

2 June 2021

Mr Alistair Maclean
Chief Executive Officer
Tertiary Education and Quality Standards Agency

Via email: consultation@teqsa.gov.au

Dear Mr Maclean, 

Re: TEQSA fees and charges consultation

La Trobe appreciates the opportunity to participate in this consultation on the fees and charges relating to TEQSA's transition to cost recovery. Along with the rest of the sector, we in principle do not support the proposition that 90% of the cost for TEQSA's regulatory and assurance activities should be borne by providers, particularly universities which are consistently rated as low risk providers. At the very least, we consider that given the current financial difficulties that higher education providers are facing, there should be a delayed implementation at least until 2023, with a phased introduction thereafter.

That said, we welcome the fact that TEQSA's Cost Recovery Implementation Statement (CRIS) will be a live document subject to annual review. This will enable any major implementation issues to be understood and addressed in a timely manner.

We consider that the following issues need to be addressed:

Delay of the implementation of the cost recovery

The impact of COVID-19 on the university sector has been well documented. The significant loss of international students as well as the various disruptions to university operations, have had a profound financial impact on universities across the country, including La Trobe. We acknowledge that the decision to move to a cost-recovery model was taken before the onset of the pandemic. However, just like universities have been flexible in adapting to the realities of the new world, similarly, we are of the view that in its advice to Government, TEQSA should recommend flexibility in the implementation of any cost recovery activities.

La Trobe recommends that application-based charges and single provider charges should be delayed until at least until 1 January 2023. In terms of the annual levy, La Trobe agrees that this should be done in phases but is of the view that the first phase (20 per cent of the cost of delivery), should commence from 1 January 2023. La Trobe also recommends that for a transitional period, the Government should consider a lower degree of cost of recovery than 90% but higher than the current rate of 15%.

Lack of limits on the scope and cost of investigations

La Trobe's chief concern with the proposed way forward relates to the issue of investigations under the 'single provider charges' strand. As currently drafted, there seems to be a major gap in controls in the transparency of the triggers for investigations to commence, the scale of those investigations and the amount of costs that could be attributed to investigations:

Mailing address

La Trobe University
Victoria 3086 Australia

T + 61 3 9479 2000
E J.Dewar@latrobe.edu.au
latrobe.edu.au

MELBOURNE CAMPUSES

Bundoora
Collins Street CBD

REGIONAL CAMPUSES

Bendigo
Albury-Wodonga
Mildura
Shepparton

- Scale and scope of investigations: A key concern is that there seem to be no limits to the grounds or scope of investigations which will be pursued. This means that there will be no checks and balances over whether the decision to pursue a specific investigation is an appropriate use of public funds or an appropriate activity in its own right given the need for TEQSA's regulatory interventions to be risk-based and proportionate. This is particularly problematic if the institution is not engaged in the process, not offered the opportunity to refer to normal governance processes or not pre-warned that an investigation will be pursued. We are of the strong view that an institution should be communicated with prior to the opening of an investigation. There may be very limited cases where this would not be appropriate as it may prejudice the investigation, but such cases would be the exception rather than the norm, and institutions should be engaged as a matter of course consistent with natural justice and procedural fairness.

La Trobe acknowledges that any decision taken by TEQSA to pursue an investigation will be on the basis of risk thresholds and standards. However, unless the grounds are formally specified, the institution will have no means of determining that this is the case and in ensuring its scope is clear and appropriate.

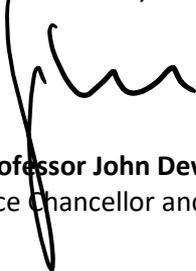
Finally, there must be no public announcement by TEQSA that an investigation is underway. Only where an investigation leads to substantiated findings against the institution should it be acknowledged publicly. The institution must be advised in writing, prior to any publication, to allow it to prepare briefing of its governing body and other stakeholders.

- Cost of investigations: The proposed statement does not set any limits to the potential cost of investigations. This leaves universities in a particularly precarious position where they are unable to budget or plan for an investigation, particularly if they are not even aware that an investigation is underway. Though we understand that this may not be the intent, as drafted, there is no limit on the amount that a university could be charged for an investigation, essentially a 'blank cheque'. Institutions, at the very least, would expect an itemised invoice providing maximum transparency regarding the activities undertaken in the investigation and the associated costs. There is a risk that this activity could become a perverse incentive for vindictive complaints, and potentially a self-referential measure of the Agency's proactive oversight.

The CRIS should also clarify that if, following an investigation, a complaint is unsubstantiated, then the provider will not be charged.

Thank you in advance for considering these suggestions. Should further information be required, please do not hesitate to contact my office.

Yours sincerely



Professor John Dewar AO
Vice Chancellor and President