



INDEPENDENT
HIGHER EDUCATION
AUSTRALIA

IHEA SUBMISSION

MODERNISING AND STRENGTHENING TEQSA'S POWERS CONSULTATION PAPER

16 October 2025

IHEA Submission

Modernising and Strengthening TEQSA's Powers Consultation Paper

Independent Higher Education Australia (IHEA) welcomes the opportunity to provide feedback on the Department of Education's (DoE) Consultation Paper on *Modernising and Strengthening TEQSA's Powers*. Submissions are due on 17 October 2025.

Introduction

The independent higher education sector recognises the importance of protecting students and maintaining public confidence in the quality and reputation of Australian higher education. However, the central issue is not that the Tertiary Education Quality and Standards Agency (TEQSA) lack sufficient powers. Under the TEQSA Act 2011 (TEQSA Act), the Higher Education Standards Framework (Threshold Standards) 2021 and related legislation, TEQSA already holds extensive authority to register and monitor providers, accredit courses and take strong enforcement action when risks to students or the system arise.

The challenge lies in ensuring TEQSA exercises these powers consistently, proportionately and transparently, while avoiding duplication with other frameworks such as the *Ombudsman Act 1976* (Ombudsman Act), the *Education Services for Overseas Students Act 2000* (ESOS Act) and DoE itself. Creating new legislative powers is unnecessary, given the existing frameworks already provide comprehensive protections.

Overlap and burden in the regulatory framework

Current regulatory architecture often overlaps, creating unnecessary burden for providers. This is particularly evident in the interactions between TEQSA, the Australian Tertiary Education Commission (ATEC), the Australian Skills Quality Authority (ASQA), the National Student Ombudsman (NSO) and DoE. Greater clarity is required on the distinct roles of each agency and how they intersect to avoid duplication and regulatory congestion.

Through the Australian Universities Accord, there was an opportunity to review the respective roles, responsibilities and powers of TEQSA alongside other agencies and the proposed new entity, ATEC. This did not occur. As a result, we now face misalignment, with proposals to alter TEQSA's powers being advanced out of step with ATEC's establishment. With respect to ATEC, its focus should remain on planning and funding and not expand into an already congested regulatory space.

Priorities for reform

Rather than conferring additional legislative powers on TEQSA, IHEA considers the focus should be on:

- Better use of existing regulatory powers — applying a genuinely risk-based approach that addresses specific issues, rather than deploying broad powers as blunt instruments.
- Improved coordination across agencies — particularly between TEQSA, DoE, ASQA and the NSO.
- Clearer regulatory guidance — to support consistent, transparent and predictable decision-making.
- Reduction of unnecessary compliance burdens — to free providers to focus on their core mission of teaching, learning, research and student support.

Next steps in the process

The Consultation Paper does not set out the proposed next steps following the close of submissions on 17 October. IHEA submits that, once feedback is reviewed and the Government has settled on a preferred approach, a White Paper should be released for sector consultation. This is essential, as the current paper lacks the specificity and detail required for stakeholders to fully assess the Government's intentions.

Performance review rather than new legislation

There are already many moving parts with respect to TEQSA's legislative oversight. This includes the Senate Inquiry into Quality of Governance at Australian Higher Education Providers and the Expert Council on University Governance, which are operating in parallel but outside the scope of this consultation. These ongoing processes make the current consultation somewhat pre-emptive.

Furthermore, on 28 May 2025, TEQSA published a Statement of Regulatory Expectations (SRE) on Compliance with Workplace Obligations and has undertaken consultation on an interim SRE regarding Student Grievance and Complaint Mechanisms. Those processes and the current consultation are all happening independently of each other and it will be critical to align these activities and ensure that TEQSA is operating consistently, systematically and predictably.

As such, new legislative powers should not be introduced as a reactive measure, because the fundamental issue lies not in the scope of TEQSA's powers, but in the way those powers are utilised. This would be consistent with TEQSA's stated commitment to promote self-assurance as a core part of its regulatory approach, rather than imposing a significantly expanded regulatory burden.

Furthermore, from this year (2025), TEQSA has been operating on a full cost recovery basis. Despite this, significant delays and backlogs continue to affect its decision-making and engagement with providers. The solution is not to expand TEQSA's legislative powers unnecessarily, but to address systemic issues within current arrangements and implement changes that improve timeliness, efficiency and transparency.

As such, a performance review that considers TEQSA's operations against the Government's Regulator Performance Guide, which emphasises timeliness, transparency, proportionality, accountability and efficiency is therefore the most appropriate way forward. This is particularly important at a time when costs to the sector are at their highest and proposed to go significantly higher and TEQSA's timeliness and efficiency are under strain and lagging.

IHEA's overall position, which is expanded below, is that the priority going forward should be to:

- **Undertake a performance review of TEQSA**, to ensure that the significant cost of regulation to providers is being reflected in effective, efficient and timely decision making.
- **Apply existing powers more consistently and transparently**, guided by a clear risk-based approach.
- **Avoid duplication** of obligations already established through the Threshold Standards, the NSO framework and the ESOS Act.
- **Streamline regulation** through improved coordination between TEQSA, ASQA and other agencies and with professional accrediting bodies, by reducing unnecessary reporting duplication.
- **Enable a coherent tertiary system** that supports student mobility, microcredential recognition and lifelong learning.

A regulatory system that puts students first

Proposition

The Universities Accord highlighted the need for TEQSA's powers to be reviewed regularly and adjusted as necessary, to enable an agile and forward-leaning regulator that supports a dynamic tertiary education system.

TEQSA's regulatory activities are focused on the initial registration and cyclical re-registration and accreditation of providers and courses. This approach aims to assure quality and assess a provider's compliance with the Threshold Standards.

However, course accreditation and reaccreditation impose significant regulatory burden on providers and TEQSA's resources and do not always align with the most pressing risks to students, the sector, or those with the most significant impacts. There is an opportunity to consider how TEQSA might adopt a more risk-and impact-informed approach while maintaining robust quality assurance across the sector to better protect student interests and sector sustainability.

One approach could include a positive duty on providers to take reasonable and proportionate actions to comply with the Threshold Standards. A positive duty means TEQSA could act early, for example, where providers fail to take reasonable steps to protect students, rather than waiting for negative student outcomes to occur before acting. Under a legislated positive duty, providers would need to demonstrate they meet the Threshold Standards actively and continuously, through mechanisms such as regular reporting, monitoring, evaluation and evidence of preventive or supporting actions.

A modern regulatory approach should also consider the centrality of students in higher education, whether the TEQSA Act's regulatory principles of necessity, risk and proportionality should reference students more directly to embed a key aspect of the Universities Accord and how to put First Nations people and Closing the Gap at the heart of the system. A modern regulatory approach could also reflect the evolving higher education landscape in Australia with the establishment of the NSO and the ATEC, subject to the passage of legislation.

Questions

1. *What changes to the TEQSA Act are needed to ensure students are at the centre of the regulatory system?*
2. *What changes to the TEQSA Act and the regulatory system are required to allow TEQSA to take a more risk-based approach to regulation of the sector, prioritising engagement on risks which have the greatest impact – whether due to the number of students impacted or the significance of the matter?*
 - a. *Does the TEQSA Act need to reduce the focus on cyclical assessment and prioritise rapid response to regulated risk more strongly?*
 - b. *How should other regulatory activities be delivered? How should TEQSA provide oversight for these activities?*
3. *Should providers have a positive duty to comply and maintain compliance, with the Threshold Standards, in order to better protect student and other stakeholder and community interests? How might this duty be framed?*
4. *Are any changes to the TEQSA Act and the regulatory system needed to support First Nations self-determination in higher education?*

IHEA Feedback

Student-centred

Students and student protections are already embedded throughout the Higher Education Standards

Framework (Threshold Standards) 2021, including provisions on wellbeing and safety (Part A, Section 2.3), the learning environment (Section 1.4) and representation, information and feedback (Section 7.2). These obligations place students at the heart of higher education regulation. IHEA considers that introducing new legislation to restate or duplicate these requirements is unnecessary. What is required is for TEQSA to prioritise active monitoring of compliance, consistent enforcement of the existing standards and transparent reporting of how providers are meeting their student-centred obligations.

Positive duty

The concept of positive duty is already reflected in the Threshold Standards, which require providers to maintain continuous compliance rather than demonstrating it only at the point of registration or renewal. For example, providers must demonstrate financial viability and capacity to sustain operations (Standard B1.3.4); act upon the results of monitoring and comprehensive reviews of courses to mitigate risks and improve outcomes for students (Standard 5.3.7); and take proactive steps to identify and address potential risks to the health and safety of students (Standard 2.3.2). These provisions impose a proactive and positive duty to act before harm occurs and require providers to maintain evidence of compliance at all times.

This concept is also reflected in broader legislative frameworks. Since December 2023, the *Sex Discrimination Act 1984* has imposed a positive duty on employers and institutions, including higher education providers, to take reasonable and proportionate measures to eliminate sexual harassment, discrimination and related misconduct. We note that in the United Kingdom, the *Equality Act 2010* imposes a Public Sector Equality Duty on public bodies, including universities, to eliminate discrimination, advance equality and foster good relations. As such, the UK appears to have only adopted positive duty requirements in relation to overarching legislation for equality/against discrimination akin to Australia's Sex Discrimination Act. These requirements flow on to providers and so it appears that the UK has not gone down the path of additional positive duty requirements for higher education providers, as proposed in this consultation paper. Again, we argue that this is duplicative and unnecessary.

Furthermore, given that TEQSA has already integrated these principles into the Threshold Standards, legislating a new positive duty would be duplicative. It would risk imposing unnecessary regulatory costs, particularly for low-risk providers with strong compliance records, while offering little additional benefit to students. For smaller providers, universal application of new reporting or monitoring requirements would create a disproportionate burden without addressing the root causes of risk.

TEQSA's legislative powers

The TEQSA Act already provides the regulator with a comprehensive suite of compliance and enforcement powers. These include the authority to impose conditions on registration or accreditation (Sections 32 and 53), to accept enforceable undertakings (Section 127), to seek injunctions through the courts (Section 134), to revoke or cancel registration or accreditation (Sections 36–39) and to apply civil penalties for false or misleading information (Sections 136–137).

Although the TEQSA Act does not include an explicit “suspension” power, Section 32(1) allows TEQSA to impose conditions that can restrict or remove a provider's ability to enrol students, confer awards, or self-accredit. In practice, such conditions function as a suspension. These actions are subject to procedural fairness, requiring TEQSA to provide notice, allow a provider to respond and then issue a decision, which is published on the National Register. While the TEQSA Act allows TEQSA up to 30 days to notify a provider of a final decision, the timeframe can be scaled according to urgency. In serious cases, decisions could be finalised in a matter of weeks, ensuring student protections while maintaining fairness.

The real issue lies not in the adequacy of TEQSA's powers but in their consistent and timely use. TEQSA's historic emphasis on collaboration and guidance has fostered a compliance culture but has also created a perception that the agency rarely enforces its powers. These powers exist and are used when necessary.

Cyclical re-registration and re-accreditation

The current requirement for cyclical re-registration of providers and re-accreditation of courses is resource-intensive, time-consuming and often disproportionate to the level of risk involved. For providers with strong governance and consistently positive outcomes, these processes consume significant staff time and financial resources that could be more effectively invested in student services or program innovation.

Course accreditation and re-accreditation also impose a heavy burden on both providers and TEQSA, drawing attention away from student-facing activities. A more proportionate approach would reduce reliance on cyclical reaccreditation and empower TEQSA to adopt a risk-triggered model, where reassessment is initiated only if concerns arise. In applying such an approach, TEQSA should consider a provider's compliance history, student outcomes data and governance performance. Evidence drawn from the Quality Indicators for Learning and Teaching (QILT), which consistently show strong student outcomes for independent higher education providers, should form part of this assessment.

Section 13(2) of the TEQSA Act already requires the agency to act according to the principles of necessity, risk and proportionality. In practice, this means TEQSA should act only when required to protect students and safeguard quality, target its attention to areas where risks are greatest and avoid imposing the same regulatory burden on low-risk providers as on high-risk ones. The priority should therefore be refining the application of these principles, not duplicating them through new measures that would create additional red tape.

A more efficient model would be to move towards enduring initial registration of providers, maintained through periodic audits, reviews and other flexible mechanisms, with deregistration reserved for the most serious cases. A similar model is in operation in Canada and the United Kingdom, which allows regulators to focus resources where the risks to students are greatest while reducing unnecessary burden on compliant providers.

First Nations

Whilst IHEA appreciates the importance of including First Nations perspectives in higher education, embedding this in regulation through prescriptive compliance requirements is unlikely to achieve meaningful change. A more effective approach is to encourage partnership-driven, context-specific initiatives that enable providers to engage authentically with First Nations communities. This will ensure that outcomes are responsive, locally relevant and sustainable, rather than being the product of uniform compliance obligations.

A modern regulator with powers to address emerging and systemic challenges

Proposition

Specific powers under the TEQSA Act are not directly linked to the public interest, the protection of students and their learning, or the protection of Australia's reputation for quality higher education. Changes to the TEQSA Act could address this and remove constraints on TEQSA's ability to act in a timely way and adopt a more proactive approach.

In particular, TEQSA does not have powers to act quickly in response to acute risks, many of which can evolve suddenly and have serious impacts on large numbers of students, including vulnerable students. Immediate and high-impact events can compromise student welfare, institutional stability and public confidence in Australia's higher education system. Examples could include serious financial risks, governance failures, fraudulent conduct, or failures in the delivery of offshore education.

An alternative approach could be to apply a graduated, risk-based response to compliance concerns. This includes identifying emerging risks early, setting expectations clearly and where necessary, enforcing compliance through proportionate regulatory action.

TEQSA also has limited powers to address systemic risks, which pose broad risks to students, academic integrity and the quality and reputation of Australian higher education. These risks could stem from structural weaknesses in governance, compliance gaps or external events that affect multiple providers simultaneously.

In some instances, TEQSA's ability to identify and respond to systemic and emerging risks is constrained by its legislative framework, focussing on individual providers and data that is provider-specific and fragmented. Strengthening TEQSA's access to integrated, sector-wide data would enable earlier detection of emerging risks and more strategic enforcement action.

The TEQSA Act does not currently allow for the creation of binding legislative instruments, such as enforceable codes, which could be used to address recurring or cross-cutting risks. The Australian Parliament has created powers to make enforceable codes through other legislation, an example of which is the National Code of Practice for Providers of Education and Training to Overseas Students 2018. More recently, the Parliament passed the Universities Accord (National Higher Education Code to Prevent and Respond to Gender-based Violence) Act 2025 establishing a mandatory National Higher Education Code to Prevent and Respond to Gender-based Violence.

Questions

5. *How can TEQSA's regulatory focus shift more towards proactive risk prevention or should it remain primarily on compliance with the Threshold Standards?*
6. *How can TEQSA be empowered to use a wider range of timely enforcement approaches when justified and in the public interest?*
 - a. *This might include civil penalties, injunctions, compliance notices, enforceable undertakings and/or suspension powers, in relation to non-compliance with the Threshold Standards.*
7. *Should TEQSA have new powers to immediately suspend a provider's registration in response to acute risks? What should be the grounds for suspending a provider registration?*
8. *Currently there is a cascading regulatory system where the Minister sets the Threshold Standards for providers and may choose to make Codes where legislation allows and TEQSA may choose to issue guidance such as Statements of Regulatory Expectation. Is the overall regulatory architecture working effectively to manage risks in the sector? Is any change to this needed?*
9. *What powers does TEQSA need to step in when it is justified and in the public interest? For example, in the event of a serious failure in governance, should TEQSA have the power to appoint a monitor, independent adviser or administrator to the governing body?*

10. Are there other powers TEQSA should have, comparable to other modern regulators, when balanced against the need for an efficient and streamlined regulatory approach?

IHEA Feedback

Public interest

IHEA is concerned about the introduction of a new and undefined term such as “public interest.” How it would be determined and the criteria used to assess it, are unclear. If defined too broadly, there is a risk that regulatory action could be taken based on TEQSA’s perception rather than on clear, evidence-based concerns or issues.

The TEQSA Act already embeds the concept of public interest, with the protection of students forming a central consideration. Section 3 of the Act explicitly sets out TEQSA’s Objects, which include safeguarding Australia’s reputation for quality higher education, protecting students undertaking or intending to undertake higher education and ensuring students have the information necessary to make informed choices. Every regulatory decision TEQSA makes must be consistent with these Objects, which provides a clear legislative link between TEQSA’s powers and the public interest, particularly regarding student protection. What is missing is not legislation, but clarity on how TEQSA operationalises this existing authority. Additional legislation that duplicates these Objects is unlikely to enhance outcomes.

TEQSA’s ability to act quickly

TEQSA already has powers to respond rapidly to acute or high-risk situations in the higher education sector. Sections 32, 36–39, 53, 127 and 134 of the TEQSA Act provide a suite of flexible responses that can be deployed in real time. For example, in cases of catastrophic governance failures or fraud, TEQSA can impose emergency conditions, such as independent financial monitoring, teach-out protections, or restrictions on enrolment growth. These mechanisms allow TEQSA to protect students and sector integrity promptly, without the need for additional legislative powers.

Graduated and risk-based responsiveness

Under Section 13 of the TEQSA Act, TEQSA is required to regulate according to risk, necessity and proportionality. This framework explicitly authorises a graduated compliance strategy, ranging from early monitoring and guidance through to enforceable undertakings, with deregistration reserved as an extreme measure.

TEQSA’s regulatory pyramid approach is built on this principle. Strengthening the agency’s enforcement culture would operationalise a risk-based regulatory model without legislative change. These tools provide a spectrum of responses, allowing issues to be addressed effectively without immediate recourse to deregistration.

Systemic risks

The current regulatory framework already captures systemic risks, including concerns such as academic integrity and governance weaknesses, through the Threshold Standards. Standard 5.3.7 requires providers to monitor and improve student outcomes, including course completion, graduate outcomes and learning experiences. Standard 6.2.1 mandates that governing bodies ensure ongoing financial viability and sustainability, encompassing planning, risk management and resource allocation. Standard 6.3.1 requires effective governance arrangements to uphold academic integrity, quality assurance and sound management of resources.

TEQSA can address systemic issues through conditions of registration across multiple providers. For example, if offshore delivery presents sector-wide risks, TEQSA can impose consistent conditions requiring evidence of quality assurance mechanisms. The limitation in addressing systemic risks is not legislative but lies in data integration and prioritisation. Existing information-sharing arrangements with ASQA, ESOS agencies and Home Affairs (Sections 194–194A) provide the basis for improved systemic oversight if leveraged effectively. Duplicative reporting could be reduced by allowing providers to submit information once for multiple agencies, with explicit confirmation that reports will be used for regulatory purposes. Such measures would streamline operations for both TEQSA and providers.

Appointment of an administrator

The proposal to grant TEQSA powers to appoint a monitor, independent adviser, or administrator to a governing body raises practical challenges. For independent providers, governance is subject to the *Corporations Act 2001*, which prescribes directors' duties, financial reporting obligations, solvency requirements and procedures for appointing an administrator (voluntary administration) in cases of financial distress. It is therefore unclear how such powers could operate in practice for independent providers, given these existing statutory arrangements.

By way of an example, a provider may be owned by a corporation that owns multiple other providers across various sectors. The impact of this proposed approach needs further consideration as its implementation could be problematic and potentially even subject to legal challenge.

For public providers, the interaction with state legislation, which establishes most public universities, would need careful consideration. Any proposal to intervene in governance would need to respect both state legislation and existing corporate governance frameworks.

Binding legislative instruments

While TEQSA cannot currently make enforceable codes, this is not a limitation. The Threshold Standards themselves are legislated instruments that operate as binding requirements on all providers. In addition, TEQSA can impose provider-specific conditions, which function as enforceable requirements tailored to emerging risks, such as financial viability reporting.

Sector-wide enforceable codes, such as the ESOS National Code or the Gender-Based Violence Code, are introduced by Parliament. TEQSA's existing powers, including conditions, enforceable undertakings and directions, allow the agency to achieve equivalent outcomes without additional legislative instruments.

Streamlining regulation for providers

Proposition

In line with the Government's productivity agenda, there are opportunities to streamline regulation and reduce unnecessary compliance burden to improve efficiency, free up resources for innovation and enable higher education providers to focus on delivering higher value activities such as teaching and learning. The Universities Accord also noted the need to identify areas of friction in reporting arrangements, seek ways to streamline regulation and coordinate information sharing.

There are opportunities to improve the coordination of regulatory action. The Ombudsman Act 1976 provides the NSO the power to refer a matter raised in a complaint and related information and documents, to TEQSA if it suspects the matter could be dealt with more effectively by them. The TEQSA Act does not have a similar power allowing TEQSA to transfer complaints to the NSO or the Department of Education in the case of a complaint about gender-based violence. Similarly, TEQSA can review information the NSO has provided and consider whether an investigation or enforcement action is necessary or appropriate, but it does not have a role in ensuring providers properly implement recommendations of the NSO. Aligning regulation and permitting information sharing would reduce the potential for duplication and fragmentation of regulatory processes.

Universities, as major recipients of public funding, are expected to support social mobility by widening participation and contributing skills, knowledge, research and innovation. While the Threshold Standards set minimum requirements, there is scope to improve transparency and standardise performance information to better guide student choice and community understanding. Existing tools such as international rankings, Quality Indicators for Learning and Teaching data and the ComparED website provide limited and sometimes opaque insights. In contrast, other sectors use rating systems to highlight quality and compliance, while others require significantly more public disclosure of information to demonstrate compliance.

Questions

11. *What regulatory requirements or actions could be accomplished in a more efficient way that may lead to increased productivity, while ensuring regulatory outcomes are achieved?*
12. *What opportunities exist to streamline regulation between TEQSA, the Department of Education, the National Student Ombudsman, or other Commonwealth, State and Territory government bodies?*
13. *Should TEQSA's functions be broadened to allow better access to transfer complaints to other agencies, for example with the National Student Ombudsman?*
14. *How could the TEQSA Act be amended to ensure providers are required to implement recommendations made by the National Student Ombudsman?*
15. *More broadly, would more standardised public disclosure of information across areas including student outcomes, teaching quality and research impact improve accountability, assist students in choosing courses of study or providers, assist Government to assess the effectiveness of public investment and help providers to demonstrate compliance? How might such a system work?*

IHEA feedback

Reducing the compliance burden

Our view is that higher education providers already carry a significant compliance burden, with independent providers disproportionately affected. Independent providers, in particular, often experience heightened regulatory scrutiny, in part because they are not public institutions. In practice, TEQSA needs to utilise the considerable tools at its disposal to tackle the issues at hand, without creating additional burden. That burden is invariably felt by smaller, independent providers the most when TEQSA uses compliance as a blunt instrument rather than the risk-based approach it was established to undertake.

The Regulatory Principles in Section 13 of the TEQSA Act require TEQSA to regulate with necessity, risk and proportionality in mind. This is a statutory obligation designed to minimise unnecessary burden. While Sections 18 to 21 of the TEQSA Act set out the framework for registration and course accreditation, TEQSA's application of the Section 13 principles enables simplified and risk-based processes for providers with strong compliance histories, ensuring that regulatory effort is proportionate to risk.

The issue is to ensure that TEQSA puts this into practice consistently and focuses on the root cause of issues and responses that reflect the considerable diversity amongst higher education providers as opposed to a blanket response for all.

As such, a "no duplication" principle should be put in place that requires agencies to coordinate audits, data requests and investigations. This should be supported by clear information-sharing frameworks between regulators, so that providers do not face multiple, overlapping processes. This would make regulation more efficient and less resource-intensive for providers. Furthermore, setting up a single portal for reporting and compliance submissions across agencies will further streamline arrangements for providers and regulators.

This should include professional accrediting bodies. There is no reason why professional accreditation by a recognised accrediting body should not satisfy TEQSA's course approval requirements. Professional accrediting bodies already assess curriculum quality, learning outcomes and graduate competencies in alignment with national and discipline-specific standards. Recognising professional accreditation as meeting TEQSA's requirements would reduce unnecessary duplication, streamline regulatory processes and maintain rigorous standards.

In recent times, the compliance burden has been exacerbated as a result of TEQSA's role being devolved. This has included DoE being the regulator for the Support for Students Policy and also will be the regulator for the National Higher Education Code to Prevent and Respond to Gender-based Violence. These are core functions that should have been entrusted to TEQSA and the devolution of this responsibility is and will cause uncertainty, overlap and exacerbation of compliance burden.

The burden on providers and the streamlining of TEQSA's operations and limited resources can be further achieved by fostering self-assurance among higher education providers. This would streamline TEQSA's operations by shifting the focus from reactive oversight to proactive quality management. When providers implement robust self-assurance processes, they monitor, manage and mitigate risks internally, ensuring compliance with the Higher Education Standards Framework before issues escalate. This reduces the need for TEQSA to expend resources on resolving avoidable problems, allowing the agency to concentrate on systemic risks, targeted interventions and strategic guidance. Working collegiately with providers to shift to a model that is predominantly one of self-assurance will of itself deliver efficiency, strengthen provider accountability and supports a more agile and effective and value for money regulatory approach.

Moving forward, TEQSA should be subject to a formal performance review to ensure its regulatory decision-making is effective, efficient and responsive to the needs of higher education providers. Since the full implementation of cost recovery in 2025, evidence of backlogs and delays in registration, course approval and engagement with providers indicates that systemic issues may be hindering TEQSA's operations. A performance review would identify operational inefficiencies, streamline processes and ensure that TEQSA's existing powers are applied consistently and constructively, without the need for unnecessary legislative expansion.

As mentioned above with respect to cyclical re-registration and re-accreditation, putting in place a mechanism whereby TEQSA undertakes a comprehensive initial registration of providers that is enduring would be an improvement on costly and time-consuming re-registration processes. A provider's ongoing registration would be conditional on the outcome of strategic and periodic audits.

Information sharing between TEQSA and other regulators

Under Sections 194 and 194A of the TEQSA Act, TEQSA may disclose information to relevant authorities where it

is necessary to enable or assist them in performing their functions. Section 194 applies broadly to Commonwealth, State and Territory authorities, including the DoE, while Section 194A provides a similar power specifically for the National Student Ombudsman (NSO).

In addition, Sections 27 to 29 authorise TEQSA to require higher education providers to supply information and documents necessary to assess compliance with the TEQSA Act and Threshold Standards. TEQSA therefore already has broad legislative authority to collect and share information. Any practical gaps are not legislative but operational, for example, improving Memoranda of Understanding or agreed protocols with the NSO and DoE. Strengthening coordination across these agencies can ensure regulatory engagement is clear, minimise duplication and provide better outcomes for providers and students.

NSO recommendations

Under the Ombudsman Act, which applies to the NSO, it already affords the NSO referral powers. As such, recommendations that the NSO makes can be enforceable – those relate to the National Higher Education Code to Prevent and Respond to Gender-based Violence are enforceable by DoE and the referral to TEQSA of systemic issues, in which the Threshold Standards are not being met, may lead to further action by TEQSA.

However, we believe that the responsibility for addressing recommendations that are made by the NSO should remain the responsibility of providers. This ensures that providers are evolving their operations in response to feedback in the NSO. As such, any response from TEQSA should be proportionate before regulatory consequences are triggered.

In more significant and systemic non-compliance with the Threshold Standards, TEQSA can (under Section 32 of the TEQSA Act) impose conditions requiring providers to implement specific reforms or actions, including those arising from NSO recommendations. Furthermore, TEQSA can issue directions to comply (under Section 134) and require a provider to take particular actions where non-compliance with the Threshold Standards is identified.

Whilst regulatory action in response to the NSO recommendations should not be the immediate response of DoE or TEQSA – as the provider should be given an opportunity to remediate any issues – the fact remains that regulatory action is available to both DoE (from 1 January 2026 for universities and 1 January 2027 for other providers) and TEQSA in response to the most serious issues raised by the NSO.

It is worth noting that whilst TEQSA does not have a specific reciprocal referral power to the NSO, we would be very surprised if this did not occur in practice. If a student contacted TEQSA with a complaint against their provider that would best fit with the NSO, wouldn't the response from TEQSA be to direct the student to the NSO? This type of redirection to the agency best-placed to address an issue or complaint happens regularly and is a routine day-to-day operation in the Australian Public Service.

Transparency and standardisation of performance information

We would refute the notion that existing tools, such as QILT data, are insufficient. Improvements in transparency can be achieved through enhanced use of these existing datasets, such as QILT and not new legislation. There is also scope to inform decision making based on QILT data, which is an Australian Government initiative, which is delivered through DoE. Independent higher education providers perform excellently and consistently top the rankings in the student experience surveys of QILT for teaching quality; learner engagement; skills development; and overall quality. However, this performance, ranked by students themselves, could be more effectively used in setting policy and TEQSA activities in response to student satisfaction.

Furthermore, under Part A, Section 7.2 of the Threshold Standards, providers are required to publish accurate, relevant and timely information for students, including performance, completion and outcomes data. TEQSA can also require providers (under Section 29 of the TEQSA Act) to supply additional information to support transparency. Clearly, the tools and levers are in place for TEQSA to access data to inform their activities and decision making.

Supporting a joined-up tertiary system

Proposition

Almost half of the over 200 registered higher education providers in Australia deliver VET courses, including 28 TAFE institutes and there are six universities that are dual sector providers. Thirty-three providers (as at 31 July 2025) also deliver both higher education and VET under the Education Services for Overseas Students (ESOS) Framework.

The Universities Accord recognised that Australia's long-term needs for knowledge, skills and workforce development require a stronger, more coherent relationship between the tertiary and VET systems. Building connections and transition pathways between the sectors will benefit students by providing better opportunities for lifelong learning and skills development.

The Australian Government allocated \$27.7 million in the 2024–25 Budget for measures to help deliver a joined up tertiary system, in line with recommendations from the Universities Accord. This includes better Recognition of Prior Learning and Credit Transfer, developing a National Skills Taxonomy and breaking down existing structural barriers between higher education and VET.

The Australian Government has also recently tasked the ATEC with developing a Tertiary Roadmap to dismantle barriers between TAFE and university systems, facilitate seamless student transitions and align qualifications with Australia's future skills needs via a newly formed Tertiary System Advisory Council.

TEQSA and ASQA have shared jurisdiction over providers that deliver higher education and VET courses to international students under the ESOS Framework. The states and territories also have an important role in the governance and regulation of VET.

TEQSA and ASQA have commenced work to improve the regulatory approach for dual-sector providers through the development of a Dual sector regulatory strategy. This includes initiatives to:

- *improve information sharing between ASQA and TEQSA*
- *align regulatory requirements between ASQA and TEQSA and*
- *uplift academic and corporate governance across the VET and higher education sectors.*

Greater streamlining between TEQSA and ASQA will help tertiary education providers respond effectively to students and meet the requirements of a more joined-up sector that encourages more dual-sector provision.

Private providers strongly support efforts to create seamless pathways between higher education and VET. Many already operate across both systems and are well positioned to deliver integrated learning opportunities.

Current challenges include duplicative reporting to TEQSA and ASQA; inconsistent governance expectations across VET and higher education; and conflicting interpretations of standards and compliance requirements.

Question:

16. *Are changes to the TEQSA Act needed to support better joined-up arrangements across higher education and vocational education?*
 - a. *What are the current regulatory challenges faced by students and providers and how could changes to the TEQSA legislation support a more streamlined experience?*

IHEA Feedback

Streamlined regulation

Streamlined regulation is an important piece of work to progress to support better harmonisation of higher

education and VET. Current arrangements create duplicative reporting obligations, inconsistent governance expectations and conflicting compliance requirements between higher education and VET.

A simple reform to streamline regulation and reduce red-tape is to allow single registration via TEQSA for dual sector providers. Dual sector providers will be critical in supporting a 'better-connected tertiary education system centred on meeting skills needs including through upskilling, reskilling and other forms of lifelong learning' (p.69, Accord Final Report).

In the short-term, there is an opportunity for the development of a Service Obligation Charter between TEQSA and ASQA to minimise burden and cost. This would address an obvious overlap for dual sector providers. As noted during the Accord process, IHEA proposed relatively simple changes, under a Service Obligation Charter, to ensure effective and cohesive regulation of dual sector providers. In summary, they are:

- To designate TEQSA as the primary regulator for dual sector providers for functions such as Commonwealth Register of Providers and Courses for Overseas Students (CRICOS) registration and for Provider Information Requirements.
- Align TEQSA and ASQA's Fit and Proper Persons and Financial Viability assessment data sets and processes to promote single point reporting. Some of TEQSA and ASQA's information requirements such as Fit and Proper Persons and Financial Viability assessment processes are quite similar and would benefit from mutual recognition.
- Create a single annual data reporting system for dual sector providers that uses standardised data sets. This would involve consolidating and streamlining data in the Tertiary Collection of Student Information (TCSI) and the VET Streamlining program, which currently results in overlap and confusion.
- Mutual recognition policies between TEQSA and ASQA for higher education provider/Registered Training Organisation (RTO) registration and re-registration decisions made by either regulator. ASQA's Draft RTO Standards are similar to TEQSA's Threshold Standards, which could be addressed through mutual recognition arrangements to remove complexity and ambiguity.

Such approaches will support the development of the infrastructure needed to support lifelong learning to deliver on the increased attainment of qualifications 'to meet Australia's future skills needs and drive improvements to national workforce participation and productivity' (p.17, Accord Final Report).

Lifelong learning

While the Government has set a target for tertiary attainment in 2050, meeting the target alone will not be sufficient action to support lifelong learning. While predictions can be made that skills in some broad areas will experience greater demand in the future, specific skill needs can be very hard to predict. Many occupations that will be created in coming decades may be hard to envisage and also rely on technologies that have not yet been developed.

Lifelong learning provides an opportunity for people to upskill and re-skill as they move through their working lives. A key ingredient that is missing in the tertiary harmonisation discussion is a Lifelong Learning Entitlement (LLE), which would afford students access to a single income contingent loan throughout their working life, to access the education and training they want and require. An LLE would bring cohesion to a lifelong learning framework.

In our submission to Jobs and Skills Australia on their Workplan for 2025–26, IHEA recommended that JSA specifically undertake scoping work regarding greater integration of the higher and education sectors to specifically support lifelong learning to meet the skills needs of the future. Through specific investigation/commissioning of a study about how a single entitlement or loan could be put in place in Australia to support lifelong learning, this will advance how Australia can optimise pathways and system architecture.

We believe this is urgent work that needs to be progressed to ensure that all of the building blocks are in place to

enable lifelong learning, regardless of what the future jobs market looks like. This will put students at the centre of the education and training system to acquire the knowledge and skills they need for the jobs of now and into the future as well as driving a strong economy.

While this does not fit under the remit of regulation by TEQSA, it is an important measure to harmonise the tertiary sector that can't be deferred. A first step is to provide financial support needs to be made available to students who study microcredentials at a higher education provider. This should take the form of subsidies as well as access to Higher Education Loan Payment loans. The subsidies and loan arrangements should be accessible to students who study at independent higher education providers. This will be critical to support the growth that the Government has committed to.

Conclusion

It is clear that TEQSA has sufficient powers under the TEQSA Act, providing TEQSA with strong and flexible tools to register, monitor and, where necessary, sanction providers.

The priority going forward should be to:

- **Undertake a performance review of TEQSA**, to ensure that the significant cost of regulation to providers is being reflected in effective, efficient and timely decision making.
- **Apply existing powers more consistently and transparently**, guided by a clear risk-based approach.
- **Avoid duplication** of obligations already established through the Threshold Standards, the NSO framework and the ESOS Act.
- **Streamline regulation** through improved coordination between TEQSA, ASQA and other agencies and with professional accrediting bodies, by reducing unnecessary reporting duplication.
- **Enable a coherent tertiary system** that supports student mobility, microcredential recognition and lifelong learning.

By focusing on better use of its existing regulatory arsenal, TEQSA can protect students, maintain sector quality and uphold Australia's international reputation, without adding additional complexity or regulatory burden.

IHEA has also made a submission to TEQSA's consultation on fees and charges which closed on 26 September 2025. In that submission, we also raised similar issues in relation TEQSA's efficiency and effectiveness and the need for a performance review. Given the proposals across these submissions are to increase regulatory powers as well as increase fees and charges for providers, they should be considered as part of a holistic response.

Who We Are

Independent Higher Education Australia Ltd. (IHEA) is a peak body established in 2001 to represent Australian independent (private sector) higher education institutions. Our membership spans independent universities, university colleges and other institutes of higher education, all of which are registered higher education providers accredited by the national higher education regulator, TEQSA or associate members seeking registration.

There is a long tradition of independent higher education providers in Australia, with the first provider created as early as 1815, only 27 years after the first British settlement in Sydney in 1788. In total, five providers were established between 1815 and 1845 and preceding the first public university. The fifth of these was St James College, which was created in 1845. The founders of St James College were then involved in creating Moore College in 1856 and remarkably Moore College, a University College, still exists and is Australia's longest continuously operating independent higher education provider.

Our Vision is that: students, domestic and international, have open and equitable access to world class independent higher education in Australia, built on the foundations of equity, choice and diversity.

Our Mission is to represent independent higher education and promote recognition and respect of independent providers as they contribute to Australian education, the Australian economy and to society in general. We achieve this by promoting continuous improvement of academic and quality standards within member institutions, by advocating equity for their staff and students and by delivering services that further strengthen independent providers' reputations as innovative, sustainable and responsive to the needs of industry and other relevant stakeholders in both higher education and vocational education and training. IHEA's commitment is to excellence, productivity and growth in independent higher education being delivered through a trusted Australian education system underpinned by equity, choice and diversity.

IHEA members have different missions, scales and course offerings across the full AQF range (Diplomas to Doctorates). IHEA has 87 higher education providers that are members, which rises to 124 if those providers' constituent colleges and subsidiaries are included.

IHEA's 87 higher education providers comprise:

- Five private Universities (Australian University of Theology, Avondale University, Bond University, Torrens University and University of Divinity).
- Six University Colleges (ACAP University College, Australian University College of Divinity, Alphacrucis University College, Excelsia University College, Moore Theological College and SAE University College).
- A further eight (Griffith College, International College of Management Sydney, Kaplan Business School, Marcus Oldham College, Morling College, Photography Studies College, The College of Law and Western Sydney University International College) self-accrediting institutes of higher education (nineteen in total including the Universities and University Colleges described above).
- Seventy-one not-for-profit and for-profit institutions of higher education (which includes three self-accrediting institutes); and related corporate entities.

IHEA members teach approximately 74 percent of the students in the independent sector (i.e., more than 130,000 students) and educate students in a range of disciplines, including law, agricultural science, architecture, business, accounting, tourism and hospitality, education, health sciences, theology, creative arts, information technology, human services and social sciences.

IHEA holds a unique position in higher education as a representative peak body of higher education providers. Membership in IHEA is only open to providers registered, or seeking registration, with the Australian regulator – TEQSA. However, some IHEA members are dual and multi-sector providers who also deliver VET and/or English Language Intensive Courses for Overseas Students (ELICOS) courses.

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