



Australian Government

Tertiary Education Quality and Standards Agency

# TEQSA Compliance Report 2020

March 2021

A decorative graphic on the left side of the cover, featuring a dark blue background with white line-art icons of a checklist, a clock with a checkmark, and a laboratory flask. There are also bokeh light effects in shades of orange and yellow.

TEQSA

## TEQSA Compliance Report 2020 – March 2021

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# Foreword



I am pleased to introduce TEQSA's inaugural compliance report. This is an important initiative for us to report on our compliance activities during 2020 and share with the sector our key learnings and reflections. We also share our compliance focus for the year ahead.

As the national regulator of the higher education sector, TEQSA is responsible for safeguarding the interests of students and the quality of education they receive. Through effective regulation, we seek to enhance and protect the reputation of the higher education system.

The COVID-19 pandemic has caused significant disruption, and supporting the sector to address and overcome the impacts has been a key focus for us in 2020. In response to COVID-19, we reduced the administrative burden of regulation on providers through a number of initiatives, including extensions to registration and course accreditation periods, online delivery flexibility, and relaxing material change notification requirements.

During 2020, we made significant progress in working with the sector across key issues such as academic integrity and contract cheating, admissions transparency, and the quality of online delivery.

We continued to build the capacity of a specialised compliance and investigations team within TEQSA. We recorded a total of 560 concerns<sup>1</sup> about higher education providers and focused our resources on those issues that pose the greatest risks to the sector.

We initiated 28 compliance assessments to assess providers' compliance with their obligations under the Higher Education Standards Framework (HES Framework) and completed 52 assessments. We also completed 138 assessments of providers' compliance with conditions imposed on their registration or course accreditation, revoking 59 and varying five conditions.

In this report, we share important lessons from a case study of ten compliance assessments we conducted on English language requirements for admission of international students to selected higher education providers.

In 2021, we will continue to support the sector as it adapts to the impacts of COVID-19. There are a number of other initiatives on the horizon for 2021, including building the Higher Education Integrity Unit to focus on integrity threats to the sector. We will continue to promote self-assurance and will focus our compliance activities on priorities which present the greatest risks to students and to the quality, integrity, and reputation of the higher education sector.

**Alistair Maclean**

Chief Executive Officer  
TEQSA

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1. We refer to complaints and allegations of non-compliance we receive about providers as concerns.

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# TEQSA's role

TEQSA is the national regulator of higher education providers in Australia.

The protection and promotion of quality higher education in the interests of students and the integrity and reputation of the higher education sector in Australia is at the core of what we do.

We regulate providers to ensure they comply with their obligations under the *Tertiary Education Quality and Standards Act 2011* (TEQSA Act) and, for providers who also offer courses to students in Australia on a student visa, the *Education Services for Overseas Students Act 2000* (ESOS Act). Our broader legislative framework includes the:

- *Higher Education Standards Framework (Threshold Standards) 2015* (HES Framework)
- *National Code of Practice for Providers of Education and Training to Overseas Students 2018* (National Code)
- *Foundation Program Standards* (Foundation Standards)
- *ELICOS Standards 2018* (ELICOS Standards).

We also have responsibility under the TEQSA Act to protect the integrity of the sector more broadly: under the TEQSA Act, we have powers to take action against unregistered entities that represent to offer or confer higher education awards when not registered to do so, and against online locations that facilitate the provision of, or advertise, academic cheating services.

## Our regulatory approach

In exercising our functions and powers, the TEQSA Act requires that we apply the principles of:

- regulatory necessity
- reflecting risk
- proportionate regulation.

We take a risk-based approach to regulating the sector set out in [TEQSA's approach to compliance and enforcement](#). This statement outlines a graduated approach to responding to compliance issues. We will escalate our approach to enforce compliance where risks threaten student safety, provider viability or reputation of the sector. Otherwise, we apply the three regulatory principles to ensure our regulatory actions are commensurate with the nature and level of risk.

Our compliance activities are guided by a set of compliance priorities within agreed risk tolerance parameters. Our compliance priorities for 2021 are set out on page 5. These are reviewed annually to ensure they remain relevant and reflective of risk in the sector.

## Provider risk assessment

Annual provider risk assessments are a central part of the suite of tools that support our regulatory approach. Our regulatory activities feed into a provider's annual risk assessment by taking into consideration its regulatory history when finalising risk ratings. In turn, provider risk ratings assist us to prioritise and apply a risk-based approach to our regulatory activities. For example, this includes informing pre-submission scoping for cyclical application-based assessments, assessing concerns raised about providers, assessing material change notifications, and analysing risk and scoping for compliance assessments.

## Engaging early with providers

We work in respectful partnership with an increasingly broad and diverse higher education sector. This is reflected in how we regulate: working with different providers to ensure they comply with their obligations in a way that is appropriate and tailored to their individual circumstances.

We commit to engaging early with providers to address problems and get compliance back on track.

## Working with other agencies

We work with other government agencies on issues related to higher education to ensure a whole-of-government approach to regulating the sector. Where appropriate, we share information to inform regulatory assessments, manage risks, avoid duplication, and reduce red tape.

## Addressing non-compliance

We address non-compliance as part of our effective regulation of the sector and to ensure that a provider's obligations are embedded in its behaviour, policies, and processes.

Where we identify that a provider is not complying (or is at substantial risk of not complying) with its obligations, our level of regulatory response will: reflect the identified risk to students, the provider, or the sector; be proportionate to the issues we seek to address; and be tailored to the individual circumstances so as to achieve the most effective compliance outcome.

- For providers who have acted honestly and reasonably, are proactive and have taken steps to address the issue, our engagement may be limited to providing education and support. In such circumstances, our oversight is likely to be informal and cooperative.

- For providers who have acted carelessly or recklessly, where there is deliberate or wilful wrongdoing, or an unwillingness to comply with their obligations, we will consider the circumstances carefully. Where necessary and appropriate, we will act swiftly and firmly, and not hesitate to use our formal powers to address or minimise the impact.
- For providers who no longer have the capability to comply with their obligations, we will work with their governing bodies. Our level of intervention will reflect the risk involved. For example, this may involve requiring the provider to engage appropriate expertise.

# Our regulatory toolkit

We use a range of tools to encourage compliance and address non-compliance. These include:

Regulatory guidance	We provide regulatory guidance and education to providers to promote provider self-assurance and prevent non-compliance. This may include (but is not limited to) specific advice or tools to support providers to comply with their legislative obligations.
Voluntary undertakings	We may use a voluntary undertaking to address compliance issues. This is in the form of an action plan, developed in consultation with the provider, and commits the provider to undertake specific action to reduce the risk of, or address, non-compliance with the relevant legislative obligations.
Conditions	We may impose a condition on the TEQSA or CRICOS registration or course accreditation to mitigate a risk associated with the provider's operations. A condition may require a provider to act (or not to do a particular act) to address non-compliance or to prevent non-compliance.
Shortening period of provider registration and/or course accreditation	Where it is necessary to address risk of non-compliance, we may shorten the registration or accreditation period granted to a provider.
Granting provider registration and/or course accreditation for less than the maximum seven year period	Where it is necessary to address a risk of non-compliance, we may grant registration and/or accreditation for less than the maximum period <sup>2</sup> .
Enforceable undertakings	An enforceable undertaking is a legally binding written agreement with a regulated entity to take particular action (or not to take particular action) in order to comply with the relevant legislative obligations.
Injunctions	We can seek an injunction from a designated court to make a regulated entity do or not do something.
Cancelling provider registration and/or course accreditation	In the most serious cases of non-compliance, we may decide to cancel TEQSA or CRICOS registration or course accreditation <sup>3</sup> .
Civil and criminal sanctions	Civil and criminal sanctions are the most serious enforcement actions we may undertake. We can apply for orders imposing pecuniary penalties where a provider has contravened a civil penalty provision.

2. Providers granted initial registration and associated course accreditation(s) are generally granted a period of less than seven years in accordance with TEQSA policy, not because of compliance concerns.

3. There are also other circumstances where TEQSA may cancel TEQSA or CRICOS registration, for example, in the case of a provider-initiated winding up or closure.



# Compliance priorities

As a risk-based regulator, we focus our attention on those areas that reflect the greatest risks to students and the quality, integrity, and reputation of the higher education sector.

We set compliance priorities to guide our compliance and investigation work. This helps us focus our compliance activities and allocate our limited resources for the greatest regulatory impact.

While we have enduring compliance priorities – where the risks are so great that they will always be treated with priority – we also monitor, review, and update our compliance priorities annually to ensure they remain relevant and reflective of the key risks to the sector.

Our compliance priorities for 2020 and 2021 are:



## Ensuring academic quality

Issues affecting academic quality, with a focus on:

- systemic deterioration or failure of academic quality
- admission of students that are ill-equipped to succeed
- third party mismanagement



## Safeguarding people

Issues relating to wellbeing and safety, in particular students, children, and vulnerable adults.



## Protecting sector integrity

Issues that put the integrity of the sector at risk, with a focus on fraud and criminality, including:

- awarding courses that have not been completed
- representing to offer higher education awards when unregistered
- facilitating non-genuine students
- contract cheating services



## Maintaining information security

Issues with information security, including those related to inadequate system protection, research data, technology development and use, and intellectual property.



## Monitoring financial standing

Issues that affect a provider's financial sustainability and viability, with a particular focus on insolvency, significant financial mismanagement, and lack of resilience to shifts in revenue sources.

# Snapshot of compliance activities from 1 January to 31 December 2020



**28** compliance assessments initiated



**59** conditions revoked or removed



**52** compliance assessments finalised



**138** condition assessments



**1** enforceable undertaking



**560** concerns recorded



**4** voluntary undertakings



**605** material change notifications



**39** reduced periods of registration or course accreditation\*



**40** conditions imposed\*\*



**5** conditions varied

\* This includes the granting of TEQSA registrations, CRICOS registrations and course accreditations for less than the maximum 7 year period. It excludes providers granted initial registration, which is usually less than the maximum of seven years in accordance with the TEQSA initial provider registrations policy. Also excludes course accreditation for teach out, accreditation of undergraduate certificates (accredited for a period up to 31 December 2021 in accordance with the Australian Qualifications Framework) and graduate certificates accredited as short courses.

\*\* This includes 34 conditions imposed as a result of TEQSA registration or course accreditation assessments and 6 conditions imposed on TEQSA registration as a result of compliance assessments.



# Case study – Admission of international students and English language proficiency

## The circumstances

The media raised concerns that a number of Australian universities were admitting international students without appropriate levels of English language skills to succeed in their studies.

## Our role

There are strong frameworks in place to protect students studying in Australia, including international students who account for approximately 31 per cent of all higher education students by equivalent full time study load (EFTSL). These protections include:

- Standards outlined in the HES Framework, which must be met by all higher education providers in order to be registered with TEQSA, for example, ensuring that admitted students have the academic preparation and proficiency in English needed to participate in their intended study, and no known limitations that would impede their progression and completion.
- More prescriptive requirements set out in the National Code, such as the obligation on providers to make clear to prospective students the requirements for acceptance into a course, including the minimum level of English language proficiency, prior to accepting an overseas student for enrolment.

These standards are collectively monitored and enforced by us to ensure that students have every opportunity to succeed in their studies.

## Our focus

While six universities were identified in media reporting, we analysed international student admissions data of all universities and identified a further four universities at potential risk of non-compliance for closer consideration. The ten compliance assessments focused on areas such as:

- the basis on which students had satisfied English language requirements (Standard 1.1.1 Admission), noting that all ten providers had admissions data showing high numbers of onshore international students with 'Other Form of Testing Which Satisfied the Institution' recorded in the Provider Registration and International Student Management System (PRISMS)

- whether a) processes that identify students at risk of unsatisfactory progress and provide specific support are implemented across all courses of study, and b) trends in rates of retention, progression, and completion of student cohorts are monitored to enable review and improvement of those processes ([Standards 1.3.4–1.3.6 Orientation and Progression](#) and [Standard 2.2.3 Diversity and Equity](#))
- whether there is sufficient evidence to demonstrate systemic tracking and monitoring of student *cohort* performance data to enable review and improvement ([Standard 5.3.7 Monitoring, Review, and Improvement](#))
- whether the governing body diligently and effectively attends to governance functions to ensure its operations are consistent with its policies ([Standard 6.1.3\(c\) Corporate Monitoring and Accountability](#))
- whether corporate and academic governing bodies exercise sufficient oversight and monitoring of the provider's operations to ensure that students are admitted with no known limitations that would impede their progression or completion of study, and remain abreast of any occurrences of academic misconduct and actual or potential lapses in relation to the HES Framework ([Standard 6.2.1 Corporate Monitoring and Accountability](#) and [Standard 6.3.2 Academic Governance](#))
- whether the performance of agents is monitored, including the taking of corrective action if necessary ([Standard 7.1.4 Representation](#)).

In the course of these compliance assessments, we considered information from a range of sources, including records from providers, information from the Department of Home Affairs, feedback provided directly to us by staff and students through our complaints and concerns channel, and information in the public domain.

We paid close attention to the providers' documented policies and procedures to determine whether they were designed to enable admitted students to have the academic preparation and proficiency in English language needed to participate in their study with no known limitations or impediments, whether these policies and procedures were being applied appropriately and consistently, and whether they were operating as intended.



We were also interested to understand the nature and extent of monitoring being undertaken by providers and how providers were using the findings to inform admission policies and improvements to teaching, learning, and student support strategies.

## What we found

We did not find evidence of widespread systemic failures in relation to English language admission standards. However, we identified a number of areas for improvement to address risks of non-compliance with the HES Framework.

### Key observations include:

- All providers had undertaken significant work to improve admission and governance practices and most had implemented comprehensive changes to mitigate future risks. For some providers, these measures were in the early stages of implementation and we requested ongoing reporting as further assurance that these improvements were being sustained.
- Some providers had not reviewed or benchmarked their admissions practices for a considerable period of time.
- Providers were recording 'Other Form of Testing Which Satisfied the Institution' in PRISMS for a range of reasons, including variation, waivers, and equivalence. Providers explained they were unable to accurately record the reason they were satisfied that a student had satisfied English language requirements due to limitations with PRISMS. The universal use of 'Other Form of Testing Which Satisfied the Institution' limited visibility of a provider's records to ensure compliance with English language requirements.
  - Amendments to the *Education Services for Overseas Students Regulations 2019* and PRISMS enhancements in October 2019 addressed this issue by requiring and enabling providers to include additional student data in PRISMS, including information on agents and English language proficiency tests.
  - Following the amendments and PRISMS enhancements, a number of providers implemented PRISMS training and regular sampling activities to identify discrepancies and improve data quality.
- There was a need for clarity on what constitutes an English waiver, with providers using the term 'waiver' interchangeably with equivalence when referring to other qualifications, including Australian Qualifications Framework Level 4 or higher study in Australia.
  - In May 2020, we published a [communique providing a definition of English waivers](#) that we will apply for the purposes of our regulatory activities: 'where a student does not meet the higher education provider's documented English proficiency requirements for course admission, but regardless is admitted based on the student's life experience or other circumstances.'
- While providers have reporting arrangements in place on student performance, there was a demonstrable lack of evidence to show how this reporting was being used to monitor, test, and adjust policy, including – importantly – admissions policy.
- Most of the providers examined had some form of cohort analysis and tracking. However, the analysis was limited and did not track poorly performing student cohorts and academic misconduct issues back to the student entry pathways, country/region of origin, or agents. Identifying and understanding these risks is critical to informing an appropriate response, including any adjustments to English language admission requirements.
- Some governing bodies lacked oversight of admissions practices and could not be confident that admissions policies and procedures were being applied consistently.

## What providers can do

- Ensure analysis and student cohort data is systematically used to track poorly performing cohorts and academic misconduct issues back to the student entry pathways, basis of admission, country/region of origin, and agents. This will assist providers to understand areas of risk and what adjustments need to be made to ensure that students admitted are equipped to succeed in their study.
- Ensure corporate and academic governing bodies have sufficient oversight of admissions policies and practices and can be confident that they are being followed.
- Ensure admission policies and delegations are adhered to stringently.
- Ensure admissions practices are regularly reviewed, benchmarked, and improved. This will assist providers to understand what policies are effective in achieving their intent and inform decision making in relation to what needs adjusting to ensure that international students who are admitted are equipped to succeed in their study.
- If things go wrong, ensure a prompt, comprehensive, and transparent response.
- Notify TEQSA if an event happens, or is likely to happen, which significantly affects the provider's ability to meet the HES Framework.

## Resources

- [Guidance note: Monitoring and Analysis of Student Performance, January 2020](#). This guidance note is designed to assist providers undertaking monitoring and analysis of student data to understand the drivers for student performance and utilise analysis and monitoring of student cohorts to inform admissions practices.
- [English waivers – definition, May 2020](#). This communicate provides the definition of English waivers that TEQSA will apply for the purposes of its regulatory activities. The document includes scenarios and examples to promote a common understanding of TEQSA's use of the definition.

# Concerns about providers

We refer to the complaints and allegations of non-compliance that we receive about higher education providers as *concerns*. Concerns are an important source of information for our monitoring activities to identify potential areas of risk that require further consideration. They may come from students, staff, professional accreditation bodies, government departments and agencies, or the general community.

In 2020, we improved our approach to managing concerns. This included improving public information to explain our risk-based approach to managing concerns, providing further guidance on the type of concerns that are within our jurisdiction, and guidance on the type of information to include when raising a concern to assist in improving the quality of information we receive. Other improvements to the process included implementing a robust, risk-based triage process to more effectively prioritise concerns, and improvements to how we categorise concerns to enhance our intelligence, reporting, and oversight.

The risk-based triage process for prioritising concerns is guided by our compliance priorities.

There are a number of possible outcomes of our consideration of a concern. For serious matters, we may commence an assessment of a provider's compliance with its obligations. For matters where we decide a regulatory response is warranted, action may include engaging with the provider to ask for information or to provide regulatory guidance. For lower risk matters, we may take no action but may keep a record of the matter to inform future monitoring and assessment activities, including renewal of registration and course accreditation.

We also direct matters that are outside our jurisdiction to the relevant government agency.

## Key observations from 2020:

- We received 560 concerns which represents an increase of 36 per cent from the previous year (412 received in 2019).
- 16 per cent of concerns were outside our jurisdiction. These were either directed to the relevant agency (where the complainant provided us with consent) or the complainant was advised of the relevant agency and how to direct their concern to that agency.
- Of the 470 concerns that were within our jurisdiction, the most common were about:
  - delivery (teaching and courses) (this included COVID-19 related online delivery issues) (32 per cent)
  - student services/learning environment (for example, inadequate complaints handling) (12 per cent), and
  - governance (including both academic and corporate governance issues) (11 per cent).
- For concerns related to identified higher education providers, 62 per cent of concerns were about universities (which account for 92 per cent of higher education students, based on proportion of students in provider types in the [Statistics report on TEQSA registered higher education providers 2019](#)) and 38 per cent were about other higher education providers.
- During 2020, we received concerns about 57 per cent of all registered higher education providers.
- The greatest variation in the type of concerns received in 2020 compared to 2019 related to delivery (teaching and courses), with a 300 per cent increase in these concerns in 2020.

Figure 1: Type of concerns received

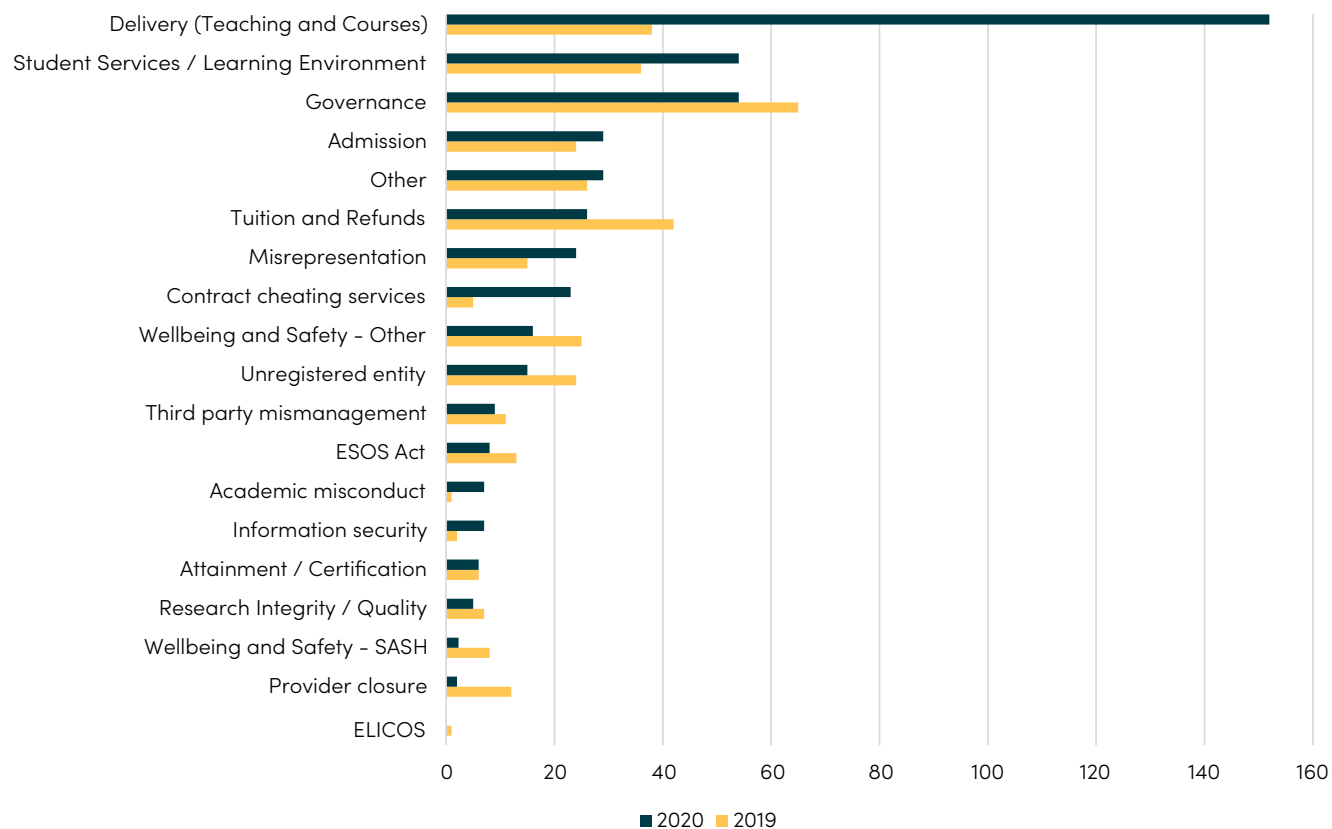


Figure 2: Source of concerns received in 2020

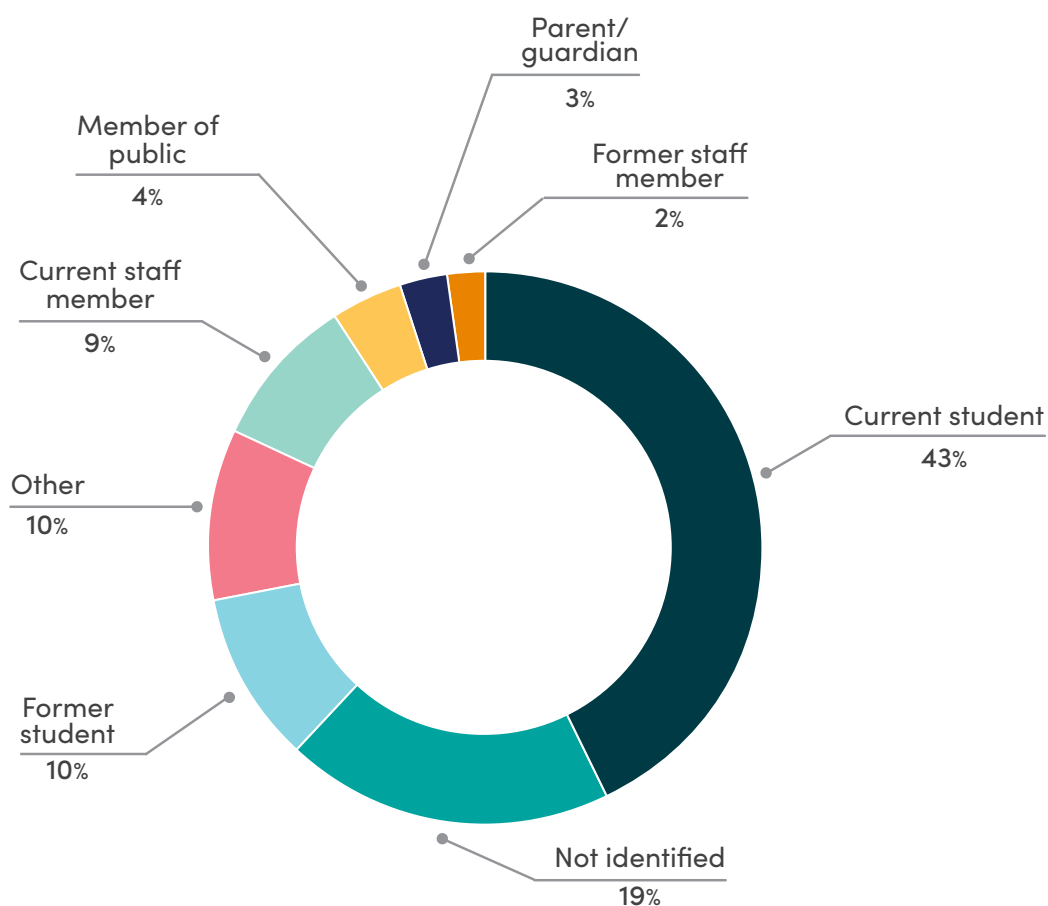
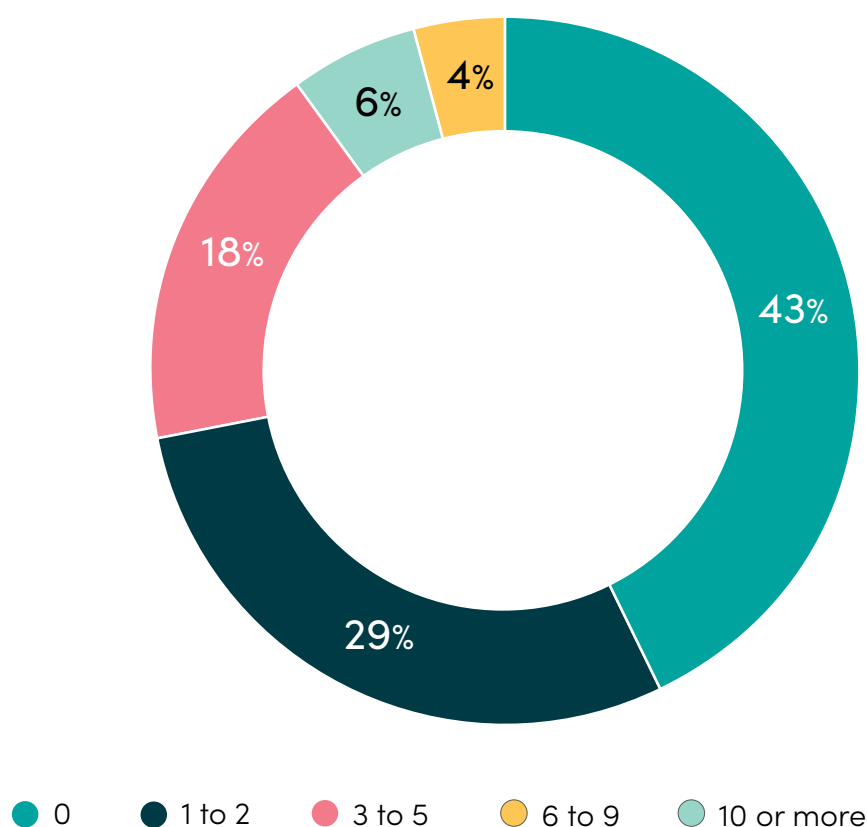




Figure 3: Number of concerns received in 2020 per registered provider



## Concerns about sexual assault and sexual harassment

The wellbeing and safety of students is a priority for TEQSA.

Our role in assessing concerns about sexual assault and sexual harassment (SASH) is to ensure that providers are complying with the relevant obligations under the HES Framework, in particular Section 2.3 Wellbeing and Safety. Section 2.3 requires, among other things, that providers take appropriate action to ensure that a safe environment is promoted and fostered.

Our assessment of these matters includes ensuring providers have appropriate systems and processes in place to respond to incidents of SASH in a timely and effective manner. We do not assess the validity or investigate individual allegations of SASH. Our focus is on the systems and processes providers have in place and the effectiveness of their implementation.

Further, Standard 2.4.2 requires that providers' processes for considering formal complaints and appeals are applied fairly. This standard would cover complaints about SASH, as well as appeals against disciplinary action taken by the provider in relation to alleged SASH.

In 2020, we recorded two concerns about SASH, both relating to universities. One matter has been finalised, as we determined that improvements the provider made to its SASH response, where effectively implemented, mitigated the risks identified. The other matter remains under assessment.

## Concerns during COVID-19

Since receiving the first COVID-19 related concern on 21 February 2020, we received a total of 98 COVID-19 related concerns across 39 providers up to 31 December 2020. This represents 18 per cent of the total concerns received in 2020.

While COVID-19 related concerns peaked in April 2020, we continued to receive a higher number of concerns each month up to September 2020 in comparison to the same time the previous year.

We monitored the type of concerns received during COVID-19 to inform the effectiveness of the measures providers put in place to respond to the challenges of COVID-19 and mitigate associated risks. Where there was a concerning trend or cluster of concerns, we acted on these.

The majority of concerns we received in relation to COVID-19 centred around four key issues:

- compromised or reduced quality of teaching due to a shift in delivery mode to online learning (with some students seeking refunds or reduction in tuition fees in light of these changes)
- invigilation of exams
- suspension or cessation of courses
- disruption of practical work and placements.

We carefully reviewed these concerns, which involved: considering information submitted with the concern; whether we had received any similar concerns; and other information we had available, including any material change notifications submitted by the provider, for example, those showing evidence of how the provider was managing risks to quality and students.

Where appropriate, we engaged with the provider to bring the concern to its attention and to set out our expectations in addressing the matter. While we appreciated that providers had to act swiftly to adapt to COVID-19 challenges, providers continue to have a number of obligations under the HES Framework, including an obligation to ensure that learning outcomes for courses are maintained and staff are adequately equipped to teach online.

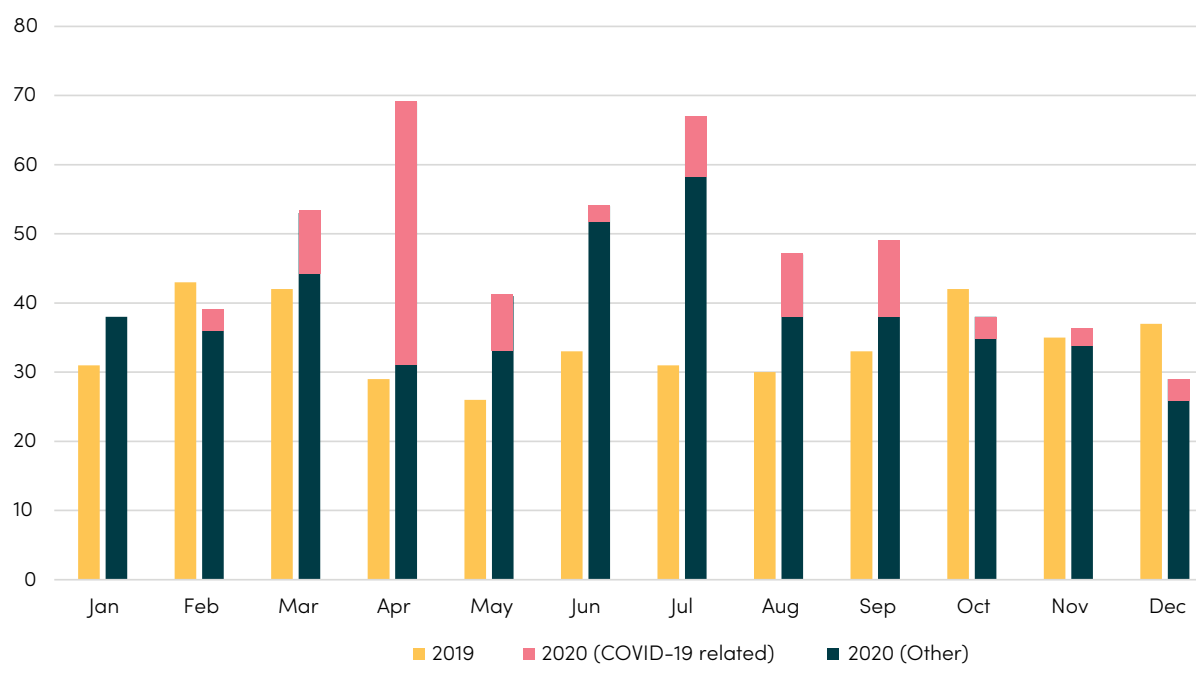
To support providers in continuing to meet their obligations under the HES Framework, we developed a set of resources for online learning good practice and supporting guidance on key considerations for providers in relation to online delivery in the COVID-19 context (see page 28).

In addition to concerns about compromised quality due to online learning, students also raised issues with providers being inflexible in offering a reduction in tuition fees or refunds in response to changes made to courses during COVID-19. We encouraged these students to raise their concern directly with the provider through its complaints handling process.

Where there is significant change or disruption to delivery of a course, providers should ensure that students are offered alternatives, including processes for fee reduction, refunds, or deferral.

Further, providers should check existing contractual arrangements with students about the mode of delivery, which may involve seeking and incorporating the views of students.

Figure 4: Number of concerns received: Month to month comparison



## Contract cheating

The TEQSA Act was amended on 3 September 2020 to empower TEQSA to take action to address contract cheating services.

Under section 114A of the TEQSA Act, it is now prohibited to provide academic cheating services to a student and under section 114B of the TEQSA Act, it is now prohibited to advertise academic cheating services. Under 127A of the TEQSA Act, TEQSA may apply for an injunction relating to online locations that facilitate the provision of, or advertise, academic cheating services. An injunction ultimately requires the disabling of access to academic cheating websites.

In 2020, we received 23 concerns about contract cheating services, the majority of which (61 per cent) were received during November and December in response to outreach conducted by TEQSA to promote changes to the TEQSA Act and establishment of the Higher Education Integrity Unit.

When we assess concerns about contract cheating services to determine if there is a contravention of section 114B of the TEQSA Act, we consider whether:

- the website advertises, publishes, or broadcasts an advertisement for an academic cheating service
- the advertisement is directed to students, either
  - undertaking study with a higher education provider of an Australian course of study, or
  - undertaking study with a higher education provider of an overseas course of study provided at Australian premises.

The assessment of these concerns commenced in 2020 and this work will continue to progress in 2021, when we will use our new powers under the TEQSA Act.

## Unregistered entities

The TEQSA Act requires that a higher education provider in Australia must be registered with TEQSA.

When an entity represents to offer or confer higher education awards for courses provided in Australia when not registered to do so, this may constitute a contravention of the TEQSA Act.

Such conduct undermines the higher education system and the potential impacts on students can be highly detrimental.

These unregistered entities are often brought to our attention through concerns raised by registered providers or students. For example, a student may raise a concern where they complete a course and are issued a certificate from the entity which does not reflect what they thought they had completed (such as a 'Certificate of Completion' as opposed to a registered Diploma certificate).

## Addressing concerns

To address a concern about an unregistered entity, we engage with the entity to outline our concerns and ask the entity to take immediate steps to address our concerns. For example, this may be to cease all representations related to the issue and provide a refund to students enrolled in such courses, and provide us with evidence to show this action has been taken.

## Our activities in 2020

We received a total of 15 concerns about unregistered entities. In 2020, our work in addressing unregistered entities led to the following outcomes:

- For nine entities, we determined that these were outside our jurisdiction (for example, the entity was not delivering higher education or not based in Australia) and took no action.
- For four entities, an assessment did not identify a contravention and we took no further action.
- For one entity, we referred the matter to another government agency.

The majority of unregistered entities brought to our attention were located in Queensland and Victoria.

## What students can do

Some key steps that students can take to ensure they are well-informed when selecting a provider include:

- checking TEQSA's [National Register](#) for registered providers and courses accredited by TEQSA

- checking the provider's website – this should display the provider's registration number or provide information on its registration status, for example, identifying themselves as registered
- asking questions of the provider about the course structure (for example, whether the course meets the Australian Qualifications Framework), what the award is on completion of the course, and whether there is a testamur awarded on completion and what that document states
- asking people working in the relevant industry for recommended courses, or who may provide the courses that align with the student's goals, current role, or career aspirations.

## Material changes

All registered providers are required to notify TEQSA of necessary updates to the National Register and events that will significantly affect their ability to meet the Standards under the HES Framework.

We have streamlined our approach to managing material change notifications. This included centralising the collection of material change notifications so that providers now submit material change notifications directly to [materialchanges@teqsa.gov.au](mailto:materialchanges@teqsa.gov.au). This allows for a more efficient and consistent approach in managing material change notifications.

In 2020, we received an unprecedented number of material change notifications as a result of changes providers made in response to COVID-19. In total, we received 605 material change notifications, which represents a 142 per cent increase on the previous year (250 received in 2019).

We considered each notification carefully to identify potential areas of risk that may warrant further attention. In doing so, we reviewed the information submitted by the provider on how the provider is managing the change and mitigating any material risks. We also considered the extent to which the governing body has oversight of the change.

14 material change notifications received in 2020 warranted closer review resulting in formal compliance assessments.

**Figure 5: Number of material change notifications received: Month to month comparison**

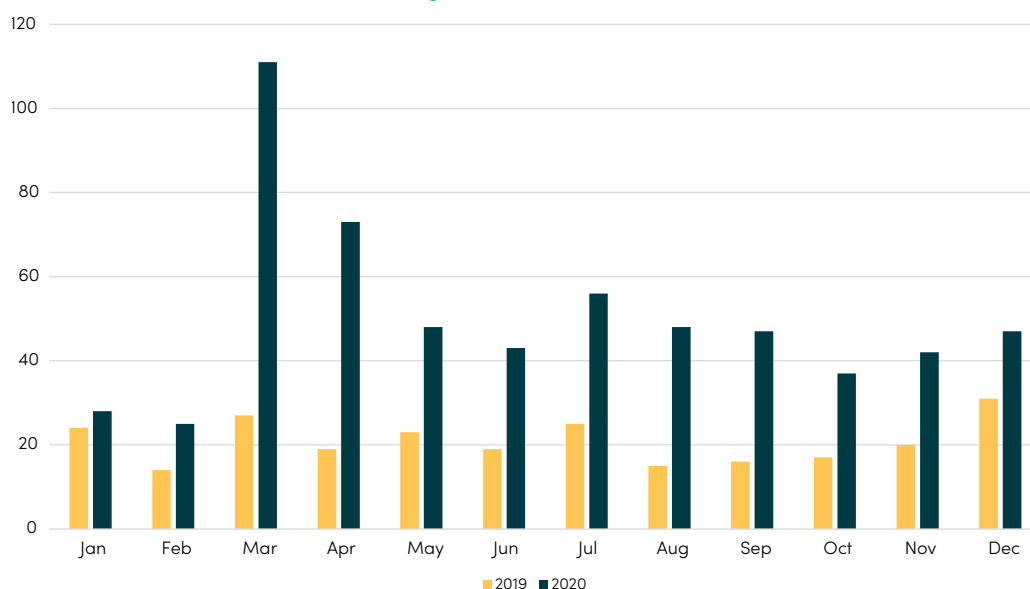
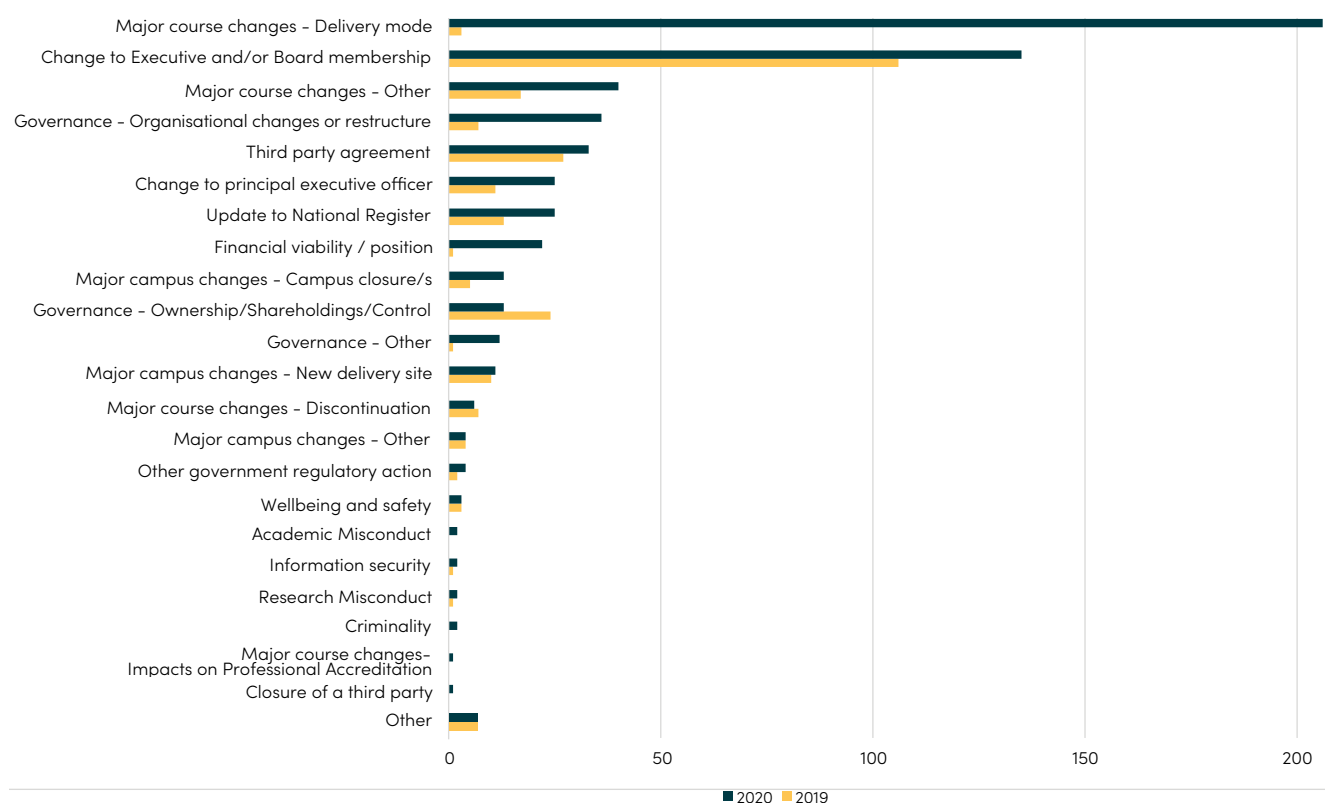


Figure 6: Type of material change notifications received in 2020



## Material changes during COVID-19

COVID-19 presented unprecedented challenges for higher education providers and many providers implemented a range of necessary changes in response to these challenges.

To support providers during COVID-19, we temporarily [relaxed our Material Change Notification Policy](#) so that providers are only required to notify us of certain types of material changes.

The first COVID-19 related material change notification was submitted on 23 January 2020. In 2020, we received 294 material change notifications in relation to COVID-19. This represents 49 per cent of the total material change notifications received.

Between the period of 1 January 2020 and 31 December 2020:

- 146 registered providers notified TEQSA about a change to delivery mode
- 38 registered providers notified TEQSA of other major course changes
- 12 registered providers notified TEQSA about one or more campus closures
- 20 registered providers notified TEQSA about their financial position or impact
- 51 registered providers notified TEQSA about governance or organisational changes.

While we saw a record number of material change notifications submitted in 2020, as of November 2020, approximately 11 per cent of higher education providers had not submitted a written material change notification in relation to COVID-19. Included in this group of providers were four providers who had never submitted a written material change notification in the entire period of their registration with TEQSA (COVID-19 related or otherwise).

In November 2020, we contacted these providers to remind them of their obligation to notify TEQSA of material changes with respect to changes and impacts to their operations during COVID-19. In response, all providers who were contacted submitted a material change notification to TEQSA or provided an explanation as to why notification was not required.

As a result, as of 31 December 2020, the majority (91 per cent) of providers had submitted one or more material change notification about changes implemented in response to COVID-19.

More than half of the material change notifications required no further action from TEQSA.

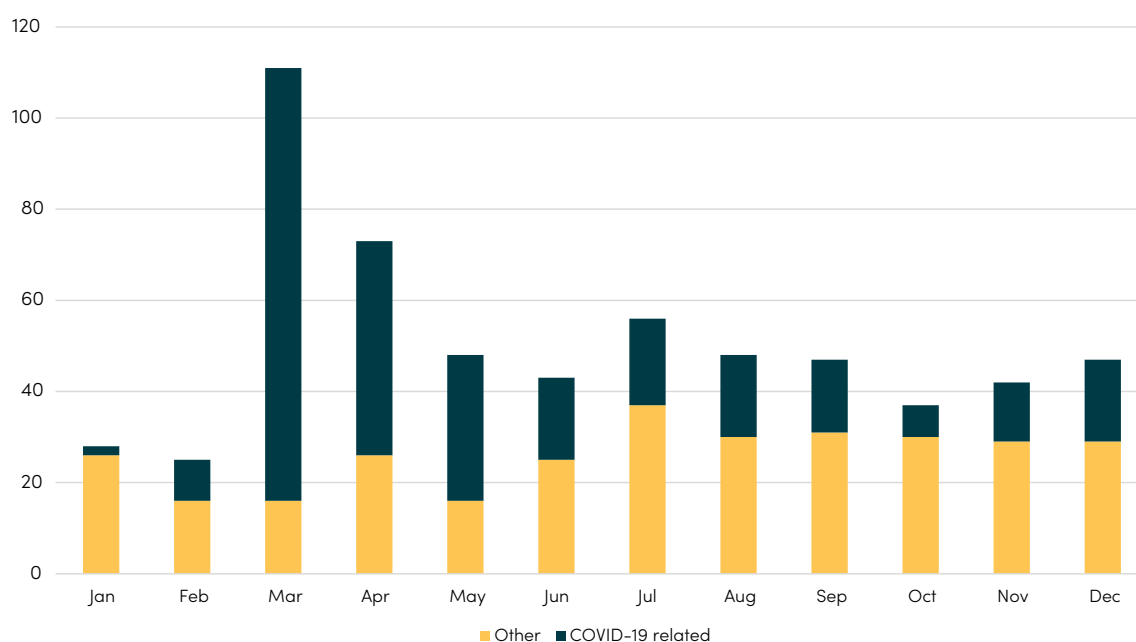


In a number of cases, the detailed information submitted by providers as part of the material change notification explaining how a change was being managed to ensure any associated risks were adequately mitigated eliminated the need for us to follow up with those providers in response to any complaints received about such changes.

A large number of notifications required further engagement with the provider as the notification did not contain sufficient information to demonstrate that the provider had considered the risks and had adequate mitigation measures in place.

Our key reflections on the process of engaging with providers who had not submitted a material change notification included the need for further clarity on material change obligations, namely what constitutes a material change and when notification is required (that is, the type of changes to provider operations that meet the threshold for a material change under the TEQSA Act). We will release guidance to the sector on this topic in early 2021.

Figure 7: Proportion of COVID-19 related material change notifications



# Compliance assessments

TEQSA may initiate a compliance assessment under section 59 of the TEQSA Act to assess a provider's compliance with its obligations<sup>4</sup>. A compliance assessment may begin in response to issues identified through concerns, the media, information from other government agencies, or through information we already hold, such as data from annual provider risk assessments.

Prior to commencing a compliance assessment, we assess the nature and level of risk involved with the issue and how serious it is. Our assessment involves considering:

- what and who is at risk, for example, individuals, financial viability, reputation
- the likelihood of the harm occurring, for example, the presence of risk indicators
- the profile of the provider – the context within which it operates
- the maturity and effectiveness of the provider's internal quality assurance
- the provider's risk profile, including annual provider risk assessments and concerns received
- other information and intelligence available to TEQSA.

This helps us understand the significance, likelihood, and consequence of the compliance issues raised, and enables a decision on the most appropriate course of action.

## Our activities in 2020

28 compliance assessments were initiated and 52 compliance assessments were finalised in 2020. Of the 52 finalised assessments, 19 commenced in 2020 and 33 carried over from the previous year.

The compliance assessments we finalised in 2020 led to the following outcomes:

- Six conditions imposed on TEQSA registration to mitigate residual risks of non-compliance.
- One enforceable undertaking which commits the provider to take action to address non-compliance.

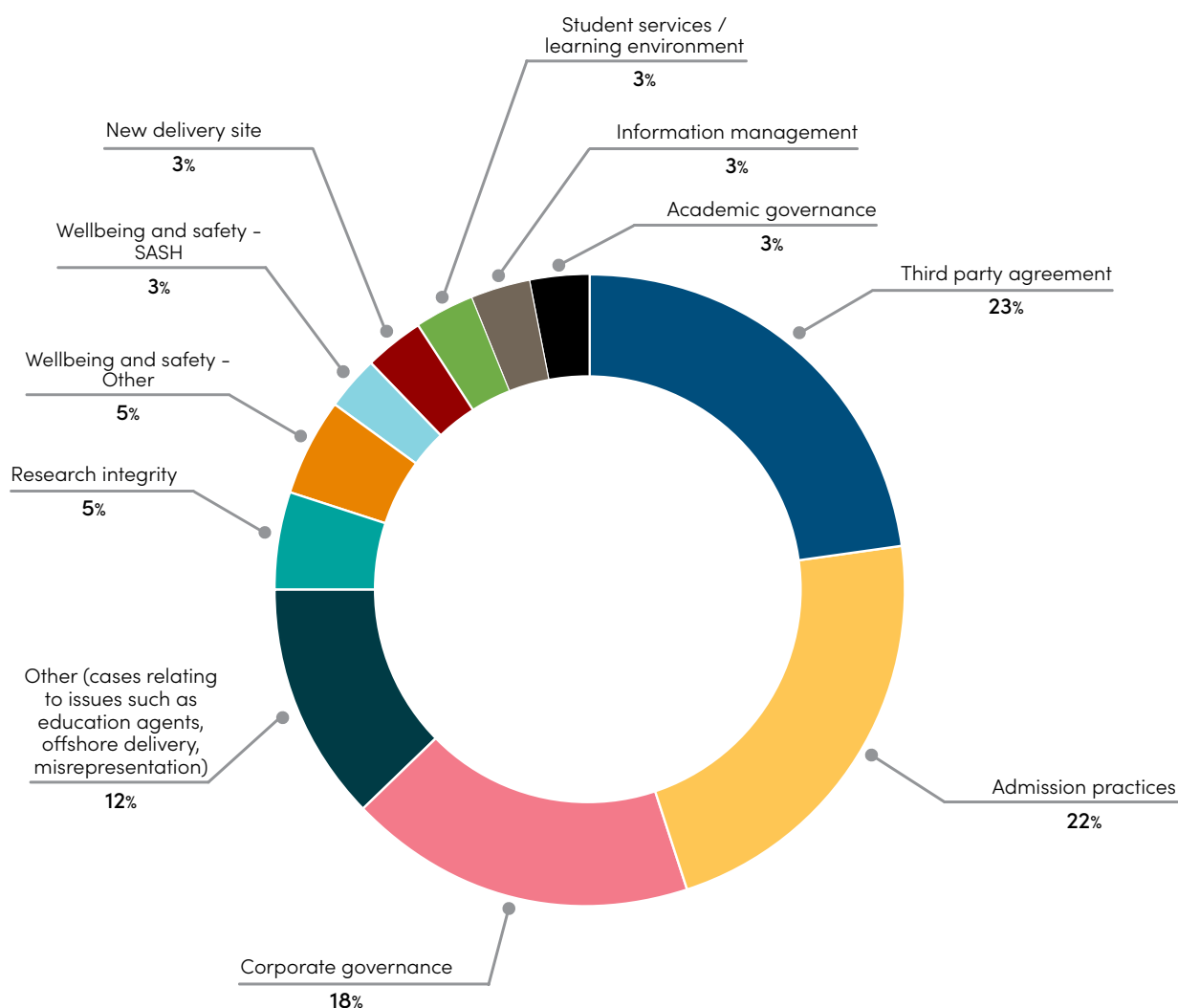
For the majority of cases, our intervention during the course of the compliance assessment led to providers taking action to address identified issues and mitigate the risk of non-compliance in the future. In a small number of cases, providers were able to satisfy us that there was not significant non-compliance and we closed the matter with no further action.

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4. TEQSA also assesses compliance with the ESOS Act.



Figure 8: Focus of Compliance assessments initiated and/or finalised in 2020



## Conditions

We may decide to impose a condition on a provider's registration or course accreditation to address non-compliance, or the risk of non-compliance, with a provider's obligations. This may be an outcome of an assessment of an application for registration or course accreditation (including renewal). We may also impose a condition as a result of a compliance assessment.

The decision to impose a condition is made under either section 32 or section 53 of the TEQSA Act, or section 10B or section 83 of the ESOS Act in relation to compliance with the National Code. As with any use of TEQSA's powers, in deciding to impose a condition, we take into account the regulatory principles of necessity, reflecting risk, and proportionality.

A condition will generally require the provider to take specific action within a specified timeframe to address areas or risk of non-compliance and ensure the provider complies with its obligations. Conditions imposed under the TEQSA Act are published on the National Register.

We monitor a provider's compliance with conditions for the period of time that those conditions are imposed on its registration or accreditation. In assessing a provider's compliance with a condition, we consider:

- the information and evidence submitted by the provider in its reporting to us
- whether the provider has met the requirements of the condition
- whether the risk, which formed the basis for the condition, has been adequately mitigated
- whether there is a need to maintain a condition, as significant risks persist despite compliance with the condition and mitigation strategies put in place by the provider
- other information that is available to us, for example, material change notifications, concerns raised with us that may be relevant to the condition and associated risk, and publicly available information such as the provider's website.

We may decide to vary or revoke a condition. A provider may also apply, and pay an application fee, to us to consider a variation or revocation of a condition.

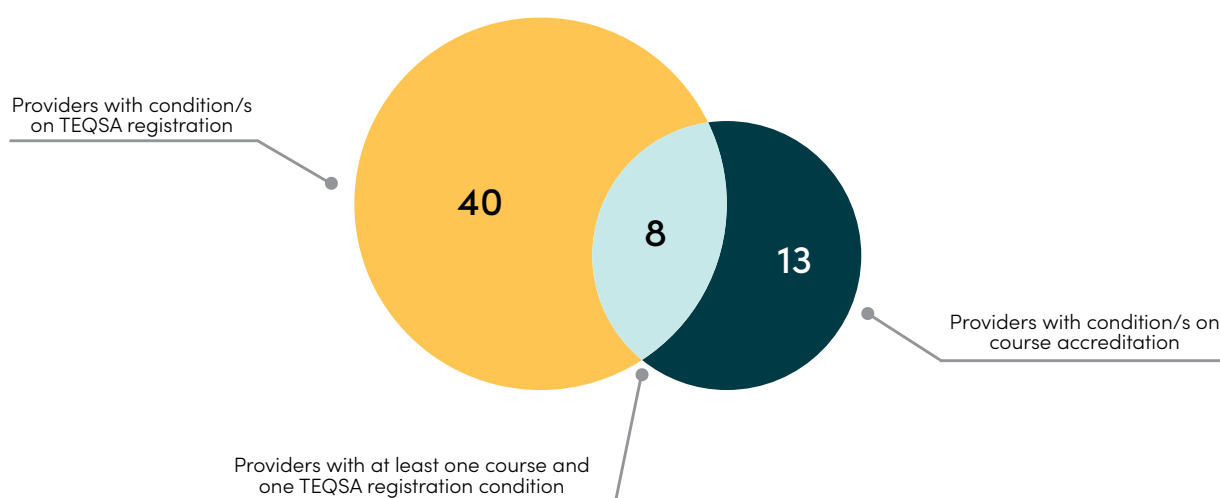
Conditions are also considered as part of a provider's regulatory history to inform the annual provider risk assessment.

## Conditions snapshot for 2020

As of 31 December 2020, there were 180 active conditions in place across 61 providers<sup>5</sup>. During 2020, we imposed 24 conditions on TEQSA registration and 16 conditions on course accreditation.

Of the 61 providers with active conditions, five were Australian Universities (which equates to 13 per cent of Australian Universities) and 56 were Higher Education Providers (HEPs) (which equates to 39 per cent of HEPs). Two of the HEPs were technical and further education institutions (TAFEs) which had conditions imposed on course accreditation for bachelor courses.

Figure 9: Conditions snapshot for 2020 – providers with active conditions



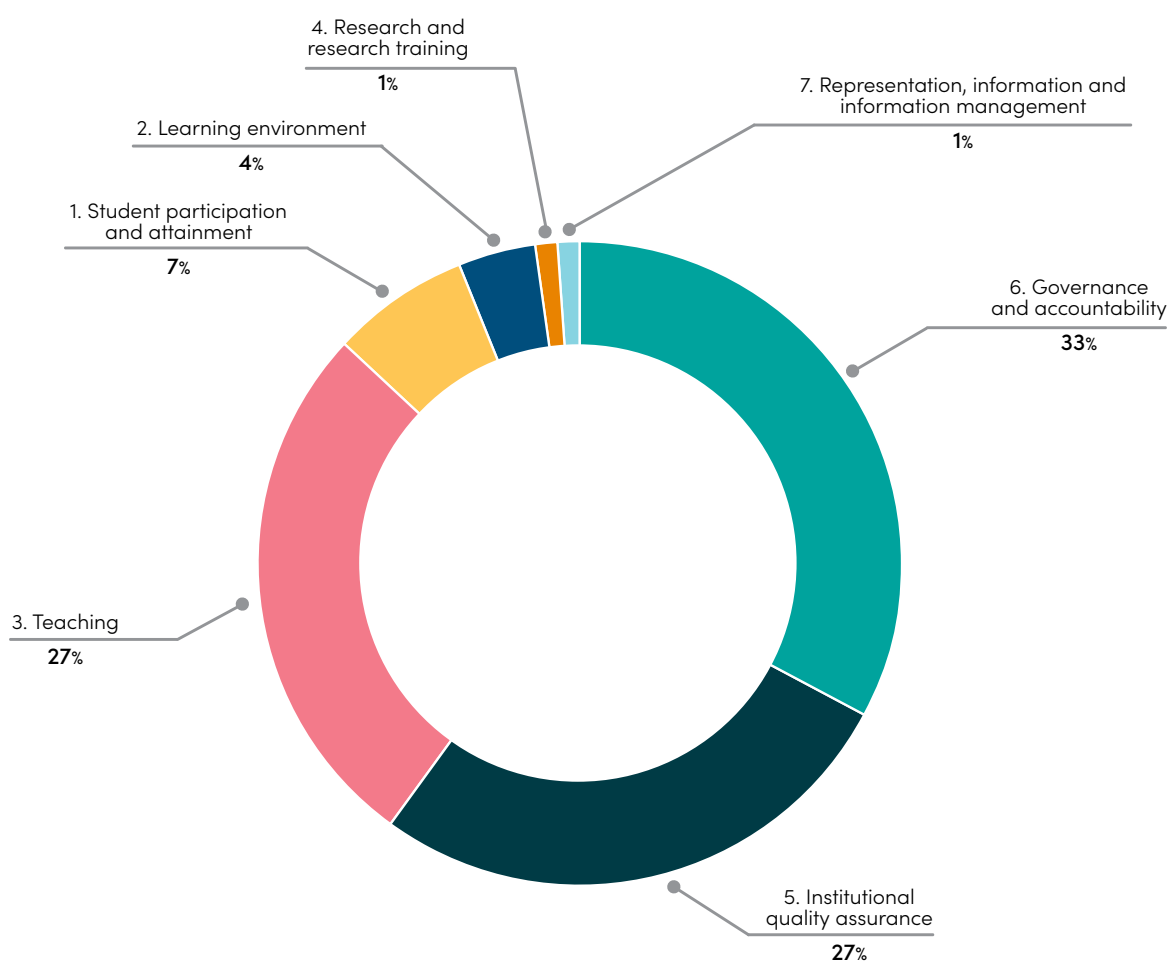
5. This does not include conditions imposed under the ESOS Act on CRICOS registration.

The higher proportion of HEPs with conditions compared to universities partly reflects the fact that all universities have authority to self-accredit their courses, whereas the majority of HEPs must apply to TEQSA to accredit their courses. This means TEQSA may impose conditions on both TEQSA registration and course accreditation for the majority of HEPs.

Further, of the 56 HEPs with conditions, 13 (23 per cent) were newly registered (that is, within approximately the last two years) where there are a number of inherent risks, for example, the absence of a track record associated with higher education delivery. In addition, there were a number of conditions imposed on HEPs that arose from Administrative Appeals Tribunal proceedings.

We imposed slightly fewer conditions in 2020 (40 conditions) compared to 2019 (41 conditions).

Figure 10: Relevant domains under the HES Framework for conditions imposed



Conditions were most frequently imposed to address the following risk areas:

**1. Domain 5 Institutional Quality Assurance**, in particular [Section 5.3 Monitoring, Review and Improvement](#).

The intent of this section is to focus on a provider's mechanisms for monitoring and reviewing its activities, and reflecting on these reviews to bring about evidence-based improvements.

### **Learnings for providers**

Providers should turn their mind to the steps they take to ensure they have an appropriate quality assurance framework in place, for example:

- monitoring student performance:
  - regular reports on diagnostic analysis of rates and trends in student performance
  - targeted support strategies in place to address issues and improve student performance, for example, student retention, progression, and completion rates
  - data analysis and modelling informs admissions criteria, teaching, learning, and academic support
- course monitoring and review:
  - review processes include external referencing or other benchmarking activities
  - review processes include a report by one or more independent external experts with academic expertise in the relevant field
  - findings and recommendations of reviews lead to the development of comprehensive action plans to address any identified issues and areas for improvement
- monitoring third party delivery:
  - regular reports on academic performance for third party arrangements to identify issues.

**2. Domain 3 Teaching**, in particular [Section: 3.1 Course design](#) and [Section: 3.2 Staffing](#).

The intent of section 3.1 is to identify what is required in the design of a course that leads to a higher education qualification and the intent of section 3.2 is to ensure that sufficient staffing is provided of a level and type that reflects the nature and level of the course and educational and other needs of students.

### **Learnings for providers**

In addition to a review of the most recent TEQSA guidance notes, providers should turn their mind to the steps they take to ensure:

- the academic staff who teach and provide academic leadership are suitably qualified, of sufficient number, and with the necessary academic disciplinary expertise

- there is as professional development framework and plan for academic staff
- academic staff undertake scholarly activity that is relevant to, and equips them for, their roles, for example, through:
  - monitoring and reviewing the policy framework for scholarship of academic staff
  - review of scholarly output for teaching staff and staff with teaching oversight
- the governing body reviews the academic workforce, including:
  - the number and mixture of academic staffing and leaders across all fields
  - resourcing for academic support to students outside of timetabled classes
  - student to staff ratio to ensure adequate learning and teaching provision.

**3. Domain 6 Governance and Accountability**, in particular, [Sections 6.1 Corporate Governance and 6.2 Corporate Monitoring and Accountability](#).

The overall intent of these sections is to ensure the provider is governed by a competent governing body that has proper oversight and is accountable for the provider's effective and sustainable operations.

### **Learnings for providers**

Providers should turn their mind to the steps they take to ensure appropriate governance is in place and the governing body effectively discharges its duties. Providers should also require that appropriate evidence is presented to the governing body in support of effective oversight. Key areas include:

- risk management – risks are identified and appropriate controls are in place, for example:
  - the governing body considers, records, and regularly reviews its corporate and academic risks
  - a risk and audit committee regularly reports to the governing body
  - documented and time-bound strategies are in place to manage and mitigate risks
- compliance framework
  - the provider's policies, processes, and procedures are reviewed, updated, and monitored to ensure they are effective and remain fit for purpose
  - the provider's compliance framework is reviewed, including a gap analysis against the HES Framework, to identify and address risks on an ongoing basis
- strategic direction – the governing body provides and monitors the provider's strategic direction, approves a strategic plan, and monitors progress against targets
- CEO performance – the governing body has a process in place to review its CEO's performance
- financial position and performance – the governing body maintains sufficient oversight of the provider's financial position and financial performance, for example, with an established process to report accurate and timely information to the governing body

- there are mechanisms for competent academic governance, including monitoring of student performance and outcomes (including cohort information)
- an independent review is conducted at least every seven years and there is evidence that the governing body has considered the findings and recommendations, the agreed actions, how these have been, or plan to be, implemented, and any outstanding risks
- there is a record of the governing body's decisions which includes the basis for the decision.

## Resources

- Guidance note: [Academic Governance](#), October 2017
- Guidance note: [Academic Leadership](#), June 2019
- Guidance note: [Academic Quality Assurance](#), October 2017
- Guidance note: [Corporate Governance](#), August 2019
- Guidance note: [Staffing, Learning Resources and Educational Support](#), November 2017
- Guidance note: [Workforce Planning](#), April 2019
- Good Practice Note: [Improving retention and completion of students in Australian higher education](#), February 2020
- Guidance note: [Monitoring and Analysis of Student Performance](#), January 2020

# Education and guidance

Encouraging a culture of self-assurance within providers is a priority focus. We recognise that providing effective assistance and advice to providers reduces the risk of non-compliance. We do this through a range of education and guidance activities aimed to promote voluntary compliance, build the capacity of the sector, enhance quality, and improve outcomes for students. This includes publishing guidance notes and good practice guides, forums and seminars to engage with the sector, webinars, and issuing regulatory guidance to providers on areas for improvement that may be identified through an assessment activity.

In 2020, we undertook a range of education and guidance activities focused on key sector-wide issues, including:

- academic integrity and contract cheating
- sexual assault and sexual harassment
- admissions transparency
- the quality of online learning

## Promoting academic integrity and addressing contract cheating

In 2020, we aimed to promote and protect cultures of academic integrity and strengthen organisational protection, prevention, and responses to breaches, which have the capacity to undermine Australia's higher education system and its reputation.



The establishment of the Higher Education Integrity Unit within TEQSA during 2020 has been an important initiative to enhance our capacity to work with the higher education sector and other government agencies to identify and respond to emerging risks within the sector.

The rise in contract cheating on a global scale poses a significant threat to the higher education system. Contract cheating services are becoming increasingly sophisticated and adept at embedding themselves in a provider's operating and learning management systems.

We seek to address risks to academic integrity and strengthen the sector's response in partnership with the sector. Our focus is on providing education and support for both providers and students, promoting examples of good practice, and gathering and sharing information.

In June 2020 we released an online [academic integrity toolkit](#) which drew from learnings from a number of workshops we conducted with providers in 2019. We encourage all providers to familiarise themselves with the academic integrity toolkit. This is pertinent in the context of COVID-19 where many providers are operating in an online environment.

## Addressing sexual assault and sexual harassment

The obligation on providers to ensure the wellbeing and safety of its students within the learning environment is, and always will be, a priority for TEQSA. All providers should taking appropriate action to prevent and reduce the incidence of sexual assault and sexual harassment (SASH), and respond to, and support, victims of SASH in an appropriate way.

During 2020 our work in this area included extending the renewal of TEQSA registration assessment scope to include an assessment of measures to prevent and respond to SASH. Between January and June 2020, we conducted 39 quality assessments of 15 providers' responses to SASH concurrently with the renewal of TEQSA registration process.

In July 2020 we published a Good Practice Note: [Preventing and responding to sexual assault and sexual harassment in the Australian higher education sector](#). It is structured around nine principles covering governance, prevention, and response to SASH. It is intended to support providers to better understand, prevent, identify, and respond to SASH by showcasing examples and advice drawn from providers, experts, academic literature, and guidance from the Australian Human Rights Commission and Universities Australia.

## Admissions transparency

In August 2020, we completed a [summative evaluation](#) of the higher education sector's responses to eight of the 14 recommendations made by the Higher Education Standards Panel (HESP) in its 2016 report [Improving the Transparency of Higher Education Admissions](#) and the sector-led [Final Admissions Transparency Implementation Plan](#).

As part of the summative analysis, we evaluated admissions information from 28 universities and 36 other higher education providers that offer courses to Australian domestic undergraduate students.

Overall, we found that there have been improvements in the transparency of admissions information, with 92 per cent of sampled providers having implemented changes to their admissions information.

We also identified areas for further improvement within the sector. These included:

- accuracy and currency of information, for example, the need for current ATAR profiles/records
- the need for greater consistency in admissions information around adjustment factors, especially at the course level
- greater quality, consistency, and clarity of admissions information
- greater accessibility and transparency of information on credit transfer, recognition of prior learning, and advanced credit at the course level.

The summative analysis builds on our earlier work to support the sector in implementing admissions transparency requirements, including the Good Practice Note: [Making higher education admissions transparent for prospective students](#) published in 2019, the [Advice on Admissions Transparency](#) published in 2018, and the [Admissions Transparency Checklist](#).

## Quality of Online Learning

As a result of COVID-19, many providers had to act swiftly to shift to online delivery of their teaching in a very short period of time. Many providers had little prior experience with this mode of education delivery.

Our focus was on ensuring providers took appropriate steps to manage associated risks. This included ensuring that learning outcomes for courses were maintained, staff were adequately resourced to teach online, and that student wellbeing remained a priority.

We worked with peak bodies and experts to bring together a collection of [resources](#) on online learning and delivery. These online learning good practice resources were collated and made readily accessible at a single point on our website to assist the sector's transition.

We released guidance on [online delivery – key considerations for providers](#) which identified some key considerations linked to obligations under the HES Framework that providers should remain mindful of when shifting to online delivery. These include support for students in the new learning environment, support services and training for teaching staff, maintaining quality education and learning outcomes, and other governance arrangements.



In November 2020, we also published a report on the [student experience of online learning](#) during COVID-19. This report provided an analysis of summaries of student experience surveys conducted by 118 providers in the first half of 2020 and outlines both positive and negative aspects of the transition identified by students to support providers to address concerns.

# Our focus in 2021

We will continue to focus our efforts on our five compliance priorities (page 5). Other key initiatives include:

## Higher Education Integrity Unit

During 2021, we will advance the establishment of the Higher Education Integrity Unit. This unit will focus on identifying and analysing emerging risks and take pre-emptive action to assist the sector to address these threats. We will take a partnership approach to collaborate with providers and key stakeholders to deliver a range of activities, including data and intelligence analysis, providing educational resources, and establishing communities of practice.

## Impacts of COVID-19

We expect that COVID-19 will continue to impact providers in 2021 and beyond. We will continue to work with the sector and other government agencies to identify and address emerging risks early. Potential risk areas include provider closure, student wellbeing, and admission practices. We will also continue to provide information and guidance to the sector to assist governing bodies address emerging and unforeseen risks.

## Working with other agencies

We will continue to work with other agencies to monitor and manage shared compliance risks and issues collectively across relevant State and Commonwealth agencies. This includes working with the Fair Work Ombudsman, as the lead agency, on alleged wage underpayments of casual academic staff. We will also continue to play an active role on the Education Regulators and Immigration Committee (ERIC), chaired by the Department of Home Affairs, with a focus on a co-ordinated approach to the regulation of international students.

## Compliance monitoring activities

TEQSA's high risk provider policy outlines the steps we will take for high risk providers for monitoring, as well as cyclical assessments and new assessments. We will take learnings from our monitoring activities and engagement with these providers to share with the broader sector. We will also use the findings to inform our education and guidance activities to build the capacity of the sector and assist the sector to comply with its obligations.

## Promoting self-assurance

We will continue to work with the sector on promoting effective self-assurance as an integral part of a provider's ordinary operations. Providers should engage their own independent expert reviews for internal quality assurance. This, in turn, builds a provider's capability to comply with its obligations with respect to quality assurance, monitoring, and continuous improvement.

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