



Australian Government

Tertiary Education Quality and Standards Agency

Consultation paper Fees and charges proposal

Cost recovery for quality assurance and regulation of higher education

April 2021

TEQSA

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Purpose

This consultation paper provides information on changes to cost recovery by the Tertiary Education Quality and Standards Agency (TEQSA) commencing on 1 January 2022.

In the 2018–19 Budget, it was announced that TEQSA would transition from partial to full cost recovery. This decision has subsequently been reviewed to ensure that smaller providers that are subject to TEQSA's course accreditation services are afforded a degree of fee relief. Overall, around 90 per cent of TEQSA's regulatory costs will be recovered.

This paper informs stakeholders of how TEQSA's regulatory fees and charges are proposed to be determined.

The timeline for consultation and implementation is outlined in Table 1.

Table 1: Timeline for consultation and implementation

Action	Date
Public consultation commences	Friday 30 April 2021
Public Consultation Event 1	Tuesday 18 May 2021
Public Consultation Event 2	Thursday 20 May 2021
Closing date for consultation period and submissions	Thursday 3 June 2021 at 5:00pm AEST
Consolidate and finalise feedback	Thursday 1 July 2021
Introduction of the proposed TEQSA (Charges) Bill 2021 and TEQSA Amendment (Cost Recovery) Bill 2020 to Parliament of Australia	Winter Parliamentary sitting 2021
Commencement of new TEQSA cost recovery model	Saturday 1 January 2022

How to provide feedback

This consultation paper provides information on how TEQSA proposes to implement cost recovery from 1 January 2022. The consultation paper proposes increased fees and charges for application-based activities, hourly charges for compliance and investigation activities, and a new annual levy for all providers. Some aspects of the proposed approach will require changes to current statutory arrangements before they can be implemented (i.e. amendments to the *Tertiary Education Quality and Standards Agency Act 2011* and to TEQSA's *Determination of Fees* legislative instrument).

Before work advances to facilitate such changes, TEQSA welcomes stakeholder views and seeks feedback on the proposal. All feedback received will be reviewed and considered, to inform potential further decisions on how the proposal may be adapted or improved, prior to implementation.

Stakeholder views may be expressed through attendance at one of our planned consultation events and in writing to the dedicated email address below or by post. Further details about TEQSA's planned consultation events may be found on the TEQSA website. Comments should be sent by 5:00pm AEST on Thursday 3 June 2021:

- by email to consultation@teqsa.gov.au or
- by post to TEQSA, GPO Box 1672, Melbourne VIC 3001.

1. Executive summary

The Government has decided that TEQSA will transition from its current partial cost recovery (of around 15 per cent of regulatory costs in 2019) to an average 90 per cent cost recovery, commencing from 1 January 2022 and fully implemented by 1 January 2024.

TEQSA performs a range of regulatory and quality assurance activities to fulfil its statutory responsibilities. Some, such as provider registrations and course accreditations, are initiated by an application from a provider. Other activities are initiated by TEQSA itself and consist of two distinct forms of regulatory activity: some, in particular compliance assessments and investigations, are directed at concerns about individual providers based on TEQSA's duty to safeguard the standards and reputation of Australian higher education; other activities, such as sector-wide monitoring, cannot be attributed to a single provider and are of general benefit to the whole sector.

The proposed approach to cost recovery set out in this paper, therefore, is structured around three key elements. These are:

- **Application-based charges** to be calculated in accordance with the Australian Government Charging Framework (AGCF) and introduced from 1 January 2022. These fees will recover 100 per cent of the cost of delivering the service. For course accreditation and reaccreditation assessments only, a sliding scale of up to 70 per cent of the actual cost, linked to the relative size of the provider's student load, will be applied.
- **Single provider charges** for 'stand-alone' or provider specific regulatory activities (investigations, compliance assessments and conditions monitoring), to be calculated on a per hour basis and charged to that provider (introduced at 100 per cent from 1 January 2022).
- **An annual levy** that covers the costs of TEQSA's regulatory effort for non-application-based activities (such as the development and delivery of advice to providers and the profiling and management of risk in the sector) that cannot be attributed to a single provider. This will be phased in over three years, commencing at 20 per cent of the cost of delivery from 1 January 2022, increased to 50 per cent of cost on January 1 2023 and then 100 per cent on 1 January 2024).

TEQSA has thoroughly reviewed and assessed the regulatory effort required for each application-based activity and the costs and attribution for all non-application-based activities. This consultation paper provides details on key aspects of its proposed methodology to attribute those costs to providers. This paper also sets out TEQSA's intended approach to implementing the new policy.

TEQSA's activities supporting integrity in the higher education sector and a recently announced measure to collect, store and manage student records from providers that have ceased operation are not subject to cost recovery. The cost of these activities will remain directly funded by the Government. Other costs, such as external reviews and conference events, are also excluded from TEQSA's cost recovery arrangements.

2. Policy and statutory authority to cost recover

2.1 About TEQSA

TEQSA is an independent statutory authority established by the *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act).

TEQSA is Australia's independent national quality assurance and regulatory agency for higher education. All providers that offer higher education qualifications in or from Australia must be registered by TEQSA. Providers that have not been granted so-called 'self-accrediting authority' must also have their courses of study accredited by TEQSA.

TEQSA's guiding legislation is the TEQSA Act, which confers powers and functions on TEQSA, including to:

- register entities as higher education providers and accredit courses of study
- conduct compliance assessments and quality assessments
- provide advice and make recommendations to the Commonwealth Minister responsible for Education on matters relating to the quality and regulation of higher education providers
- protect and enhance academic integrity
- cooperate with similar agencies in other countries
- collect, analyse, interpret and disseminate information relating to quality assurance practice and quality improvement in higher education.

TEQSA also has responsibility, as an ESOS agency under the *Education Services for Overseas Students Act 2000* (ESOS Act), for regulating all providers delivering higher education to overseas students studying in Australia, providers delivering English Language Intensive Courses for Overseas Students (ELICOS) where they have an entry arrangement with a registered higher education provider, and providers delivering Foundation programs. Providers in all categories that wish to offer these courses to overseas students must be registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS).

In keeping with contemporary regulation and quality assurance, TEQSA's approach:

- is standards-based, risk-reflective and transparent
- places a significant emphasis on promoting and facilitating a culture of effective self-assurance, as required by the *Higher Education Standards Framework (Threshold Standards) 2015* (HESF)
- uses 'variable-touch' regulation, in which regulatory intervention is no greater than is required to achieve a necessary regulatory purpose
- is based on a preferred model of respectful regulatory partnerships, with both individual providers and the sector overall.

2.2 Government policy approval to cost recover

The 2018–19 Budget announced that the Government intended TEQSA to transition progressively to full cost recovery. The Government subsequently announced in April 2021 that cost recovery would commence from 1 January 2022 and that course accreditation and re-accreditation assessments for smaller providers would be subject to a sliding scale of partial cost recovery linked to the relative number of student enrolments. This would see the recovery, on average, of around 90 per cent of TEQSA's regulatory costs. Some providers would be charged 100 per cent cost recovery, with others charged a lower level of recovery.

As such, it is proposed that TEQSA's application-based fees for registration and re-registration will be increased from 1 January 2022, to fully recover associated regulatory costs. A sliding scale of up to 70 per cent of actual costs, linked to a provider's actual student load, will be applied to course accreditation and re-accreditation application fees.

The cost of provider specific non-application based regulatory activities (such as investigations, compliance assessments and conditions monitoring) will be calculated on a per-hour basis and recovered at 100 per cent of cost from 1 January 2022.

A new annual regulatory levy will be introduced to recover the costs of TEQSA's sector-wide work for higher education providers. From 1 January 2022, 20 per cent of the cost of TEQSA's sector wide, non-application-based activities will be recovered in the first year, rising to 50 per cent from 1 January 2023 and then 100 per cent from 1 January 2024.

2.3 Statutory authority to apply fees and charges

Section 158 of the TEQSA Act gives TEQSA the authority to determine fees that it may charge for activities undertaken in the performance of its functions. Before a legislative instrument can be made by TEQSA, the proposed schedule of fees must be approved by the relevant Minister.

The current Determination of Fees is available from the Federal Register of Legislation at www.legislation.gov.au/Details/F2020C00728.

A new Determination of Fees legislative instrument will be made by TEQSA, following consultation with the sector and approval of the fee schedule by the Minister.

Implementation of the new regulatory levy will be subject to passage of two bills by the Australian Parliament. These bills are expected to be introduced to Parliament in Winter 2021. Once the bills have been passed, a regulation will be made to specify the manner in which the levy is to be calculated. The proposed formula is set out later in this paper. Comments are welcome on the proposed levy structure.

2.4 TEQSA's regulatory approach

TEQSA's regulatory approach is underpinned by three principles set out in the TEQSA Act: regulatory necessity, reflecting risk and proportionate regulation. This approach differentiates between providers with positive compliance histories, with a low risk

of future non-compliance, and those with poor compliance histories or with limited experience as a higher education provider, with a higher risk of future non-compliance.

TEQSA ensures that the exercise of its powers is proportionate to a provider's non-compliance or risk of future non-compliance. There are three main types of regulatory work undertaken by TEQSA:

- **application based activities:** assessments undertaken in response to an application by a provider; for example, to register or re-register as a higher education provider, to accredit a new course or re-accredit an existing course, to change provider category, or to seek authority to self-accredit courses of study
- **non-application-based compliance and investigatory activities and assessments**
- **non-application-based activity for the general benefit of the sector, in support of TEQSA's responsibilities for the protection and enhancement of the quality and reputation of the Australian higher education sector.** These include: the development and delivery of advice to providers, the Department of Education and the Minister; the profiling and management of risk in the sector; and engagement activities, both domestic and international.

3. Application based fees

3.1 Previous application-based cost recovery approach and rationale for change

TEQSA's current fee schedule has been in place for seven years. The government's decision at that time was to apply partial cost recovery for specific application-based activities.

Many of TEQSA's current regulatory activities have not been subject to cost recovery, including the monitoring of conditions on provider registration or course accreditation approvals, compliance assessments, investigations and risk assessments. To date, these activities have been funded by government.

Analysis of TEQSA's cost recovery arrangements conducted by the then Department of Education and Training in 2017 found that TEQSA's charges did not accurately reflect the focus and relative costs of TEQSA's various regulatory and quality assurance activities. At that time, TEQSA was recovering only about 25 per cent of the costs incurred in providing its services. Due to fluctuations in the level and mix of TEQSA's workload that figure has since reduced. In 2019, TEQSA recovered around 15 per cent of the cost of its regulatory activity.

Such an approach is out of step with government policy, which requires that government regulators recover the full cost of the effort required to deliver their services unless there is a clear reason why partial cost recovery should be agreed.

At the same time, consideration was being given to the need to ensure that TEQSA had the necessary resources to conduct its work as the national higher education regulator at a time when the number of potential providers wishing to enter the sector was increasing significantly, and the complexity of TEQSA's caseload was growing. TEQSA had been permitted to incur an agreed deficit for the financial years 2015-16 and 2016-17 but the need to move to a sustainable funding and staffing basis was evident. This resulted in the decision to increase TEQSA's annual funding and Average Staffing Level (ASL) in the Australian Government budget 2018-19 but, at the same time, to move the agency's position to full cost recovery.

3.1.1 Outputs and business processes of the application-based activities

TEQSA's role regarding application-based activities is to ensure that legislated quality standards will be met by higher education providers. It does this through registration and renewal of registration processes for all providers and through course accreditation and renewal of accreditation processes for providers without self-accrediting authority.

In these processes, TEQSA considers providers' compliance history and risk of future non-compliance and applies a range of assessment methods in order to be satisfied that the legislated standards continue to be met. For applications for renewal of TEQSA registration, there are differences in the required regulatory effort, reflecting differences in the scope of higher education standards assessed and the complexity of the assessment. Broadly speaking there are three materially different levels of effort required for assessments, based on the consideration of: a provider's track record in the provision

of higher education; financial standing; history of compliance with the standards; assessed risk of current and future non-compliance; and other information and intelligence held by TEQSA. It is, therefore, reasonable, and in accordance with government cost recovery guidelines, that the cost differences arising as a result of differences in required regulatory effort will be reflected in three levels of fees for renewal of TEQSA registration.

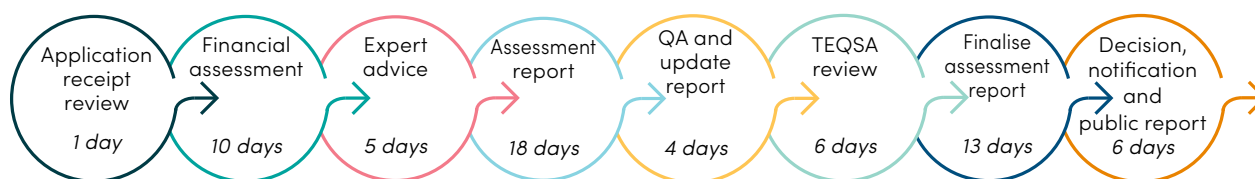
Some selected illustrative examples of assessment processes follow in sections 3.2, 3.3 and 3.4.

3.2 Registration renewal

There are three levels of regulatory effort for a registration renewal assessment by TEQSA – minimum (level 1), average (level 2) and maximum (level 3) – reflecting the different workload that can occur with registration renewals.

Figure 1 below represents TEQSA's average level of effort in days for the process of renewal of a provider's registration under the TEQSA Act.

Figure 1: Registration Renewal Process



Major components of the registration renewal process are the financial assessment; contributions to assessments by external experts; development of a full assessment report and Commission review; deciding whether to approve, with or without conditions, or approve with a shorter than 7 years' period of registration or reject the application; developing the public report; and notifying the applicant of the decision. These elements must occur to ensure that the provider continues to be financially viable, maintains appropriate standards and meets the requirements of the TEQSA Act.

External experts are engaged to provide advice on specific, identified elements of TEQSA's regulatory assessments and reviews. They have appropriate qualifications, combined with relevant and recent professional experience. External experts provide advice that contributes to TEQSA's assessment of an application; they do not make recommendations on applications.

Provider visits may be undertaken for renewals of registration and other TEQSA application-based activities. TEQSA officials may visit multiple providers in one day, as part of reviewing applications and for compliance and monitoring purposes. Additionally, there may be multiple applications relating to the one provider being reviewed in a single site visit. As TEQSA seeks to undertake visits in a cost effective and administratively efficient way, the effort is not always allocated to a single application process.

Commissioners may decide to grant or reject an application. For provider registration and renewal of registration, where an application is granted, Commissioners will determine the period of registration and may also decide to impose conditions on the registration.

In deciding on a registration application, the Commissioners consider the submitted application, the assessment report, external expert reports (if external experts have been drawn on) and other supporting information.

Before a registration renewal application is submitted, TEQSA, in discussion with the provider, will assess the level of regulatory effort required, which then directly influences the final cost and hence, the appropriate level of application fee.

TEQSA seeks to minimise the risk of an application being rejected by supporting applicants through the process of registration renewal. Where a recommendation to reject an application or impose conditions is made, a draft assessment report is supplied to the provider for comment and the TEQSA decision maker will consider any provider response and other information provided before a final decision is made.

3.3 CRICOS registration

Education institutions must be registered on CRICOS to enrol and deliver education services to students in Australia on a student visa. Registered providers must meet the requirements of the ESOS Act and the *National Code of Practice for Providers of Education and Training to Overseas Students 2018* (National Code) and (where relevant) legislative instruments that apply to ELICOS or Foundation programs.

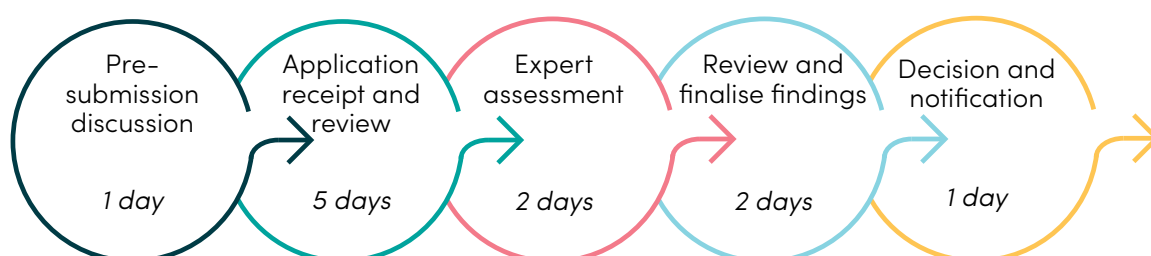
Foundation program providers and ELICOS providers that have an entry arrangement with higher education providers can apply to TEQSA for registration on CRICOS.

The work effort and fees for renewing CRICOS registration (see Table 2. below) are more expensive for providers that do not have self-accrediting authority. Under the ESOS Act, providers with self-accrediting authority are required to undertake an independent external audit in the eighteen months prior to applying to renew their registration: this is substantially relied upon by TEQSA in the re-registration process. TEQSA does not have the benefit of such audits in assessing a re-registration of providers that do not have self-accrediting authority, and thus more evidence is required.

The work effort and fees for a CRICOS re-registration for a non-SAA provider is greater than that for a SAA provider as SAA providers are required to undertake an independent external audit. Such reports are typically provided to TEQSA as part of the CRICOS re-registration. Non SAA providers have no such legislative requirement, requiring TEQSA to undertake the audit as part of the re-registration.

Figure 2 below identifies the major processes involved in assessing an application to register as a provider on CRICOS.

Figure 2: Registration as a CRICOS provider



The major element of the CRICOS registration process is staff effort involved in reviewing the application and developing a report detailing findings. A decision maker may decide to grant or reject an application. Where an application is granted, the decision maker will determine the period of registration and may also decide to impose conditions on the registration. Where a recommendation to reject an application or impose conditions is made, a draft assessment report is supplied to the provider for comment and the TEQSA decision maker will consider any provider response.

3.4 Course accreditation – substantive – first course

To provide a higher education course of study, providers without authority to self-accredit their own courses must have the course accredited by TEQSA under the TEQSA Act. Only registered higher education providers or those intending to become higher education providers can apply for accreditation of higher education courses. If the application for accreditation of a course is successful, the accreditation period cannot exceed seven years.

Figure 3 below identifies the major processes involved in assessing an application for course accreditation.

Figure 3: Course accreditation – substantive – first course



The successful preliminary assessment process of a course accreditation precedes this process. This diagram refers to the process for substantive assessment of the first course in a new area of study for a registered provider or for a replacement for a course previously accredited. The major elements of the course accreditation process are expert assessment, preparation of an assessment report, and review by the assessment team manager.

External experts are usually engaged to inform the analysis of specific parts of the application, where expertise and experience is needed in the academic discipline that is central to the proposed course of study. External experts contribute to the evidence TEQSA uses in its assessment process and decision-making.

TEQSA staff may also visit the provider's site to inspect facilities, equipment and resources, or clarify how a relevant course is delivered. TEQSA will use observations and discussions held at a site visit in its assessment and decision making to supplement or validate evidence submitted with the application. At the site visit, TEQSA may conduct interviews with students, staff and members of corporate and academic governing bodies.

The assessment report and the review by the assessment team manager will consider the evidence provided by the applicant and other information available to TEQSA.

This includes the regulatory history of an existing provider and outcomes of previous assessments directly relevant to the application, and the risk of non-compliance with the HESF and the ability of the provider to mitigate those risks.

This may result in approval of the application, approval with conditions on the delivery of the course, accreditation of the course for a shorter period than 7 years or rejection of the application.

3.5 Costs of the activities

3.5.1 Cost drivers and key assumptions

As a service-based entity with a case management model for regulation, around 85 per cent of TEQSA's application-based activity costs are employee-related. External experts and operating support for the case management IT system make up other major direct costs.

The key cost driver for application-based activities is complexity, which determines the amount of time and effort spent on a regulatory output. The cost of (or regulatory effort associated with) delivering application-based activities was determined by surveying managers and staff who work directly on assessments or contribute to the assessment process.

TEQSA has now developed an Activity Based Costing process to ensure that the calculation of application-based charges is appropriate and will regularly review and evaluate regulatory effort and consequent charges over the coming years, reducing the need for reliance on estimates.

Table 2 on the next page shows the estimated costs for application-based activities.

Table 2: Costs of Application based activities

Description	Type	Tier	Cost\$
Initial registration	Preliminary assessment	Level 1	\$6,522
	Substantive assessment	Level 1	\$134,655
Registration renewal	N/A	Level 1	\$38,487
		Level 2	\$100,060
		Level 3	\$163,947
Change of provider category	N/A	Level 1	\$88,809
Application to self-accredit one or more courses	No current authority	Level 1	\$103,732
	Existing authority for 1 or more courses	Level 1	\$58,005
Application for self-accrediting authority made concurrently with registration renewal	N/A	Level 1	Nil
Course accreditation – preliminary assessment (proposed or registered providers)	First	Level 1	\$2,772
	Additional in a nested set of courses per application	Level 1	\$1,205
Course accreditation – substantive assessment (proposed or registered providers)	First	Level 1	\$25,228
	Additional in a nested set of courses per application	Level 1	\$1,205
Renewal of course accreditation – teach out	N/A	Level 1	\$4,110
Renewal of course accreditation	First	Level 1	\$23,406
	Additional in a nested set of courses per application	Level 1	\$1,209
Review, vary or revoke condition (registration and accreditation)	N/A	Level 1	\$1,635

Table 2: Costs of Application based activities (continued)

Description	Type	Tier	Cost
Internal review of decision	N/A	Level 1	\$992
CRICOS registration	SAA or Non-SAA	Level 1	\$13,082
CRICOS re-registration	Self-Accrediting Authority	Level 1	\$14,736
	Non-Self-Accrediting Authority	Level 1	\$28,494
CRICOS Additional Course	N/A	Level 1	\$355
CRICOS Add ELICOS Course	N/A	Level 1	\$20,071
CRICOS Add Foundation Course	N/A	Level 1	\$20,071
CRICOS Exempt u/17 in Foundation	N/A	Level 1	\$5,133
CRICOS Add/Relocate Delivery Site	N/A	Level 1	\$17,200

3.6 Approach to cost recovery

3.6.1 Application-based activities – fees for service

TEQSA's application-based fees will increase contributing to achieving 90 per cent recovery of TEQSA's costs overall. Most fees will increase to cover the full cost of recovery. A tiered scale will apply to course accreditation fees so that smaller providers pay a lower fee to accredit or re-accredit their courses.

The table at Appendix A sets out the new fees schedule proposed to apply from 1 January 2022. The fees schedule reflects the costs for assessment of each type of application set out in Table 2 above.

3.6.2 Registration Renewals – variable effort

For TEQSA registration renewals, there are three levels of fees because, as outlined in section 3.1.1, there are material differences in the costs of assessment based on the scope of standards to be assessed and the complexity of the applications. The factors driving those differences in TEQSA's costs, and hence the fees to be charged, are also explained in section 3.1.1.

Given that assessment of renewals of TEQSA registration have a significant degree of variability of required effort, TEQSA will assess the regulatory effort required before an application is submitted. TEQSA will advise the applicant of the outcome and the

associated fee to be applied to the substantive assessment of the application, including whether expert assessments, site visits or other variable expenses are included, before the submission of the application.

Fees for future years will be adjusted as necessary to reflect changes to TEQSA's regulatory effort.

3.6.3 Course Accreditation and Reaccreditation fees – sliding scale partial cost recovery

The consultation paper proposes an approach to implementing increased cost recovery arrangements that is consistent with the Australian Government Charging Framework with the exception of course accreditation and re-accreditation fees for which a partial cost recovery option is proposed for providers with less than 5000 effective full-time student load (EFTSL) as of 30 June each year, and reflected in the annual Provider Information Request process administered by the Department of Education, Skills and Employment.

The proposed approach retains a starting calculation of liability for fees and charges based strictly on the Australian Government Charging Framework but applies a sliding scale of partial cost recovery of up to 70 per cent of actual cost for course accreditation fees linked to EFTSL. This targeted fee relief to smaller providers is proposed as a measure to mitigate financial and other impacts from the introduction of cost recovery on smaller providers.

Providers with less than 500 EFTSL will receive the maximum reduction in cost recovery, while full costs will be recovered from providers with 5,000 or more EFTSL. (Refer to Table 3 for bands).

Table 3: Costs recovery bands to be applied

Number of students (Equivalent Full Time Student Load EFTSL)	Reduction in cost recovery applied to course accreditation and re-accreditation fees
0<500	70%
500<1000	60%
1000<1500	50%
1500<2000	40%
2000<3000	30%
3000<4000	20%
4000<5000	10%
5,000 +	0%

3.6.4 Monitoring fluctuating costs and workload

TEQSA's volume of application-based activities changes considerably each year because of what is largely a seven year-year cycle for the renewal of registrations and accreditations. As a result, a different number occur each year, depending on when they were last assessed. Previous annual projections over the forward estimates have been for between 10 and 70 provider registrations, between 63 and 310 course accreditations, and between two and 43 CRICOS registrations. This variation is expected to be exacerbated further by the current uncertainty in the sector as a result of the COVID-19 pandemic. Such fluctuations make estimates of revenue difficult to predict accurately.

4. Non-application-based charges

4.1 The rationale for change

TEQSA's non-application-based activities include the handling of concerns or complaints, communications and engagement, risk assessments, enquiries, corporate support and guidance material. They carry a sector-wide benefit. These activities are difficult to attribute directly to specific providers or groups of providers, as no specific provider or group within the sector causes the need for these activities. Under current arrangements these costs are not recovered; in moving to increased cost recovery in accordance with wider government policy an annual levy is therefore proposed.

4.2 TEQSA's legislative responsibilities

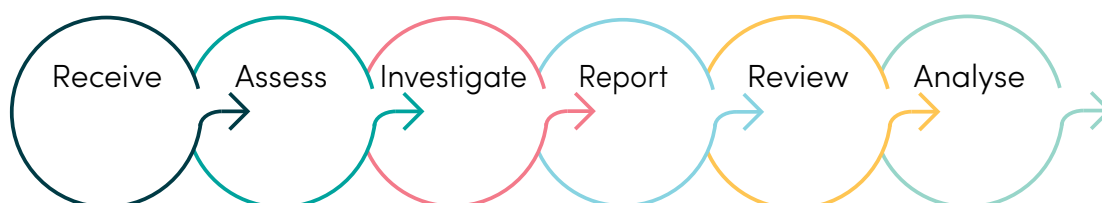
The non-application-based activities for which TEQSA is required to recover costs flow from the agency's statutory responsibilities. TEQSA's functions are set out in section 134 of the TEQSA Act, and include functions conferred under the ESOS Act in TEQSA's capacity as an ESOS Agency.

In addition to specific functions related to its assessment activities, the collection and dissemination of information, and the provision of training, TEQSA is also given the power to do all things necessary or convenient to be done in connection with the performance of its functions.

4.3 TEQSA's non-application based regulatory activities and business processes

This section outlines the business processes associated with each non-application based regulatory activity undertaken by TEQSA.

4.3.1 Concern or complaint management and resolution



Anyone with concerns or complaints about a higher education provider's compliance with the HESF, the ESOS Act or the National Code can submit to TEQSA. TEQSA uses information received through concerns or complaints to ensure that Australian higher education providers are offering quality programs and meeting their legislative requirements.

After receiving a concern or complaint, an initial assessment is conducted to determine whether it can be actioned under TEQSA's legislative functions and powers. If not, and where appropriate, advice is provided to the complainant on the best pathway for the concern or complaint to be investigated.

4.3.2 Stakeholder communications and engagement



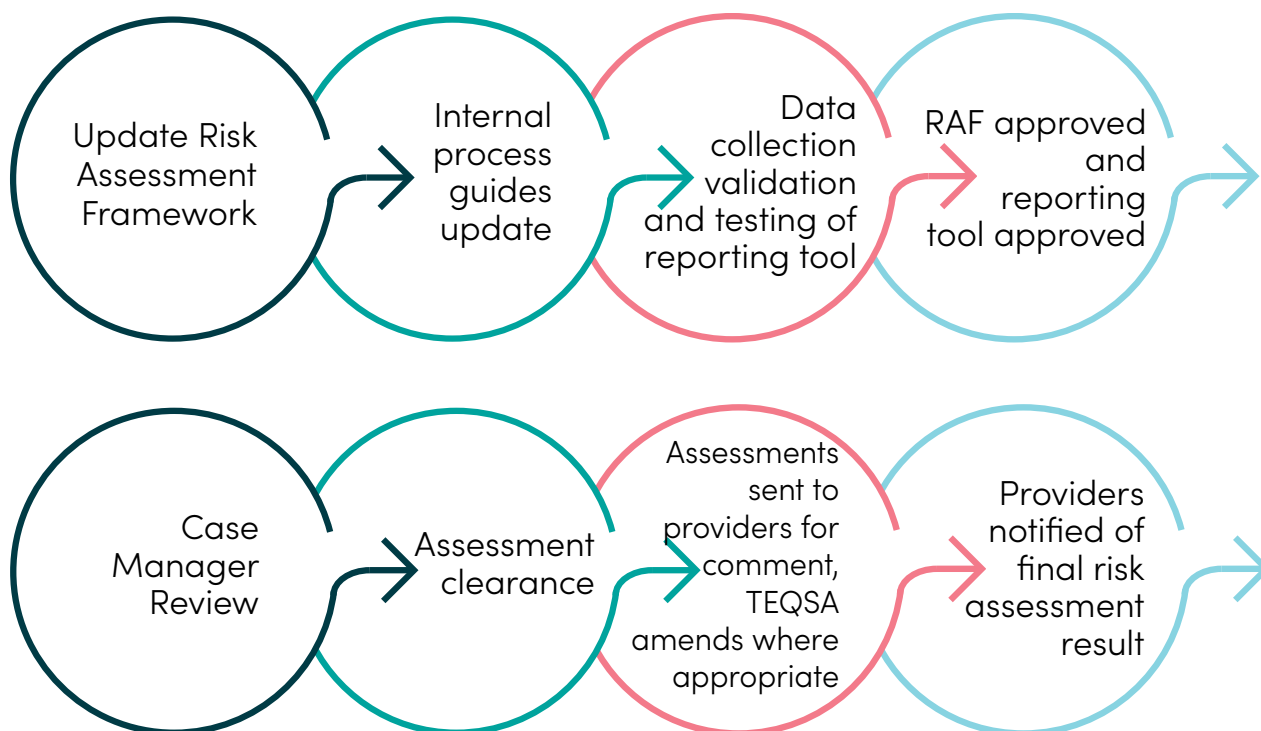
TEQSA's stakeholder communication and engagement activities allow the agency to gain a greater understanding of key issues facing the higher education sector and help to build stakeholder capacity to meet regulatory requirements.

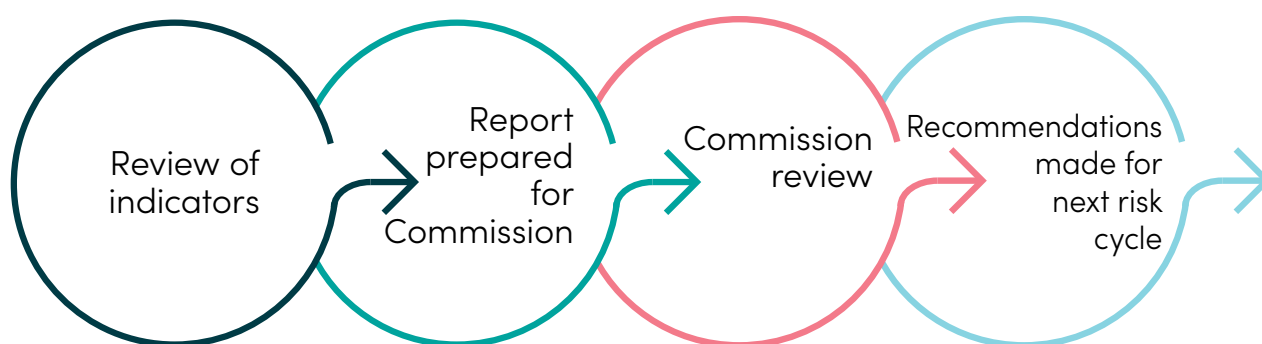
When engaging with stakeholders, TEQSA seeks to engage at all levels in open, two-way communication, reflect on feedback and take action where appropriate.

TEQSA maintains communication and engagement channels, such as the TEQSA website, social media channels, sector and targeted events, memoranda of understanding and cooperation with partners, and published reports to inform and gain information from stakeholders such as providers, students, professional accreditation bodies and international organisations.

Through these activities, and through resources such as TEQSA Guidance Notes (which provide greater clarity for providers in the interpretation and application of selected standards) and targeted events (which aim to build capacity in addressing sector-wide issues), TEQSA aims to ensure that there is clarity and adequate information regarding the agency's work and role.

4.3.3 Risk assessment





TEQSA's annual risk assessments provide a snapshot of a provider's standing and help prioritise TEQSA's focus in its regulatory and quality assurance activities. They assist TEQSA to give effect to its principles of reflecting risk, proportionality and necessity, as outlined under the TEQSA Act, and inform risk-based regulation of providers under the ESOS Act.

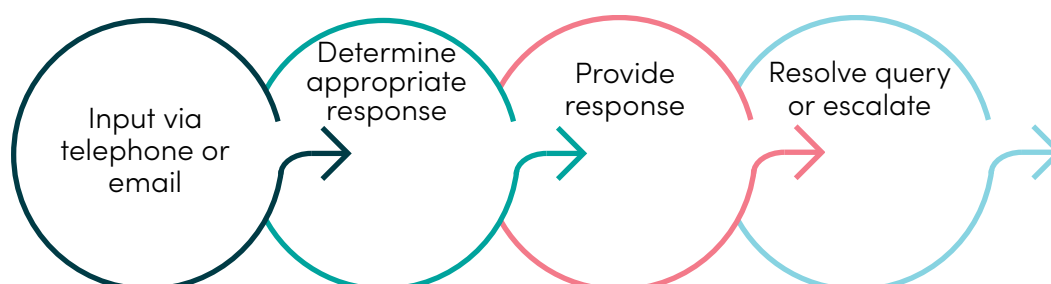
TEQSA determines the scope of its Risk Assessment Framework (RAF) annually and the agency's approach is informed by the ISO Risk Management Standards, adapted to TEQSA's regulatory context and purpose. Updating the RAF includes updating internal process guides and ensuring that revised data collection tools and methodologies will deliver robust data. The RAF is then approved for release and the sector is notified of their reporting obligations.

TEQSA considers the history and context of each provider, its approach to delivery, and findings from previous assessment processes (favourable and adverse). TEQSA undertakes an analysis of risk against a series of indicators, guided by thresholds, trends and other relevant information. Higher education providers are given the opportunity to respond to provisional risk ratings at indicator and overall level, and those responses are given careful consideration before ratings are finalised.

This process results in an evaluation of provider history and context, indicator analysis, and provider explanation of risk mitigation strategies to determine overall risk ratings of providers, with explanatory notes supplied for identified, significant risk. Providers are notified of the final assessment.

At an aggregate level, to provide a broad overview of risks in the higher education sector and to share information on good practices, TEQSA also publishes high-level sector analyses from time to time. Any analysis that is published by TEQSA does not contain any provider-level risk information. Information on risks in the sector and good practices may also be shared through guidance on TEQSA's website and presentations at TEQSA provider roundtables, forums or sector conferences.

4.3.4 Enquiries



TEQSA receives approximately 4,000 enquiries annually from students and providers (current and prospective) via phone, email and social media channels.

Enquiries may be resolved immediately or may require greater involvement and engagement to ensure that the correct response is provided to the stakeholder. At times it may also be necessary to escalate the enquiry for further action (e.g. investigate a provider for non-compliance), resulting in potential compliance assessment and regulatory enforcement actions.

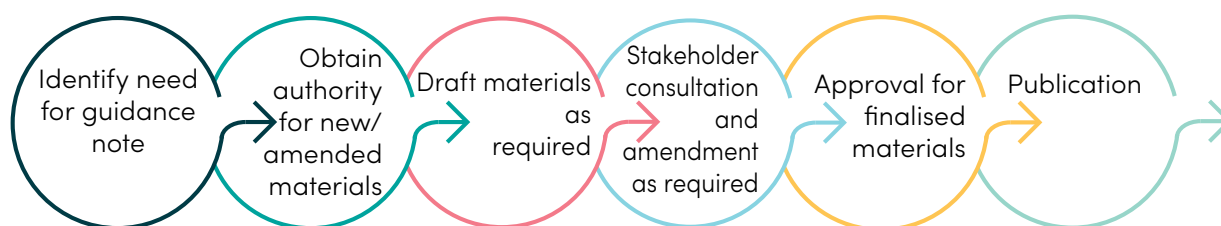
4.3.5 Business support



TEQSA's business support functions help to ensure that the agency fulfils its legislated functions as a higher education quality and standards agency.

Business support functions that are not application based include executive and IT support to the agency, provision of legal resources (including to develop case management guidance materials), advice relating to TEQSA and ESOS Act enforcement, management of assessment functions (not directly related to particular assessments) and database management.

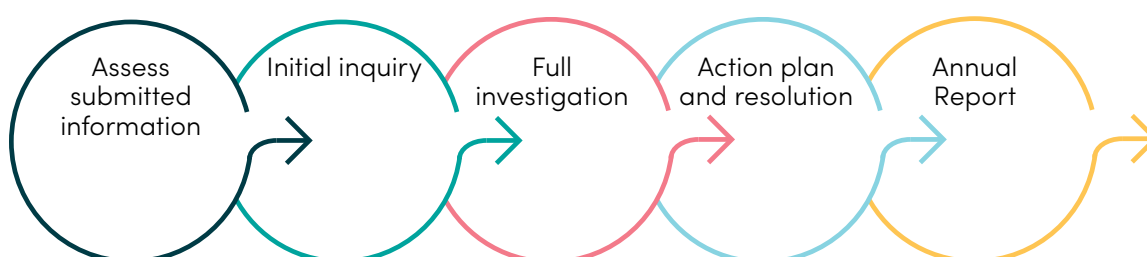
4.3.6 Guidance notes



TEQSA publishes Guidance Notes to provide greater clarity for providers in the interpretation and application of selected standards of the HESF. TEQSA's Guidance Notes draw on its regulatory experience and the knowledge of experts in the higher education sector.

Guidance Notes are developed once a need is identified and authority is obtained from the TEQSA Commission. Materials are drafted and stakeholders consulted. Guidance Notes are generally prepared initially for consultation, with a comment period to allow for stakeholder feedback. Following feedback and amendment, TEQSA's Commissioners approve the Guidance Note, which is then published on the TEQSA website.

4.3.7 Compliance assessments and investigations



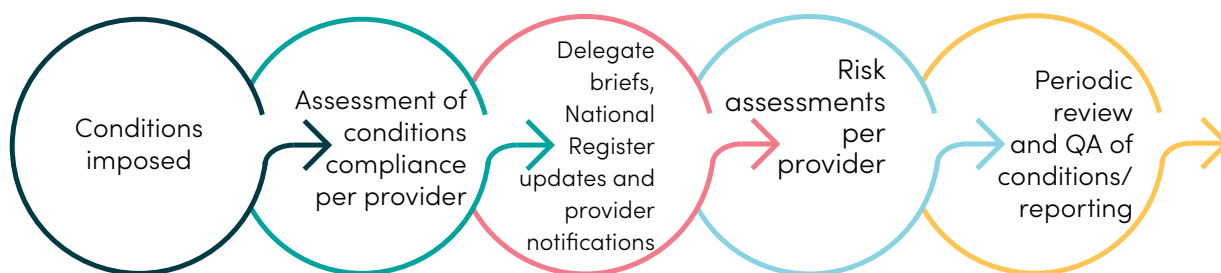
TEQSA monitors higher education providers on an ongoing basis to ensure that they continue to comply with the requirements of the TEQSA Act and the HESF, as well as the ESOS Act and associated legislative instruments (such as the National Code) for providers who offer services to those studying on student visas.

Where a provider is found to be non-compliant or where TEQSA identifies substantial risks of a provider being non-compliant, TEQSA undertakes enforcement action such as initiating a compliance assessment or investigation to ensure that the risks are identified and mitigated, and that appropriate regulatory action is taken in response to any non-compliance or risks of future non-compliance.

Compliance assessments commence by gathering and assessing the information necessary to determine the provider's compliance with the HESF. An initial inquiry is held to determine whether there is a substantive case for a compliance assessment. If warranted, a full compliance assessment is undertaken. This may include a provider visit to obtain more information, and meetings with senior management, staff, students and other relevant parties.

Once the compliance assessment is completed, TEQSA will develop an action plan. The action plan may involve agreement about the provider's risk management approach, conditions on registration or course accreditation, further monitoring and supervision of the provider, court proceedings in relation to contraventions of the TEQSA Act, or cancellation of registration.

4.3.8 Monitoring of compliance with conditions



Higher education providers must meet certain requirements in order to become and remain registered with TEQSA.

If a higher education provider has a limited track record or TEQSA does not have confidence in the strength of the provider's own risk management response to the issue(s) identified, it may determine that further action is necessary – such as the imposition of conditions to provide assurance that appropriate steps are taken by the provider to return to compliance.

TEQSA's National Register of Higher Education Providers records the conditions imposed on a provider's registration and/or course accreditation, including the timeline for reporting against the conditions.

The outcome of the monitoring of compliance with conditions may include revocation or variation of a condition, or escalation of regulatory oversight and action.

4.4 Summary of non-application-based activities and costs

The cost of undertaking these activities has been determined through analysis of the staff effort that directly contributes to each service. Where there has been limited information, a 'best estimate' has been utilised, with reference to the statutory requirements and/or comparison with similar activities.

TEQSA has used an Activity Based Costing process to ensure that the calculation of non-application-based charges is appropriate and will regularly review and evaluate regulatory effort and consequent charges over the coming years, reducing the need for reliance on estimates.

Table 4 on the next page details TEQSA's non-application-based activities, the providers impacted and the regulatory activity costs.

Table 4: Summary of average non-application-based activities and regulatory costs

Regulatory output	High level description	Providers impacted	TEQSA annual non-application based regulatory activity cost (\$'000)
Concern management and resolution	Receive and resolve concerns from providers, 3rd parties, other agencies and/or students	All Higher Education Providers	\$269
Stakeholder communications and engagement	Media, website, publications, delegations and forums	All Higher Education Providers	\$1,010
Risk assessment	Annual risk review for all providers	All Higher Education Providers	\$1,286
Enquiries	Manage and resolve queries from students, providers or prospective providers	All Higher Education Providers	\$356
Business support	Executive and corporate functions in support of TEQSA Commission and Accountable Authority specifically related to non-application-based activities	All Higher Education Providers	\$2,563
Guidance Notes	Provision of guidance to the sector in relation to interpretation and assessment of the HESF, Foundation Standards, ELICOS Standards and ESOS National Code	All Higher Education Providers	\$181
Compliance and Investigations	Plan and carry out investigations of suspected non-compliance	Relevant providers based on information gathered	\$540
Compliance assessments	Review compliance with the TEQSA Act	Relevant providers based on assessment of risk of non-compliance	\$506
Management and monitoring of compliance with conditions	Monitoring of compliance with conditions imposed on a provider	Relevant providers that are subject to conditions on their registration and/or course accreditations	\$848
Total TEQSA non-application based regulatory activity costs			\$7,559

4.5 Approach to recovery of non-application-based costs

4.5.1 Provider specific regulatory activities

Provider specific regulatory activities are investigations, compliance assessments and monitoring of compliance with conditions. It is proposed that these activities are charged on an hourly basis, only to those providers that are subject to these activities. Since the activities are undertaken by the same team and require similar regulatory approach and effort, the hourly rate has been calculated by averaging related costs across the three activities.

Where an investigation is conducted and there is no adverse finding, it is proposed that no charge is made.

The new charges will be introduced fully on 1 January 2022. The charge per hour has been determined based on the estimated cost of that activity.

Table 5: Provider-specific regulatory activities (charge per hour)

Regulatory output	Charge per hour ¹	Estimated cost of regulatory activity to be recovered (\$'000)
Investigations	\$150	\$540
Compliance assessment	\$150	\$506
Monitoring of compliance with conditions	\$150	\$848
Total to be charged		\$1,894

4.5.2 Other non-application-based activities

These activities include own-motion thematic assessments or compliance investigations and responses to concerns, communication and engagement, risk assessments, enquiries, corporate support, and guidance about the HESF. The cost of these activities will be charged to all registered higher education providers through the new annual levy. The new levy will be phased in at 20 per cent on 1 January 2022, 50 per cent on 1 January 2023 and then 100 per cent on 1 January 2024.

4.5.2.1 Australian Government Charging Framework (AGCF)

In determining whether it is appropriate to charge a levy for an activity, the Cost Recovery Guidelines (CRGs) state that where it is not possible to link an activity to a specific individual or organisation, a cost recovery levy can be used². A cost recovery levy should only recover the costs of the activity provided to the group of individuals or organisations who create the need for that activity. In designing the levy TEQSA must select one or more relevant cost drivers to distribute the levy to higher education providers in a way that

1. Average cost per hour for Provider Specific Regulatory Activities.

2. Cost Recovery Guidelines, 2014 p.23.

reflects TEQSA's regulatory effort to individual providers. These cost drivers reflect the basis for the generation of the activity and cost.

If there is no difference in effort required among providers for a particular activity, all providers would receive an equal charge irrespective of difference in their characteristics, such as size or revenue base.

4.5.2.2 A regulatory levy

In designing the levy, the following would be applied:

- the levy model would be based on the requirements of the AGCF and match TEQSA's efficient costs of delivering non-application based regulatory activities, to ensure that no cross subsidisation occurs
- only efficient costs will be charged
- only those that create the need for regulatory effort will be charged, and
- regulatory effort will be the driver of how the levy is distributed.

TEQSA's analysis has determined that the only activity in this group of activities that can be differentiated amongst providers on the basis of effort is the management of concerns, which is largely driven by students. This means that all costs will be allocated equally across all providers, other than concern management and resolution which will be allocated based on student numbers (EFTSL) at each provider.

TEQSA will invoice all registered higher education providers for the levy on 1 January each year.

TEQSA will develop the levy model, and monitor and adjust its application, to ensure that charges continue to reflect a direct relationship to the cost drivers of activities.

Table 6 shows how cost of the activities will be allocated.

Table 6: Regulatory levy – allocation

Regulatory output	Basis for attribution of costs	Total to be attributed (\$'000)
1. Concern management and resolution	Proportionally, based on number of registered students (EFTSL) at each provider*	\$269
2. Stakeholder communications and engagement	Equally across all Providers	\$1,010
3. Risk assessment	Equally across all Providers	\$1,286
4. Enquiries	Equally across all Providers	\$356
5. Business support	Equally across all Providers	\$2,563
6. Guidance Notes	Equally across all Providers	\$181
Total to be attributed		\$5,665

* Based on the most recent year for which full year enrolment data is available.

For item one, concern management and resolution, the proportion of overall cost attributable to each provider will be based on that provider's share of the full year enrolment (EFTSL) for the most recent year for which data is available. Due to the time lag in availability of full year enrolment data, a new provider that does not yet have full year enrolment data available will not be subject to this element of the levy. This is reasonable, as it is unlikely that any students from such a new provider would yet have sought TEQSA's assistance to investigate or resolve a complaint. Should any formal investigation or compliance assessment become necessary, however, the cost of this activity would be recovered through the hourly charge outlined above.

4.5.3 TEQSA activities excluded from cost recovery

TEQSA activities excluded from cost recovery included in Table 7 below are academic integrity, admissions transparency, external review of TEQSA decisions and TEQSA internal costs related to the TEQSA conference. The activities in Table 7 do not include funding related to the Higher Education Integrity Unit and student records management, which will also be budget-funded.

Table 7: TEQSA activities excluded from Cost Recovery (Budget-funded)

Activity	Description	Estimated cost of regulatory activity not to be recovered (\$'000)
Academic Integrity	Budget-funded	\$1,329
Admissions Transparency		
External Review of TEQSA decisions	Budget-funded	\$249
TEQSA internal costs related to the TEQSA Conference	Own source revenues	\$0
Total activities excluded		\$1,578

4.6 Phasing in of new application and non- application-based charges

Under current Government policy, TEQSA will fully transition to the new increased cost recovery arrangements by 1 January 2024.

TEQSA's new application-based fees (outlined at Attachment A) will commence from 1 January 2022.

Provider specific non-application-based charges will also commence from 1 January 2022.

The new regulatory levy will be phased in over three years, with the cost recovery target commencing at 20 per cent per cent from 1 January 2022, increasing to 50 per cent from 1 January 2023 and then 100 per cent from 1 January 2024.

5. Cost attribution

5.1 Direct costs

The regulatory workload model developed by TEQSA allocates employee costs to each type of regulatory output. Direct costs that are not employee costs are assigned where they can be directly linked to an activity. Direct supplier costs (e.g. external experts, case management system costs) have been identified and allocated to the regulatory activity as appropriate. Direct costs for regulatory outputs include the costs of employees, external experts, site visits and contractors, and the operating expenses of the Case Management System.

5.2 Indirect costs

Indirect costs are costs that cannot be attributed to a specific process or output. These include information and communications technology, maintenance, office accommodation, and finance and corporate services.

5.3 Capital costs

Capital costs included in the operating costs of business processes are depreciation of property, plant and equipment (including furniture, IT hardware and infrastructure); amortisation of IT systems and software; non-capital software development costs; and accommodation.

In terms of capital expenditure, TEQSA budgets for the replacement of property, plant and equipment (including IT hardware and infrastructure) and the replacement of/investment in computer systems and software.

5.4 Cost breakdown

Table 8 shows the estimated proportion of direct and indirect costs for application-based assessments and other regulatory activities in 2020-21, by operating unit.

Total application-based costs are \$6.04 million.

Total non-application-based costs are \$4.96 million.

Total indirect costs are \$6.18 million.

Also shown in Table 8 are total budget funded costs of \$1.04 million that are not part of cost recovery.

Table 8: TEQSA'S regulatory and budget funded costs in 2020-21

Operating unit	Application based (Assessment) activities (\$'000)	Non-Application based (Sector monitoring and oversight) activities (\$'000)	Budget-funded (External Reviews, Admission Transparency and Academic Integrity) or Conference-funded activities (\$'000)	Indirect costs (\$'000)	Total TEQSA costs (\$'000)
Commission	\$497	\$113	-	\$62	\$672
Regulatory Operations	\$4,107	\$2,023	\$168	-	\$6,298
Executive Office	\$857	\$272	\$186	\$565	\$1,880
Policy and Analysis	\$143	\$875	\$416	\$327	\$1,761
Legal	\$389	\$550	\$121	\$167	\$1,227
Engagement	\$51	\$740	\$148	-	\$939
Corporate	-	\$386	-	\$1,937	\$2,323
Overhead	-	-	-	\$3,124	\$3,124
Total	\$6,044	\$4,959	\$1,039	\$6,182	\$18,224

It should be noted that both non-application based and budget-funded costs can be attributed to thematic or sector wide compliance, investigation and assessment activity.

Table 9 shows that, of TEQSA's total costs of \$18.2 million, \$16.6 million is attributable to regulatory activities, of which application-based activities are \$9.1 million and non-application-based activities are \$7.6 million.

Table 9: Summary of Direct and Indirect regulatory costs in 2020-21

Regulatory Activity	Application-based (Assessment) activities (\$'000)	Non-Application based (Sector monitoring and oversight) activities (\$'000)	Total TEQSA Regulatory Expenses (\$'000)	Budget-funded (External Reviews, Admission Transparency and Academic Integrity) activities (\$'000)	Total TEQSA Expenses (\$'000)
Direct costs	\$6,044	\$4,959	\$11,003	\$1,039	\$12,042
Indirect costs	\$3,043	\$2,600	\$5,643	\$539	\$6,182
Total	\$9,087	\$7,559	\$16,646	\$1,578	\$18,224

6. Providers subject to ESOS charges

CRICOS registered providers are subject to two charges collected by the Department of Education, Skills and Employment (DESE) under the ESOS Act, which contain a component intended to recover part of the cost of TEQSA's monitoring and compliance work as an ESOS agency – the Entry to Market Charge (EMC) and Annual Registration Charge (ARC).

These charges are being reviewed by DESE. Until that review is completed, to ensure providers are not charged twice for the same activity, any providers that are subject to both charges will have their annual TEQSA levy reduced by the small amount of DESE charges that is intended to cover TEQSA activity.

7. Submission guidelines

This paper is being made available on TEQSA's website (teqsa.gov.au) and has been sent directly to peak bodies for providers regulated under the TEQSA Act.

Responses to the questions posed and other relevant feedback can be provided through the following email address: consultation@teqsa.gov.au.

Possible questions that could be considered are:

- What are your views on TEQSA's proposed approach to implementing increased cost recovery in line with the Government's policy?
- Do you agree or disagree with TEQSA's proposed approach to attribute application-based costs according to relative regulatory effort?
- Do you have any comments on the proposed method of adjusting course accreditation fees based on a provider's student numbers?
- Do you agree or disagree that the cost of compliance and investigatory activities should be borne by those providers being investigated?
- Do you have any comments on the structure of the proposed new annual levy?

Submissions close at 5:00pm AEST on Thursday 3 June 2021.

Interested parties can also email consultation@teqsa.gov.au with queries about this consultation paper or to seek clarification.

Please note that TEQSA intends to publish a summary of the submissions received. If you do not wish your submission to be published in full or in part, please indicate this in your response. TEQSA may alter the format or content of submissions before they are published, or decline to publish particular submissions, having regard to the requirements for Australian Government websites.

Appendix A – Application based fees from 1 January 2022

Description	Type	Tier	Fee
Initial registration	Preliminary assessment	Level 1	\$6,500
	Substantive assessment	Level 1	\$134,700
Registration renewal	N/A	Level 1	\$38,500
		Level 2	\$100,100
		Level 3	\$163,900
Change of provider category	N/A	Level 1	\$88,800
Application to self-accredit one or more courses	No current authority	Level 1	\$103,700
	Existing authority for 1 or more courses	Level 1	\$58,000
Application for self-accrediting authority made concurrently with registration renewal	N/A	Level 1	Nil
Course accreditation – preliminary assessment (proposed or registered providers)	First	Level 1	\$2,800
	Additional in a nested set of courses per application	Level 1	\$1,200
Course accreditation – substantive assessment (proposed or registered providers)	First	Level 1	\$25,200
	Additional in a nested set of courses per application	Level 1	\$1,200
Renewal of course accreditation – teach out	N/A	Level 1	\$4,100
Renewal of course accreditation	First	Level 1	\$23,400
	Additional in a nested set of courses per application	Level 1	\$1,200
Review, vary or revoke condition (registration and accreditation)	N/A	Level 1	\$1,600
Internal review of decision	N/A	Level 1	\$1,000

Appendix A – Application based fees from 1 January 2022 (continued)

Description	Type	Tier	Fee
CRICOS registration	SAA or Non-SAA	Level 1	\$13,100
CRICOS re-registrations	Self-Accrediting Authority	Level 1	\$14,700
	Non-Self-Accrediting Authority	Level 1	\$28,500
CRICOS Additional Course	N/A	Level 1	\$400
CRICOS Add ELICOS Course	N/A	Level 1	\$20,100
CRICOS Add Foundation Course	N/A	Level 1	\$20,100
CRICOS Exempt u/17 in Foundation	N/A	Level 1	\$5,100
CRICOS Add/Relocate Delivery Site	N/A	Level 1	\$17,200

Glossary

AGCF

Australian Government Charging Framework.

Application-based activities

Assessments undertaken in response to an application by a provider. For example, to register as a higher education provider, accredit a new course or reaccredit an existing course, to change provider category, or to seek authority to self-accredit courses of study.

Non-application-based activities

Work which is not undertaken in response to an application. Examples include the investigation of concerns or sector-wide regulatory problems; the development and delivery of advice to providers, the Department of Education, and the Minister for Education; the profiling and management of risk in the sector; and engagement activities, both domestic and international.

CRG

Australian Government Cost Recovery Guidelines.

CRICOS

Commonwealth Register of Institutions and Courses for Overseas Students.

Efficient cost

The minimum costs necessary to provide the activity while achieving the policy objectives and legislative functions of the Australian Government.

EFTSL

Equivalent full-time student load.

ELICOS

English Language Intensive Courses for Overseas Students.

ESOS

Education Services for Overseas Students.

HESF

Higher Education Standards Framework (Threshold Standards) 2015 (HES Framework).

ISO

International Organization for Standardization.

National Code

National Code of Practice for Providers of Education and Training to Overseas Students 2018.

QA

Quality assessment.

RAF

Risk Assessment Framework.

Self-accrediting authority

The authority to self-accredit one or more courses.

TEQSA

Tertiary Education Quality and Standards Agency.

TEQSA

teqsa.gov.au