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## **Strengthening University Governance: Expert Council on University Governance Submission of The University of Western Australia (April 2025)**

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*UWA mission: To provide world-class education, research and community engagement for the advancement of the prosperity and welfare of our communities.*

The University of Western Australia (**UWA**) welcomes the opportunity to contribute to the role of the Expert Council on University Governance (**Expert Council**) in providing expert and technical governance advice to Education Ministers on the improvement of University Governance (**Inquiry**).

UWA is a leading institution committed to academic excellence, research impact, and strong governance practices. UWA recognises the importance of robust and transparent governance frameworks in maintaining public trust, institutional integrity, and sector-wide best practices.

This submission gives a high-level overview of UWA's governance, including legislative and regulatory matters, policies, and practices.

We note that, following the announcement of the establishment of the Expert Council on 29 January 2025, the Senate Standing Committee on Education and Employment commenced an inquiry into the quality of governance at Australian higher education providers. We draw your attention to UWA's [separate submission](#) to that Senate Committee as further information supporting this submission.<sup>1</sup>

We also note the short timeframe for submissions. With that in mind, we have written this submission to provide only high-level responses in some areas. However, we would be pleased to provide further information on those matters upon request.

UWA appreciates the Expert Council's consideration of this submission and looks forward to engaging in discussions to support the ongoing enhancement of governance across the sector.

### **1. Where do you think governance most needs to improve relative to your expectations of the role of Australian Universities?**

UWA believes that university governance should serve as an enabling compass, supporting innovation, teaching, research, differentiation, and growth within universities for the benefit of society. University governance should strike a balance between the increasingly corporatised nature of Australian universities and their foundational public purposes. However, the government should be cautious in avoiding over-regulation, given the numerous governance mechanisms already in place.

UWA also believes that a competency-based governing board better serves the governance needs.

Significant transparency and accountability are already mandated by requirements at both the state and federal levels, covering many aspects of UWA's complex operations. Those requirements include:

- UWA is established by [The University of Western Australia Act 1911](#) (WA) (**UWA Act**). The UWA Act specifies the composition of the Senate and the duties of Senate members. It also establishes a Nominations Committee to recommend suitable candidates for

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<sup>1</sup> Senate Standing Committee on Education and Employment, [The Quality of governance at Australian higher education providers Submission No 19 The University of Western Australia](#). The University's submission covers University Quality Assurance, Mechanisms for the Maintenance of Corporate Risk Oversight including the Audit and Risk Committee and the Strategic Resources Committee, University Delegations Framework, Conflicts of Interest, Financial Governance and Oversight, Financial Management Framework, Plan & Budget Approval, Governance Oversight of People & Culture (including Employee Relations and Compliance, Health and Safety Management System, Workforce Governance and Policies and Executive Remuneration).

appointment to the Senate. The UWA Act also makes UWA responsible to the State Minister for Education.

- UWA has established its own internal governance framework:
  - Key instruments within the internal governance framework are the UWA Statute, the UWA Lands By-Laws and its Senate Regulations. Those instruments do not grant unfettered legislative power; for example, Convocation must be consulted on changes to the UWA Statute, the Academic Board must be consulted on changes to its empowering chapter in that Statute, and the Student Guild effectively manages its own regulations, although the Senate approves them.
  - The statutes and by-laws made by UWA under the UWA Act are subject to Ministerial endorsement, approval by the Governor and tabling in Parliament. Those instruments are thereby subject to the scrutiny of the Joint Standing Committee on Delegated Legislation and are subject to parliamentary disallowance procedures.
- UWA has robust and active internal and external audit programs. UWA's annual financial statements must meet Australian Accounting Standards and other legislative requirements. UWA is externally audited by the Western Australian Office of the Auditor General and by certain fund-granting bodies. UWA's annual reports are also published and tabled in the State Parliament.
- UWA must meet the requirements of regulators and must report to these regulators. This includes reporting to TEQSA in relation to UWA's compliance with the *Higher Education Standards Framework (Threshold Standards) 2021* and the *Education Services for Overseas Students Act 2000* (Cth).
- UWA must apply for and maintain accreditation for professional degree courses with external agencies.
- UWA provides extensive information to the Australian Government as its main funding agency. UWA must also report to the Workplace Gender Equality Agency.
- UWA must comply with requests made under the *Freedom of Information Act 1992* (WA). UWA must also comply with occupational health and safety legislation, the *Fair Work Act 2009* (Cth), and all relevant industrial relations frameworks and agreements.
- UWA is also subject to scrutiny by bodies, including the ACNC, the ATO, the Corruption and Crime Commission, the Department of Education, the Public Sector Commission, and the WA Ombudsman.
- Additional reporting requirements have been recently introduced with the creation of the National Student Ombudsman and the Australian Tertiary Education Commission.

The [University Chancellor's Council \(UCC\)](#) voluntary codes already provide good governance guidance on *embedding* matters addressed in a legislative or policy context, for example:

- the *Voluntary Code of Governance Principles and Practice for Australia's Public Universities (UCC Governance Code)*, which requires disclosure in UWA's Annual Report;
- the *Voluntary Australian Public Universities Vice-Chancellor and Senior Staff Remuneration Code (UCC Remuneration Code)*, which provides assurance that appropriate, transparent and competitive remuneration has been set for the Vice-Chancellor and Senior UWA Staff; and
- *The Model Code for Protection of Freedom of Speech* and the accompanying *Recommended Draft Statement for Annual Reports on Freedom of Speech and Academic Freedom*.

In UWA's view university governance most needs to improve by:

- **avoiding duplication and overregulation** --- the cross-jurisdictional nature of higher education governance means that there is a real need to ensure that regulation and reporting obligations are not duplicated, that state and federal compliance requirements are rationalised, and any remaining overlapping requirements are consistent (so as to reduce unnecessary compliance and reporting burdens); and by

- ***improving communications about university governance practice*** --- universities should become more adept at reporting and sharing information on their implementation of regulatory principles. This may be facilitated by annual reporting of compliance with the UCC Governance Code. That annual reporting may also help fill any perceived information vacuum about each university's governance processes. In that respect, UWA publishes a Senate Update in a staff newsletter, which could be published more widely (e.g. on UWA's website) and which would complement the [UWA Governance Overview](#) that is already publicly available.

**2. What governance principle(s) do you think could help resolve the issue(s) as you have identified?**

UWA has already suggested several approaches to address the identified issues (see above).

The response to Question 1 (see above) also identifies a wide array of legislative and regulatory frameworks that already provide significant transparency and accountability.

UWA submits that university governance needs to become both more coherent and more transparent to the broader community. This can be achieved by avoiding over-regulation, reducing duplication, clearly enunciating federal versus state responsibilities in both funding and oversight and improving communication among all participants in the higher education sector in this area.

For example, the UCC Voluntary Codes (referred to in UWA's response to question 1 above) are an accessible and easily understood narrative of good governance practice within current legislative frameworks. By contrast, the Higher Education Framework administered by TEQSA is not as accessible or as easily understood unless you are an expert in higher education governance.

**3. Where possible, relate your comments to the key areas identified by the Education Ministers and the Code of Governance Principles and Practices for Australia's Public Universities.**

The adequacy of current higher education governance is illustrated by how UWA's regulatory environment enables standards to be met regarding the Minister's Priority Ten, the Risks identified in the Australian Universities Accord, and the Codes of the University Chancellors' Committee. Refer to sections 5 to 7 of this submission.

**4. Other related or relevant matters to the governance of universities in Australia**

Refer to the comments in UWA's response to Question 1 regarding '*avoiding duplication and overregulation*' and '*improving communications about university governance practice*'.

**5. Education Ministers: Ten Priority Areas**

The Education Minister's ten priority areas are addressed at UWA as follows:

***Priority Area 1 --- achieve a balance between higher education and other expertise on the governing body, with at least one non-executive member who has university leadership expertise from outside the institution.***

There is no specific regulatory or internal policy requirement that requires at least one non-executive member of UWA's Senate to have university leadership expertise from outside UWA. However, at least one current member of the Senate already meets that requirement. UWA's selection processes for co-opted members of the Senate and appointments made by the Governor can also easily accommodate such a requirement.

The composition of the UWA Senate is currently mandated by State legislation.<sup>2</sup> Under section 8 of the [UWA Act](#) the Senate consists of (up to) 17 members, being:

- (a) the Chancellor—*ex officio*;

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<sup>2</sup> Alignment of composition of governing bodies was a major factor in negotiations between WA's four public universities (including UWA) and the then-State Minister for Education in relation to the changes made in the omnibus *Universities Legislation Amendment Act 2016* (WA).

- (b) the Vice-Chancellor—*ex officio*;
- (c) three appointed by the Governor on the recommendation of the Minister for Education;
- (d) two who are members of Convocation and elected by Convocation;
- (e) one elected by and from the academic staff of UWA;
- (f) one elected by and from the general (professional) staff of UWA;
- (g) the Chair of UWA's Academic Board;
- (h) two elected by and from enrolled students of UWA and
- (i) not more than five persons co-opted as members by the Senate itself.

All elected, appointed and co-opted members, other than the students, have three-year terms and, in all but exceptional circumstances,<sup>3</sup> serve for no more than three successive terms.

At least four members of UWA's Senate must be graduates of UWA.<sup>4</sup> At least two members must possess financial expertise, and at least one must demonstrate commercial expertise through experience at a senior level in the public or private sector.<sup>5</sup>

The composition of UWA's Senate ensures a balance between higher education and other expertise in UWA's governing body. It also ensures there is representation in the Senate from:

- various stakeholders across the UWA community (i.e. professional and academic staff, undergraduate and postgraduate students, and Convocation members);
- *ex officio* members (i.e. the Chancellor, Vice-Chancellor and the Chair of the Academic Board); and
- independent members (i.e. the Governor's appointees and co-opted members).

The [UWA Act](#) also establishes a Nominations Committee, which helps to ensure the availability of appropriate candidates for Senate membership<sup>6</sup>. The [Constitution](#) of the Senate Nominations Committee also requires the Committee to:

- maintain a register of skills and competencies required by the Senate and its committees, and a register of the skills and competencies of current Senate members; and
- ensure that all recommendations for appointment by the Senate or appointment by the Governor:
  - prioritise the filling of any identified gaps in the skills and competencies;
  - consider gender balance and diversity of membership (noting this may not always be possible due to the legislative requirements governing the composition of the Senate and skills and competency requirements), and
  - consider the issues of Indigenous and Traditional Owner input into UWA's governance processes.

WA Government policy also requires all State Government Boards and committees (including the Senate) to “*reflect the diversity of the community and contribute towards the Government's target of 50 per cent representation of women*” (see: [State Government Boards and Committees](#)).

**[Priority Area 2 --- improve structures and processes to ensure that high risk and high priority matters reflect consultation and engagement with the university community and have appropriate oversight and reporting to and by the governing body;](#)**

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<sup>3</sup> UWA Act s9(6).

<sup>4</sup> UWA Act s8(5).

<sup>5</sup> UWA Act s8(4).

<sup>6</sup> UWA Act s9(4) provides that “[t]he functions of the Nominations Committee are:-

- (a) to maintain lists of persons who are eligible and willing to be appointed to any vacancy or casual vacancy in the office of any member of the Senate who is appointed by the Governor or the Senate;
- (b) to recommend to the Minister suitable candidates for appointment to a vacancy or casual vacancy in the office of any member of the Senate who is appointed under section 8(1)(a);
- (c) to recommend to the Senate suitable candidates for appointment by co-option under section 8(1)(i).”

High risk and high priority matters may occur across a wide array of UWA areas of activity. Please refer to the [University's submission](#) to the Senate Standing Committee on Education and Employment into the quality of governance at Australian higher education providers <sup>7</sup> which refers to the appropriate oversight and reporting to the Senate.

As noted in response to Priority Area 1, the members of UWA Senate reflect the UWA community including:

- one person who is a member of the non-academic salaried UWA staff;
- one member of UWA's academic staff who is elected by UWA's academic staff;
- the Chair of UWA's Academic Board;
- two people who are UWA students and are elected by UWA's students
- two people who are members of Convocation.

Members of UWA's Senate who are appointed by the Governor or are co-opted by the Senate can represent any other members of the UWA community and any other stakeholders that are felt to require any separate representation at Senate level.

Priority Area 2 is also addressed by the UWA Senate's requirement that UWA's management consult and engage with UWA community, as appropriate, before reporting to Senate on any "high risk and high priority matters".

**[Priority Area 3 --- reflect the diversity of the Australian community, and the specific characteristics of the university community they serve, in making appointments;](#)**

UWA does not formally collect Diversity Equity and Inclusion (DEI) information on Senate members or on candidates for Senate membership. Nor does UWA conduct a DEI analysis of the composition of the Senate. However, DEI matters are considered when the Senate Nominations Committee makes its recommendations to the Senate on the appointment of co-opted members and its recommendations to the Minister on Governor's appointees to the Senate.

We also refer to our response to Priority Areas 1 & 2 (see above), particularly the legislatively-mandated composition of the Senate and the methods of appointment or election to the Senate, along with the role of the Senate Nominations Committee.

UWA doesn't currently pay members of the Senate or any of its committees although this is under consideration and may change. Such a change may enable UWA to attract a wider selection of candidates for membership of the Senate and its committees from across the community.

**[Priority Area 4 --- achieve gender balance on the governing body in line with jurisdictional and Australian Government targets](#)**

We refer to our response to Priority Areas 1 to 3 (see above). As of 31 March 2025, nine of the sixteen members of the Senate are female.

**[Priority Area 5 --- have First Nations membership on the governing body and separate, transparent processes to capture First Nations leadership and engagement on university strategy, policies and performance.](#)**

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<sup>7</sup> Senate Standing Committee on Education and Employment, *The quality of governance at Australian higher education providers*, [Submission No 19 The University of Western Australia](#). The University's submission covers University Quality Assurance, Mechanisms for the Maintenance of Corporate Risk Oversight including the Audit and Risk Committee and the Strategic Resources Committee, University Delegations Framework, Conflicts of Interest, Financial Governance and Oversight, Financial Management Framework, Plan & Budget Approval, Governance Oversight of People & Culture (including Employee Relations and Compliance. Health and Safety Management System, Workforce Governance and Policies and Executive Remuneration).

We refer to UWA's response to Priority Areas 1 to 3 (see above). As of 31 March 2025, one of the sixteen members of the Senate has an indigenous background, although this is not publicised.

There are challenges in ensuring First Nations membership as: (a) the number of indigenous people who have appropriate experience, education and interest to serve as members of UWA's Senate may be small; and (b) those people may be quite reluctant to accept an invitation to join the Senate as they are in high demand as non-executive directors in the corporate world.

The legislatively mandated composition of the Senate provides flexibility to achieve diversity targets through the Senate's co-option of members and the Governor's appointees.



***Priority Area 6 --- have one or more student members of the governing body, and separate, transparent processes to capture student input on university strategy, policies and performance***

We refer to UWA's response to Priority Areas 1 & 2 (see above). There are two student members elected to the Senate.

***Priority Area 7 --- have one or more staff members of the governing body, and separate, transparent processes to capture staff and union input on university strategy, policies and performance.***

We refer to UWA's response to Priority Areas 1 & 2 (see above). There are two staff members elected to the Senate.

***Priority Area 8 --- require all new appointments to go through a rigorous and transparent selection process that utilises a formal and regularly updated skills, capabilities, and diversity selection matrix that is in line with their jurisdiction's requirements and directed to the selection of the person best suited to the position.***

We refer to UWA's response to Priority Areas 1 & 3 (see above), particularly in relation to the role of the Senate Nomination Committee.

***Priority Area 9 --- require all governing body members to have, or undertake, training on the specific responsibilities and expectations of their role as governing body members, and separately clarify the way the role of governing body members is described; and***

UWA's Secretariat facilitates an extensive onboarding and induction process for members of the Senate and Senate committees which includes the following elements:

- **Governance:**

- [UWA Governance Overview](#) (this explains the UWA Act, the UWA Statute, the UWA Lands By-laws, the Senate Regulations, and the Senate standing orders)
- UWA Legislation Overview is an internal document details the scope and content of, and the relationship between, UWA's regulatory instruments. It details internal and external oversight mechanisms and expands on matters covered in the UWA Governance Overview. It can be made available to the Expert Council on request
- [Senate Charter and Senate Code](#)
- [Code of Ethics and Code of Conduct](#)
- completion of a 'Declaration of Senate member qualifications' (by Senate members only);
- provision of a 'Deed of Access Insurance and Indemnity';
- Disclosure of Interests Guidelines and Form
- [UWA Code for the Protection of Freedom of Speech and Academic Freedom](#)
- Conflicts of interest and their
- [UCC Voluntary Code of Best Practice for Australian Universities](#)

- **Training modules:**

- Safety and Health;
- Senate cyber-training;
- positive due diligence duties under the *Work Health and Safety Act 2020* (WA) (for Senate members only);

- Core Inclusion training (being rolled out).

Members of UWA's Senate are also encouraged and supported to attend external courses offered by the Australian Institute of Company Directors (**AICD**) and University Chancellor's Council (**UCC**) on *Governance in the University Sector* and, the *UCC National Conference on University Governance*. Student members of the Senate, who are only appointed for a one-year term, also attend an *AICD Foundations of Governance* course.

***Priority Area 10 --- demonstrate and maintain a rigorous and transparent process for developing remuneration policies and settings for senior university staff, with consideration given to comparable scale and complexity public sector entities and ensure remuneration policies and packages are publicly reported.***

In 2021, UWA approved the adoption of the University Chancellors Council *Australian Universities Vice-Chancellor and Senior Staff Remuneration Code (UCC Remuneration Code)* for application in annual reports. This code provides a voluntary set of principles and processes aimed at ensuring fair and appropriate remuneration for university leadership that aligns with the expectations of stakeholders across the sector. As part of this code, the Vice-Chancellor's remuneration and the Key Management Personnel details are disclosed in UWA's Financial Statements to the [Annual Report](#).

Remuneration of senior officers at UWA is set by the Chancellor's Committee, a standing committee of the Senate. The committee comprises the following members: Chancellor (Chair); Pro-Chancellor (Deputy Chair); Vice-Chancellor; Chair of the Audit and Risk Committee; and Chair of the Strategic Resources Committee. The Vice-Chancellor does not participate in the deliberations of that committee when the Vice-Chancellor's remuneration is discussed.

Part of the Chancellor's Committee's role, as set out in its [Constitution](#), is to determine the Vice-Chancellor's remuneration (in the absence of the incumbent) by:

- reviewing the Vice-Chancellor's performance at least annually to determine their remuneration in line with UWA's contractual and legal obligations; and
- making recommendations to the Senate regarding the renewal or termination of the Vice-Chancellor's appointment.

The Chancellor's Committee also:

- receives reports from the Vice-Chancellor on the performance and remuneration of senior executive staff reporting directly to them, and determining their remuneration after considering the Vice-Chancellor's advice, in compliance with UWA's contractual and legal obligations; and
- provides advice to the Vice-Chancellor from time to time on remuneration and performance issues generally.

When determining remuneration, the Chancellor's Committee is provided with benchmarking reports and refers to the UCC Remuneration Code.

UWA does not currently pay members of its Senate or its Senate committees for their service to UWA, although this is under consideration and may change. Such a change would bring UWA into line with the practice at other WA universities. Any remuneration that may be paid to members of Senate and members of Senate Committees will be governed by a determination of the WA Salaries and Allowances Tribunal in accordance with the *Salaries and Allowances Act 1975* (WA). The WA Salaries and Allowances Tribunal already sets the remuneration for members of the governing bodies and sub committees of Curtin University, Edith Cowan University and Murdoch University.

## **6. Risks identified in the Australian Universities Accord**

The Expert Council's [website](#) notes that:

*"The Council will develop new 'University Governance Principles and Recommendations' based on 10 priority areas identified by Education Ministers, designed to enhance the*



*accountability, transparency, engagement and representation of university governing bodies.*

*The Council will focus on the following key areas identified as risks in the Australian Universities Accord:*

- *Ensuring that universities are good employers providing a supportive workplace—and, importantly, a workplace where staff can have confidence that they will not be underpaid for the important work they do.*
- *Making sure governing bodies have the right expertise, including in the business of running universities.*
- *Making sure our universities are safe for our students and staff.*

*This includes ensuring rigorous and transparent processes for developing remuneration policies and settings for senior university staff.”*

UWA addresses those three key areas as follows:

**Risk 1 - Ensuring that universities are good employers providing a supportive workplace – and, importantly, a workplace where staff can have confidence that they will not be underpaid for the important work they do.**

We refer to the [University's submission](#) to the inquiry of the Senate Standing Committee on Education and Employment into *The Quality of governance at Australian higher education providers*. The submission provides examples of UWA's governance oversight of People and Culture, employee relations and compliance, health and management systems, employee remediation program and workforce governance and policies.

There is also regular and robust reporting to the Senate from UWA's Audit and Risk Committee and its Strategic Resources Committee.

**Risk 2 - Making sure governing bodies have the right expertise, including in the business of running universities**

We refer to UWA's response to Priority Areas 1 & 3 (see above), particularly in relation to the role of the Senate Nomination Committee.

**Risk 3 - Making sure our universities are safe for students and staff**

*Freedom of speech and academic freedom*

In December 2020 UWA's Senate adopted the *UWA Code for the Protection of Freedom of Speech and Academic Freedom*.<sup>8</sup> The objects of this Code are to ensure that:

- academic freedom is treated as a defining value by UWA, and that
- freedom of lawful speech of staff, students and visitors is treated as a paramount value by UWA and is not unnecessarily burdened by restrictions, other than those imposed by law and set out in the Principles of the Code.

UWA's implementation of the Code included:

- the establishment of a Freedom of Expression Panel;
- a review of existing University codes, policies and principles that might affect freedom of speech or academic freedom in order to ensure compliance; and
- the inclusion of an annual attestation statement regarding freedom of speech and academic freedom, in its annual report (see the [University's 2025 Annual Report](#))

*Sexual harm*

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<sup>8</sup> The UWA Code for the Protection of Freedom of Speech and Academic Freedom is available on the [UWA Policy Website](#).

UWA and the UCC also support Universities Australia's (UA) Charter on Sexual Harm.

All Australian universities (including UWA) will also now be subject to a national code of conduct, as government and universities work to reduce rates of sexual violence in tertiary education settings.

#### The middle east conflict

The ongoing and escalating conflict in the Middle East continues to raise concerns within UWA's community and more broadly. In October, the Attorney-General asked the Parliamentary Joint Committee on Human Rights to review antisemitism at universities. In December, UWA's Chancellor at that time (the Hon Robert French AC) and its Vice-Chancellor (Prof Amit Chakma) [appeared before the public hearing of the Parliamentary Joint Committee on Human Rights to provide evidence](#). During their appearance, the Chancellor and Vice-Chancellor explained the work undertaken by UWA in response to antisemitism and they contributed to the inquiry regarding the application of the 'Model Code on Freedom of Speech and Academic Freedom', which was developed by UWA's Chancellor at that time.

#### Other risks

UWA's Senate and its committees (particularly its Audit & Risk Committee) are very focussed and concerned about all risks to UWA's staff and students.

UWA's *Code of Ethics and Code of Conduct* (the **Code of Conduct**) embeds UWA's standards and values, and embodies UWA's commitment to ensuring a university environment that is free of discrimination, bullying and harassment. UWA's *University Behaviour Policy* adds context to the broad principles in the Code of Conduct. The *University Behaviour Policy* states that racial, ethnic and religious discrimination and harassment are inappropriate behaviours and are not tolerated at UWA.

The UWA Lands By-Laws enable UWA to issue orders excluding people from campus. Those orders, UWA's student disciplinary processes, UWA's staff disciplinary processes and the ability to apply for appropriate Court orders (such as restraining orders and injunctions) exclusion orders, collectively provide UWA's management with the tools needed to appropriately protect the safety of UWA's staff and students on campus.

## **7. UCC Code of Governance Principles and Practice for Australia's Public Universities**

The [University's 2025 Annual Report](#) contains the compliance statement relevant to the University Chancellor's Committee's *Voluntary Code of Governance Principles and Practice for Australia's Public Universities* (the **UCC Governance Code**). In 2024, a review determined that UWA is fully compliant with 12 of the 14 guidelines of the UCC Governance Code

It is understood that UWA cannot be compliant with guidelines 1 or 4 of the UCC Governance Code unless and until amendments are made to the UWA Act. Work on those amendments has progressed and the amendments have government legislative priority.<sup>9</sup>

The UCC Governance Code was updated in December 2024. The changes to that Code will be reflected in UWA's future Annual Reports.

**END**

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<sup>9</sup> Guideline 1 provides "A university should have its objectives and/or functions specified in its enabling legislation." Guideline 4 provides "If permitted by its enabling legislation, a University should develop procedures (a) to provide that the Chancellor and Deputy Chancellor hold office subject to retaining the confidence of the governing body; and (b) to deal with removal from that office if the governing body determines that such confidence is no longer held."