19 July 2007

JCHE Review of the National Governance Protocols
LOC 130
Department of Education, Science and Training
GPO Box 9880
Canberra ACT 2601

Dear Sir,

Thank you for the opportunity to comment on the MCEETYA Review of National Governance Protocols Issues Paper

With respect to the eleven protocols implemented since 2004 these are regarded by the University as generally appropriate and all have been fully implemented. That said, I note that the changes that were needed to achieve conformance were not extensive as our existing provisions and practices were already quite well aligned with the requirements of the protocols.

With respect to the discussion points raised in the current Issues Paper it is the view of the Senate of the University of Sydney that to the maximum extent possible the Government’s aspirations and views regarding university governance should be articulated and managed in such a way as to give university governing bodies the maximum scope to respond flexibly in a manner which is appropriate to their university’s particular needs and circumstances. Ideally this would be achieved through the provision of guidelines and not by the imposition of mandatory requirements which can have the effect of stifling innovative approaches to governance issues and instead simply promoting conforming behaviour through technical adherence to rigid legislative formulations. It is suggested that such an approach would be consistent not only with best corporate practice (as shown in the Australian Securities Exchange’s “if not, why not” approach) but also with the generally high standard of conduct and commitment to good governance demonstrated by the sector.

In addition to this fundamental point there are a number of other observations we would like to make regarding a number of the more specific issues raised in the Issues Paper, as follows:

Regarding 3.2:
In our view a university governing body has some of the characteristics of a representative assembly and some of those associated with a corporate board of directors. For this reason the governing body needs to have the scope to adopt decision making processes which reflect its character and meet the particular needs of the institution.

With respect to the size and profile of the governing body our view is that the current size and membership profile of the Senate of the University of Sydney appropriately reflects the diverse constituencies which have a legitimate interest and should have a useful role to play in the governance
of the institution. It follows that membership of the Senate should include staff, students and graduates.

As to the role of Secretary to the Senate, currently such a position exists at the University of Sydney, because the need for such a role to be performed has been evident. Nevertheless in our view this function does not need to be addressed in protocols, rather, each governing body should be free to determine its own support arrangements without their form being mandated.

Regarding the relationship between the governing body and management, the Senate would have no difficulty with the Government providing guidance as to matters which should be considered, but this area also is one where Senate would wish to determine its own position.

Regarding 3.3
In our view Senate's leadership role is adequately describe in the University of Sydney Act. No provision in the protocols is required.

Regarding 3.4
In our view the current protocols provide an appropriate level of guidance as regards accountability and the fiduciary responsibility of Senate Fellows. As regards the audit function most university governing bodies appear to address this by establishing an audit committee. While the University of Sydney has followed this course it is not, in our view, necessary to make this particular approach mandatory.

In conclusion it is our view that an approach to governance which places greater emphasis on allowing universities to develop practices which suit their particular circumstances and requirements than on the achievement of national consistency as to their form across a highly diverse group of universities is to be preferred. Flexibility and the capacity to innovate are also desirable attributes of any system. While Senate values Government's input in this area we believe such input would be better provided in the form of guidelines rather than mandatory requirements. In our view such an approach is likely to be more enthusiastically embraced by the sector and to result in greater substantive improvement.

Thank you again for the opportunity to offer these comments. The University does wish to participate in any roundtable discussion of these matters.

On behalf of the Senate

Yours sincerely

William Adams
Registrar and Secretary to Senate