



Australian Government

Tertiary Education Quality and Standards Agency

# Policy on public statements on TEQSA's regulatory decisions and processes

August 2022

**TEQSA**

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# Purpose

This policy outlines TEQSA's approach to public statements on its regulatory decisions and processes.

## Policy principles

- The manner and form of any public statements made by TEQSA should be guided by TEQSA's:
  - objects (as set out in Section 3 of the TEQSA Act) and
  - basic principles of regulation (as set out in Section 13 of the TEQSA Act), insofar as they are relevant.
  
- Other factors guiding TEQSA's approach to public reporting are:
  1. **Transparency** - TEQSA is committed to transparency in its regulatory and quality assurance activities in order to:
    - a. promote awareness of, and compliance with, the TEQSA Act, the Higher Education Standards Framework and other relevant legislation
    - b. promote confidence in TEQSA's approach to regulation and quality assurance and, more generally, in Australia's regulatory and quality assurance framework for higher education
    - c. ensure that TEQSA is accountable for its regulatory and quality assurance activities
    - d. ensure that students and other stakeholders have current information about higher education in Australia, including TEQSA's work in the higher education sector.
  2. **Compliance** - TEQSA will ensure that any publication of information is consistent with TEQSA's obligations under the TEQSA Act and other legislation.
  3. **Fairness** - TEQSA will ensure that any publication of information is in accordance with principles of procedural fairness and does not prejudice a provider's right to have a decision reviewed.
  4. **Consistency** - TEQSA will adopt a consistent approach to the publication of information.
  
- As appropriate, TEQSA should also have regard to:
  - whether it is necessary to maintain confidentiality to effectively consider or investigate an issue, or to preserve the effectiveness of TEQSA's processes
  - the need to protect an individual's right to privacy
  - the need to protect commercially sensitive information, or information provided to TEQSA on a confidential basis.

# Types of public statement

## Public reports of regulatory decisions

- TEQSA publishes reports on the types of regulatory decisions listed in section 9 of the *Tertiary Education Quality and Standards Agency (Register) Guidelines 2017*. Each report must include the following information:
  1. the name of the provider
  2. the decision reached, the legislative provisions under which the decision was made and the main reasons for the decision. This includes, as relevant:
    - i. the period of registration
    - ii. the provider category
    - iii. the period of accreditation; and / or
    - iv. and any conditions imposed.
  3. any observations made by TEQSA including, as applicable, any concerns that TEQSA has regarding the provider's ability to continue to meet the Threshold Standards.
  4. links to relevant information including the relevant objects of the TEQSA Acts, information about TEQSA's role, the TEQSA Act and the Threshold Standards.
- The National Register should be updated to reflect these regulatory decisions as soon as practicable. However, where a decision is subject to a right of internal review (reviewable decisions made by a delegate), those decisions will only be published:
  - at the end of the period within which an application for internal review can be made; or
  - at the end of the internal review process, whichever is the later.

## Comments on inquiries and investigations

- Comments by TEQSA about inquiries or investigations should generally be confined to confirmation that TEQSA is undertaking inquiries or an investigation. Before commenting, TEQSA should carefully consider the risk of public comment prejudicing:
  - TEQSA's ability to investigate a matter; or
  - the right of a person or body to procedural fairness in the matters under investigation.
- This may mean that TEQSA should not comment until relevant facts are established and / or the application of the relevant legislative provisions to those facts has been considered.
- Where TEQSA does confirm that it is undertaking inquiries or an investigation, TEQSA must make clear that this does not mean that the relevant higher education provider, person or body will necessarily be the subject of any legal or other proceedings.

## Comments on enforcement action

Enforcement action includes prosecutions, civil proceedings, and administrative actions.

## Court or tribunal proceedings

- Any comments on the commencement of court or tribunal proceedings should only be made once court or tribunal proceedings have commenced. The comments should be confined to a description of the nature of the proceedings.
  - There should be no discussion of the arguments or evidence to be used in the proceedings.
  - TEQSA may refer, where appropriate, to statements made by the other party to the proceedings.
  - If TEQSA has commented on the commencement of court or tribunal proceedings, TEQSA should generally then publicise the outcome of those proceedings and any appeals.
- TEQSA should not comment on whether a suspected (criminal) matter has been referred to the Commonwealth Director of Public Prosecutions (CDPP) prior to consulting with the CDPP.

## Infringement notices and administrative actions

- Comments about an infringement notices and administrative actions should only be made once the relevant decision to issue the notice or take the action has been made.
  - The comments should state the name of the person(s) who is the subject of the notice or action and (where relevant) that the person can seek to have the infringement notice withdrawn.

## Publishing significant decisions

- As not all interested parties review the content of the National Register regularly or will know to review the register after a significant decision is made, TEQSA publishes news announcements and media releases about significant decisions.
- Significant decisions include:
  1. decisions that will affect a large number of students
  2. involve very significant compliance concerns, or
  3. involve a great deal of public interest.
- For example, TEQSA published the decision to cancel the registration of Australian School of Management Pty Ltd because of the significant compliance concerns and the substantial amount of public interest in that decision.

## Publishing applications by unregistered entities

- TEQSA is unable to include information about unsuccessful applications by unregistered entities in the National Register (per s 198 of the TEQSA Act). Therefore, TEQSA publishes decisions to reject:
  - applications for initial registration, and
  - applications for course accreditation by entities which are not registered higher education providerson the [Unsuccessful Applications page](#) of the TEQSA website to bring attention to the decisions.

## Further information

Further information about the Agency's approach to public reporting can be obtained by directing an email enquiry to: [enquiries@teqsa.gov.au](mailto:enquiries@teqsa.gov.au)