

EXPERT ASSESSMENT PANEL

The Expert Assessment Panel (EAP) provisions have now been finalised and are set out below. The legal validity of these provisions was confirmed by legal advice provided to Vice-Chancellors on 14 May. The EAP provisions have also been subsequently modified in line with recommendations contained in that advice.

The key features of how the EAP will work are as follows:

- The EAP has one decision-making role: to rule upon whether the University meets the financial threshold for either Category A or Category B.
- A University is able to obtain the EAP's decision before deciding whether to put a proposed EA Variation to a vote of staff.
- The report of the EAP will indicate whether the University meets the criteria for either Category A or B, with the report to also outline the cost saving measures that the University has indicated it intends to use.
- It is for the University to decide which of the available measures it ultimately does use if the EA Variation is put in place. The EAP has no power to direct a University to use or not use any measures available to it in the relevant category.
- The EAP is not able to decide which other cost savings measures, such as reduction in other expenditure or drawing on cash reserves, a University will take, or how it will make those cost savings.
- All information provided by the University to the EAP is done so on a commercial in confidence basis.
- If the EAV is approved by staff vote and the FWC, the EAP can be asked to review a University's category eligibility after 6 months (or at any other time if there is an extraordinary change to its financial situation).

It is expected that when putting an EA Variation to a vote of staff, the University will outline to staff the particular measures that it is intending to use as a Category A or Category B University.

The full EAV Schedule clause is set out below:

EXPERT ASSESSMENT PANEL (for EAV Schedule – Clause 31)

31.1 Before accessing any cost-saving measures in Parts 4, 5 and 6 of this Schedule, the University must satisfy the Expert Assessment Panel (EAP) that the relevant Category threshold referred to in Part 10 of this Schedule has been met, including by providing relevant internally-certified financial information and enrolment data. In making its submission to the EAP, the University will also demonstrate how the cost saving measures selected by the University are proportional to the financial impact and are necessary to avoid or minimise loss of job opportunities. The statement will indicate whether the University has identified and implemented other reasonable cost-saving measures and

indicate the number of jobs preserved as a result. The cost saving measures to be considered by the University will be:

- a. a cut in senior executive salaries higher than that borne by employees;
- b. reduction in capital works;
- c. reduction in travel;
- d. debt capabilities;
- e. drawing on cash reserves;
- f. drawing on investments.

31.2 The EAP consists of three nominees of AHEIA, three nominees of NTEU and an agreed independent Chair. As far as practicable, the nominees will remain the same throughout the term of this Schedule to ensure consistency across all Australian universities. The nominees are nominees not representatives, given the function is to determine a question of fact. The reasonable cost of operating the EAP shall be met by the universities.

31.3 The EAP will appoint an independent accountant to verify the figures provided and the methodology used to calculate them.

31.4 The role of the EAP is to consider the University submission and determine whether a Category threshold has been met. The EAP will act quickly and provide a draft decision to the University for further comment before confirming a decision which will be final.

31.5 The EAP's final report will be provided to the University and the NTEU and will outline whether the University has met the criteria for Category A or Category B, the measures in Part 5 of this Schedule that the University has indicated it intends to use, and the extent to which these measures are likely to protect jobs.

31.6 The EAP will conduct a review six monthly at the initiative of the University or the NTEU to determine whether the relevant Category threshold continues to be met, or at any other time if there is an extraordinary change to the University's financial situation. If the EAP determines that a University is no longer eligible to access particular cost saving measures the EAP will give reasonable notice to the University that it is not eligible to access those measures prospectively.

31.7 For the avoidance of doubt, the EAP cannot direct or require the University to adopt or not adopt any cost saving measure, either under this Schedule or otherwise.

31.8 All information provided by the University to the EAP is provided on a commercial in confidence basis.