

THE AUSTRALIAN NATIONAL UNIVERSITY

Report of the Review of the University's Delegations and Agencies System (DAS) February 2001

EXECUTIVE SUMMARY

In January 2001 the Pro-Vice-Chancellor (Administration) commissioned a review of the University's Delegations and Agencies System (DAS). (Appendix 1).

The review had three questions to consider:

- whether the University's delegations and agency system fulfils its obligations under the Commonwealth Authorities and Companies Act 1997 as well as Council's own resolutions on its role and responsibilities;
- how delegates and agents operate within the guidelines set out by the DAS; and
- where control and operation of the DAS most appropriately sits within the University.

The review's response to the first term of reference was a qualified "yes". The University has certainly responded to the responsibilities imposed by the CAC Act, particularly in terms of "directors" of the University – members of Council, and through a raft of administrative and organisational changes – including the development of a delegations system which imposes standards of accountability and responsibility on decision-makers.

The review also found some unanswered legal questions. Among these are whether or not it is lawful for delegates to appoint agents, and the extent of the definition of "officer" in the CAC Act. (An "officer" is defined as "directors" – or members of the governing body of a Commonwealth Statutory Authority – but also includes "any other person who is concerned in, or takes part in, the management of the authority."¹) There is evidence to suggest that a number of delegates and agents are insufficiently prepared for their statutory responsibilities. The review believes that although a round of training and information sessions were intensively provided in 1998, and spordically since, the changing population of delegates and agents demands more regularised training. Although the employment contracts of most delegates now draws their attention to their obligations, those of agents do not. An authority's Audit Committee has a prescribed role under the CAC Act, and the review recommends that key Audit Committee policies be accordingly revised.

The second term of reference relates to how the DAS has been operationalised and how effective it is. The review discovered inadequacies in policies and user documentation, the way the authorities or functions and their limits were expressed, inconsistencies in the treatment of some delegations, difficulties with the database itself (primarily lack of integration with other University management information systems), and in the means by which to monitor and control the proper exercise of authorities.

The original policy *Delegations of Authority* 1446/1998 was amended several times to include changes in delegations but was not otherwise substantively changed to respond to new questions. There has never been a manual for the database, nor any Help function although the capability exists.

¹ *Commonwealth Authorities and Companies Act* 1997, s.5.

The delegations specified were intended to be administrative only, and excluded academic powers (which are largely contained in Statutes, Rules and Orders). However, the power to admit postgraduate students is included in the system (and also inappropriately assigned to Heads of Administrative Divisions). There are a number of gaps and overlaps in the specification of functions, notably in relation to private use of motor vehicles, the power to raise invoices, and receipt of gifts and donations.

The limits of functions assignable to agents is free form and although some standard expressions have arisen, there are no guidelines to clarify what is and isn't acceptable, this being rather the task of the DAS Administrator to determine.

There is at least one major inconsistency in the treatment of exercise of a power. A delegate, in the exercise of a staffing power which s/he theoretically has, may not approve an appointment if s/he was on the selection committee for that appointment. However, a delegate may in effect approve his or her own financial transaction by getting the "approval" of an agent (normally a subordinate). The review believes that if the principle underlying the rule regarding staffing powers is worth upholding, it should be upheld universally.

The DAS database itself was never intended to be more than a temporary measure but now finds itself unintegrated in an increasingly integrated environment. A number of operational issues arise from this lack of integration, chief among which are the difficulties encountered in checking limits of functions and the inability of current PeopleSoft systems to block transactions which go over a delegate's or agent's limits.

A number of issues arose relating to the implementation of PeopleSoft modules (in particular Financials and HR). The delegations system is position based, but access to ESP is person-based. Most importantly, ESP implementation has demanded cultural and organisational change that Implementation Coordinators (generally senior administrative staff of local areas) are not always able to influence. The issue of online vs paper-based approvals is one that some local areas are still grappling with and was noted in a recent audit report.

A matter of underlying concern – devolution and decentralisation – also arose. This is perhaps due to the fact that many local areas perceive themselves to be under-resourced not just in terms of staffing levels but also in terms of skill-base. They are by and large generalists rather than specialists. On the other hand, some staff of the central administrative divisions, primarily specialists, have also experienced considerable change in their role from the traditional policy-setting and policing to something more advisory and hands-off. The delegations and agencies system, while perhaps not the sole cause of the change, played a significant role since for the first time, budget units were seen as entirely impermeable and discrete, with powers clearly vested in the head of the budget unit and therefore concentrated rather than diffused.

The final term of reference of the review seeks leads to consideration of where and how the DAS is best located, administratively. The review considers that the overall responsibility for the system should reside close to Council as the source of administrative and other power, but with management rather than with Council itself, for reasons of efficiency. As the chief executive officer of the University, the office of the Vice-Chancellor appears to be the most appropriate place for responsibility for the entire system of delegations to reside. It is at this office that academic and administrative delegations converge (and ideally academic delegations should also be

reviewed and organised into a system similar to the DAS). And although Council would properly have a key role in ensuring that a system of delegations is in place, the detail of the precise articulation of management functions and to whom these functions are assigned is more appropriately the responsibility of management. The review further recommends that the routine operation of the DAS – that is, the day to day tasks undertaken by the DAS Administrator – reside within the HR Division as the most appropriate location, given its role in people and positions. The functions and powers themselves should be specified by the central administrative division most closely related to the function – that is, the precise wording of each power should be the purview of these divisions. Accordingly, functions related to student administration should be worded for inclusion on DAS by Student Administration and Support Services; those related to finance by Finance and Business Services.

Ultimately the review recommends a refinement of the system. It believes that it would be feasible to build a delegations and agencies module into ESP HR (and functionality and flexibility will come at a cost). It proposes that all administrative powers be reviewed and restated to accommodate the gaps and inconsistencies and overlaps raised in this review, against the University's mission and objectives as well as its obligations under legislation. It suggests a number of interim measures to deal with some ESP-related difficulties. The review also recommends that considerably more attention be given to training and information to support delegates and agents in their responsibilities.

A new delegations structure is proposed to overcome problems that arise because functions and powers do not match organisational structure. In this model, each budget unit and its delegate are included in progressively larger portfolios of responsibility (and therefore larger delegations which include the smaller). For instance, the Vice-Chancellor as CEO would have every delegation including those held by heads of smaller budget units (although he would not normally exercise those powers except in extraordinary circumstances). The Deputy Vice-Chancellor would have all delegations save those reserved for the CEO. Each other member of the Executive would have wide powers which would include smaller budget units within their portfolio. Thus the Director of HR would be the delegate for the Human Resources Division, but the Pro-Vice-Chancellor (Administration) to whom she reports would also have delegations in respect of Human Resources as well as other divisions within his portfolio. Deans and Directors would remain delegates of their Faculties, Centres and Schools but the Vice-Chancellor would also hold delegations in respect of these budget units. These are in effect “nested” delegations and ensure that no subordinate has powers greater than those of a senior position. This structure also means that, for example, a Dean and the Vice-Chancellor can both appoint a Faculty officer as an agent, and the agent can operate on the authority of the latter to “approve” a routine transaction related to the former. This in turn resolves one major issue: if the agent is in effect the delegate, the agent's act of approving a transaction is in effect the delegate's act, thereby breaching a University policy that one does not approve one's own transactions.

It is noteworthy that no sanctions and penalties (apart from those embodied in the University's Enterprise Bargaining Agreement related to misconduct) are specified in relation to improper use of authority. Accountability must go hand in hand with authority and power. A precondition is a system of reporting of misdemeanours or irregularities. The review recommends that something like an Ombudsman's unit is created within the University, attached to the Executive, to receive and investigate

complaints although not just in relation to delegations of authority. It is considered that such a move would assist in quality assurance.

Finally, the review recommends that two further (and related) reviews be undertaken. The first is to open a debate about devolution and decentralisation, which it is generally thought took place during 1996-99 for budgetary rather than strategic reasons. The second is to consider ways to systematise rotation of senior administrative staff around the University.

RECOMMENDATIONS

- R1 (a) That Council formally delegate responsibility for overseeing the establishment, review and proper implementation of policies on delegations to the Vice-Chancellor, and that this delegation includes the authority to approve the creation of new delegates from time to time established through Council-approved restructures or other organisational changes, and to approve the way delegations and agencies are expressed within the Delegations and Agencies policies and the DAS.
- (b) That paper 2427/1998 *Audit Committee – Terms of Reference* be reviewed and revised by the Audit Committee to include specific reference to its responsibilities under the *CAC Act* s.32²
- (c) That the University obtain legal advice as to the extent of the operation of the definition of “officer” in s.5 of the *CAC Act* and the interaction of that definition and extent of operation with principles of agency.
- (d) That those employees who are considered to fall within the definition of “officer” be formally notified of and trained on their obligations, liability and indemnity under the *Act*.
- (e) That a plan be prepared outlining how notifications and ongoing training will be systematised (eg by inclusion in employment contracts, normal inductions at local and central level, and regular information updates) for endorsement by the Vice-Chancellor. Once endorsed, that plan should be implemented.
- R2 (a) That legal advice be obtained on the lawfulness, implications and advisability of delegates appointing agents. (See also R1(c).)
- (b) That, depending on the advice given, Council give consideration to
- i. (if the advice supports the appointment of agents) the express inclusion of the power of delegates to appoint agents, in either a consequential amendment to the *ANU Act* 1991 or a new Statute; or
 - ii. (if the advice goes against the appointment of agents) a new system of delegations.

² The abolition of the Audit Coordinator position makes other consequential changes in the paper necessary, and the Audit Committee may also wish to amend the articulation of some of its responsibilities, eg., substitute “determine” in place of “agree to”.

- (c) That further advice be sought on the lawfulness of the delegation to a chair of the powers of a committee established by Statute (see 2.4.2 of the Findings and Recommendations).

R3 That the suite of policies relating to delegations and agencies be reviewed and rewritten to include

- (a) A broad, overarching policy that
 - (i) sets out the background to the policy with references to the relevant legislation; includes definitions of delegate and agent and other key terms (such as “officer” as defined by s.5 of the *CAC Act*);
 - (ii) explains the broad responsibilities and obligations of delegates and agents within the University context;
 - (iii) nominates the locus of control of policy on delegations and the articulation and management of the DAS itself;
 - (iv) sets out the minimum training requirements that must be satisfied before delegates and agents act upon their authorities; and
 - (v) includes the penalties and sanctions applied if and when authorities are improperly exercised.
- (b) documentation on how and by whom authorities are articulated, how delegates and agents are appointed, and how delegates can nominate or change agents and agencies;
- (c) a separate, updatable document which contains the delegations themselves as approved by Council or its delegate (the Vice-Chancellor) from time to time.

The revision should pick up current gaps and inconsistencies and should also line up with cognate University policies. In particular the revision will need to consider the problem of cross-delegations and potential double-approvals. If feasible, it should also identify all authorities to be exercised and include these, together with the head of power from which any power is derived, so as to produce a complete set of delegations.

R4 That systems of monitoring and control should be developed to sit alongside the new DAS and new arrangements under the Fraud Control Plan of 2001. The review recommends the establishment of a small unit (such as a University Ombudsman reporting to the Executive) which will have the power to receive and investigate serious breaches of policy or process and recommend on appropriate action to be taken. This unit could work closely with the Chair and Deputy Chair of Audit Committee (who have particular responsibilities under the Fraud Control Plan) but could also receive general complaints from staff, students, suppliers, purchasers and others who deal with the University, thereby contributing to quality control and assurance.

R5 That paper-based approvals should be allowed for a reasonable amount of time (perhaps until the time the University moves to a web-based ESP), and measures should be taken to accommodate this – such as the establishment of special operator classes, eg “button-pressers” and “super-users”. Electronic

approval and record-keeping should be phased in slowly, buttressed by routine training as outlined in R1(e), and should be mandatory by the time the web-based ESP is implemented.

- R6 That a new DAS be developed as part of ESP HR, with an implementation target of December 2001. A crucial first step is the identification of key business rules and processes, to be done in concert with the development of the suite of delegations policies. Until then, the existing DAS should continue to be used and maintained as a register of delegates, agents and their authorities.
- R7 That if feasible, agent profiles be established for each set of delegations. Profiles³ should not mandatory but should be developed in such a way so as to maintain some sort of parity across like positions within the University structure. Rather than determining access, profiles should simply set University-wide standards for functions and limits which delegates can modify to suit their local area.
- R8 That two further administrative reviews be commissioned by the Executive. The first would focus on devolution and decentralisation. The second would concentrate on ways in which to systematise rotation of senior administrative staff in central and local areas.
- R9 That control of the delegations and agencies system should be broken down into four phases and controlled in four different ways:
- (a) Overall coordination and control be delegated by Council to the Vice-Chancellor;
 - (b) Management of the University-wide DAS be formally assigned to the Human Resources Division, which should be appropriately resourced to do so;
 - (c) The shaping and expression of the authorities themselves and establishment of agent profiles to be done by the central administrative division whose function is most closely related;
 - (d) The local management of DAS should rest with the delegate rather than an agent.
- R10 That Council give serious consideration to a revised delegations structure to accommodate some of the difficulties currently being encountered. The structure envisaged is a structure of nested delegations, mirroring the chain of command, such that each budget unit is progressively included in larger portfolios, the heads of which may appoint agents in smaller, nested budget units. This structure resolves questions that go to issues of delegates requiring the approval of their own agents, and of monitoring and reporting.

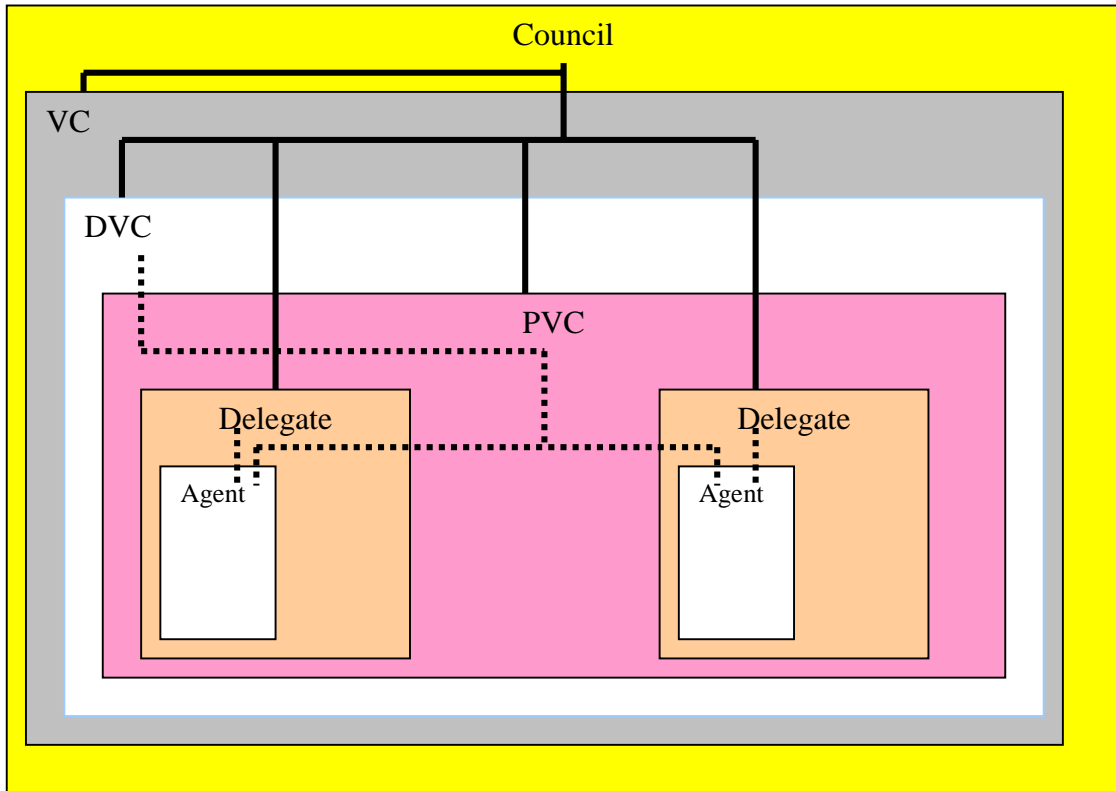
³ See also 2.3.2 for a fuller discussion of agent profiles.

Figure 1 – nested delegations of authority

Key:

Delegations —————

Agencies



TERMS OF REFERENCE AND PROCESS

Terms of Reference

A review of the Delegations and Agencies System was commissioned by the Pro-Vice-Chancellor (Administration) in a memo dated 24 January 2001 (Appendix 1) and circulated broadly. The terms of reference contained in that memorandum were to consider:

- 1. Whether the University's Delegations and Agency System as currently realised and implemented fulfils the University's obligations under the Commonwealth Authorities and Companies Act 1977 as well as Council's resolutions on its own role and responsibilities in respect of "the entire control and management of the University" (ANU Act 1991, s.8);***
- 2. How delegates and agents, as well as those tasked with the responsibility of carrying out their instructions, operate within the guidelines set out by the DAS;***
- 3. Where control of the operation of the DAS most appropriately and efficiently belongs within the administrative structure of the University.***

Process

The review consulted with numerous delegates and agents following wide distribution of the terms of reference. Interviews were also held with the University's Internal Auditor (KPMG), the University Audit Coordinator, the MIS staff involved in writing the web-based DAS database and interface, and with ESP HR staff. The suite of papers relating to delegations and agencies and the web-based DAS system itself were carefully considered, together with other policy papers, audit reports and advices. Relevant legislation was also consulted – in particular, the *Commonwealth Authorities and Companies Act 1997* (the CAC Act), the *Acts Interpretation Act 1901*, and the *ANU Act 1991* and its subordinate legislation such as Statutes and Rules.

The full list of those who were interviewed or who commented on the subject of the review is shown at Appendix 2.

Note on terminology

To avoid confusion, this review report will distinguish between the principles, theories and policies of delegations and agencies and the web-based DAS database itself. The latter will be referred to as DAS or the DAS database.

FINDINGS AND RECOMMENDATIONS

1. ***Whether the University's Delegations and Agency System as currently realised and implemented fulfils the University's obligations under the Commonwealth Authorities and Companies Act 1977 as well as Council's resolutions on its own role and responsibilities in respect of "the entire control and management of the University" (subject to the Act and the Statutes) (ANU Act 1991, s.8);***

This term of reference was broken into two parts.

- 1.1 Whether the University's DAS as currently realised and implemented fulfils the University's obligations under the *CAC Act* 1997.

The review's response to this question is a cautious, qualified "yes".

- 1.1.1 The *CAC Act* was the legislative catalyst for development of the University's revised delegations and agencies system. It puts in place measures to ensure the accountability of Commonwealth Authorities and those who govern or manage them. It sets out a number of obligations and duties in respect of accounting, reporting and audit, and some significant responsibilities in relation to conduct, together with a raft of criminal and civil penalties for non-compliance.

- 1.1.2 These responsibilities for the most part relate to "directors" but also to "officers". "Director" is defined in s.5(a) of the *Act* as a member of the governing body (i.e., Council). Legal advice received from the University's advisers in May 1999 indicates that members of the Board of the Institute of Advanced Studies and the Board of The Faculties are unlikely to fall within the definition of "director", although their Chairs do, by virtue of their membership of Council.

"Officer" is defined under s.5 of the *CAC Act* as including a "director" (i.e., Council member), or "any other person who is concerned in, or takes part in, the management of the authority." This a broad definition which, although as yet untested by the courts, has the potential to cast a very wide net as far as the University is concerned.

The *CAC Act* is explicit about the responsibilities and obligations of "officers", whether "directors" or not. Part 3 Division 2 of the *CAC Act* relates to reporting obligations of "directors" of the authority, in this case the University. Division 3 relates to banking and investment but here the *Act* simply refers to "the authority" rather than to "directors". Division 4 is entitled "Conduct of officers" whom we have noted includes those who are concerned with, or take part in, the management of the authority." The definition is reiterated at s.21(2) of Division 4. Sub-division A of this Division relates to "officers"; sub-division B refers to "directors" and the responsible Minister. Division 4A relates to restrictions on indemnities and insurance for "officers" – again, the wider definition obtains. It is thus clear that "officers" carry substantial responsibility under the Act. There is some exposure to risk if those captured by the definition of "officers" of the University are not fully aware of their obligations and liabilities.

The website of the Council and Boards Secretariat contains information about Council members' responsibilities under the *CAC Act* and professional

indemnity insurance for Council members.⁴ There is no similar outline of the responsibilities and professional indemnity coverage of non-director “officers”. Indeed, of the Business Managers and senior Finance and Business Services staff asked, none knew for sure whether they were officers of the University as defined by the *CAC Act*, and only one was certain she was covered by the University’s insurance policies.

In 1998, a series of information sessions was provided to the Executive, Deans, Directors, Heads of Administrative Divisions, and senior staff of Schools, Faculties, Centres and administrative divisions. These sessions were well (but not universally) attended, and were delivered by a partner of the law firm Corrs Chambers Westgarth. The sessions included an overview of the *CAC Act*, with reference to some key aspects of corporations law, specific issues relevant to directors and managers of authorities and corporations, and some implications for the University. Since then, the former Audit Coordinator has made efforts to ensure that information sessions continue, for example through briefings to meetings of Heads of Research Schools and Deans of the Faculties, and regular University-wide inductions. Nevertheless, the review concludes that the full scope of the *CAC Act* is not sufficiently comprehended by the University’s “officers” in terms of their obligations, personal accountability, potential liability and indemnity. The evidence is in the fact that too many delegates are not fully knowledgeable about the DAS itself and assign local management of the delegations and agencies system to an agent, and too few agents make it clear that they act on behalf of delegates.

In establishing policies and guidelines governing delegations and agencies, the University has indeed begun to observe some of its obligations under the *CAC Act* as a Commonwealth statutory authority. The material referred to earlier that can be found on the Council and Board Secretariat website is indication that at least members of Council have been made aware of their obligations as directors. However, much of the administrative work of the University is conducted by those who fall within the broader definition of “officer” under the *Act*. Some (but not all) of these staff will have attended the 1998 and subsequent briefing sessions. A coordinated, institutionalised routine of training and information will be required to keep up with the changes, particularly as the population of “officers” is constantly changing.

1.1.3 The *CAC Act* at s.32 sets out that:

- (1) The directors of a Commonwealth authority must establish and maintain an audit committee with functions that include:
 - (a) helping the authority and its directors to comply with obligations under this Act; and
 - (b) providing a forum for communication between the directors, the senior managers of the authority and the internal and external and external auditors of the authority.
- (2) If the regulations state how the committee is to be constituted, it must be constituted in accordance with the regulations.

The *ANU Act* 1991 at s.18 allows Council to delegate any or all of its functions or powers to members of a committee. The Council is also empowered under this *Act* to make Statutes (s.50.1) and to empower any

⁴ www.anu.edu.au/cabs/council/policies/index.html, ‘Responsibilities of Members of Council under the *Commonwealth Authorities and Companies Act* 1997’

authority, including Council, or officer of the University, to make rules or orders not inconsistent with the *Act* or Statutes (s.50.3). Though there is no current Statute or Rule relating to the Audit Committee, there are two policies⁵ relating to the role and responsibilities of the Audit Committee which effectively capture the obligation set out in s.32 of the *CAC Act*. These policies do not explicitly refer to the *CAC Act*, although the committee's responsibilities thereunder can be implied.

The University's Internal Audit Office was dissolved some years ago, and replaced by an Audit Coordinator and an Internal Audit function outsourced to KPMG. The Audit Coordinator's role included oversight and management of the University's delegations policies and DAS. The position has now been declared unnecessary (though arrangements have been made for oversight of the DAS *pro tem*) and it is part of the terms of reference of this review to recommend on the locus of control of the operation of the DAS within the University. Keeping in mind the distinction between the policies and principles of delegations and the DAS itself, one conclusion of the review is that regardless of the locus of control of the DAS, the *policy* responsibility for delegations should itself be located close to the delegating power, and not necessarily in the same unit that might oversee the DAS.

Recent contracts of employment for those occupying delegates' positions include a paragraph about the appointee's responsibilities under the *CAC Act*, and the Human Resources Division sees no bar to varying existing contracts of employment to include reference to responsibilities under the Act. The situation with employment contracts of agents is somewhat more complicated, given that staff transfer in and out of positions and therefore agencies more often than into and out of delegates' positions, but nevertheless, Human Resources believes that employment contracts could be varied to draw attention to agencies and the staff member's responsibilities as an agent.

1.1.4 As noted above, Council has "the entire control and management" of the University, this power is subject to the Act and the Statutes.⁶ One such Statute is the *Vice-Chancellorship Statute* 1999 which says:

4. (1) Subject to the Statutes and to any resolution of Council, the duties of the Vice-Chancellor as executive officer of the University are to control and manage:
 - (a) the affairs and concerns of the University; and
 - (b) the real and personal property at any time vested in or acquired by the University including the disposal of that property.
- (2) The Vice-Chancellor has power to do all things that are necessary and convenient to be done for, or in connection with, the performance of the Vice-Chancellor's duties.

The Statute further empowers Council to make Rules nominating a person to perform particular functions and exercise particular powers of the Vice-Chancellor, and for the Vice-Chancellor, by Order, to nominate a person to do the same (s.7(1), 7(2)).

⁵ *Audit Committee – Terms of Reference* (2427/1998) and *Internal Audit Charter* (2428/1998)
⁶ *ANU Act* 1991 s.8

The relationship of the Vice-Chancellor as chief executive officer of the University and the Council is analogous to that of a CEO and Board of Directors. Neither Council nor its committees would wish to assume responsibility for routine management, strategic or otherwise, of the University; that is the role of the Vice-Chancellor and the Executive. It would be appropriate for the role of determining arrangements for delegations of authority to reside within the portfolio of the Vice-Chancellor, and this review so recommends.

- RI (a) *That Council formally delegate responsibility for overseeing the establishment, review and proper implementation of policies on delegations to the Vice-Chancellor, and that this delegation includes the authority to approve the creation of new delegates from time to time established through Council-approved restructures or other organisational changes, and to approve the way delegations and agencies are expressed within the Delegations and Agencies policies and the DAS.***
- (b) *That paper 2427/1998 Audit Committee – Terms of Reference be reviewed and revised by the Audit Committee to include specific reference to its responsibilities under the CAC Act s.32⁷***
- (c) *That the University obtain legal advice as to the extent of the operation of the definition of “officer” in s.5 of the CAC Act and the interaction of that definition and extent of operation with principles of agency.***
- (d) *That those employees who are considered to fall within the definition of “officer” be formally notified of and trained on their obligations, liability and indemnity under the Act.***
- (e) *That a plan be prepared outlining how notifications and ongoing training will be systematised (eg by inclusion in employment contracts, normal inductions at local and central level, and regular information updates) for endorsement by the Vice-Chancellor. Once endorsed, that plan should be implemented.***

- 1.2. The second part of the first term of reference is “Whether the University’s DAS as realised and implemented fulfils ... Council’s resolutions on its own role and responsibility.

In 1996 Council established a working party to consider its role and function, the report of which was tabled at the Council meeting of 13 September 1996. The minutes of that meeting note that Council resolved to accept the approach taken in 1910/1996 *The Role and Operation of Council*, it being understood that “existing delegations of authority would be carefully reviewed in preparing a new set of delegations for approval by Council”. 1910/1996 itself (page 3 at item 4) set out a list

⁷ The abolition of the Audit Coordinator position makes other consequential changes in the paper necessary, and the Audit Committee may also wish to amend the articulation of some of its responsibilities, eg., substitute “determine” in place of “agree to”.

of matters which Council itself would determine, and another list of matters to be dealt with under delegation. The former list included:

- the appointment of persons to hold office as members of Council,
- the appointment of persons to the offices of Chancellor, Pro-Chancellor, Vice-Chancellor, Deputy Vice-Chancellor, DVC/DIAS and Pro-Vice-Chancellor,
- the appointment of persons as members of the Academic Boards,
- delegations of Council's authority,
- the making of Statutes, Rules and Orders,
- the constitutions of student organisations, and
- the granting of honorary degrees.

The review concludes that to the extent that policies on delegations and agencies were prepared for and approved by Council, and the DAS database established, Council's resolutions in respect of delegations were indeed fulfilled. Whether these delegations are adequately articulated and operationalised is the subject of the next term of reference of the review.

2. ***How do delegates and agents, as well as those tasked with the responsibility of carrying out their instructions, operate within the guidelines set out by the DAS?***

To answer this question the review first looked carefully at the policies, guidelines and documentation available on delegations and agencies and the DAS, to determine their adequacy, and consulted broadly with agents and delegates.

There are some serious criticisms and concerns about the implementation of the delegations and agencies system. Issues raised included:

- the legislative underpinnings of the delegations and agencies system
- the lack of adequate policies and user documentation
- the way in which the limits of the authorities are expressed
- articulation of the powers themselves which
 - omit authorities deriving from other heads of power (eg, delegated legislation such as Statutes and Rules),
 - are too highly specific (eg, leave delegations),
 - contain gaps (eg, authorities with relation to private use of motor vehicles), or
 - require double handling (eg, raising invoices under an approved Agreement for external funds);
- inconsistencies in the treatment of some delegations (eg, staffing approval authorities vs expenditure authorities);
- difficulties with the DAS itself, including the lack of integration of DAS with any other University management system, the consequential inability to use DAS data to monitor the extent of delegations and agencies, the lack of user documentation, and delays in getting delegate/agent details changed;
- the absence of any means by which to monitor or control the exercise of authorities, and the absence of sanctions and penalties when authorities are improperly exercised;
- the difficulties encountered at the confluence of DAS and the new ESP systems – Financials and HR in particular;
- problems with devolution of powers and functions to delegates and agents who believe themselves to be under-resourced and lacking in specific expertise.

These issues raise a question about the structure of the delegations and agencies system. All interviewed were unanimous about the need for a formalised system of delegations. Most of those interviewed agreed that the current principle of assigning responsibility to a delegate as head of a budget unit is appropriate. However, some questioned the delegations structure and pointed out inconsistencies which will be addressed below under point 2.5. One person commented that delegations systems were public sector constructs and wondered whether they engendered a tendency to focus too much on process and not enough on outcomes.⁸ The assignment of a delegation did not guarantee a change in behaviour, and a number of comments were

⁸ This is to some extent unavoidable and part of the nature of publicly funded authorities and organisations by virtue of their enabling legislation.

made about the extent to which the *CAC Act* and the delegations system could or did generate a change in culture.

The confluence of the *CAC Act*, the delegations policies and the DAS itself and, most recently, the implementation of new management systems (the Enterprise Solutions Project (ESP) Financials and Human Resources modules) has created a confusion of legislation, policy and practice that many find difficult to navigate. The main delegations policy predates the implementation of ESP, and little has been done to smooth out the discrepancies in approach and operation between ESP and delegations.

2.1 The legal framework

2.1.1 A question arose about the lawfulness of a delegate's power to appoint agents. Examination of this question goes to key legislation and some administrative law doctrines.

The Council of the University is the governing authority of the University and, subject to the *ANU Act* 1991 and Statutes made thereunder, has “the entire control and management of the University.”⁹ The Council may revoke its delegation.

In general, sub-delegation is prohibited, since if the power to delegate is given away, it may be irretrievable. The *Acts Interpretation Act* 1901 (Cth) provides rules for the interpretation of all Commonwealth Acts (of which the *ANU Act* 1991 is one), and expressly states that the powers that may be delegated do not include the power to delegate.¹⁰

In late 1996 and 1997, Council began the process of contemplating changes to the way it delegated its functions. The former delegations system was thought to be cumbersome and awkward to administer. (In this earlier system, Council delegated its powers direct to positions distributed across the University.) A system of creating a closed group of delegates, who then would have the power to appoint agents, seemed sensible and practicable. The University's delegations files do not show whether legal advice was specifically sought on the advisability and implications of appointing agents. The files do show, however, that the first mention of the appointment of agents appears to have come from a former Pro-Vice-Chancellor (Administration) by way of a memorandum dated 18 March 1997. It should also be noted that the delegate/agency system was and remains in use at several other large Go8 Australian universities.

There are several leading cases that are commonly referred to on the matter of delegations and agencies. In *Carltona v Commissioner of Works*¹¹ what has become known as the “alter ego rule” was articulated – that functions given (in this case to ministers of government) “are so multifarious that no minister could ever attend to them”. These duties are exercised instead by public officials under the authority of ministers, who are answerable to Parliament. In an Australian case¹² the courts upheld the principle that officers had an

⁹ *ANU Act* 1991 s.8

¹⁰ *Acts Interpretation Act* 1901 (Cth) s.34AB(b)

¹¹ [1943] 2 All ER 560 Court of Appeals (England), at 563

¹² *Ex parte Forster; Re University of Sydney* (1963) 63 SR (NSW) at 723

implied power to exercise certain sorts of authorities on behalf of a university's Council. But more recently¹³ the courts have begun to view the exercise of delegated authority in a more restricted way, and to caution against assigning agencies too easily to inadequately qualified people, who might end up making decisions that are either highly sensitive or that may have serious effects on people's rights.

Functions and powers of delegates are to be exercised as though they were exercised by Council.¹⁴ Agents exercise their agencies *for and on behalf of delegates* but not in their own right; they have no independent discretionary power. That they are agents, not principals (delegates) should be clear in the performance or exercise of any function or power. Although this is the legislative standard, practice at this University falls well below the benchmark. Most agents, when they exercise an authority, do not state that they are acting for and on behalf of the [named] delegate, and thus could be assumed to be acting in their own right.

There is a well known legal principle: *Delegatus non potest delegare* ("a delegate cannot delegate") which says that a decision-maker has no power to delegate a discretionary power to another unless there is express power to do so.¹⁵ It would be sensible for the Council to give delegates an express power to appoint agents. This might be done in the *ANU Act* itself (as a consequential amendment) or, alternatively, through Statute, a considerably less complex process.

- 2.1.2 The *CAC Act* has a definition of "officer" (see 1.1.2) which includes but is not limited to members of Council (referred to as "directors" in the *Act*). Obligations and liabilities, for instance relating to care and diligence,¹⁶ flow not only to "directors" but to non-director "officers" – which this review interprets to include not just delegates but agents. A question arises about the interplay of the *CAC Act* and the principles of agency. That is, if a position within the University is captured by the broad definition of "officer" under the *CAC Act*, it follows that there are a certain number of obligations and responsibilities imposed on the occupant of that position under the *Act*. If the position in question is an agent, and the obligations and responsibilities of the *Act* flow to the agent (which it is assumed they do), then what is the position of the delegate from whom the agent derives power? If a staff member is personally liable as an "officer", does that imply a standing which is greater than the standing s/he has as an agent?

- R2 (a) *That legal advice be obtained on the lawfulness, implications and advisability of delegates appointing agents. (See also R1(c).)***
- (b) *That, depending on the advice given, Council give consideration to***

¹³ *O'Reilly v State Bank of Victoria Commissioners* (1983) 153 CLR 1 (HCA)

¹⁴ *Acts Interpretation Act* 1901 (Cth) s.34AB(c)

¹⁵ Nygh, The Hon. P.E. and Butt, P. (Eds), *Butterworths Concise Australian Legal Dictionary*, Butterworths, 1997

¹⁶ *CAC Act* 1997 s.22

- i. *(if the advice supports the appointment of agents) the express inclusion of the power of delegates to appoint agents, in either a consequential amendment to the ANU Act 1991 or a new Statute; or*
 - ii. *(if the advice goes against the appointment of agents) a new system of delegations.*
- (c) *That further advice be sought on the lawfulness of the delegation to a chair of the powers of a committee established by Statute (see 2.4.2 of the Findings and Recommendations).*

2.2 Guidelines and documentation

The guidelines consist of a number of papers. The original sent to and approved by Council is 1446/1998 *Delegations of Authority*. Until a short time ago, the DAS website listed three amendments (1766/1998, 846/1999 and 1280/1999). The changes embodied in 1766/1998 have been included in the version of 1446/1998 available on the web, as have those in 1280/1999, but there is at least one amendment in 846/1999 which does not show in 1446/1998. All changes in 1766/1998 and 1280/1999 show up on the pull-down list of delegations on the web-based DAS database itself¹⁷ (www.anu.edu.au/admin/audit/delegations/), but one change in 846/1999 does not. The website has been changed between the time the review was started and the report drafted, and at present only one amendment (1280/1999) is listed as such. The others (1766/1998 and 836/1999) have been removed.

Some delegations, such as 5.10 “approve any pay variation, through Payroll Costing Analysis (PCA), per staff, student member in accordance with univ legislation, policy & procedures except own position” also do not appear either on the main policy 1446/1998 nor in any amendment currently listed under the DAS website. Some agents therefore have this agency; others don’t.

There are other discrepancies: for instance, delegation 6.11 “authorised to approve admission in accordance with the rules of the University” is shown on 1446/1998 as given to Heads of Research Schools, Deans and Centre Directors as delegates. However, the Directors of SASS, SRIE and HR, all delegates, until recently had this authority on the DAS database. The University Librarian and the Director of the Public Affairs Division still do have this authority.

Pages 1-3 of 1446/1998 provide little advice to delegates and agents about their roles and responsibilities. Attachment 3 provide some answers to questions that would have been asked in late 1998 when the policy and system were first implemented; these are now out of date and have not been replaced.

There are no guidelines or manuals relating to entering or changing on the DAS database itself, a cause of frequent complaint during this review. Several rounds of training were held in 1998/99, and the Audit Coordinator has been

¹⁷ Note, the situation has now changed such that reference to 846/1999 and 1280/1999 has disappeared from the Delegations website.

responsive to requests for individual training. Although the capability exists, there is no Help facility on the DAS database.

In summary, the policies and documentation are not adequate. They bundle principles and definitions with operating guidelines, contain gaps and inconsistencies, and lack definition.

2.3 Articulation of limits of agencies

- 2.3.1 The articulation of limits is “free form”, although most conform to some standard expressions such as “within available funds and within budget unit”. Some delegations are too widely defined – eg, some Directors of Administrative Divisions have dollar limits on some financial transactions that are not confined to their budget unit, although their other delegations specifically limit their authority to their own budget unit. Some are inherently contradictory: the Vice-Chancellor, for instance, has a power to accept tenders or quotations that is “unlimited but within available funds”.¹⁸
- 2.3.2 The issue of profiles was originally discussed at the time the system of delegations and agencies was being initiated, and a decision was made to avoid setting up agent profiles. (A profile is a recommended set of agencies with established limits that roughly conforms to the responsibilities grouped in particular positions. The implementation of ESP also now has the effect that profiles define levels of ESP access.) Opinion seems to have changed on the matter. There is now support for the establishment of a kind of agent profile with defined limits that allow some variation. It is believed that such profiles would contribute to proper estimation of work value, as it would define parity among like functions. Profiles would also establish standards for the way in which agency limits are expressed. (It should be made clear here, though, that what the review means by “profile” is not an inflexible access determinant but rather a recommended set of limits which can be accepted by delegates or not.)
- 2.3.3. It is worth enunciating two associated problems: that of assigning agencies too far down the chain of command, and that of delegates maintaining too tight a control on agents’ limits. The first gives a situation whereby relatively junior staff have access and responsibilities beyond what might normally be expected and could give rise to problems under the Enterprise Bargaining Agreement. The second engenders a situation where delegates waste their own time in overseeing routine matters which might more appropriately be given to senior administrative staff.

2.4 Articulation of delegations, overlaps and gaps

The wording of some of the delegations was the target of some criticism. It must be firmly acknowledged that when the paper was first conceived and approved in 1998, the landscape of tertiary education, of this University and of its computerised management systems was entirely different than it is today. The implementation of new management systems under ESP has introduced

¹⁸ Authority 4.2.2 and 4.2.3 on page 8 of 1446/1998 *Delegations of Authority*

new administrative imperatives and processes; a new Enterprise Bargaining Agreement has been shaped and has to be given effect; there have been numerous downstream effects of funding difficulties over recent years which have reduced staff numbers and, accordingly, support functions. Also, it should be kept in mind that the delegations as originally conceived were intended to be administrative in nature and not touch upon academic decision-making such as admission standards and criteria, development of curricula and enrolment of students

Despite all of these recent upheavals it is important that Council's powers under s.8 of the *ANU Act* 1991 ("Subject to this Act and the Statutes, the Council has the entire control and management of the University"), where they are to be delegated, are delegated properly. It means that the powers to be delegates must be carefully conceived and nicely articulated.

The review encountered a number of gaps and overlaps in delegations. What follows is not a comprehensive list.

- 2.4.1 Although the delegations and agencies system was intended to cover only administrative powers and authorities, 1446/1998 deals with at least one academic power. The policy specifies that the power to approve admission of postgraduate students in accordance with the rules of the University is delegated to Heads of Research Schools, Deans and Centre Directors. Until very recently the Director, Student Administration and Support Services, the Director, Student Recruitment and International Education and the Director, Human Resources also had this delegation on the DAS itself. The Director, Public Affairs Division and the University Librarian still have this delegation. The limits in all cases is "prescribed authority." The paper does not show a definition of "prescribed authority" nor an explanation of what the limits of this function might be.
- 2.4.2 Given that the *Delegations of Authority* policy includes powers in relation to postgraduate student admission, it is somewhat inconsistent in that it excludes delegations relating to admission of undergraduate students. That head of power derives from Statute (*Courses and Degrees Statute*, which states that Council may make rules about admission) and the Rules (*Admission [Bachelor Degree] Course Rules*), which starts "There shall be an Admissions Committee of the Board of The Faculties ..." (s.3). That Committee may delegate¹⁹ to its Chair any and all of its functions, except for the power to delegate, and the Committee is to be "guided by standards of capacity and educational qualifications from time to time prescribed by the Board of The Faculties" (s.5.2). In actual fact admission to undergraduate courses is done through the Universities Admissions Committee. The current process has advanced beyond that outlined by the Statutes and Rules. Applicants for undergraduate courses now apply through UAC, expressing preferences, and are ranked against admission criteria broadly established by the Board of The Faculties, the Chair of which also (in collaboration with Deans and their Faculties) determines cut-offs for individual faculties.

¹⁹

Further legal advice may be required about the status of a committee established by Statute with the explicit power to delegate to its Chair *vis à vis* s.34AB of the *Acts Interpretation Act* 1901, which expressly disallows the power of an authority to sub-delegate.

Not all Rules relating to Faculty/School/Centre Faculties and Faculty Boards express the role and responsibilities of those Faculties/Faculty Boards, confining themselves rather to membership, chair and process. However, the Faculties of Law, Asian Studies, Faculty of Engineering and Information Technology and the Faculty of Science do have the power to “*enrol* students in the Faculty”. Some Rules²⁰ indicate that an applicant must apply for *admission* to the Director, SASS and it is then the prescribed authority’s role to *enrol* the admitted student. From the above, the inference can be drawn that admission to postgraduate courses is the purview of the Director, SASS, although enrolment is done variously in several locations, but this is not entirely clear.

- 2.4.3. Vehicles. The policy paper entitled Motor Vehicle Management (at www.anu.edu.au/finance/purchasing/vehicles/vehicle_management.htm#1.4) stipulates that for the purposes of private use of motor vehicles, three levels of Officer exist; the third category is “Heads of Administration Divisions and such other officers *approved by the Vice-Chancellor or agent of the Vice-Chancellor*”. There is no explicit delegation shown either within 1446/1998 or the pick list of delegations and agencies on DAS relating to authority to approve private use of motor vehicles, nor are the VC’s agents in this regard identified. The approval of the Pro-Vice-Chancellor (Administration) is explicitly required before a vehicle is *purchased* that will be subject to private use. There is nothing to say who approves assigning an existing vehicle for private use. But most, if not all, delegates have the authority at 5.3(a) to “appoint staff and *determine any salary differential*.” (My emphases.) The sum of the staffing delegations assumes that delegates have the ability to vary remuneration packages, and private use of motor vehicle is essentially an element of salary packaging with expenditure implications.
- 2.4.4 The issue of the intersection of two powers came up several times in interviews. Authority 4.12 is non-transferable and relates to the power to approve applications for grants etc., and to accept funds and sign agreements relating to such funding. Authority 4.5.3 relates to raising invoices for manufacture or supply of all goods and services by the University. There are several delegates with the power to raise invoices of up to \$50,000 in value, and beyond \$50,000 there are three delegates with non-transferable powers. A typical example: a grant application for \$1m is approved for transmission by the Head, RSO and forwarded to the potential donor, who makes the award. The terms and conditions of the grant include the raising of 10 monthly invoices of \$100,000 each. The grant Agreement is signed by the DVC who in effect approves the receipt of the grant and its terms and conditions. Each monthly invoice raised then has to be sent to the appropriate delegate – the PVC (Administration), the DVC or the VC – to be approved. The same process applies in commercial lease agreements signed by the delegate and the tenant. The argument is that if the raising of the invoice is part of the terms and conditions of a contract which has been properly approved, is there a need for second-round approvals of the invoices?
- 2.4.5 There are no delegations or agencies relating to University expenditure through the petrol card or Corporate Express (although approval needs to be

²⁰ Eg, Associate Diplomas Rules, Degree of Doctor of Philosophy Rules

sought to gain access to Corporate Express, and agencies are given out relating to expenditure more generally, and specifically for the Purchase (Visa) Card).

- 2.4.6 Authority 4.6 relates to accepting gifts to the ANU. The text below the table of delegations says “The individual may accept gifts of real property or services under the value of \$100 without declaring it to the University. For further clarification, please refer to the University’s Code of Conduct.” In fact 1446/1998 is itself more explicit than the Code of Conduct in outlining responsibilities related to gifts. The Code itself merely says:

All staff are expected to:

...

declare real or apparent conflicts of interest and avoid conflicts between their private interests and their University responsibilities with respect to:

...

receipt of gifts; ...

The officer to whom one is to report gifts outside of the \$100 limit is not specified in either 1446/1998 or the Code of Conduct.

- 2.4.7 Finally, the definitions of “agent” and “delegate” in 1446/1998 (page 5) are themselves insufficiently well articulated. Butterworths Concise Australian Legal Dictionary²¹ defines “agency” in this way:

... A relationship of agency is created either by the express or implied agreement of principal and agent, by the subsequent ratification by the principal of the agent’s acts done on behalf of the principal, ...

while “delegate” is defined thus:

1. A representative. A person invested with authority to carry out another’s functions, powers, and duties or to act on behalf of or represent others, for example in negotiation with employers. ... 2. To divest to another one’s authority to carry out functions, powers and duties or represent interests: ...

2.5 Inconsistencies in treatment of delegations

- 2.5.1 The review noted a particular inconsistency of treatment of some key delegations. Authority 5.3 of paper 1446/1998 gives a delegation as follows: “Authorised to appoint staff, approve the transfer of a staff member to another position within the University, determine any salary differential payable and to accept resignations and retirements of staff.” The delegates are the VC, DVC, PVCs, HORS, Deans and CDs, HADs, UL, DITS and HUBUs. For all except the Executive, the limit is shown as “for positions within available funds and within budget unit, except for their own position.” The preamble and notes to these staffing delegations says, at note (v)

If the Delegate or agent is on the Selection Committee then he/she cannot approve the recommendations of that selection committee. The formal approval must be given by

²¹ (1997) Nygh, The Hon. P.E. and Butt, P. (Eds), Butterworths Australia

another delegate.²² This rule does not apply where academic staff are to be appointed, without advertisement, for a period of less than 2 years.

A memorandum dated 27 April 1999 from the DVC further confirms and elaborates as follows:

The general rule is that delegates for appointments may exercise the delegation for positions within available funds and within their budget unit, except for their own position; but if the delegate is on the selection committee then he/she cannot approve the recommendation of that selection committee. The Deputy Vice-Chancellor is, under those circumstances, the approving delegate for such recommendations. Professor Richards has appointed the Chairs of the Academic Boards and the Pro-Vice-Chancellor (Academic) and the Pro-Vice-Chancellor (Administration) as his agents for approving appointments in the IAS, The Faculties, University Centres or Administrative Divisions respectively where the delegate (eg Dean or Director) is a member of the selection committee.

Many local policies on composition of academic selection committees, particularly for positions at Level B and above, show the Dean/Director as an *ex officio* member or chair of such committees. The review was made aware of a number of verbal and written rulings that made it clear that even when a Dean/Director as delegate nominated someone else to act for him/her on a selection committee, the effect is that the nominee acts as and therefore is the Dean/Director (delegate), and accordingly the 27 April instruction and note (v) of 1446/1998 stand.

The DVC's delegation in respect of authority 5.3 is "all positions" and therefore his statement in the 27 April memorandum has effect.

The review contrasted this state of affairs with financial delegations. In 1446/1998 the authorities are stated as 4.3, 4.3.1 and 4.3.2. In the pull-down list of authorities in the DAS itself, they are further broken down into several sub-categories of expenditure and include:

4.3.1b) Signing purchase requisitions for goods and services and authorising payments of accounts

Note (vii) on page 9 of 1446/1998, which refers to the exercise of financial authorities, says

A Delegate with authority to approve expenditure must not approve any reimbursement or expenditure incurred by that Delegate. Such approvals must be counter-signed by a position/person of at least SA01,²³ or HOD level within that

²² The term "another delegate" is not sufficiently precise here. The review infers it to mean "the delegate's supervisor, him- or herself a delegate with the appropriate authority."

²³ This rule effectively disenfranchises at least one Faculty whose senior administrator is classified as ANU 10, and whose HODs do not have Faculty-wide financial agencies.

Delegate's Budget Unit. The counter-signatory need not be in a position level higher than the Delegate for this purpose.

Whereas in the staffing authorities a delegate may *not* use his/her authority to approve an appointment in which s/he was involved but must seek approval from a more senior delegate, this is apparently not the case for the authority to expend funds, when a subordinate/agent *may* approve the transaction. To be sure, administrative convenience comes into play here: another senior manager may approve the expenditure of a delegate; the value of normal transactions is far lower and therefore carry far less risk.

The two instances demonstrate inconsistent treatment of what is arguably the same principle, which is that a delegate cannot approve a transaction – whether an appointment or expenditure of funds, though the first always includes the second – if s/he is involved in it or directly benefits. In the case of the staffing delegation, the approving authority is above the delegate. In the case of a financial transaction, the approval is taken below the delegate. This review argues that if the principle is worth upholding, it must be upheld everywhere. Although the financial commitments implied in staff appointments are normally considerably greater than a routine financial transaction, the appointment will always come under greater scrutiny than financial transactions. An agent – eg, a person at the level of SAO1 or above – will normally be the subordinate of the delegate whose expenditure s/he is approving. In contrast, a selection committee is peopled not only by the delegate but with academic peers and, sometimes, a member of the Executive. The risk of coercion or improper behaviour is substantially lower in staff appointments than it is in financial transactions. It is the fact, not the dollar value, of improper exercise of authority that exposes the University to risk.

- 2.5.2 One delegate commented that the delegations and agencies system does not conform to the University's command structure which occasionally causes problems. (In 2.5.3 below, an inconsistency is described which illustrates to some extent the point being made.) Instead of flowing straight down along the chain of command, some delegations bypass nodes on that chain and travel past one node or position to reside with another position which is effectively subordinate to the first. This has the effect of assigning Council-derived power to an occupant of a position whose superior does not have the same power and therefore no ability to gainsay decisions of the subordinate. In some instances, the superior position has a delegation which is lower than the (non-transferable) delegation of a subordinate.

It also happens that a delegate from an administrative area can assign agencies to someone in an entirely different budget unit. However, that agency does not appear in the list of agents for that particular budget unit as it is registered in the budget unit of the delegate. This cross-delegation can sometimes cause confusion which is minor but time-wasting.

- 2.5.3 The organisation of the DAS itself leads to some inconsistencies. The first approach into the DAS as a user is via a table of delegates and agents which can be viewed by budget unit, post number, function or agent/delegate ID. Most users would search by delegate/agent and budget unit. Some positions hold two sorts of delegation or agency – the first a power held University-wide, and the second a power held as manager of a discrete budget unit. The

Director of the Human Resources Division, for example, has University-wide delegations relating to all manner of staffing authorities, as well as delegations relating to the HR budget unit. But when she exercises her staffing authority, is not necessarily within her own budget unit. The Director of the IAS is a delegate in his own right with respect to authority to allocate budgets “within budget unit or area of responsibility”, and is also an agent of the DVC in respect of some staffing authorities. The DIAS appears twice as an agent on the University Executive budget unit, although in exercising a power on behalf of the DVC he is actually dealing with the budget unit of a School of the IAS and not the University Executive. Directors of SASS, HR and Finance and Business Services have the power to approve access to administrative systems which are given out to people outside of their budget units. It is therefore somewhat misleading to bunch together delegations relating to one’s own budget unit and delegations which apply to other budget units. In effect those delegates hold two distinct categories of delegation.

2.6 Problems with the DAS itself.

Most of the problems associated with using the DAS – entering agents, changing details, etc. – have already been enumerated above or will be below. The main complaints relate to lack of user documentation. However, it should also be acknowledged that the DAS as it stands was never intended to be a permanent system, and some of its problems trace back to estimates of the time it would take to properly document a system planned to be obsolescent.

R3 *That the suite of policies relating to delegations and agencies be reviewed and rewritten to include*

(a) A broad, overarching policy that

- (i) sets out the background to the policy with references to the relevant legislation; includes definitions of delegate and agent and other key terms (such as “officer” as defined by s.5 of the CAC Act);**
- (ii) explains the broad responsibilities and obligations of delegates and agents within the University context;**
- (iii) nominates the locus of control of policy on delegations and the articulation and management of the DAS itself;**
- (iv) sets out the minimum training requirements that must be satisfied before delegates and agents act upon their authorities; and**
- (v) includes the penalties and sanctions applied if and when authorities are improperly exercised.**

(b) documentation on how and by whom authorities are articulated, how delegates and agents are appointed, and how delegates can nominate or change agents and agencies;

(c) a separate, updatable document which contains the delegations themselves as approved by Council or its delegate (the Vice-Chancellor) from time to time.

The revision should pick up current gaps and inconsistencies and should also line up with cognate University policies. In particular the revision will need to consider the problem of cross-delegations and potential double-

approvals. If feasible, it should also identify all authorities to be exercised and include these, together with the head of power from which any power is derived, so as to produce a complete set of delegations.

2.7 Monitoring/controlling

2.7.1 Access to DAS/establishment of agencies

Up till now, the Audit Coordinator was in charge of managing and overseeing the operation of the delegations and agencies system and the DAS. Indeed, the delegations policy was one of the initial tasks of the Audit Coordinator first appointed in 1998. The Audit Coordinator was instrumental in developing the DAS, together with MIS which provided the resources to write the database. The initial data input relating to identity and details of delegates and the extent of their delegations was done by the Audit Coordinator, who is also responsible for certifying (or not) local area decisions about appointment of agents.

Access to the DAS is obtained through the Audit Coordinator who issues the database password (of which there is only one) to local areas who need to make changes to their agency arrangements. Changes are made locally by someone with access to the password. A form is then printed off which contains some key identifiers and the request to make the changes. It is mailed or faxed to the Audit Coordinator, who then certifies the changes. Changes are not visible to users of DAS until they have been certified.

In theory, anyone with the password could make changes to any agent or agency on the DAS database. There are, however, a couple of control points: one, when changes are made to the database, the DAS manager in a local area encounters a message which says that no further changes can be made to an agent's profile until the changes have been endorsed by the Audit Coordinator. Two, only the DAS Coordinator and MIS have the access level to certify (or reject) changes.

2.7.2 There is a significant problem with assigning responsibility for certification of agencies to a single person. If that person is absent or otherwise occupied, there is no provision for someone else to keep the workflow going. This was a cause for substantial complaint among those interviewed.

2.7.3 The Audit Coordinator also has the task of reviewing the assignment of agencies and functions to maintain parity across the University. However, the role can be advisory only. Because the Audit Coordinator is not a delegate, there is no real authority in the position to deny the giving out of any agency or its limits except by virtue of being the only person in control of the database. Also, the limits of agencies are effectively "free form" – that is, there are no standards which agents must or should conform to, and there is a considerable degree of variation across local areas in the limits placed on agencies. Two examples of variation are cited. One, the Business Manager of one Research School with an annual budget of about \$10m has an authority to sign freight and travel warrants up to a limit of \$15,000, whereas several others with smaller or larger annual allocations have a limit of either \$50,000 or "within available funds". Two, the School Secretary of one large School was not allowed to have agency 6.11 relating to admission of postgraduate

students (although requested by the delegate), but the Executive Officer of one smaller Centre does, to prescribed authority limit.

- 2.7.4 Quite apart from the inconsistencies and variations that slip through the front-end monitoring of appointment of agents and agencies, there is the more serious question of how the exercise of authority is monitored and controlled. Agents are frequently in the position of having to approve expenditure incurred by the delegate (often their supervisor, in the case of Deans, Directors, Heads of Administrative Divisions and their Business Managers or Finance Officers). A number of other questions arise.

One issue that was frequently raised by interviewees was the potential for coercion. Many were of the view that it was difficult for some agents (especially the relative junior) to withstand pressure from their supervisor/delegate to approve a transaction that might be irregular in some way. The view is that the more remote one is from the locus of the transaction, the easier it is to withstand pressure.

Another issue frequently raised was about what agents do if they are doubtful about the validity of certain expenditures. The hypothetical example raised was of a delegate who, over the space of a year, purchased four laptop computers: at what stage does the approving agent begin to question the transaction, and if s/he is satisfied that the third or fourth purchase should not be approved, what does the agent do if the delegate insists? What if retrospective approval is sought for a laptop already bought using the Purchase Card? What if personal reimbursement is sought? To whom does the agent report the dilemma?²⁴ There are no solutions presented in 1446/1998 and therefore an agent can only turn to organisational chain of command. And according to the chain of command, if an agent/subordinate is uncomfortable about the validity of a transaction that the delegate/supervisor wishes to have approved, that agent turns to either the Director, IAS (where the delegate is a Director of a Research School), the Chair, Board of The Faculties (if the delegate is a Dean) or the Pro-Vice-Chancellor (Administration) (if the delegate is a director of an administrative division) or higher. Few agents would go up and around their delegate unless they were absolutely positive that the transaction was suspect. Nevertheless, several of those interviewed recounted anecdotes about having to approve transactions they were uncomfortable with or believed to be unorthodox in some way.

- 2.7.5 The position of Audit Coordinator has now been abolished, with KPMG as contractors for the Internal Audit function now taking on an expanded role. An interim DAS Coordinator has been appointed until such time as a new DAS is developed, tested and implemented.
- 2.7.6 It was pointed out numerous times that there are effectively no sanctions or penalties associated with improper use of authority, whether by a delegate or an agent. That is, there are no specific penalties apart from the normal misconduct provisions currently in place, and these are rarely if ever exercised in respect of delegations. Policy 1446/1998 says at 3.3 (page 6) that “[n]o

²⁴

The University’s Fraud Control Plan, issued after this review was started, now has arrangements in place whereby suspicions of fraud may be reported to the Chair and/or Deputy Chair of the Audit Committee.

delegate or agent may incur expenditure beyond the limit of that budget. Any delegate or agent who does so *may* be held personally accountable for that expenditure.” (My emphasis.) On page 13 at note (ii) the paper says more or less the same, substituting *could* for *may*. As noted elsewhere in this review, the ESP systems as they now stand do not check limits or prevent them from being exceeded. One interviewee noted that the principles of delegations and agencies sit somewhat uneasily with the idea of collegiality, and the imposition of penalties for improper use of authorities would be a very difficult nettle for the University to grasp. Nevertheless, given the University’s accountability obligations under legislation, the issue is a serious one.

The extent of the authorities delegated through 1446/1998 must be complemented by a system to dissuade against improper exercise of authority. Power must be balanced by accountability. But the development of sanctions or penalties requires the prior development of means by which delegates and agents can report, in confidence, breaches or suspected breaches. A means to investigate suspected irregularities must be available, and a senior officer nominated to receive the results of investigations and consider recommendations. This review cannot prescribe how investigations might be done or what penalties might be imposed save to say that where real misuse of authority is found, an incremental system of reprimands might be imposed, culminating in withdrawal of an agency or delegation. The grave administrative inconvenience of the latter would have to be taken into account.

It is to be hoped that for the most part the mere existence of such a system of reports, investigations and penalties will provide sufficient indication of the University’s serious view of improper exercise of authority and motivate delegates and agents to be mindful of their obligations. Such a system should also deliver confidence to agents to withstand coercion, if it ever occurs.

R4 That systems of monitoring and control should be developed to sit alongside the new DAS and new arrangements under the Fraud Control Plan of 2001. The review recommends the establishment of a small unit (such as a University Ombudsman reporting to the Executive) which will have the power to receive and investigate serious breaches of policy or process and recommend on appropriate action to be taken. This unit could work closely with the Chair and Deputy Chair of Audit Committee (who have particular responsibilities under the Fraud Control Plan) but could also receive general complaints from staff, students, suppliers, purchasers and others who deal with the University, thereby contributing to quality control and assurance.

2.8 Issues related to ESP

The ESP modules implemented thus far – Financials, Asset Management, HR and Purchasing – have their own assumptions and protocols which do not always line up with those of the delegations and agencies policy. Where the two collide, vexation and confusion occur.

2.8.1 Higher Duties. When someone is appointed to act for a delegate or agent, the HR system makes a distinction between higher duties with or without salary. Where the person acting in another position is to receive additional salary because of the higher duties in the short term, the system allows for the additional salary to be paid against the person's substantive position rather than the acting position. The dates of the higher duty are not shown, nor can the higher position be identified. In other words, there is a facility to pay the additional salary and the system will show that a total of \$N was paid, but that's all. If the higher duties are for the longer term – say a period of 12 months or more – then the person is moved into the vacant position in which they are to act. The difference in treatment relates to whether superannuation will be paid on the substantive or acting salary, an option exercised by the local area. The HR system does not, however, capture situations where a person acts in a higher capacity without getting paid.

The DAS is not searchable on surname and, unless the local area DAS manager regularly enters the information, does not show when and if someone is acting in a delegate's or agent's position. Agents do not normally show their position number when they sign off on transactions, and thus checking is made difficult.

The HR form *Authority for Acting Appointment/Performing Higher Duties* (HR 19/W97, 11.01.99) says “this form must be used for all acting appointments” of all academic and general staff. However, if there are no higher duties allowances²⁵ and therefore no pay implications, the form need not be sent to HR and presumably it remains within the School. Interestingly, page 2 of the form enunciates a process that does not appear on the delegations policy 1446/1998:

- 2.1 If an employee takes on the full delegated function associated with the acting position there is no requirement to change the delegation/agency details on the DAS. ...
- 2.2 If an employee is undertaking partial delegated functions the local area is required to set up a new agency on the DAS for the acting period.

One implication of higher duties is of course the extent of the authority given out to someone in an acting capacity and the ability to view limits.

Staff of central administrative areas are frustrated in their attempts to check the validity of approval signatures in normal circumstances. In ordinary circumstances, if they feel the need to check the extent of a delegation or agency, they have to decipher the signature,²⁶ and then either access the ESP system to search on surname and identify position number and then switch to DAS to follow search for the position number, or try and identify the budget unit, the agent and then look for the extent of the agency.

Where such staff process work on behalf of a local area, they become familiar with delegates' and agents' signatures. But unless they have access to some means through which they can be notified of acting appointments, they have

²⁵ There are minimum higher duties allowance periods prescribed by award conditions, set out on page 2 of the form.

²⁶ Many current forms do not have space to print the name of the approving delegate/agent.

no way of knowing whether a signature is valid or not. This provides a serious disincentive to a second level of monitoring of the exercise of authorities.

- 2.8.2 The ESP system does not currently monitor the limits of authorities of delegates and agents and does not prevent transactions which exceed limits. In part this is a function of lack of integration, as the ESP system cannot read the information contained in the DAS database. Observance of limits is therefore to some extent a matter of trust and, where possible, manual checking.
- 2.8.3 The issue of electronic or paper-based record keeping of approvals is a major one for both central administrative and local areas.²⁷ ESP provides for electronic approvals for a whole array of Human Resource functions, from leave applications to staff appointments. Similarly, the Financials module is designed for online approval by the authorised delegate or agent of a raft of transactions.

Although most budget units have now made arrangements for their own processing, a small number still relies on Finance and Business Services or Human Resources to do their processing for them. In F&BS, typically, the transaction will be initiated by the local area, say in the form of a request to raise an invoice or make a payment. F&BS staff do the processing online, and the local area then approves it, also online. Problems occur when staff of the local area are absent – eg, after 5 pm – and no delegate or agent from the local area can be found to make the online approval. This is especially frustrating when there are cut-offs to observe – for pay runs or cheque runs, for example – but the person who does the processing has no delegation or agency over the budget unit, yet has the hard copy authorising the processing.

The ESP HR system demands that supervisors approve (say) applications for leave online. Where supervisors are academics, they cannot always be relied upon (or expected) to be at their desks every day to undertake routine approvals. Unless the academic has a defined administrative position such as Head of Department, no arrangements are made for someone to act in their absence, especially in the short-term.²⁸ An acting appointment, where a HOD is absent, would also require separate ESP access for online approval.

The issue of electronic vs paper-based approval was picked up and noted in the Internal Audit report 2/2000 *Delegation Compliance Review (September 2000)*.²⁹ The report commented that “[t]he aims of the Enterprise Solution Project are not being met so long as business processes continue as in the past. There is also an additional use of resources to perform the electronic process on top of the existing manual process.” The report recommends that “local area business processes be updated to suit an electronic approval system, reducing the need for paper approvals.” In its management comment, the University agreed to this recommendation, noting that “while every budget unit of the University has access to modern process, the perceived management needs of each budget unit is a problem to be resolved and

²⁷ The issue is raised by the Internal Auditor in its report #2/2000 *Delegation Compliance Review*, R1 of 3.2 Detailed Findings (p 13).

²⁸ Even if they did, the deficiencies of the DAS are such that the acting arrangement would not be registered on DAS. See 2.8.1.

²⁹ 3.2 Detailed Findings, R1 of this report, p.13

managed by each unit, including a cultural acceptance of the change expected/promoted by the University. ... A direction is required by the University Executive that obdurate budget units should embrace/adopt modern cost efficient business practice.”

Local areas were aware, during the pre-implementation period for each ESP module, that some business practices would have to change. However, many point out that the extent of change was not fully known until the system was implemented. Others commented that rather than have each budget unit change its own business and administrative processes in an isolated way (as is alluded to in the management comment above), a University-wide approach should be taken for the sake of consistency and best practice.

It is a source of frustration for many that the culture change which is perceived to be required lies outside of the sphere of influence of senior administrative staff. If online approvals and electronic record keeping are indeed part of the University’s future management strategy, some attention will need to be given to managing change and enabling the entire University community.

So although the recommendation of the Internal Audit report is rational on the face of it, in reality it is more practicable at local area level to continue with paper-based authority with online processing undertaken centrally at budget-unit level.³⁰

R5 *That paper-based approvals should be allowed for a reasonable amount of time (perhaps until the time the University moves to a web-based ESP), and measures should be taken to accommodate this – such as the establishment of special operator classes, eg “button-pressers” and “super-users”. Electronic approval and record-keeping should be phased in slowly, buttressed by routine training as outlined in R1(e), and should be mandatory by the time the web-based ESP is implemented.*

2.8.4 Access issues

Some respondents expressed concerns about the security and risk issues associated with greater access to management and information systems. Using the example above about online approval of leave applications, they suggested that the less often a supervisor uses the system, the more s/he would be likely to forget passwords or how to use the system. They predicted security breaches such as writing down passwords and instructions, or handing out passwords to administrative staff to do their processing on their behalf, as already happens.

2.8.5 Person vs position

There is one interesting difference between the ESP systems under implementation and the University’s delegations and agencies system. That is that the ESP system, and access to it, is person-based and the delegations and

³⁰ In a number of areas, although financial agencies have been given out to Divisions, Departments and Groups, staffing agencies have not and are held centrally.

agencies system is position based. That is, a delegation flows to a position – eg, Dean, Director, head of administrative unit – as do agencies, for the most part – eg, Executive Officer, Departmental Administrator. Access to ESP systems is based on employee number, assigned at the start of employment and retained throughout. There is a potential for these lines to cross and for security breaches to occur. For instance, an individual appointed to a central administrative area may transfer to a local area and still retain the system access level appropriate to the first position. (Similar access problems were experienced under older administrative systems such as FMIS. The only difference now is that the delegations system is now part of the administrative landscape and lends an additional complicating dimension to the problems.)

- 2.8.6 The review explored the costs of producing a new DAS database within the ESP HR module. Those consulted in ESP HR and Management Information Systems (MIS) were of the opinion that costing of the development of a fully-integrated DAS module would have to be done in two steps. The first step would be to produce specifications for the system, and would be done after consultation with delegates and agents and other potential users of the system along the same lines as the business process consultations were conducted for ESP implementation. It is thought that the present DAS Coordinator-Corporate Projects Officer could take on this role, which would take approximately three months. The specifications would then be scrutinised by MIS and ESP HR who would then be able to produce an accurate costing of development, testing, documentation and training. Clearly, cost will depend to a large extent on the type of development envisaged: the more flexibility that is required to be built into the new DAS, the greater the likelihood that core ESP functions will be affected and therefore the greater the development and testing required, and the greater the cost. If what is envisaged is an integrated replacement system with a web-based front end that can accommodate the basic needs of users, the cost can be expected to be around \$50,000. (This equates to four months of development and testing work and one month for documentation and training at \$10,000 a month.)

R6 *That a new DAS be developed as part of ESP HR, with an implementation target of December 2001. A crucial first step is the identification of key business rules and processes, to be done in concert with the development of the suite of delegations policies. Until then, the existing DAS should continue to be used and maintained as a register of delegates, agents and their authorities.*

R7 *That if feasible, agent profiles be established for each set of delegations. Profiles³¹ should not be mandatory but should be developed in such a way so as to maintain some sort of parity across like positions within the University structure. Rather than determining access, profiles should simply set University-wide standards for functions and limits which delegates can modify to suit their local area.*

³¹ See also 2.3.2 for a fuller discussion of agent profiles.

2.9 Devolution and decentralisation

As one interviewee succinctly put it, the debate about devolution and decentralisation has not properly occurred at this University. There is substantial feeling in local areas (and, to some degree, in central administrative areas) that too much has been devolved, sometimes for the wrong sorts of reasons.

A useful distinction between devolution and decentralisation was provided by one delegate, who suggested that devolution referred to handing out power or authority, while decentralisation referred to administrative processing done locally. This delegate also commented on whether the benefits of recentralisation of some powers and functions would be commensurate with the cost.

Opinions about devolution and delegations included the following broad strands.

- When the delegations were first articulated, their primary focus was financial and not staffing. Financial delegations are much easier to express as values attached to transactions and each category of transaction is easy to identify and enumerate. However, staffing delegations are considerably more complex. The processes of selection, appointment and remuneration interact not just with policy but with Enterprise Bargaining and other industrial agreements; proper performance management requires training and expertise that many local areas do not believe they possess; problems relating to unsatisfactory conduct, interface with unions and termination of employment are difficult to navigate. There is a perception that the human resource delegations were not as fully developed as their financial counterparts. (This is a view held centrally as well as locally.)
- The devolution of reclassification of general staff positions to delegates was the subject of divided opinion. Almost all interviewed (with the exception of some delegates) believed that some centralised monitoring and/or control of appointment to and reclassification within the Senior Administrative Officer (SAO) grades should be maintained centrally. The reasons given were parity, which was considered important to morale; the view that SAOs were University rather than local area assets (in that they performed a key role in maintaining University policy standards in local areas); a belief that unfettered delegation gave rise to nepotism and bias (and some respondents provided examples); that many delegates are unable to say “no” and therefore agree to reclassification proposals almost regardless of merit. A more tempered view was that while the authority to reclassify had the advantage of offering flexibility to delegates and agents, it was sometimes misused. In some cases remarked upon, market or merit loadings might have been more appropriate than reclassification. Another view was that the University opens itself to abuses of reclassification because the descriptors are inadequate, and that more work should be done on classifying work value and market relativities so these can be tied in to levels of classification. A couple of respondents maintained that delegates and agents should move beyond the issue of equity and parity and embrace the free market approach – that delegates are free to determine salaries according to their needs and their budgets, but many others were quick to point out the perceived flaws of that argument. (These are the issue of parity and morale; the fact that staff are employees of one University and not individual local areas; that there will be a divide between wealthier and poorer budget units, the former able to attract better calibre staff because of more

generous remuneration packages.) While no-one wanted to return to the bureaucratic committee systems of the past, it is clear that there is a universal wish to see a more open, transparent system of reclassification, and not just for the senior levels.

- The academic staff analogue to the above was seen to be exposed to a greater level of scrutiny than is the case with general staff. Although Deans and Directors have the delegation to approve promotions up to and including Level C, they do so on the recommendation of a properly constituted promotions committee. The review noted that there is increasing support for a promotions rather than a reclassification system for general staff, especially at the senior levels.
- Devolution of certain functions is perceived to have been done on budgetary grounds rather than for reasons of strategy or policy. Respondents from local area budget units have a perception that the financial stringencies of 1996-99 and the disproportionate number of general staff who left under the University Restructuring and Redundancy Scheme (URRS) caused visible shrinkage in some central administrative divisions. Consequently, a number of functions previously managed centrally were devolved to local areas but without any increase in resource with which to handle the additional work. Examples cited³² were the making up of academic staff application working files; recording of OSP; (for some areas) offer letters; letters to unsuccessful applicants for vacant positions; clearing local area advances; (for some areas) generating own sundry debtor invoices; entering student details (annual report, mid-term reviews, details of candidature). Whereas formerly the Work Performance Review process was initiated centrally, it is now the responsibility of local areas to keep an eye on review dates, print the forms and manage the process. Similarly, Payroll Costing Analyses used to be produced centrally and are now printed off and analysed locally. Local area Occupational Strain Liaison Officers and Rehabilitation and Compensation Liaison Officers, resourced by local areas, have duties and responsibilities that are increasingly time-consuming.

Importantly, the continued devolution of powers and functions to local areas has the potential to Balkanise an already bifurcated University. We already have the division between academic and general staff, The Faculties and the Institute of Advanced Studies, and central vs local areas. The current organisation of the delegations system follows the splitting up of the University into discrete budget units, the heads of which have wide-ranging and relatively unfettered powers. There is already a tendency within the University to identify as a Division, Department, School, Centre or Faculty rather than as a corporate entity. Many administrative staff speak as though they are employed by an area rather than the University. The tendency to identify locally is exacerbated by two things. First, where staffing powers are devolved, a delegate will usually act in the best interests of the local area, which may not always coincide with those of the individual staff member or the University. Second, there being no formal scheme of rotation in and out of central and local areas, rotation and movement tends to occur primarily through advertised vacancies or informally arranged secondments and transfers.

The traditional policing role of some central administrative units is disappearing with the assignment of delegations to heads of budget units and there are few mechanisms

³² Note that local areas did not necessarily disagree that these or other functions be devolved, but rather were remarking that devolution sometimes occurred without choice and unresourced.

in place to monitor the exercise of powers. The role of comprehending and implementing University policy tends to fall to senior administrative officers in local areas, and they are not always able to influence their delegate or their area.

R8 *That two further administrative reviews be commissioned by the Executive. The first would focus on devolution and decentralisation. The second would concentrate on ways in which to systematise rotation of senior administrative staff in central and local areas.*

3. Where control of the operation of the DAS most appropriately and efficiently belongs within the administrative structure of the University.

There are four levels of control identified by this review.

- (i) Overarching control in fundamental, University-wide terms – of the expression, number, categorisation and exercise of delegations and agencies;
- (ii) Control of the central DAS database, ensuring that delegations and agencies are properly registered in an accessible University information system;
- (iii) Control over the specific articulation and expression of individual authorities (such as staffing or financial);
- (iv) Local area control over appointment of agents and entering these onto the DAS.

The situation until now has been that (i) to (iii) were bundled together in the Audit Coordinator's portfolio, with (iv) the responsibility of either the head of administrative unit or, in local areas, more often the responsibility of the seniormost administrator/agent. The abolition of the Audit Coordinator position now means that an alternative home for the first three levels of control must be found.

The top level of control must remain with or near Council as the University's governing body and the body charged by the ANU Act and the CAC Act with the control and management of the University. The Vice-Chancellor is the chief executive officer of the University; he is also a member of Council. Although the broad responsibility for University governance properly sits with Council, it is the Vice-Chancellor who makes it take effect. Although the broad system of governance is relatively stable once fixed, it is a living system and there will be occasion when detail changes – eg, when a new unit and therefore new delegate is established, and powers must be assigned. It is appropriate that ultimate sign-off on such matters be assigned to the Vice-Chancellor's portfolio, for administrative and academic delegations.

There are arguments for assigning control at the second level to the Human Resources Division. Delegations and agencies are attached to positions, and positions and their occupants are the business of Human Resources. Delegations and agencies are also one basis of calculation of work value and therefore classification and remuneration, which is one of the central responsibilities of the Human Resources function. As the review has noted, there are serious problems related to lack of integration and ease of access; delegations and agencies must be registered in and integrated with an existing management information system if they are to be meaningful. The review has learned that there is or will be some functionality within the ESP HR system to effect this.

Staff from the ESP HR team and MIS have indicated that there may be some capacity to build delegations and agencies as part of "normal" system modifications, were some resources to be made available. Although this is only indicative, it is believed that six to eight person-months of work would be required to develop and build an integrated, searchable system of delegations to replace DAS. The estimates include two months of analysis of business requirements, and four to six months of development and testing. The estimates include development of user documentation and training. It would be expected that the delegations function would include the ability to capture delegations/agencies against a given position and be searchable on surname and link in with other parts of the HR system; it should accommodate different user profiles and operator classes (such as super-users). It will be absolutely

crucial to ensure that the business processes and rules identified upfront so that the parameters are clear; development of the system itself is not difficult once the business rules have been properly developed.

It is the view of MIS staff consulted that anything other than minor modifications to the existing DAS would take about as much time and effort as building an entirely new system. But given that the DAS is not integrated and is an ineffective standalone system, there would be no point in pursuing modifications.

Third level controls deal with the way in which delegations are actually expressed. As this review has discovered, there are gaps and overlaps in delegations, and intersections with existing policies which must be addressed. It would be useful for the delegations to include every power or authority within the University, however derived. This means that powers that derive from legislation or delegated legislation (Statutes, Rules and Orders, in the case of this University) should be included so that there is a single locus that identifies all authorities, their sources of power, and the delegates who may exercise those authorities. (It is acknowledged that identification of all powers in this way may not be feasible in the short-term.) The review considers that the responsibility for the precise wording of individual delegations should reside with the Head of the Administrative Division whose role most closely relates to the delegation, and whose responsibilities include development of related policies. Therefore all staffing delegations would fall into the portfolio of the Director, Human Resources; financial delegations into that of the Director, Finance and Business Services; delegations relating to student admission, enrolment and administration into the portfolio of the Director, Student Administration and Support Services; those relating to facilities and services to the Director, Facilities and Services, and so on. Clearly many of these will all be in the wider portfolio of the Pro-Vice-Chancellor (Administration) who would take on a watching and monitoring brief over all such delegations.

Fourth level controls should be retained by local areas, preferably in the delegate's office rather than in the office of the seniormost agent (as is commonly the case in academic budget units). It is the clear and unequivocal responsibility of delegates to ensure that their agents are qualified (by virtue of position and training) to make decisions on behalf of the delegates. If the locus of responsibility for local management of the DAS is left with an agent, however diligent, the perception may arise of that agent acting independently rather than for and on behalf of the delegate.

R9 That control of the delegations and agencies system should be broken down into four phases and controlled in four different ways:

- (a) Overall coordination and control be delegated by Council to the Vice-Chancellor;***
- (b) Management of the University-wide DAS be formally assigned to the Human Resources Division, which should be appropriately resourced to do so;***
- (c) The shaping and expression of the authorities themselves and establishment of agent profiles to be done by the central administrative division whose function is most closely related;***

- (d) *The local management of DAS should rest with the delegate rather than an agent.*

4. Conclusions

There are sufficient indications that the University's delegations and agencies system needs some restructuring to accommodate the problems that have been outlined in this review. Any such system must properly reflect the intentions of the University's governing body, the Council, and be able to give effect to the strategic initiatives of the University's Vice-Chancellor and Executive as well as the proper operation of the University, fulfilling both the demands imposed by governing legislation as well as the core academic business of the University. The Council's clear intention in 1996 was to provide for itself a more efficient operating basis (which included a revamp of the existing delegations system). The new delegations system was also intended to satisfy in part the University's obligations under the *CAC Act 1997*. The years since then have been eventful both for the tertiary education sector and for this University in particular and the delegations system envisaged and realised in 1998 is now, only a little more than two years later, inadequate for its purposes.

The appointment of a new Vice-Chancellor in January, 2001 has signalled further change in strategic direction. Changes in the advisory structure and in Executive responsibilities have already been announced.³³ There is a clear indication that the new Vice-Chancellor's strategy is to focus on the University's national research and teaching role so as to enable it to meet the challenges it is likely to face over the coming years, and a whole-of-campus approach is key to this strategy.

The current system of delegations and agencies is somewhat flawed and, this review believes, aggravates the segregationist tendencies of an already complex institution, some of which have been enumerated above. A better approach may be to structure a delegations system along the lines of boxes of authority nested within larger boxes of authority. The basic building block of the system remains the individual budget unit – Faculties, Centres, Schools, Administrative Divisions and Units – the heads of which remain delegates. These budget units exist, however, within larger areas of authority, the delegates of which should also have authority over the building block budget units. There are several implications of such a system:

- Owners of executive portfolios have wide-ranging powers which allow them to put into effect the decisions necessary for proper management of their portfolio. A strong University-wide approach can balance local decisions.
- The key principle that a delegate does not approve his/her own expenditure or staffing appointments in the decision of which s/he is involved remains inviolate.
- That delegates of larger portfolios can appoint agents within smaller budget units provides a reporting/monitoring mechanism for the Executive, as well as some security for agents who challenge a decision of their primary delegate.

Examples:

- (1) The delegate for the Faculty of Agriculture, for example, has control over the Faculty's budget. The Deputy Vice-Chancellor by virtue of his University-

³³ Email to all staff from the Vice-Chancellor, dated 9 March 2001, Changes in Advisory Structure and in Senior Responsibilities

wide responsibilities also has a delegation over the Faculty's budget (although under normal circumstances he would not exercise that delegation). Both the DVC and the Dean of Agriculture appoint an agent in the Faculty Executive Officer. In normal, routine circumstances the E/O reports to the Dean and acts as her agent. Where the Dean wishes approval of a financial transaction in which she is directly involved (eg, a reimbursement), the E/O actions it – but as the agent of the DVC. If the E/O has some doubt about the validity of the transaction, he notifies the senior delegate, the DVC, who has the power to investigate and make a determination on the matter.

- (2) A Director of a Research School is the chair of a selection committee for a Research Fellow. Although the Director theoretically has the authority to approve appointments such as this one, because he is on the selection committee he may not. Instead, the DVC (or his agent) approves the appointment. The DVC could appoint not just the Director of the IAS but also the School Secretary as his agents to approve such appointments, as the DVC's delegation includes all staffing delegations for all University budget units (except for his own and the Vice-Chancellor's positions), under the proposed system.

Accordingly, the review recommends as follows:

R10 That Council give serious consideration to a revised delegations structure to accommodate some of the difficulties currently being encountered. The structure envisaged is a structure of nested delegations, mirroring the chain of command, such that each budget unit is progressively included in larger portfolios, the heads of which may appoint agents in smaller, nested budget units. This structure resolves questions that go to issues of delegates requiring the approval of their own agents, and of monitoring and reporting.

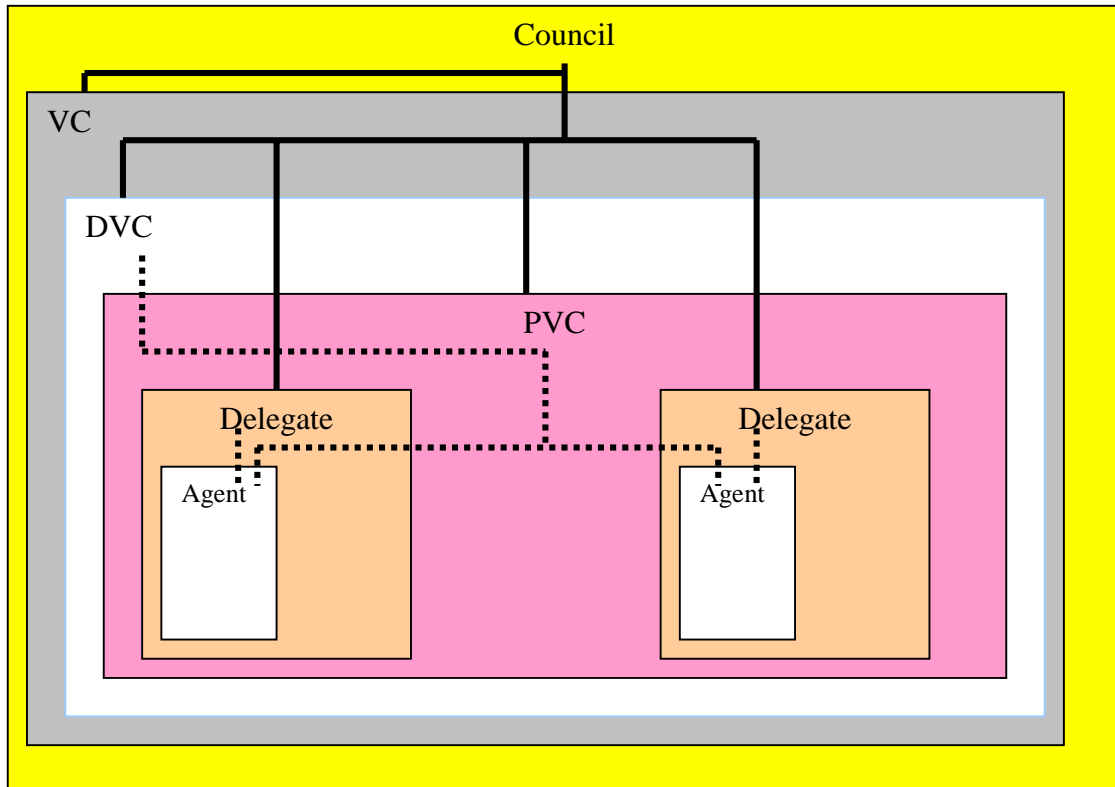
Figure 1 – nested delegations of authority

Key:

Area of authority 

Delegations 

Agencies 



THE AUSTRALIAN NATIONAL UNIVERSITY



CHRIS BURGESS
PRO VICE-CHANCELLOR (ADMINISTRATION)
CHANCELRY BUILDING 10

M E M O R A N D U M

To: University Executive
Directors of Research Schools
Deans of Faculties
Directors of Centres
The Librarian
Director, ITS
Heads of Division
Heads of Administrative Divisions

cc Business Managers
Resource Officers
Manager, Financial Services
Manager, Business Solutions
Internal Audit Coordinator

From: Pro Vice-Chancellor (Administration)

Date: 24 January 2001

Ref: CB/SB/ 17M2000.DOC FILE: 2000 00158

Subject: **REVIEW OF THE DELEGATIONS AND AGENCIES SYSTEM (DAS)**

The University's Delegations and Agencies System has now been in effect for a little over two years. With the staged introduction of Enterprise Solutions Project (Peoplesoft Administrative Systems upgrade) over 2000 and 2001 and the changes that flow therefrom, it is now timely for a review of the Delegations and Agencies System.

The review will consider the following:

1. Whether the University's Delegations and Agency System as currently realised and implemented fulfils the University's obligations under the Commonwealth Authorities and Companies Act 1977 as well as Council's resolutions on its own role and responsibilities in respect of "the entire control and management of the University" (*ANU Act 1991*, s8);
2. How delegates and agents, as well as those tasked with the responsibility of carrying out their instructions, operate within the guidelines set out by the DAS;
3. Where control of the operation of the DAS most appropriately and efficiently belongs within the administrative structure of the University.

The review is expected to consult broadly with delegates and agents and with the Audit Coordinator and Internal Audit office, and to report its findings and recommendations to the Pro-Vice-Chancellor (Administration) by 16 March 2001. The review will concentrate on policy aspects but will draw upon the findings of specific Internal Audit reports, the latest being 13/2000 (November 2000).

The review will be conducted by Peggy Daroesman, Projects Officer and currently on secondment to Finance and Business Services, who can be contacted by email (Peggy.Daroesman@anu.edu.au) or by phone (extension 59635).

Chris Burgess
Pro-Vice-Chancellor (Administration)

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