THE UNIVERSITY OF SYDNEY

Professor Stephen Garton AM
Vice-Chancellor and Principal

3 June 2021

Professor Peter Coaldrake AO
Chief Commissioner
Tertiary Education Quality and Standards Agency

By email: consultation@teqsa.gov.au

Dear Professor Coaldrake,

Fees and charges proposal consultation paper

Thank you for the opportunity to provide feedback on TEQSA's proposal to shift to around 90 percent full cost recovery from 2022 in line with the Australian Government Charging Framework and the Australian Government Cost Recovery Guidelines.

We appreciate that with this proposal TEQSA is seeking simply to develop and implement a policy decision that was taken and budgeted for by the Government three years ago. Nevertheless, we wish to place on the record our view that applying the Government's regulatory full cost recovery model to charitable, not-for-profit, tax-exempt higher education providers registered with the Australian Charities and Not-for-profits Commission (ACNC) is inconsistent and self-defeating public policy.

We do so noting that the ACNC continues to operate on a fee-free regulation model. We assume this reflects the Government's recognition that applying regulatory cost recovery charges to charities is counterproductive, given their public good missions and the significant direct and indirect funding support the Government provides to charities, including through exemptions from paying income tax and eligibility to receive tax deductible gifts.

Every dollar that Australia's public universities and other not-for-profit higher education providers must spend on regulation and compliance is a dollar that they cannot invest directly in their core education or research activities. We estimate that TEQSA's proposed charges will increase the University's regulatory costs by around $100,000 per annum from 2022. We accept that this is not a large amount compared to the University's overall annual turnover. However, it represents yet another $100,000 in regulatory compliance costs that we cannot dedicate to improving the quality of our teaching, student support services or public good research. Like many large, research-intensive Australian universities, currently we must comply with more than 120 pieces of legislation. The cost of the legislative compliance burden we face is enormous and we believe it is growing rapidly, despite periodic commitments from governments to address red tape burdens facing the sector. We are therefore concerned to ensure that TEQSA's additional fees are not viewed in isolation from our broader operating context and that the fees do not grow unreasonably over time.

With that said, the University of Sydney agrees that it is important for the interests of future students and the standing and reputation of Australia's higher education system that TEQSA is adequately resourced to fulfil its regulatory duties. We strongly supported TEQSA's establishment as the national regulator a decade ago because we believe that robust and consistent national regulation is a public good that benefits all students, providers and the community. We are committed to working in partnership with TEQSA and the rest of the sector to ensure Australia's approach to regulating its higher education system continues to be fit for purpose and world leading.

We also acknowledge that, in the absence of the Government reversing its policy or the Parliament refusing to pass the enabling legislation for the proposed new annual regulatory levy, TEQSA has no alternative but to develop the best possible full cost-recovery charging model that it can. We therefore welcome the careful and detailed thought that TEQSA has put into developing its proposal, along with its willingness to consult openly with the sector through its peak bodies and with individual providers.

In response to TEQSA's specific consultation questions:

- The proposed approach to attributing application-based costs according to relative regulatory effort is supported as a reasonable and balanced approach.

- The proposed method of adjusting course accreditation fees based on providers' student numbers is supported as a proportionate way to mitigate the financial impacts on smaller providers, even though this will result in a somewhat higher cost for large, established providers like the University of Sydney.

- The proposal that the cost of compliance and investigatory activities will be borne by the provider being investigated is supported and we welcome the proposal that these charges will only be payable if there are adverse findings.

- Regarding the structure of the proposed new annual levy and TEQSA's overall approach to developing, implementing and refining its full cost recovery model, we raise four suggestions for consideration, in keeping with TEQSA's commitment to contemporary regulation and quality assurance:

    - ***Respectful regulatory partnerships:*** Establish through the TEQSA Act or appropriate subordinate legislation a whole-sector-representative technical oversight committee that commits TEQSA to consulting regularly with regulated entities, to receive feedback about areas where its approach to cost recovery can be improved and made more cost effective.
    - ***Transparency and accountability:*** Require the Minister for Education to table annually in Parliament from 2022 (or otherwise release publicly each year) a detailed audited report on TEQSA's various regulatory activities, their costs and how they were paid for (including the charges and levies paid each year by each regulated higher education provider relating to the TEQSA and ESOS Acts).
    - ***Cost effectiveness:*** Commit TEQSA's management to reviewing TEQSA's costs annually, using activity-based costing and appropriate external benchmarking with comparable regulators in Australia and overseas, to ensure an ongoing focus on minimising/reducing the fees and levies charged to providers.
    - ***Review and improvement:*** Work with the Government, sector and Parliament to amend the enabling Bills for the levy (currently before the Senate) to require an independent review of TEQSA's cost recovery charging regime to be completed in 2025 (one year after full implementation).

We trust this feedback is helpful and look forward to working in partnership with TEQSA and the sector on these matters over the coming years.

Yours sincerely,

Stephen Garton

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