



Information Sheet:

TEQSA's approach to confidential information

TEQSA's regulatory processes may require information that is confidential to a higher education provider, including commercial-in-confidence information. This document provides further information about TEQSA's approach to confidential information. Information about TEQSA's handling of personal information is set out in TEQSA's Privacy Policy at <http://teqsa.gov.au/privacy>.

Relevant legislation

TEQSA has statutory obligations of confidentiality pursuant to Division 2 of Part 10 of the *Tertiary Education Quality and Standards Agency Act 2011*.

TEQSA also operates within a public accountability framework. This includes obligations:

- ▶ to provide information to Ministers, the Parliament or Parliamentary Committees
- ▶ under the *Freedom of Information Act 1982* (FOI Act), the *Auditor General Act 1997*, and the *Ombudsman Act 1976*
- ▶ to provide reasons for TEQSA's decisions, including in the context of court or tribunal proceedings.

In particular, the FOI Act requires TEQSA to consider each individual FOI request on its merits at the time the request is made. TEQSA will also consider any exemptions or conditional exemptions under the FOI Act. The FOI Act does not give agencies discretion to apply exemptions on a blanket basis. More information about the operation of the FOI Act is available in the Information Commissioner's guidelines on the FOI Act, which are available at http://www.oaic.gov.au/publications/guidelines.html#foi_guidelines.

TEQSA's approach

Where a higher education provider considers that its information should be treated as confidential by TEQSA the provider should contact their TEQSA case manager before providing the information. Examples of the kind of information a provider may request be treated as confidential include;

- ▶ records of confidential commercial discussions in relation to possible arrangements with third parties;
- ▶ confidential legal advice about ongoing court proceedings;
- ▶ confidential records of disciplinary proceedings against individual staff members.

The provider will need to give TEQSA the reasons for requesting that the information be treated as confidential (without disclosing any confidential information to TEQSA as part of those reasons).

TEQSA may request further information from a provider about a claim for confidentiality and will consider all requests from a higher education provider that information be treated as confidential. In appropriate cases, TEQSA may suggest that TEQSA and the provider enter into a written arrangement

setting out the basis on which the information will be treated as confidential. TEQSA may also suggest that the provider gives TEQSA other information which is not confidential, or that the provider gives TEQSA the information in a form which is not confidential.

Where TEQSA has received a request to disclose a provider's confidential information, TEQSA will usually consult the provider and give the provider an opportunity to make submissions on whether TEQSA should release the information. However in certain cases this may not be possible.

While the FOI Act precludes the application of exemptions on a blanket basis, in the case of FOI applications, TEQSA will carefully take into account any relevant considerations, including the commercial sensitivity of particular information where appropriate.

