonstrating an understanding and application of the methods of quality assurance and continuous quality improvement in its own activities” (Baird, 2007, p. 104).

Good governance occurs in the real-time performance and practice of governing: it is a product of people interacting in appropriate ways to guide and control institutions. The frontiers of good governance practice should not be static, but should be moving forward. It is for this reason that the discussion and sharing of changes and new ways of working, for example among chancellors, can be a powerful means for quality enhancement.

Regimes based on compliance usually emphasise the achievement of minimum standards, being designed to enforce a set of uniform requirements, which can discourage diversity and exploration. Rather than impose additional detailed compliance requirements on universities through the Protocols, it may be preferable to include in the Protocols a requirement for higher education providers to demonstrate a commitment to continuous improvement in governance practices consistent with achievement of the institution’s mission.
Such a requirement could usefully be supported by the ongoing codification of emerging good practices nationally, through studies auspiced by a body such as Universities Australia, in consultation with peak bodies for other higher education providers and AUQA. This approach has proved fruitful in countries such as the UK (CHEMS 2004).

References:

