



TEQSA Guidance Note: Third Party Arrangements

Overview

Many registered providers deliver higher education (HE) courses through other entities, i.e. third parties. These courses may be delivered either on shore or off shore. They may be delivered face-to-face, online, or partly face-to-face and partly online (blended). The requirements of the Threshold Standards (Standards) apply regardless of mode or location of delivery.

TEQSA's interest in third party arrangements (TPAs) lies with arrangements for third parties to undertake or provide services such as: student admissions; course delivery (teaching, learning and assessment); course design and development; library and information services and student support services.

What does TEQSA look for?

Governance and Management

Ultimately, responsibility for ensuring that courses meet all the relevant Standards rests with the governing body of the registered provider, rather than the third party (in accordance with Provider Registration Standard (PRS) 3.8 and s26 of the *TEQSA Act 2011*, and *The National Code 2007 C10*).

The governing body is responsible for putting in place approved policies and procedures that regulate all aspects of third party provision (PRS 4.5), especially in relation to quality assurance (see next section). Providers could develop policies and procedures specifically dedicated to third-party provision, or the relevant controls could be integrated within generic policies and procedures (for example moderation of assessment over different sites could be integrated into a general policy on assessment).

Once the relevant policy framework is in place, management must ensure that each TPA is operated in accordance with the framework. The larger the number or the greater the importance of TPAs, the more important it is for the provider to put in place effective central mechanisms and policies for managing and monitoring them, with clear lines of accountability and reporting back to senior managers and (if only by exception) to the governing body. Monitoring of material issues and risks should be evident in the Minutes of the corporate governing body and the academic governing body.

Due Diligence and Contracting

TEQSA would expect a provider to undertake a credible and rigorous due diligence process before reaching agreement with each third-party partner, in accordance with an approved policy and procedure and robust criteria for partner selection. The ability to select a reliable partner is a most important factor that will reduce the risks of failures in quality. The due diligence process would be evidence-based and would consider a range of issues about the potential partner such as its ability to deliver on the responsibilities outlined in Appendix A and its:

- ▶ Track-record in the provision of higher education, including regulatory status and history
- ▶ Ownership and governance structures
- ▶ Track-record of probity.

In order to provide security that the Standards can be met on a sustainable basis into the future, a registered provider should reach a formal agreement with each third party before commencing operations, which should include a schedule of courses that the third party is authorised to provide, and should cover relevant topics as detailed in Appendix A. Legally binding agreements are strongly recommended as they provide a higher level of security than Memoranda of Understanding. There should be a current register of agreements.

Quality Assurance and Academic Standards

A provider's framework for academic standards (within its broader framework for quality assurance) comprise its policies, procedures and practices for assessment, especially those which are designed to promote internal consistency in marking of assessment tasks across different fields of education, delivery locations and modes. It should include controls to ensure external consistency of standards with other higher education providers, such as marking of examination scripts by the registered provider's own academic staff, and external moderation.

TEQSA will expect that processes are in place to compare assessment outcomes at all locations (including third-party delivery sites – Provider Course Accreditation Standard 1.10), detect variability, and adjust outcomes or future arrangements where necessary to reduce variability. TEQSA will look for records of meetings of assessment committees or boards of studies that finalise results, including results from students studying with third parties, to see how consistency is monitored and achieved in practice, and how the registered provider monitors attrition, progression and completion rates at third parties to ensure equivalent student outcomes.

TEQSA will seek to ascertain what level of support (especially academic support) the provider gives to the third party's academic staff and management

Auditing Cycle

A cycle of periodic audits of each third party and their performance is a particularly desirable feature of third-party quality assurance.

The starting point of these audits must be the obligations of each party as set out in the agreement between them. To what extent has the third party fulfilled the obligations placed on them in the agreement? To what extent has the registered provider fulfilled its obligations? To what extent has the third party adhered to the policies and procedures it is bound to observe?

TEQSA will seek to review samples of recent audit reports, and evidence that recommendations for improvement have been followed up and implemented by either the provider or the third party, as needed. Material issues should be drawn to the attention of the governing body. The use of external reviewers (i.e. reviewers not employed by the provider or the third party) adds credibility to audits of third party providers.

Appendix A

The scope and extent of legal agreements with third parties will vary in accordance with the scope and extent of functions being undertaken by a third party provider. Legal agreements should clearly allocate rights and responsibilities between the registered provider and the third party in each of the following areas *as applicable* to the functions being delivered by the third party.

Topics for agreements with third parties

- ▶ The rights and responsibilities of the registered provider for matters such as:
 - ▶ Provision of and rights over current intellectual property
 - ▶ Policy and procedural framework
 - Clarify which of the registered provider's policies and procedures apply, and which of the third party's policies and procedures apply
 - ▶ Provision of current administrative guidelines/manual
 - ▶ Provision of academic support to third party managers and academic staff
 - ▶ Student and staff induction
 - ▶ Best endeavours to maintain TEQSA registration and course accreditation
 - ▶ Marketing and promotion
 - ▶ Student admission and enrolment requirements and processes (including English language requirements)
 - ▶ Credit transfer and recognition of prior learning (RPL)
 - ▶ Setting of student fees
 - ▶ Maintenance of student records
 - ▶ Student complaints and grievances
 - ▶ Provision of assessment and marking, monitoring of student progress, academic integrity, student appeals and grievance processes
 - ▶ Course and unit management, including evaluation of courses and teaching
 - ▶ Provision of support services
 - ▶ Compliance with laws and regulatory obligations in the home jurisdiction, including the ESOS Act and national Code
- ▶ The rights and responsibilities of each third party for matters such as:
 - ▶ Provision of and rights over intellectual property (especially if licensing courseware to the registered provider)
 - ▶ Best endeavours to maintain local registration or accreditation
 - ▶ Representation as appropriate on registered provider's academic bodies
 - ▶ Compliance with registered provider's specified policy and procedures and provision of information to students about all applicable policies and procedures
 - ▶ Marketing and promotion of the course, and ensuring that marketing and pre-enrolment materials are:

- current, accurate and compliant with PRS 6.1-6.3
- approved by the registered provider
- ▶ Student admission and enrolment requirements and processes (including English language requirements), academic integrity
- ▶ Delivery of the course at the equivalent level of quality to delivery by the registered provider including:
 - Student and staff induction
 - Local (i.e. provided by the third party) employment of teachers with the required qualifications and experience, approved by the registered provider
 - Provision of required property and facilities (for face-to-face or blended delivery)
 - Provision of local course materials
 - Provision of local tutorial services
 - Maintenance of accurate local student records and student administration
 - Provision and regulation of local assessment activities and marking, monitoring of student progress and feedback to students
 - Co-operative participation in moderation of assessment and periodic audits
 - Remittance and payment of fees
 - Provision of support services, including English language support where required
- ▶ Student complaints, grievances and appeals
- ▶ Periodic audit requirements
- ▶ Management of work placements (if applicable)
- ▶ Compliance with laws and regulatory obligations in the third party's jurisdiction
- ▶ Reporting requirements, including:
 - requirements to notify the registered provider of material changes
 - reporting of student performance data including student satisfaction.
- ▶ Arrangements for review or amendment of the agreement, termination (for example if either party breaches its designated responsibilities), and for teach-out in the event of a contract being terminated or not renewed
- ▶ Whether further sub-contracting is permitted, and if so, what controls are put in place to ensure that the registered provider retains the ability to ensure that the Threshold Standards are met
- ▶ Dispute resolution processes.

References

The Quality Assurance Agency for Higher Education (2010), *Outcomes from collaborative provision audit: Framework, guidance and formal agreements*.

The Quality Assurance Agency for Higher Education (2012), *UK Quality Code for Higher Education*. Part B: *Assuring and enhancing academic quality*. Chapter B10: *Managing higher education provision with others*.

Edwards J, Crosling G, Edwards R (2010), Outsourcing university degrees: implications for quality control, *Journal of Higher Education Policy and Management*, 32, pp 303-315.

Stella A, Bhushan S (eds) (2011), *Quality assurance of transnational higher education: the experiences of Australian and India*. Australian Universities Quality Agency and National University of Educational Planning and Administration, India.

TEQSA contact

For further information about or discussion of *third party agreements* please contact your case manager in the first instance.