Comments on the Review of the National Governance Protocols

Introduction

Batchelor Institute of Indigenous Tertiary Education is pleased to have this opportunity to comment on the review of the National Governance Protocols. A member of staff attended one of the information/consultation forums and comments made to that forum are included in this paper.

Batchelor Institute and its governance

Batchelor Institute of Indigenous Tertiary Education (formerly Batchelor College) is a specialist institution (Table A provider), established by the Batchelor Institute of Indigenous Tertiary Education Act to provide tertiary education at all levels to Aboriginal and Torres Strait Islander people. It is a dual sector, multi-campus institution whose programs are designed to reflect and address the education and employment needs, the social and cultural contexts and aspirations of Aboriginal and Torres Strait Islander people, of their communities and organisations and of industry. The courses provide academic and training pathways that allow post-school age Aboriginal and Torres Strait Islander people open entry to a range of articulated programs from basic general education, Vocational Education and Training (VET) and Higher Education, leading eventually to any level of qualification to which they might aspire.

Two principles underpin all aspects of the Institute’s life. First, cultural interaction and cross-cultural learning follow a ‘both ways’ philosophy which brings together and makes meaning between Indigenous traditions of knowledge and Western academic disciplinary positions and cultural contexts. Second, through its work and its courses, the Institute affirms the aspiration to self-determination and employment held by Aboriginal and Torres Strait Islander peoples.

Most students are from the Northern Territory, with most of those from remote areas. Around 15 percent of the Institute’s enrolment comes from interstate, particularly from the northern parts of Western Australia, northern and western Queensland and the northern parts of South Australia. The general student characteristics—the specialised needs of particular groups of students, which may derive from socioeconomic status, membership of a particular equity group, schooling background and associated schooling gaps, cultural background, home location or combinations of these—are integral to the Institute’s program delivery.

The existence and composition of Batchelor Institute’s governing council is prescribed by the establishing legislation, and all positions are appointed by the Northern Territory Administrator-in-Council. The 22 positions reflect the Institute’s purpose and its client group.

The Council concerns itself primarily with strategic issues and is assisted by a number of standing Committees of Council. Responsibility for the management of the Institute is delegated to the Institute Director, who is assisted by a number of Director’s Advisory Groups. Both levels of committees reflect the realities of the management required for Batchelor Institute.
National Governance Protocols (NGPs)

The following comments are general responses to the issues raised and questions posed in the document, Review of the National Governance Protocols Issues Paper May 2007.

Impact of the NGPs on good governance

While it is hard to isolate the effects of the Protocols from what was being, or would have been, done by institutions in respect of good governance—professional development for members, activity plans and evaluations are examples—the use of the Protocols has provided for institutions a set of national standards which can assist governing councils in this area and which, at the very least, can be used to simplify governance decisions.

The requirement for the financial and commercial experts has, in the case of Batchelor Institute, resulted in the creation—and concomitant additional costs—of additional positions. The qualifications set out by the NGPs for these positions make it very difficult for Batchelor Institute Council to fill these positions at all, let alone with Indigenous people, very few of whom have the necessary formal qualifications (although more do have the experience). On the other hand, the inclusion of additional experts provides the Council with access to additional networks.

One negative consequence of the NGPs is the resource requirement for annual reporting to the Commonwealth. Small institutions such as Batchelor Institute are less able to absorb the additional costs generated by this reporting and its necessity is questionable when there are already mechanisms in place—AUQA audits, IAF reporting, institutional annual reports to State/Territory governments—which can elicit the same information.

The role and composition of the governing body

For universities this is usually detailed in the institution’s establishing legislation and, in the case of Batchelor Institute, the Act provides sufficient prescription about the role and responsibilities of the Institute Council and its members. It is hard to identify other details which are not in establishing legislation and which might be included in the NGPs but which, if they were to be incorporated into the Protocols, would not impinge on institutional or State/Territory autonomy.

There are obviously good arguments for reducing the size of governing councils. Batchelor Institute’s main concern is that, as the body responsible for strategic oversight and governance, the Council continues to have access to the range of views and skills necessary for the Institute to achieve its purpose. Thus, if the National Governance Protocols were to require a further reduction in the maximum size of governing councils, there should be no restrictions or lists of prescribed memberships imposed on the composition of the councils. Similarly, the Protocols should make no stipulations concerning advisory committees, skills mixes or other staff, student or industry expertise that might be utilised by governing councils.

Length of appointments is a valid concern. The Batchelor Institute of Indigenous Tertiary Education Act requires that a Council member who has served two consecutive terms is disqualified for three years from serving another term (three years, with student and staff terms being one year). As well as enabling other interested people to become Council members, this break provides an opportunity for experienced members to ‘recharge their batteries’ before returning in the future.

Whether or not there is a position of ‘secretary’ to a governing body is a matter for the individual institution, although it is hard to imagine a council operating without this type of role. Therefore, there is no reason for the NGPs to recognise—or stipulate—the role and powers of this type of position, particularly in the absence of any specific funding through the Protocols to cover the costs of the position.

There is also no place for the NGPs to have any say in the relationship between the governing council and any other of the institution’s positions. Any move in this direction impinges on the autonomy of the institution.
And, again, any concerns the Commonwealth may have about these issues can be allayed through monitoring of the IAF and other reporting mechanisms already in place.

**Leadership and accountability**

The leadership required of governing councils is provided for in the establishing legislation. No matter how well-intentioned, it is unlikely that a set of protocols would be able to achieve increased diversity or other improvements that cannot be done through each institution’s current governance provisions.

This applies also to accountability, for which the governing body’s corporate and individual responsibility is already detailed in the establishing and other legislation. As with all other Table A providers, Batchelor Institute must respond to the level of reporting required to meet financial, risk management, educational and management accountability obligations. Any more reporting would impose more strain on resources for doubtful gain in what would clearly be duplication of information which is regularly audited and reported by the Auditor-General, tabled in parliament and published.

Batchelor Institute’s Audit Committee is a committee of Council and, as noted above, the existence and operations of this and other committees is best left as a matter for the institution and its governing council, who are best placed to assess the need for the range of expertise gained through the committee structure.

This Council, like most governing councils, is primarily concerned with strategic issues and delegates most management functions to the Institute Director. The addition to the NGPs of requirements associated with management processes would seem to be an intrusion into the operations of the institution, rather than a mechanism to provide greater guidance.

Continuous improvement is integral to effective governance, as noted in the Issues Paper and demonstrated in the regular activities of most institutions. Thus there is no need for changes to the Protocols to address this issue.

**Conclusion**

The National Governance Protocols have had positive and negative impacts on Batchelor Institute, similar to those described by other universities in the consultation meeting. While providing a national minimum standard for certain aspects of governance, the requirement for annual reporting does represent a considerable cost to institutions, especially those whose smaller size cannot absorb the cost so easily. This burden is unnecessary when the information covered in the reports can be obtained through other accountability and reporting mechanisms such as the IAF reporting, AUQA audits and annual reports.

Most of the issues covered in the Protocols and the additions proposed in the Issues Paper are already addressed by legislation. While the size of governing councils and restrictions on long membership terms could well be amenable to improvements on a national level, the proposals for additions to the Protocols would seem to encroach even further on institutional autonomy, as well as adding to duplication and the cost of reporting. These changes are unnecessary given the role, capacity and reputation of Table A providers in Australian and international education, research and community service.

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