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6 May, 2021

The Leader
Cost Recovery Team
TEQSA
GPO Box 1672
MELBOURNE 3001

Dear Team Leader,

Re: Consultation Paper: Fees and Charges Proposal, April 2021

I refer to your Consultation Paper of 30 April 2021 concerning the proposal to recoup full cost recovery for TEQSA services, and respond as follows:

Background
The College of Law is the largest postgraduate law school in Australia and has been training lawyers since 1974. We are currently a Higher Education Provider with Self-accrediting Authority at levels 8 and 9 (coursework) in the field of Law (0909). We now have over 7000 students per year and more than 100,000 alumni. We have never been found to be non-compliant with any of our regulatory responsibilities by any regulator.

The College is an unusual HEP in that our main Program (the Graduate Diploma of Legal Practice) is a highly intensive and integrated course with a single enrolment event. That course has around 200 offerings per year in a range of modes and durations in order to maximise flexibility and convenience for students. This greatly complicates our academic calendar, and the requirement for students to find their own (corequisite) work experience placements takes completion out of the hands of the College. These factors, combined with the College's success in attracting students and sustained growth over the last three decades, can take us beyond sectoral norms in certain risk areas, resulting in (what we would regard as) an artificially high risk assessment in most years. If greater emphasis were placed on a provider's track record of compliance, the College's risk assessment would be substantially lower.

Response to Consultation Paper – Risk
As a general principle, the College is opposed to the idea of regulators requiring providers to pay for services beyond those services initiated by the provider (such as registration or accreditation). We believe that if a government wishes to regulate a particular activity then it ought to be the government's responsibility to fund that regulation. However, we accept that this is a matter of government policy with which TEQSA must comply, so we limit our response to the detail as to how the policy is implemented.

The emphasis on risk in the Background above is preliminary to our main concern with the fee settings based on three levels of regulatory effort. In 2020 the College was assessed as being a High Risk to students on the basis of certain calculations where the unique College condition resulted in findings beyond the sectoral median. The likelihood is that the College will never be within sectoral norms for some of these criteria, which has nothing to do with the real risk to students (as based on our track record).

Accordingly, we urge TEQSA to give due weight to a provider's record of compliance rather than rely solely on the risk assessment calculations in determining which of the three (regulatory effort) fee settings should apply.

Business as Usual Consultations
Our other concern from the Consultation Paper was the possibility that we might be charged by the hour for the Agency's time in the course of responding to enquiries. The College has always taken a proactive approach to dealing with TEQSA – frequently consulting our Case Manager on matters of policy or procedure where the College condition is potentially non-compliant. This has led to some valuable dialogue over the years and improved the mutual trust and understanding between us.

If we (or any other provider) were to be charged by the hour for such regulatory clarifications there could be a loss of willingness to engage (potentially budget driven), with a resultant increased risk of non-compliance and a loss of the intimate contextual knowledge that TEQSA has regarding the College and its Programs. Surely such a result would be contrary to the intent of TEQSA's usual regulatory approach based on necessity, proportion and respect.

We would be interested to know also exactly how the Concern Management and Resolution item in Table 6 is to be calculated. Is $269 the maximum or subject to an EFTSL based multiplier?

Conclusion

With those caveats, the College has nothing further to add beyond our usual comment that we support the work of the Agency and have always enjoyed an excellent relationship with TEQSA and its officers. We hope that the introduction of full cost recovery will not impair that relationship in any way.

Please feel free to contact me again at any time with regard to this or any other matter.

Yours faithfully

Neville Carter AM
CEO & Principal

cc Laura Plumb