

Workplace relations framework: IRU submission to the Productivity Commission

The Innovative Research Universities (IRU) is a network of six research intensive, progressive universities, established in Australia in the last 50 years.

Our member universities were established as research intensive universities in the outer urban areas of Australia's capitals and in major provincial cities to stimulate economic, social and personal advancement. Our locations bring universities, with comprehensive activities across teaching and research, to areas where higher education participation and attainment is low, and where the university's research and creation of graduates can strengthen the social and economic prosperity of the region.

A well-functioning university sector is crucial to Australia's overall productivity. Australia's universities overall employ over 118,000 ongoing and contractual staff plus a large number of casual staff, including more than 14,000 in the IRU universities. Universities are a significant sector generating \$26 billion in revenue approximately 1.3% of Australia's gross domestic product, underpinning export earnings from international education, and providing the base skills and knowledge for Australia's workforce.

The current workplace relations agreements that universities work within are based on the national workplace relations framework and the historical development of university national and local arrangements.

Universities are hindered in their capacity to put in place workplace arrangements suited to the future of higher education, thus limiting university workplace efficiency. This is due to the combination of local university agreements set within the operations of the national workplace relations framework.

The IRU submission highlights major examples of the constraints on universities and the challenge they face in effectively putting new workplace arrangements in place to the advantage of universities and their staff and ultimately for students and users of university research. These are issues which need to be addressed, targeting how universities' operations locally can work more effectively within the national workplace relations framework. Options for improvement are needed.

The IRU submission sits alongside the submission from the Australian Higher Education Industry Association that provides more detailed commentary on issues of importance to universities.

1. Maintaining pace with the changing university workforce

It is important that the national workplace relations framework provide the right settings and incentives for enterprise level arrangements to work productively for the longer term.

Universities and their staff are working with two changes in the nature of university academic work: greater casualization and greater specialization in academic roles.

The university workforce comprises staff with ongoing appointments, staff on fixed term appointments and staff employed on a casual basis. In 2014 there were about 118,000 ongoing and fixed term employees¹. The number of casual staff is less clear, with estimates that the number of

¹ *Mapping Australian higher education, 2014-15*, Grattan Institute 2014

individuals is equal to from 50% to 100% of the ongoing and fixed term staff. The reliance on many casual staff has risks for universities longer term.

There are many reasons for the growth in the number of casual staff proportionate to other employment mechanisms. Significant factors are the difficulty universities have to reduce ongoing staff positions when functions change or academic areas shrink and the restrictions on use of fixed term positions. These are restrictions primarily based on the agreements universities have with staff that reflect past assumptions about employment arrangements and distrust from the official employee representatives about alternative employment forms.

The existing arrangements lock in the high level of casual employment. If changes to the number of ongoing positions were easier, and the restrictions on use of fixed term appointments fewer then the use of casual positions would be better targeted, reducing the current distinctions in treatment of staff.

University work is changing in its nature. The impact of digital teaching is creating more roles for skilled staff, often with academic expertise to support the use of digital delivery mechanisms. There has been considerable growth academic staff employed in research only positions, rather than the traditional broad teaching and research roles. Individuals look to have different work emphases across their career. Internally universities are seeking to work with staff on workload distributions that identify the mix of teaching, research and other tasks which each person will have for a given period.

Arrangements for determining the mix of tasks for each member of staff need to be capable of effectively reflecting institutional need and to match with staff capability and career needs.

The IRU recommends that the Productivity Commission consider how to ensure the national workplace relations framework provides the right settings and incentives for enterprise level arrangements to work productively.

2. Renewal of enterprise agreements

The overarching challenge is the difficulty and slowness of agreeing and implementing change, much of which is driven by arrangements defined in existing enterprise agreements. The agreements are put in place formally for a set period. When the end of that period is reached the agreement continues until and if there is a further agreement in place. This ensures that employees cannot suddenly be set back to award conditions but it serves to give one side of the discussion an incentive for delay.

Many of the issues which the IRU raises flow from this problem.

Universities wish to ensure their staff are suitably remunerated, which leads to many cases where universities administratively determine pay increases while discussion about agreements continue. This shows that there is no desire to reduce pay but that the focus is on the arrangements for work and for changes in operations.

The IRU recommends that the Productivity Commission investigate options to ensure both sides have the incentive to work to renew agreements as they reach their formal end point.

3. Restrictions on pattern bargaining

Current restrictions against pattern bargaining are largely ineffective in preventing employee representatives retaining a national focus on the detail of university agreements. In particular, universities find that the national arm of the main union will enforce "non-negotiable" or minimum "acceptance" core claims criteria that do not cater for variations in individual institutions and their enterprise needs, which is the formal driving purpose of this process. A number of universities

believe they had finished bargaining, with support from employee representatives, only to get a negative response nationally forcing discussions to reopen.

The IRU recommends that the provisions dealing with pattern bargaining be reworked to support a better focus on enterprise needs.

4. The use of bargaining orders

Universities find that where they are resisting the arguments from employee representatives, with the intent to achieve greater change in return for improvements in salary and conditions, that they can be subject to bargaining orders on the grounds that they are not acting in good faith.

The concern is that such orders are made on too low a threshold of evidence, making them a tool in an active bargaining process rather than a fall back where bargaining is seriously compromised.

The IRU recommends that the provisions for bargaining orders be reviewed to reduce tactical use.

5. Provisions concerning unfair dismissal, bullying and adverse actions

The IRU is concerned that protections against unfair dismissal and bullying are used to undermine effective performance management.

The importance of protections in these areas is clear as a baseline which employees should have. In the semi public employment ambience of universities they can be abused. To reduce this, the process for determining whether improper action by the employer has occurred should be faster and clearer to reduce the incentive to use them as a delaying mechanism. Such changes would advantage legitimate cases by seeing resolution more quickly, reducing the negative impact on all participants of long drawn out cases.

The IRU similarly argues that the reverse onus of proof for adverse action cases be examined to find a better basis for considering such claims.

The IRU recommends that the Productivity Commission consider the arrangements for unfair dismissal, bullying and adverse actions to ensure these are not being used to counter performance management mechanisms.

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