



Australian Government

Tertiary Education Quality and Standards Agency

Summary Report of the Consultation Process – Public reporting of TEQSA's decisions

November 2017

TEQSA

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Background

The Agency publishes information about most of its decisions under the *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act), consistent with the requirements of the Act and the terms of the National Register Guidelines.

From February – November 2017 the agency consulted on changes to its policy on public reporting, including changes to the Register Guidelines.

Key themes and responses from the consultation process have been summarised in this report.

Consultation process

In February 2017 TEQSA conducted a formal consultation process seeking sector views on changes to the way the Agency publishes its regulatory decisions. The paper posed five questions seeking feedback on TEQSA's proposed approach.

- **Question 1:** Do you agree with the proposed principles to guide TEQSA's approach to publishing information about its decisions?
- **Question 2:** Do you agree with the proposed approach to the timing of the publication of information about TEQSA's decisions?
- **Question 3:** Do you agree with the proposal to publish information about the rejection of applications for initial registration and course accreditation?
- **Question 4:** Do you agree with the proposed amendments to the National Register Guidelines?
- **Question 5:** Do you agree with the proposal to publish news announcements and media releases about significant decisions by TEQSA?

Information about the Consultation Paper was made available on the TEQSA website and sent to the following peak bodies:

Australian Council for Private Education and Training, Council of Private Higher Education, Universities Australia, TAFE Directors Australia, International Education Association of Australia, English Australia, Regional Universities Network, Innovative Research Universities, Group of Eight, Australian Technology Network, Council for International Education, National Union of Students, Council of International Students Australia, Australian Medical Students' Association, NSW/Territories Committee of Chairs of Academic Boards and Senates on behalf of the Chairs of Academic Boards and Senates, Chairs of Academic Boards Forum and University Chancellors Council.

On 2 November 2017, following a further targeted consultation with peak bodies, drafts of the Register Guidelines 2017 and *Policy of public reporting of TEQSA's decisions* were sent to the following groups for comment: Australian Council for Private Education and Training, Council of Private Higher Education, Group of Eight, TAFE Directors Australia, Innovative Research Universities and Universities Australia.

Consultation responses

While some respondents were supportive of TEQSA's proposed changes to publishing its decisions, many had concerns relating to the timing of publishing decisions in the initial responses received.

Some common areas of feedback provided by respondents included:

- Concern that publishing decisions sooner would deny applicants procedural fairness.
- Questions as to whether publishing decisions in the manner contemplated by the proposals would meet the basic principles for regulation in the TEQSA Act.
- Questions on what the Agency means when it plans to publish "significant decisions".

TEQSA's response

As noted above, in response to the concerns raised in the initial consultation responses, the Agency conducted further targeted consultation to discuss the concerns with the relevant peak bodies.

During the targeted consultation the Agency:

- explained that before TEQSA makes a decision which would adversely affect an applicant, the Agency sends all the relevant facts and reasoning to the applicant for comment prior to a decision being made. Any response is then considered when making the decision. TEQSA already affords procedural fairness to an applicant before a decision has been made, well before the publication of the decision, and will continue to do so.
- Explained in detail that the Agency complies with basic principles of regulation when making a decision and the act of publishing certain decisions earlier would not contradict the requirements in the basic principles.

The Agency also adjusted its proposed amendments so that decisions would not be published until the end of the period within which an application may be made for the internal review of the decision, or at the end of the internal review process, whichever is the later.

The Agency also elaborated on what it considers a 'significant decision' in the targeted consultation and in the *Policy on public reporting of TEQSA's decisions*.

Next steps

The Agency appreciates the time and effort of respondents as well as the constructive feedback provided throughout the process.

The Agency will finalise and register the National Register Guidelines 2017, and finalise the *Policy on public reporting of TEQSA's decisions*.

The proposed changes to the Agency's approach to publishing its decisions will take effect from January 2018.

