



THE UNIVERSITY OF  
**SYDNEY**

**Dr Michael Spence AC**  
Vice-Chancellor and Principal

12 December 2018

The Hon Robert S French AC  
Suite 2, Level 13  
Allendale Square  
77 St George's Terrace  
PERTH WA 6000

Email: [freedomofspeechreview@education.gov.au](mailto:freedomofspeechreview@education.gov.au)

Dear Mr French,

Thank you for your response to my earlier letter which included Richard Fisher's recent paper, and for your request received 29 November for information to assist you with the review of policies supporting freedom of expression and intellectual inquiry in Australian higher education.

### **University documents upholding freedom of expression and intellectual inquiry**

The commitment to free academic inquiry is a central tenet of the University of Sydney, enshrined in its establishing Act. Section 6(1) of the [University of Sydney Act 1989](#) states: "The object of the University is promotion, within the limits of the University's resources, of scholarship, research, free inquiry, the interaction of research and teaching, and academic excellence." Section 6(2) further commits the University to "participation in public discourse".

We have a high-level set of University rules, legally binding agreements with staff and codes of conduct, which together represent our institutional framework for upholding free intellectual inquiry and freedom of expression. These include:

1. The [Charter of Academic Freedom](#), which commits the University to "free enquiry" and "affirms its institutional right and responsibility, and the rights and responsibilities of each of its individual scholars, to pursue knowledge for its own sake, wherever the pursuit might lead". The Charter of Academic Freedom was endorsed by the University Senate and the Academic Board in 2008. As part of our review cycle, it is currently under review by a working group of the Culture Strategy task force.
2. The [University of Sydney Enterprise Agreement 2018-2021](#), which in section 315 commits staff and the University to "the protection and promotion of intellectual freedom", and in section 315(b)(iv) specifically accords all staff the right to "express unpopular or controversial views".
3. The [University of Sydney \(Academic Board\) Rule 2017](#), which in section 2.1(2)(a) mandates that the Academic Board has responsibility for "assuring the highest standards in teaching, scholarship and research and, in so doing, safeguarding the academic freedom of the University".
4. Codes of Conduct, which outline the responsibilities of University staff and students when exercising academic freedom of expression and intellectual inquiry:

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- a. The [Code of Conduct – Staff and Affiliates](#) provides a clear statement of our expectations of University staff and affiliates and specifically the conduct of staff and affiliates in upholding and advancing the freedom to pursue critical and open inquiry in a responsible manner.
- b. The [Research Code of Conduct 2013](#) sets out our commitment to responsible research and our expectations of researchers. The current code is being reviewed in order to ensure it complies with the new version of the [Australian Code for the Responsible Conduct of Research](#) released in June 2018.
- c. The [Code of Conduct for Students](#) sets out our expectations of students in relation to academic matters and personal behaviour.

These higher-level documents are supported by a suite of policies, procedures and processes designed to give clear guidance at the granular level of University operations.

- The [Research Agreements Policy](#), which, among other things, provides for the “protection of the University’s role as an independent teaching and research institution that operates with integrity for the dissemination of knowledge and the promotion of public debate” and promotes “free and critical enquiry”.
- The [Public Comment Policy](#), which supports our vision to actively encourage and facilitate high-quality contributions by staff to public debate and deliberation on issues spanning local, national and international boundaries.
- The [Gift Acceptance Policy](#), which, among other things, requires that a gift to the University may only be accepted if it is consistent with the University’s legislated object and its core values which include: “the freedom to pursue open inquiry in a responsible manner; recognition of the importance of ideas and ideals; tolerance, honesty, respect, integrity and ethical behaviour; and an understanding of the needs of those whom the University serves.”

Free intellectual inquiry can only flourish in an environment where freedom of expression is supported and encouraged. Unorthodox and even offensive ideas are welcome; lawful protest is supported. Our proactive encouragement of healthy disagreement is only limited by expectations imposed on community members’ behaviour. Policies setting out these limitations have been developed in accordance with internationally accepted norms for academic freedom, and consistent with legal limitations on freedom of expression. For example:

- The [Bullying, Harassment and Discrimination Prevention Policy](#) affirms our commitment to provide a safe and healthy workplace and learning environment.
- The [University of Sydney \(Student Discipline\) Rule 2016](#) includes in the definition of misconduct in section 2.1(1)(a)(iii) conduct which “impairs the reasonable freedom of other persons to pursue their studies, research or work in the University, or to participate in the life of the University; and in section 2.1(1)(h) “intimidating, assaulting, vilifying, abusing, threatening or endangering another member of the University community.” The rule also outlines penalties for misconduct.

Further, we are required to ensure, so far as reasonably practicable, the health and safety of all members of our community, as well as anyone else involved in University activities. This primary duty of care relates to both physical and psychological safety. We are bound to comply with the [Work Health and Safety Act 2011](#) through “effective and appropriate compliance and enforcement measures”, section 3(1)(e).

Our [Work Health and Safety Policy](#) applies to all staff, students and visitors and provides for a safe and healthy work environment. A suite of [infrastructure policies and procedures](#) is in place to protect order and safety in the University, such as the [University of Sydney \(Campus Access\) Rule](#), which allows University security to manage access to University property, if required.

### **Other relevant information and observations**

In October, a speech on our campus titled “Is there a rape crisis on campus” by Ms Bettina Arndt was incorrectly reported in parts of the media as having been blocked by student protesters. This was widely cited by conservative commentators as definitive evidence of political bias and repression of free speech at the University of Sydney and at Australian universities more generally. Our decision to charge a fee for security for this event, in accordance with our normal processes following a request for security from the event organisers, was also the subject of criticism in some parts of the media. We have vigorously defended our commitment to academic freedom and being a place for debate. We set out our position on the necessity of charging organisers moderate fees for additional security in an [op-ed in the Australian](#). Our position was further outlined in our response to a request for information from the TEQSA Chief Commissioner, Professor Nick Saunders (attached).

We are deeply committed to fostering a culture of ‘disagreeing well’. A 2015 discussion paper (attached), sets out our core values around this topic. We committed to the principles in this paper in our [2016-2020 Strategic Plan](#), by committing specifically to the values of courage and creativity, respect and integrity, inclusion and diversity, and openness and engagement. A joint University Executive/Academic Board culture taskforce was established in 2017 as part of the implementation of *Strategy 7: embedding our values* (Strategic Plan, p. 46). It considers ideas and initiatives at monthly meetings and contributes to academic discussion papers on the value of disagreement in academic discourse, on disagreeing well, and on the promotion of cultural and linguistic diversity across our workplaces.

Your suggestion that a code may be the outcome of your Review is a welcome development and we look forward to the opportunity to comment on your findings.

Yours sincerely,

SIGNED

Michael Spence AC

Attachments to email submission:

1. VC to TEQSA Chief Commissioner 5 November 2018 (*refers to an ongoing investigation, withheld from publication*)
2. A culture built on our values. University of Sydney discussion paper, 2015