



**Curtin University**

# **CORPORATE GOVERNANCE STATEMENT**

**CURTIN UNIVERSITY**

**26 September 2012**

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## 1. PURPOSE

The purpose of the Corporate Governance Statement (the Statement) is to assist members of Council and the senior management of Curtin University to understand and carry out their respective roles in the good governance of the University.

The Statement is also intended to inform the students and staff of the University, as well as external stakeholders, including the Australian Government, the Western Australian State Government, industry and the general community, about key aspects of the University's governance arrangements.

This Corporate Governance Statement is informed by:

- the **Voluntary Code of Best Practice for the Governance of Australian Universities**, which was approved by the Ministerial Council for Tertiary Education and Employment in July 2011 and revised on 15 May 2018; and
- the **Governance and Accountability Threshold Standards**, specified in the **Higher Education Standards Framework (Threshold Standards) 2015** and regulated by the Tertiary Education Quality and Standards Agency (TEQSA).

## 2. CURTIN UNIVERSITY'S FRAMEWORK FOR INSTRUMENTS OF GOVERNANCE

### 2.1 Introduction

The governance of Curtin University takes place within a framework which exists to regulate and/or guide the conduct of Council members, staff, students and members of the public accessing the University's amenities and services.

The objective of the framework is to provide for the effective, ethical and accountable governance and management of the University.

The key instruments within the governance framework are the:

- *Curtin University Act 1966* (the Curtin Act);
- University Statutes;
- University Land and Traffic By-Laws;
- University Rules;
- Council Approved Policies (including provisions with the authority of a resolution of Council, whether incorporated in a formal policy or not);
- Academic Board Approved Policies (including provisions with the authority of a resolution of Academic Board, whether incorporated in a formal policy or not); and
- Management Approved Policies (including directives with the authority of the Vice-Chancellor as Chief Executive Officer, whether incorporated in a formal policy or not).

For the sake of coherence and legitimacy it is in the best interests of the University that conduct is regulated by the most appropriate type of governance instrument. The following discussion provides a brief guide for this purpose.

### 2.2 Legislative instruments as distinct from policy instruments

The Curtin Act, University Statutes, By-laws and Rules are legislative instruments which have legal force and effect, and which must be applied in accordance with their terms. In contrast, policies are not legislative instruments and do not have the force of law.

## 2.3 The Curtin Act

The Curtin Act is at the highest level of the framework of governance instruments. The Curtin Act and any amendments to it are approved by State Parliament. It is through the Curtin Act that the University is established as a body corporate.

Amongst other things, the Curtin Act sets out the functions of the University, specifies that Council is its governing body, specifies the composition of Council and Council's powers (including the power to make Statutes and Rules) and makes provision for the Student Guild.

## 2.4 University Statutes

**Section 34** of the Curtin Act gives Council the power to “*make Statutes, not inconsistent with this Act, with respect to all matters pertaining to the University...*” including with respect to “*the management, good government and discipline of the University*”.

Statutes are subsidiary legislation applicable to the University's staff, students or Council, and are enforceable by law.

Following resolution by the Council, Statutes are forwarded via the Minister for the approval of the Governor. Once approved, Statutes are published in the *Government Gazette* and tabled in both Houses of Parliament, where they may be disallowed by resolution of either House.

In general, Statutes do not contain administrative detail. Usually such details are included in Rules or Policies as appropriate.

## 2.5 University Rules

Rules are delegated legislation made under **section 34(3)** of the Curtin Act and regulate procedural aspects of matters which are dealt with in a Statute. Rules are enforceable by law and have the same force and effect as a Statute.

Under the Curtin Act, a Statute may empower the Council to make Rules for regulating any specified matter with respect to which a Statute may be made, or for carrying out or giving effect to a Statute.

Unlike a Statute, or a By-law made under **section 20A** of the Curtin Act, a Rule is not laid before Parliament and is not subject to scrutiny or disallowance by Parliament.

## 2.6 University Lands By-laws

**Section 20A** of the Curtin Act provides the Council with the power to make By-laws for managing University lands and regulating the conduct of all people who visit or use the lands, including the regulation of traffic and parking.

Following resolution by Council, By-laws are forwarded via the Minister for the approval of the Governor. Once approved, By-laws are published in the *Government Gazette* and tabled in both Houses of Parliament where they may be disallowed by resolution of either House.

By-laws are subsidiary legislation and are enforceable by law.

## 2.7 University Policies

A University Policy directs and guides conduct and decision making. It is not a legislative instrument and does not have the force of law. Where there is any inconsistency between a University Policy and a University Statute, By-law or Rule, the relevant provisions in the Policy are void to the extent of the inconsistency.

The University has three broad levels of policy:

- Council Approved Policies;
- Academic Board Approved Policies; and
- Management Approved Policies.

Documents formally identified as policies and procedures are made under the University's Policy Framework as approved by Council. The Policy Framework is maintained by the Director, Legal and Compliance Services.

#### Council Approved Policies

Council Approved Policies include documents formally identified as policies and procedures made under the University's Policy Framework, and other prescriptions which have the authority of a resolution of Council (that is, Matters Reserved to Council, Delegations to the Vice-Chancellor, Strategic Plan, University Budget, Annual Report of the University, Constitutions of Committees of Council, Statement of Reconciliation and Commitment etc).

Council Approved Policies include policies and procedures which relate to Council's primary responsibilities and matters to which it has reserved to itself, such as:

- Appointment, performance and remuneration of the Vice-Chancellor;
- Appointment, performance and remuneration of Executive Managers;
- Accounting;
- Investments;
- Controlled and partially-controlled entities;
- Risk;
- Compliance;
- Strategic planning;
- Delegations;
- Honorary awards; and
- Naming rights

Council Approved Policies also include policies which relate to the operations of Council itself, such as Council member remuneration and entitlements, and Chancellor or Council member selection processes.

#### Academic Board Approved Policies

Academic Board Approved Policies include documents formally identified as policies and procedures made under the University's Policy Framework, and other prescriptions which have the authority of a resolution of Academic Board as delegated by Council.

Academic Board Approved Policies include policies and procedures relating to academic matters, specifically, in relation to:

- Courses;
- Learning and teaching;
- Research and research training;
- Academic services;
- International activities; and
- Quality and standards of the University's academic activities.

#### Management Approved Policies

Management Approved Policies include documents formally identified as policies made under the University's Policy Framework, and other prescriptions which have the authority of the Vice-Chancellor as delegated by Council.

The Senior Executive Team (SET) is responsible for advising the Vice-Chancellor on all matters for which the Vice-Chancellor exercises responsibility and assisting the Vice-Chancellor in the performance of some of those responsibilities. The SET is also responsible

for approving policies pertaining to the day-to-day management and operations of the University (except where specific responsibility has been delegated to another committee), within the framework of the University's Strategic Plan and Enabling Plans. Under the University's Policy Framework, procedures that support policies approved by the SET are approved by relevant Executive Managers.

Management Approved Policies include matters relating but not limited to:

- Employment and management of staff;
- Financial management;
- Properties;
- Information and communications technology; and
- Brand communications
- Equity

Management Approved Policies also include Curtin's Code of Conduct (the Code) which reflects Curtin's Values and Signature Behaviours and provides clarity and guidance on how parties to the Code are expected to conduct themselves at all times. The Code applies to parties acting on behalf of the University including:

- Academic and general staff (continuing, fixed-term, casual and sessional);
- Visiting, honorary and adjunct staff;
- Contractors and other individuals engaged by the University; and
- Volunteers and representatives acting as agents for the University

Students are also expected to uphold Curtin's Values and Guiding Ethical Principles. The conduct of students is however regulated by **Statute No 10 – Student Discipline** and the following rules made pursuant to Statute No 10:

- Academic Misconduct Rules
- General Misconduct Rules
- Academic Record Fraud Rules

See Section 5 of this Statement for the **Council Members' Code of Conduct**.

### **3. THE ROLE OF THE COUNCIL IN GOVERNANCE**

#### **3.1 Council as the governing authority**

**Section 8** of the Curtin Act states that the Council is "*the governing authority of the University (including the Kalgoorlie Campus)*", while **section 16** elaborates on the role of the Council as follows:

*Subject to this Act, the Council has the management and control of the property and affairs of the University and may do all such acts and things as it may think best calculated to promote the interests of the University.*

In broad terms, the Council:

- has responsibility for the autonomy of the University in governance and decision-making, independent of the government of the day at State and Federal levels;
- is responsible for the effective operation of the University;
- establishes the University's strategic direction, drawing upon advice from the senior management;
- upholds the University's Values and Signature Behaviours as the basis for its own conduct as a body, and for the conduct of its individual members; and expects all staff and students of the University to do likewise;



- has responsibility for fostering the general welfare and development of the University's enrolled students; and
- has a responsibility to oversee the governance of the University's health and safety systems and processes.

In summary, the Council exercises governance oversight of and is accountable for all of the University's operations in and outside of Australia.

### 3.2 The responsibilities of the Council

Consistent with the **Voluntary Code of Best Practice for the Governance of Australian Universities**, the Council has adopted the following primary responsibilities:

#### a) Strategic Oversight

- approving the mission and strategic direction of the university;
- ensuring that values, visions and goals are turned into effective management systems; and
- monitoring the implementation of the university's mission statement and strategic plan.

#### b) Ensuring Effective Overall Management

- appointing the Vice-Chancellor as the Chief Executive Officer of the university, and monitoring his or her performance;
- appointing other senior officers of the university as considered appropriate;
- overseeing and reviewing overall management performance; and
- overseeing and monitoring the academic governance and activities of the university.

#### c) Ensuring Responsible Financial and Risk Management

- approving the annual budget and business plan;
- approving and monitoring systems of control and accountability, including general overview of any controlled entities (entities satisfying the test of control in s.50AA of the Corporations Act);
- overseeing and monitoring the assessment and management of risk across the university, including commercial undertakings;
- establishing policy and procedural principles, consistent with legal requirements and community expectations, including remuneration policies for the Vice-Chancellor and senior officers; and
- ensuring compliance with legal and government policy requirements

### 3.3 The composition of the Council

**Section 9(1)** of the Curtin Act specifies the constitution of the Council. The Council consists of:

- 3 persons appointed by the Governor on the recommendation of the Minister;
- the person for the time being holding the office of Vice-Chancellor;
- one person who is a member of the academic staff of the University and who is elected by the academic staff of the University in the manner prescribed by Statute;
- 2 persons who are enrolled students —
  - one of whom is an undergraduate student and who is elected by the undergraduate students in the manner prescribed by Statute; and
  - one of whom is a postgraduate student, and who is elected by the postgraduate students in the manner prescribed by Statute;
- one person who is a member of the non-academic salaried staff of the University, and who is elected by the non-academic salaried staff of the University in the manner prescribed by Statute;

- (f) 2 persons who are graduates of the University and who are elected by the graduates of the University in the manner prescribed by Statute;
- (g) the person who, not being a member of the Council at the time of their appointment as Chancellor, is appointed Chancellor under section 11 of the Curtin Act;
- (h) not more than 5 persons appointed from time to time by co-option by the Council, but a person whose sole or principal employment is that of a member of the staff of the University may not be so appointed;
- (i) the person for the time being the chairperson of the Academic Board of the University established by Statute.

The Council therefore is made up of a mix of appointed and elected members, and the Vice-Chancellor in an ex-officio capacity, and consists of a majority of external independent members who are neither enrolled as a student nor employed by the university.

### **3.4 Selection processes for non-elected members of the Council**

Under the **Curtin Act**, the Council is required to establish and maintain a Nominations Committee which is responsible for the nomination of prospective members of Council who are to be appointed by the Governor or co-opted by Council, and nomination of prospective members of the Kalgoorlie Campus Council who are appointed by the Minister.

As part of its regular assessment of its performance, the Council identifies any skills and expertise which should be sought in future appointments to the Council of members other than elected members.

Consistent with **Items 7 and 8** of the **Voluntary Code of Best Practice for the Governance of Australian Universities**, the Council:

- selects members *“on the basis of their ability to contribute to the effective working of the governing body by having needed skills, knowledge and experience, an appreciation of the values of a university and its core activities of teaching and research, its independence and academic freedom and the capacity to appreciate what the University’s external community needs from it”*;
- seeks to ensure that there will be *“at least two members having financial expertise (as demonstrated by relevant qualifications and financial management experience at a senior level in the public or private sector) and at least one member with commercial expertise (as demonstrated by relevant experience at a senior level in the public or private sector)”*; and
- seeks to ensure that there is rotation of membership to ensure that there are fresh perspectives introduced into the Council, whilst ensuring that the Council’s corporate memory is retained.

### **3.5 Importance to governance of shared understandings, commitment and constructive relationships**

A shared understanding and commitment as to how governance and the Council operates helps provide a basis for constructive relationships within Council and between Council and the executive management of the University.

The literature on governance stresses that good relationships are fundamental to good governance. While good policies, processes and procedures are important components of governance, good governance relies very heavily on shared understandings and commitments and constructive relationships between the key office holders.

### **3.6 Mechanisms the Council uses to handle effectively its broad responsibilities**

The primary responsibilities of the Council are very broad and include matters which are academic in nature, as well as matters which would apply to the governing body of almost any large and complex organization.

Council uses several mechanisms to help it to handle effectively its broad range of responsibilities. These mechanisms include:

- delegating specific matters to Council committees, or other bodies or individuals;
- delegating a range of matters to the Vice-Chancellor; and
- establishing Council committees to scrutinize matters, within Council-approved constitutions.

### 3.7 Matters reserved to Council

Given the range of matters which Council needs to delegate to assist it to focus on its strategic and oversight roles, the Council has approved a list of matters which it has retained for its own resolution, that is, **Matters Reserved to Council**.

The **Matters Reserved to Council** include:

- matters which the Curtin Act specifies that Council cannot delegate (for example, its power to make Statutes);
- matters which other legislation may require Council to perform (for example, Treasurers' Instructions made under the Financial Management Act); and
- matters which Council has resolved to retain for its own resolution (for example, approval of all Honorary Awards of the University).

As part of its good governance practices, Council reviews the **Matters Reserved to Council** at least once every two years. This does not preclude Council from adding or deleting items from the list as and when it sees fit.

The Council Secretary maintains the currency of the list of **Matters Reserved to Council** and makes it available on the University website to inform all University decision-makers of matters which require resolution by Council.

### 3.8 Delegations by the Council

To assist Council in its role as the governing authority of the University, Council may delegate powers to other persons or entities. Such delegations:

- can be revoked by Council;
- do not prevent Council exercising any of its powers, authorities, duties or functions
- may authorise the delegate to subdelegate the delegated power, authority, duty or function to another person or body; and
- are usually accompanied by reporting mechanisms to keep Council informed as to the delegated activities.

**Section 15 (1)** of the Curtin Act allows Council by resolution to delegate any of its powers "*except its powers in relation to the making of Statutes or by-laws*" to a member of Council, a committee of members appointed by Council, an officer of the University, or a Board.

Delegations approved by the Council are described in the **Register of Functions and Delegations**. The Council:

- regularly reviews its delegations to ensure their currency and relevance;
- assures itself that there is a match of authority and responsibility in the delegations; and
- has in place a framework to assess the level of adherence to the approved delegations

The currency of the **Register of Functions and Delegations** is maintained by the Director, Integrity, Standards and Compliance Services who makes it available on the University website to inform all University decision-makers of matters which have been delegated by the Council.

### 3.9 Council Standing Orders

Under powers conferred on it by **Statute No. 7 – The Council**, the Council has made rules which are referred to as **Council Standing Orders**, which are intended to result in:

- better decision-making by the Council and Committees;
- the orderly and efficient conduct of meetings dealing with the University's operations; and
- greater understanding of the rules governing the conduct of meetings.

The **Council Standing Orders** present a formal set of rules for the conduct of Council and Council Committee meetings. The Chair of Council and the Chairs of Committees will, however, normally endeavour to encourage constructive discussion and engagement of members, invoking the formal Standing Orders when appropriate.

Constructive and meaningful discussion at Council and Committee meetings also depends to a large extent on the appropriate behavior of members and the adequacy of their preparation for the meeting. The expectations of members in these and other regards are outlined further in the **Council Code of Conduct** which is presented in **Section 4** of this Statement.

### 3.10 Evaluation and review of Council performance

The Council will, once every 12 months, review its conformance with the **Voluntary Code on Best Practice for the Governance of Australian Universities**. Consistent with **Item 14** in that Code, the University discloses in its Annual Report its compliance with the Code and reasons for any areas of non-compliance.

In addition, the Council will, at least once every two years, assess its broader performance. The review of Council performance will include:

- an assessment of whether the decisions made by the Council were consistent with the University's Vision, Mission and Values;
- the performance of the Chancellor;
- the effectiveness of the relationship between the Chancellor and the Vice-Chancellor; and
- whether the information provided to the Council to assist it to exercise its responsibilities was sufficient, of an appropriate quality and quantity, timely, and well used by the Council.

The Council may seek external expert assistance in making the above assessments.

## 4. COMMITTEES OF THE COUNCIL

### 4.1 Council's power to establish committees

Properly constituted committees help Council to meet its broad responsibilities by enabling matters to be appropriately scrutinized prior to coming before Council for resolution. Council may also resolve to delegate certain matters to a committee.

**Statute 7 - The Council** specifies the manner in which Council may establish a committee and the requirement for Council to specify terms of reference, any delegated functions and the number of members and composition of the committee. These matters are also addressed in the **Council Standing Orders**.

### 4.2 Current committees of the Council

The current standing committees established by resolution of Council are the:

- Audit and Compliance Committee
- Executive Committee
- Finance Committee
- University Council Health and Safety Committee
- Legislative Committee

The Nominations Committee is required to be established and maintained by Council under the **Curtin Act** and its role is discussed at section 3.4 of this Statement. The **Curtin Act** also provides for the establishment of the Kalgoorlie Campus Council.

The Academic Board is established under **Statute 21 – Academic Board** and its role within the governance framework of the University is discussed at section 4.3 of this Statement.

### **Standing Committees**

#### **Audit and Compliance Committee**

The Audit and Compliance Committee assists the Council in fulfilling and discharging its responsibilities in relation to the University’s accounting policies, financial reporting practice, financial and internal control systems, external and internal audit functions, and risk management framework, by providing an objective and robust view on the effectiveness of these policies, practices, systems and frameworks.

#### **Executive Committee**

The Executive Committee supports the Council in the performance of all of its responsibilities, and in particular those functions which are not otherwise delegated to another committee.

The Executive Committee also:

- acts on behalf of the Council in circumstances where time is of the essence, and a Council meeting is not scheduled to occur before a decision or other action is required; and
- serves as the remuneration committee for the emoluments of the Vice-Chancellor and Executive Managers, in accordance with the provisions of the policies on appointment, performance and remuneration of the Vice-Chancellor and Executive Managers.

#### **Finance Committee**

The Finance Committee assists the Council in the performance of its responsibilities in the areas of financial, investment and asset management within the context of the University’s Strategic Plan.

#### **University Council Health and Safety Committee**

The University Committee Health and Safety Committee has been established to:

- preside over a “due diligence” process to meet Council members’ obligations under existing and proposed new workplace health and safety legislation;
- oversee the governance of the University’s health and safety systems and processes;
- consider any on-going compliance issues with existing and proposed workplace health and safety legislation; and
- ensure that Council has reasonable grounds to be satisfied that a culture of “zero harm” is established and is supported by Council and management.

#### **Legislative Committee**

The Legislative Committee is responsible for advising the Council on the form of all proposed changes to University Statutes, Rules and By-laws, and the clarity and legal soundness of

such changes. Where the content of the changes does not fall within the scope of another Council Committee, the committee may also advise on the policy behind the changes. The Legislative Committee is also responsible for advising the Council on changes to the Curtin Act.

#### **4.3 The role of the Academic Board in governance**

The Academic Board forms part of the overall governance framework of the University. The Academic Board is established under **Statute 21 – Academic Board**, and is responsible to the Council for helping to ensure the academic quality and integrity of the University's operations as an academic institution.

The Academic Board exercises leadership and has a major role in promoting and communicating academic values, standards and quality enhancement throughout the University.

The Academic Board operates as an integral part of the University governance structure in a tripartite relationship with the University's Council, and the Vice-Chancellor and executive management. Within this tripartite relationship:

- the Council is responsible for the overall governance of the University;
- the Vice-Chancellor, as chief executive officer and principal academic officer of the University, has responsibility for the effective leadership and management of the University; and
- the Council, within the context of the Curtin Act, has delegated various roles and responsibilities relating to academic matters to the Academic Board, including the provision of advice to the Council and Vice-Chancellor and academic policy-making and decision-making.

In this tripartite relationship, the Council, the Vice-Chancellor and executive management, and the Academic Board must work cooperatively in the best interests of the University. To this end:

- the Academic Board must be cognisant of the Council's responsibility for the overall governance of the University and the Vice-Chancellor's responsibility for the effective leadership and management of the University;
- the Council must be cognisant of the Academic Board's contribution to establishing the academic policies and priorities for the University which underpin its academic quality and standards, and in representing the views of the academic community;
- the Vice-Chancellor and the executive management must be cognisant of the value-add that the Academic Board can provide and commit to using the Board and its committees to best effect; and
- the Chair of the Academic Board has a critical role to play in working with the Council and the Vice-Chancellor and Executive Managers in a pro-active way to optimize the effectiveness of this cooperative approach.

The functions and responsibilities of the Academic Board, as outlined in **Statute 21**, include:

- providing advice and recommendations to the Council regarding academic matters;
- providing advice to the Vice-Chancellor or relevant Executive Managers regarding academic matters;
- approving, subject to Council delegation, University policies relating to academic matters, specifically, in relation to: courses; learning and teaching; research and research training; academic services; international activities; and the quality and standards of the University's academic activities;
- monitoring progress against relevant University Plans, reviewing the University's performance in academic activities and providing reports to the Council; and
- putting in place appropriate policies and review processes to underpin the quality and standards of the University's academic activities.

The Academic Board is assisted in the performance of its responsibilities by five sub-committees:

- Academic Board Executive
- Courses Committee
- Global Positioning Committee
- Learning and Student Experience Committee
- Research Committee

#### **4.4 Evaluation and review of Council Committee and Academic Board performance**

Each Council Committee and the Academic Board will conduct a self-evaluation of its performance at least every two years, by:

- reviewing its own performance against its constitution (in the case of the Academic Board, against **Statute 21** and Rules made under that Statute) and its agreed annual program;
- assessing the continued relevance of its terms of reference; and
- assessing the continued relevance of the committee/Academic Board to the governance of the University.

The Council will, at least once every two years, assess:

- the operations of the Academic Board against **Statute 21** and the Rules made under that Statute; and
- the operations of its other committees against the committee constitution.

The Council may seek external expert assistance in making the above assessments.

## **5. COUNCIL MEMBERS' CODE OF CONDUCT**

### **5.1 Legal duties of Council members**

The sources of Council members' legal duties, liabilities and protections include:

- the Curtin Act;
- the *Statutory Corporations (Liability of Directors) Act 1996 (WA)*;
- the general law, given the fiduciary nature of the relationship between Council members and the University, including duties to act in good faith and with reasonable care, skill and diligence; and
- decisions of the Council.

**Section 1 of Division 1 in Schedule 1A** of the Curtin Act specifies the duties of Council members as follows:

*Each member -*

- a) must at all times act honestly in the performance of the functions of a member, whether within or outside the State;*
- b) must at all times exercise the degree of care and diligence in the performance of the functions of a member, whether within or outside the State, that a reasonable person in that position would reasonably be expected to exercise in the Council's circumstances;*
- c) must at all times act in the best interests of the University and give precedence to the interests of the University over the interests of any person appointing or electing a member;*
- d) must not, whether within or outside the State, make improper use of information acquired by virtue of the position of member to gain, directly or indirectly, an advantage for any person or to cause detriment to the University;*

- e) *must not, whether within or outside the State, make improper use of the position of member to gain, directly or indirectly, an advantage for any person or to cause detriment to the University.*

Members of the Council also have a responsibility to disclose any relevant material personal interests. **Section 2 of Division 2 in Schedule 1A** of the Curtin Act specifies that:

*A member of the Council who has a material personal interest in a matter being considered or about to be considered by the Council must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature and extent of the interest at a meeting of the Council.*

Based on relevant case law, a 'material personal interest' is taken to include:

- an interest that could adversely affect, or could reasonably be perceived to adversely affect, the impartiality of the person having the interest; and
- any financial interest, as well as various non-financial interests such as those arising from kinship, friendship or membership of an association.

The **Council Standing Orders** specify that the Chancellor ask for disclosure of interests early in each Council meeting. The **Council Standing Orders** also provide more information on how conflict of interest situations are handled. A **Disclosure of Interests Register** is maintained by the Council Secretary which contains the declared ongoing interests of members.

The University expects that a Council member will take reasonable steps to avoid situations where a conflict of interest may arise in relation to a member's primary duty to act in the best interests of the University. This may include only accepting gifts, benefits or hospitality in situations where a reasonable person would conclude that no actual, perceived or potential conflict of interest would arise in doing so. If a member intends to accept gifts, benefits or hospitality in situations where a reasonable person might conclude that a perceived or potential conflict of interest might or does arise, he or she is to report the matter to the Council Secretary. The declaration will be recorded in the Disclosure of Interests Register and managed under the direction of the Chancellor.

## **5.2 Potential liabilities of Council members**

The Council could be held accountable for the management of the University in various circumstances. As Council members contribute to Council operations, members could therefore be exposed to legal action if they breach their legal duties. Examples of possible circumstances include:

- Council makes a decision which is contrary to the law or negligent;
- Council makes a decision which it has no authority to make;
- Mismanagement, due to the failure of the Council to ensure that appropriate University policies or procedures are in place; or
- Financial mismanagement, due to the Council inadequately monitoring reports or complying with audit requirements.

External parties may take action for breaches by Council members of their duties. These external parties include:

- parties who sustain losses as a result of a breach of duty; and
- parties able to take action under legislation such as that relating to animal welfare, occupational health and safety, equal opportunity, fair trading or trades practices.

The Council will adopt appropriate procedures for dealing with the conduct of a Council member which is in breach of the duties of a Council member as described in the Curtin Act. The Council may remove from office, or suspend, a member of Council for breach of duty pursuant to **Section 10AA** of the Curtin Act.



### 5.3 Protections from liability for Council members

**Section 21AA** of the Curtin Act grants a Council member a degree of statutory protection from liability in civil proceedings. The statutory protections only apply to Council members and do not apply to others such as committee members who are not also Council Members.

**Section 21AA** of the Curtin Act states:

*If, in any civil proceedings against a person who is or was a member for negligence, default, breach of trust or breach of duty in the person's capacity as a member, it appears to the court that the person –*

- (a) is, or may be, liable in respect of the negligence, default or breach;*
- (b) has acted honestly; and*
- (c) ought fairly to be excused for the negligence, default or breach having regard to all the circumstances of the case, including those connected with the member's appointment,*

*the court may relieve the person either wholly or partly from liability on such terms as the court thinks fit.*

The protections under the **Deed of Acknowledgement** entered into by the University and individual members of Council are intended to supplement the statutory protections available to Council members under section 21AA of the Curtin Act and the statutory rights available to Council members under the Freedom of Information Act.

The terms of the **Deed of Acknowledgement** provide that:

- the University is to undertake to maintain a directors' and officers' insurance policy for members;
- the University pay any legal representation costs in accordance with the monetary limit and conditions prescribed in the Deed incurred by a member in defending civil or criminal legal proceedings taken against the member, or in connection with investigative proceedings, such as inquiries by the Corruption and Crime Commission;
- the University give a member access to University documents for the purpose of defending civil or criminal legal proceedings, or in conjunction with investigative proceedings; and
- each member of Council acknowledges his or her responsibility not to disclose the University's confidential information and, on request, to return any confidential information held by the member when his or her term ends.

### 5.4 General responsibilities of Council members

The Council has resolved the following as general responsibilities of Council members:

- A member of Council will uphold the University's Values and Signature Behaviours
- A member of the Council will think and act strategically in the University's interests, bearing in mind its Vision, Mission and Strategic Objectives.
- A member of the Council will have responsibility for overseeing the effective operation of the University
- A member of the Council must maintain the confidentiality of information provided to the member for the purposes of enabling the performance of the duties of member of the Council.
- A member of the Council must be prepared to contribute to the governance of the University through, for example, membership of committees of the Council and make reasonable efforts to become familiar with the affairs of the University.
- A member of the Council will declare any material personal interests he or she has with the University, or a subsidiary, related or affiliated body of the University.

- A member of the Council is an ambassador for the University and has a broad responsibility for advocating on the University's behalf in the wider community.
- A member of the Council should be prepared to contribute to the advancement of the University as requested from time to time.

In regard to the general responsibilities of Council members to be ambassadors for the University and contribute to its advancement, the Council adopted an **Engagement Strategy for Council** to reinforce the role of Council members in engaging with key stakeholders.

The guiding principles underpinning the Strategy are:

- The Chancellor and the Vice-Chancellor will be the principal spokespersons for the University for external communications;
- Council members will be supported and encouraged as ambassadors of the University to promote the role, nature, contribution and achievements of the University to external and internal stakeholders; and
- The University will facilitate opportunities for Council members to be well-informed about University vital statistics, University activities, University achievements and key external messages.

## **5.5 Obligations of the University to Council members**

While Council members have duties and obligations, the University likewise has obligations to Council members to assist them to perform their duties and responsibilities.

### Induction

In order to assist members of the Council to perform in their role, the Council Secretary will arrange an induction program for each new member of the Council.

As part of this program, new members of Council will receive:

- key governance and working documents that will assist each member in fulfilling his or her duties as a member of Council;
- a copy of the most recent Annual Report of the University;
- a welcome meeting with the Chancellor and Vice-Chancellor;
- a tour of the Bentley Campus;
- meetings with relevant executive managers if required;
- a name badge (for wearing at University related functions);
- information on the way in which the Council conducts its affairs (including the structure of Agendas and minutes, and the conduct of Council meetings); and
- Agenda papers and minutes of recent meetings

An Induction Session will be held with the Council Secretary which will provide an opportunity for new Council members to discuss their duties and highlight any particular professional development needs.

After 3 months as a member of Council, a tailored session will be provided to new members under the direction of the Vice-Chancellor. The session will address the following matters: higher education policy; strategic issues; budget model; learning and teaching; research.

### Continuing Professional Development and Council Member Expertise

The University makes available a program of continuing professional development for Council members to build the expertise of the Council and to ensure that all members are aware of the nature of their duties and responsibilities.

Other professional development opportunities are provided to members, for example, attendance at conferences, as required. The Council Secretary will keep members informed of relevant conferences or other professional development opportunities.

## Provision of Information

The University endeavours, at all times, to provide members of the Council with complete and accurate information in a timely fashion, in respect of all matters to be considered by the Council.

### **5.6 Remuneration of Council members**

To acknowledge the contribution made by members of Council through the skills and experience they bring to the Council, and to recognize the time required to prepare for and attend Council or other meetings or to chair designated committees of the Council, eligible members of the Council may be remunerated in accordance with relevant University policy and the provisions of the Curtin Act.

### **5.7 Re-imbusement of expenses incurred by Council members**

From time to time, members of the Council may incur expenses in performing their role as a Council member. For example, members may incur travel costs in order to attend meetings of the Council, or Graduation Ceremonies.

Legitimate expenses will be reimbursed to members of the Council consistent with University policy.

## **6. THE ROLE OF THE CHANCELLOR IN GOVERNANCE**

### **6.1 The Chancellor as Chair of the Council**

The Chancellor is the Chair of the Council and presides at all meetings of the Council at which he or she is present.

As Chair of the Council, the Chancellor is responsible for the efficient and effective operation of the Council in the performance of its governance role. The Chancellor achieves this by nurturing a Council culture which places paramount importance on:

- personal integrity;
- a mix of skills appropriate to the needs of the Council and the University at a particular time; and
- the fostering of good relationships amongst members of the Council, and between the Council and the Vice-Chancellor and senior management.

The Chancellor will:

- Promote the development of a shared understanding of the role of the Council amongst the members of the Council;
- Foster a sense of cohesiveness amongst members of the Council in order that a high level of trust between members exists;
- Encourage open debate and discussion of issues before the Council;
- Assist members of the Council to understand their responsibilities as stewards of the University, and not as delegates of the officers or constituencies which appointed or elected them;
- Foster a culture of continuous learning amongst members of the Council; and
- Ensure that adequate resourcing is provided by the University to support the work of the Council, and the continuing professional development of Council members.

To facilitate Council decision-making, the Chancellor will:

- Require the provision to the Council of appropriate, relevant and timely information on all matters on which the Council needs to deliberate or make a decision;

- Require the Council Secretary to provide agenda papers to Council members no later than five days before a scheduled meeting; and
- Set the agenda for the performance of the Council's responsibilities, including ensuring that Council meetings take place with sufficient frequency and are handled effectively.

## **6.2 Other Chairing Roles of the Chancellor**

The Chancellor chairs all meetings of the Executive Committee of the Council at which he or she is present.

The Chancellor presides at all Graduation Ceremonies, when in attendance.

## **6.3 The Chancellor's membership of other University bodies**

The Chancellor may exercise the right of attendance at any meeting of a committee of the Council, whether or not the constitution of the committee provides for the Chancellor's membership.

## **6.4 Relationship with the Vice-Chancellor**

The Chancellor develops a close and effective working relationship with the Vice-Chancellor. This relationship acknowledges the role of the Chancellor as chair of the University's governing body, and that of the Vice-Chancellor as the chief executive officer responsible for the effective management of the University.

The Chancellor is responsible for conducting the annual review of the Vice-Chancellor's performance against the University's achievement of its strategic objectives, and performance indicators as negotiated between the Chancellor and Vice-Chancellor, and approved by Council.

## **6.5 The Chancellor's role in external relations**

The Chancellor plays an important role in the fostering of relations with external stakeholders, and more generally with the wider community.

The Chancellor as an individual, and through the encouragement of other Council members, helps to foster sound relationships between the University and all key internal and external stakeholders; students and staff; and the Australian and State Governments.

The Chancellor is the representative and spokesperson for the Council in communications with the media.

## **6.6 Other responsibilities of the Chancellor**

The Chancellor is a signatory to official statutory reports of the University as required.

The Council may, by resolution, delegate other responsibilities to the Chancellor.

## **7. THE ROLE OF THE VICE-CHANCELLOR IN GOVERNANCE**

As the chief executive officer of the University, the Vice-Chancellor is both the chief academic officer and the chief administrator of the University.

The functions of the Vice-Chancellor are set out in **Statute 6 – Vice-Chancellor**. Under section 4 of Statute 6 and subject to the Curtin Act and in addition to other powers and duties that may be prescribed under section 14 of the Curtin Act, or that may be delegated to him or her by the Council, the Vice-Chancellor's functions are:

- to ensure that advice and information is given to the Council so that informed decisions can be made in carrying out the Council's functions;
- to cause the Council's decisions to be implemented;
- to manage the day to day operations of the University;
- to liaise with the Chancellor on the University's affairs and the performance of its functions;
- to speak on behalf of the University in the exercise of the Vice-Chancellor's functions;
- to promote the interests and further the development of the University;
- to be responsible for the employment, management, supervision, direction and dismissal of the University's staff and employees; and
- to perform any other function specified or delegated by the Council or imposed under the Curtin Act or any other written law as a function to be performed by the Vice-Chancellor.

### **7.1 The Vice-Chancellor as chief academic officer**

In the role of chief academic officer, the Vice-Chancellor is accountable to the Council for the protection and promotion of the University's health and well-being as an academic institution.

In this capacity, the Vice-Chancellor is responsible for:

- advising the Council on the strategic directions for the University in the core functions of learning and teaching, and research and development, in order to achieve the University's Vision of being a world class university;
- the academic quality and credibility of the University's operations as an academic institution;
- defining the priorities for the development of new courses at all levels;
- the continuous enhancement of the quality of the University's academic programs;
- identifying and nurturing the development of areas of research strength;
- the protection and promotion of the University's intellectual property; and
- defining the Vision for the growth of the University in terms of size, and physical outreach.

### **7.2 The Vice-Chancellor as chief administrator**

In the role of chief administrator, the Vice-Chancellor is accountable to the Council for managing the University efficiently and effectively, and in accordance with the Council-approved Strategic Plan, Budget, Values and Signature Behaviours.

In this capacity, the Vice-Chancellor is responsible for:

- the compliance of the University's operations with applicable Commonwealth and State legislation;
- developing and implementing policies and procedures which are adequate and appropriate for maintaining appropriate levels of internal control and managing risks;
- developing, in conjunction with the Council, and implementing strategies for wealth generation and wealth preservation through prudent financial management; and
- implementing the decisions of the Council.

### **7.3 Provision by the Vice-Chancellor of reports to Council**

To fulfill his or her responsibilities to the Council, the Vice-Chancellor provides reports to the Council and relevant Council committees on the following matters:

- reviews of the University's performance in relation to the objectives of the University's Strategic Plan, the Enabling Plans which nest within the Strategic Plan, and the annual budget;
- analysis of the University's business environment, and action taken to identify, treat and mitigate risk;
- assessments of the quality of the University's control systems;

- reviews of the University's revenue and expenditure, cash and other assets and liabilities against the Council-approved annual budgets and key financial goals;
- the operation of the University's controlled entities, including financial impact, resourcing and risks associated with their operation;
- the impact of the University's obligations and risks associated with collaborative arrangements;
- the administration of special funds administered by the University;
- the appropriate discharge of legal and regulatory obligations;
- strategies and outcomes of strategies for the protection of the University's key assets (ie. intellectual property, human resources and physical assets);
- the Register of Compliance, which identifies issues of non-compliance which have arisen in the period under review, and reports on treatments; and
- developments which have had or may have a significant impact upon the University's reputation, finances or management.

#### **7.4 Relationship with the Chancellor**

The Vice-Chancellor develops a close and effective working relationship with the Chancellor, as the principal officer of the Council. This relationship acknowledges the role of the Chancellor as chair of the University's governing body, and that of the Vice-Chancellor as chief executive officer, in the effective management of the University.

The Vice-Chancellor has the key responsibility for bringing together the members of the Council on the one hand, and the senior management of the University on the other, to work together towards achievement of the University's Vision and Mission.

#### **7.5 Delegations to the Vice-Chancellor by Council**

Given the dual role of the Vice-Chancellor as both the chief academic officer and the chief administrator of the University, the Council has delegated widespread powers and responsibilities to the Vice-Chancellor.

The Director, Integrity, Standards and Compliance Services maintains the currency of these delegations and makes them available on the University website to inform all University decision-makers of matters which Council has delegated to the Vice-Chancellor.

### **8. THE ROLE OF THE COUNCIL SECRETARY IN GOVERNANCE**

#### **8.1 Independence of the Council Secretary**

The Council Secretary is accountable to the Council through the Chancellor, and is responsible for establishing and maintaining a strong working relationship with the Chancellor.

In order to undertake the role of Council Secretary, an appropriate degree of independence from management is required. To the extent that the work of the Council Secretary involves other University staff, the same independence extends to those staff. For all other functions of the position, the Council Secretary reports to the Vice-Chancellor through the Chief Legal Officer.

#### **8.2 Functions of the Council Secretary**

The Council Secretary:

- assists the Chancellor in the discharge of his duties as Chair of the Council and other committees of Council as necessary;
- works with the Chancellor and the Vice-Chancellor to establish and implement good governance practices;
- is responsible for obtaining legal advice for the Council, and for advising the Council on policy and procedure, following consultation with the Chief Legal Officer;

- keeps the Chancellor and Vice-Chancellor fully informed on all issues relating to the affairs of the Council;
- is, in consultation with the Chancellor, responsible for all aspects of the meeting arrangements for meetings of the Council;
- is responsible for the coordination of the production and distribution of papers for the Council and committees of the Council, and ensures the accuracy of draft minutes of those bodies, and effects prompt dissemination of the confirmed minutes to officers with responsibility for implementation of decisions;
- coordinates the Induction Program for new Council members, and conducts those segments of the Program relating to the operations of the Council;
- notifies the Chancellor and Vice-Chancellor of appropriate professional development programs for Council members, and coordinates arrangements for program participation;
- maintains the list of Matters Reserved to Council and the Disclosure of Conflicting Interests Register;
- is the conduit for members of the Council who wish to obtain information from officers of the University;
- gives effect to the actions and undertakings of the University in support of individual Council members;
- is responsible for communication with the Minister for Education and officers of the Department of Education Services in respect of Council resolutions which require notification to or action by the Minister or the Department. In the case of legislative matters, communications will be undertaken by the Chief Legal Officer; and
- makes budget submissions to secure adequate resources for the performance of the Council's responsibilities.

## **9. REGULAR REVIEW OF THIS CORPORATE GOVERNANCE STATEMENT**

Council will amend this Corporate Governance Statement as and when necessary, and will also review the Statement as a whole at least once every two years.

Under the direction of the Chancellor, the Council Secretary is authorized to make administrative amendments to the Statement as required.

## **10. RELATED DOCUMENTS**

Council Standing Orders

Curtin Code of Conduct

Curtin University Act 1966 (WA)

Curtin's Values and Signature Behaviours

Delegations by Council to the Vice-Chancellor

Engagement Strategy for Council Members

Higher Education Standards Framework (Threshold Standards) 2015

Matters Reserved to Council

Register of Delegations and Functions

Statutory Corporations (Liability of Directors) Act 1996 (WA)

Voluntary Code of Best Practice for the Governance of Australian Universities

<b>Policy Manager</b>	Council Secretary
<b>Contact</b>	Council Secretary Tel: 9266 4015
<b>Approval Authority</b>	Council
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