

INSEARCH LIMITED BOARD CHARTER

1. OVERVIEW

- 1.1 Insearch Limited, trading as UTS College (*UTS College*), is a public company limited by guarantee provided by its members, having no share capital, and is governed by its Constitution.
- 1.2 UTS College, is a registered Higher Education Provider and an English Language Intensive Courses for Overseas Students (ELICOS) Provider. UTS College provides pathway courses for direct entry to the University of Technology Sydney (*UTS*).
- 1.3 This Board Charter explains UTS College's commitment to corporate governance and sets out the role, responsibilities and conduct of the Board. It is not an "all inclusive" document and should be read as an expression of principle.

2. COMPLIANCE AND GOVERNING MATERIALS

2.1 Compliance

The Board is responsible for ensuring that UTS College complies with the provisions of its Constitution and operates within the framework of applicable legislation and associated regulations and codes, including the following (as amended or replaced from time to time), and/or any other applicable laws, codes and regulations that come into force from time to time.

- (a) Corporations Act 2001 (Cth)
- (b) Government Sector Audit Act 1983 (NSW)
- (c) Australian Charities and Not for Profit Commissions Act 2012 (Cth)
- (d) University of Technology Sydney Act 1989 (NSW)
- (e) Education Services for Overseas Students Act 2000 (Cth) and National Code of Practice for Providers of Education and Training to Overseas Students 2018
- (f) Tertiary Education Quality and Standards Agency Act 2011 (Cth) including:
 - (i) Tertiary Education Quality and Standards Agency Fit and Proper Person Determination 2018
 - (ii) Material Change Notification Policy
 - (iii) Any other standards or policies as required by TEQSA
- (g) Higher Education Standards Framework (Threshold Standards) 2021(Cth)
- (h) Higher Education Support Act 2003 (Cth)
- (i) Government Sector Finance Act 2018 and the Government Sector Finance Regulation 2018
- (j) Privacy Act 1988 (Cth)
- (k) Privacy and Personal Information Protection Act 1998 (NSW)

- (l) Public Interest Disclosures Act 1994 (NSW) and the Public Interest Disclosures Regulation 2011 (NSW)¹
- (m) laws and statutes applicable in jurisdictions outside Australia in which UTS College or its subsidiaries operate or conduct business activities.

If there is any inconsistency between this Charter and the Constitution or applicable legislation, the legislation and Constitution will prevail.

2.2 Governance Materials

The Board is responsible for approving all governance materials, including but not limited to:

- (a) this Board Charter
- (b) Audit and Risk Committee Charter
- (c) Remuneration and Nominations Committee Charter
- (d) Academic Board Charter
- (e) Code of Ethics
- (f) Staff Code of Conduct
- (g) Corporate Governance Statement (for inclusion in the Annual Report), and
- (h) Board Capabilities Matrix.

3. OBJECTIVES

3.1 The overall role of the Board is to:

- set corporate strategic direction, risk appetite and goals
- appoint and evaluate the performance of the Managing Director/CEO
- oversee the plans of management to achieve these goals
- receive and review reports from management and subcommittees of the Board
- consider, where appropriate, alignment and consistency with the UTS Strategy.

3.2 The Board is responsible for ensuring that UTS College has an appropriate corporate governance structure to achieve the objectives set out in clause 3 of the Constitution.

4. MEMBERSHIP AND DIRECTORS

4.1 Members of UTS College are either:

- (a) Directors
- (b) Individuals appointed by UTS.

¹ This act will be replaced in 2023 with the Public Interest Disclosure Act 2022 (NSW) that comes into effect in October 2023.

- 4.2** Members have the right to vote at General Meetings. Under the Constitution, a special resolution passed by members at a General Meeting is needed to:
- (a) Modify or repeal the Constitution, subject to the prior approval of UTS
 - (b) Change the composition of the Board of Directors
 - (c) Modify director remuneration.
- 4.3** Number of Directors
- (a) In accordance with the Constitution, the Board consists of 8 Directors, who must all be members of UTS College.
 - (b) Members of the Board must consist of the persons:
 - (i) appointed by the body or persons listed in clause 37 of the Constitution
 - (ii) be elected in accordance with Part 9 of the Constitution.
- 4.4** The Constitution requires that Special Directors' Resolutions (passed by at least 75% of directors entitled to vote) are required for:
- (a) Approvals:
 - (iii) To provide pathway courses for undergraduate entry to UTS
 - (iv) To provide other courses
 - (v) To partner or co-operate with any other person or association in the provision of educational facilities or courses of study
 - (vi) To invest or divest in subsidiaries or other companies, partnerships or associations carrying on a business(es)
 - (vii) To disseminate and increase knowledge and the promotion of scholarship, through continuing higher education courses or related activity as approved in accordance rule 63 of the constitution.
 - (b) Fundamental changes in the nature or scale of the business of UTS College
 - (c) For UTS College entering into any significant new business ventures.
- 4.5** Board appointments
- (a) When considering appointments under Part 8, Directors consider the Member's capacity to enhance the mix of skills and experience of the Board and to contribute to the ongoing development of UTS College.
 - (b) Directors must be Members of UTS College.
 - (c) As per clause 8.1 of the Constitution, all nominations for new Members are made by UTS and as such, the membership of the Remuneration and Nominations Committee will have a majority of UTS representatives.
 - (d) Before a new Director is appointed, the following procedure will be followed:

- (i) The Board will agree on the qualifications, skills and experience it is seeking in the appropriate Member appointee, drawing on and updating the current Board Capabilities Matrix
- (ii) The Remuneration and Nominations Committee will identify appropriately qualified Members and propose appointment to the Board
- (iii) The Member appointee will be interviewed by the Chairperson and at least one other Director, who will then make a recommendation to the Board.

4.6 Managing Director/Chief Executive Officer (CEO)

- (a) The Board may appoint a Managing Director/CEO in accordance with Part 10 of the Constitution.

4.7 Tenure of Appointment or Election

- (a) Each member of the Board appointed under clause 37 of the Constitution holds office until:
 - (i) his or her appointment has been revoked in writing by the Council of UTS (except the Managing Director/CEO) with immediate effect unless the notice specifies otherwise as per clause 40.1, or
 - (ii) he or she ceases to be a Director in accordance with the Constitution.
- (b) No person, other than the Vice-Chancellor or the Managing Director/CEO, may be a member of the board for more than 8 years in the aggregate, provided that UTS may extend that period for any person at its discretion under clause 40.2.
- (c) At each annual general meeting, one of the persons elected as members of the Board, under clause 37.1(4) of the Constitution, must retire from office at the closure of that meeting and, subject to the clause 42.4 of the Constitution, a person retiring as an elected member of the Board is eligible for re-election.

4.8 Expectations of Directors

- (a) A Director is required to:
 - (i) respect and act in accordance with UTS College code of ethics and code of conduct
 - (ii) observe and oversee standards of good corporate governance
 - (iii) contribute the time needed to study and understand the papers provided
 - (iv) participate fully and openly in meetings, sharing insights, ideas and suggestions
 - (v) contribute knowledge and express opinions based on experience, to support the Board in making sound decisions
 - (vi) exercise powers and duties with reasonable care and diligence
 - (vii) exercise powers and duties in good faith, in the best interests of UTS College and for a proper purpose
 - (viii) comply with all applicable laws, including the Corporations Act 2001 (Cth)
 - (ix) to the extent practicable, apply objective judgement in decision making.

4.9 Independence

- (a) The Board has independent Directors and an independent Chairperson.
- (b) The Board considers that independence is established through elements such as:

- (i) Separation from management
- (ii) No significant dealings with UTS College, or its related entities, that could interfere with a person's objective judgment
- (iii) Free from any interest, position, association, or relationship that might influence or reasonably be perceived to influence UTS College
- (iv) Not having any employment or other relationship with UTS College or its related entities in the past 3 years.

4.10 Remuneration of Directors

- (a) Clause 57 of the Constitution specifies that the Directors are paid out of company funds as fees for their ordinary services as Directors. Such sum may from time to time be determined by a special resolution of the members in general meeting.
- (b) Remuneration of the Managing Director/CEO will be determined by the Board in accordance with clause 52 of the Constitution.

4.11 Board Committees

- (a) To assist in fulfilling their duties and responsibilities, the Board as per clause 78 of the Constitution has established an Audit and Risk Committee, a Remuneration and Nominations Committee, and an Academic Board. Each Committee has a formal Charter approved by the Board.
- (b) The Chairperson of the Audit and Risk Committee and the Academic Board Committee are not the same person as the Chairperson of the Board, to support the independence of these committees.
- (c) With the exception of certain limited delegations contained in their Charters, recommendations of the Committees are to be referred to the Board for approval.

4.12 Conflicts of interest

- (a) Directors are required to disclose any potential conflicts of interest in accordance with Part 17 of the Constitution and the provisions of the Corporations Act, for recording in UTS College's Conflict of Interest Register.

5. INFORMATION AND INDEPENDENT ADVICE

5.1. Appointment Letter

- (a) Upon appointment, a new Director is given a letter of appointment setting out the key terms and conditions of their position and will be requested to complete a disclosure of interests form.

5.2. Induction Pack/Program

- (a) Upon their appointment, new Directors are provided with a range of information, including:

- (i) the Constitution
 - (ii) Board and Committee charters
 - (iii) Operational Plan
 - (iv) Strategic Plan
 - (v) most recent annual report
 - (vi) Code of Ethics
 - (vii) Staff Code of Conduct
 - (viii) Board profiles and contact details
 - (ix) Enterprise Risk Register
 - (x) Board meeting schedule
 - (xi) recent Board and Committee meeting minutes.
- (b) In addition, new Directors must attend an induction program to gain an understanding of UTS College's:
- (i) strategy, objectives, and business
 - (ii) industry in which UTS College operates
 - (iii) corporate governance practices
 - (iv) current financial and business performance
 - (v) the Executive Team (Executive)
 - (vi) remuneration strategy
 - (vii) risk management framework.

Where possible, the induction program will include a tour of UTS College's office and classrooms, meeting UTS College staff and students, and meetings with key executives of UTS College.

5.3. Professional Development

Directors are encouraged to undertake appropriate professional development activities to assist them in carrying out their duties and responsibilities. The Board will consider and may approve a program of development activities which may be undertaken collectively by all Board members or approve professional development activities for individual Board members from time to time.

5.4. Requested Information

Directors are entitled to request and receive such additional information as is reasonably necessary to support informed decision making. Unless a conflict exists or to do so would be inconsistent with the Director's duties, the Director is to request such information through the Chairperson or the Managing Director/CEO.

5.5. Independent Advice

The Board and each individual Director, subject to discussing the requirement for advice with the Chairperson and acting reasonably, has the right to seek independent professional advice

from a suitably qualified advisor, at UTS College's expense, to assist them to carry out their responsibilities. Unless it would be inappropriate, a copy of this advice is to be made available to all other members of the Board.

6. MEETINGS

- 6.1.** The Board generally meets a minimum of 6 times per year or more frequently if circumstances require. Where the Chairperson considers appropriate, matters may be dealt with by the Board through special Board meetings or circulating resolutions.
- 6.2.** In accordance with clause 71 of the Constitution, the minimum quorum for a Board meeting is 4 Directors. Of those 4 Directors, the majority must have been appointed by UTS and be entitled to vote on each of the resolutions put to the meeting.
- 6.3.** The Academic Board Chair is a permanent invitee to attend and participate in appropriate Board matters at Board meetings and inform the Board about academic and other matters. The Academic Board Chair is not required for quorum and should the Academic Board Chair not be present at a Board meeting they will report to the Board at the following meeting.
- 6.4.** The Managing Director/CEO is responsible for ensuring the Board receives papers including an agenda, at least 4 business days in advance of meetings.
- 6.5.** The Company Secretary is responsible for taking minutes of the meetings.
- 6.6.** Other members of the Executive, at the discretion of the Board, are invited to attend Board meetings and are also available to be contacted by Directors between meetings. However, the Board will meet without executive management present on a regular basis.
- 6.7.** Each Director must attend Board meetings as well as the annual Board planning retreat and the Annual General Meeting unless prior leave has been obtained from the Chairperson.

7. DUTIES AND RESPONSIBILITIES

- 7.1.** The Board is responsible for overseeing the business and commercial affairs of UTS College including:
 - (a) establishing and monitoring a set of governance roles and responsibilities
 - (b) providing leadership on strategy development and approving the strategy
 - (c) engage in and monitor the culture of the college
 - (d) evaluating and approving the annual operating budget and operational plans including student recruitment strategies
 - (e) approving the ICT Strategy and its alignment with the UTS College Strategy
 - (f) approving any changes in the brand strategy
 - (g) evaluating, approving, and monitoring the progress of major capital and operating expenditure
 - (h) appointing and, when necessary, replacing the Managing Director/CEO
 - (i) reviewing performance, employment terms and conditions and remuneration of the Managing Director/CEO
 - (j) appointing the Chairperson

- (k) appointing the Company Secretary
- (l) reviewing and monitoring the risk appetite & risk management, compliance management and internal control framework
- (m) reviewing and approving the Enterprise Risk Register, Risk Management Framework and Policy and the Compliance Management Program
- (n) establishing appropriate delegations to Board committees and the Managing Director/CEO
- (o) ensure there are plans in place to manage the succession of the Managing Director/ CEO and other Executive members
- (p) set the measurable objectives for achieving diversity and annually reviewing those objectives and the entity's progress towards achieving them
- (q) developing financial controls and systems, reviewing their adequacy, and ensuring that the assets of UTS College are adequately safeguarded
- (r) evaluating and approving the financial reports
- (s) overseeing UTS College's commitment to the wellbeing, health and safety of its employees, contractors, and students
- (t) overseeing UTS College policies, which are developed in line with the "Policy and Procedure Development Policy"
- (u) clearly communicating the Board delegations to management.

7.2. Management is responsible for implementing the strategic objectives and operating within the risk appetite set by the Board and for all other aspects of the day-to-day running of UTS College. It is also responsible for providing the Board with accurate, timely and clear information to enable the Board to perform its responsibilities.

7.3. The Board should regularly review the division of functions between the Board and management to ensure that it continues to be appropriate to the needs of UTS College.

8. CHAIRPERSON

The Chairperson is appointed by the Board and should be an independent Director and, in particular, should not be the same person as the Managing Director/CEO. The Chairperson is responsible for:

- (a) ensuring compliance with this charter
- (b) managing the conduct of meetings
- (c) leadership of the Board
- (d) overseeing the Board in the effective discharge of its role
- (e) the efficient organisation and conduct of the Board's function and meetings
- (f) facilitating the effective contribution of all Directors.

9. MANAGING DIRECTOR/CEO

- (a) The Managing Director/CEO is responsible for the day-to-day management of the operation of UTS College in accordance with the general policies and specific directions of the Board. It is the responsibility of the Board to oversee the activities of management in carrying out these delegated duties.

- (b) More specifically, the Managing Director/CEO is responsible for:
- (i) working with the Board to build an appropriate organisational culture and values
 - (ii) appointing the Executive in consultation with the Board
 - (iii) authorising all employment contracts
 - (iv) undertaking annual performance reviews of each member of the Executive
 - (v) developing UTS College's strategy for review and approval by the Board
 - (vi) working with the Board to determine long term and short-term objectives
 - (vii) implementing the Board approved strategy
 - (viii) keeping the Board appropriately informed of the operations of UTS College.

10. COMPANY SECRETARY

- (a) The Company Secretary supports the effectiveness of the Board and its committees and is mainly responsible for:
- (i) advising the Board and its committees on governance and legal matters
 - (ii) monitoring that Board and committee policy and procedures are followed
 - (iii) coordinating the timely completion and distribution of Board and committee papers
 - (iv) ensuring that the business at Board and committee meetings is accurately captured in the minutes
 - (v) assisting with organising and facilitating the induction and professional development of Directors.
- (b) Each Director should be able to communicate directly with the Company Secretary and vice versa.

11. PERFORMANCE

To determine whether it is functioning effectively, the Board shall:

- (a) review this Charter every two years
- (b) perform an evaluation of its performance at intervals considered appropriate by the Chairperson, but at least every two years
- (c) review the Board Capabilities Matrix every two years
- (d) review the Directors' performance including the Managing Director/CEO
- (e) review the Chairperson's performance via a suitable non-executive Director after having canvassed the views of the other Directors
- (f) review the performance of the Board subcommittees every two years.