



Australian Government

Tertiary Education Quality and Standards Agency



# **TEQSA's Regulatory Risk Framework**

## Consultation summary report

*February 2014*

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# 1. Executive summary

The Tertiary Education Quality and Standards Agency (TEQSA) is committed to continually improving its regulatory processes in partnership with the higher education sector. It has embarked on a reform agenda to reduce regulatory burden for higher education providers, while safeguarding standards in the sector.

As part of this agenda, TEQSA released discussion papers in October 2013 seeking feedback from the sector on proposals for its regulatory processes and Regulatory Risk Framework (RRF). Risk assessments under the RRF will increasingly be used by TEQSA to reduce burden on the sector by informing a differentiated approach to evidence and reporting requirements in regulatory processes.

Information about the Consultation Paper on the RRF was sent to each registered Higher Education Provider and sector peak representative bodies. A total of 49 written submissions were received, in addition to TEQSA's participation in forums and presentations arranged by peak bodies. This Summary Report provides an overview of views expressed through the consultation process and how this feedback will be reflected in the update to the RRF.

Overall, respondents expressed strong support for the proposed future direction of the RRF and its use in the broader regulatory framework. Feedback supported a reduction in risk indicators with a focus on four key risk areas, and revisions to the overall risk evaluation areas. TEQSA's intention to improve information to providers about the risk assessment process was also supported.

A common message from respondents was the need to ensure that the application of the RRF is flexible in catering for diversity amongst providers and the importance of a provider's specific context. While there was broad support for the set of indicators proposed, respondents commented on the limitations of some indicators and again reinforced the relevance of provider context.

There was a broad spectrum of views as to whether TEQSA should release its risk thresholds, but strong concerns were expressed by respondents who recommended against release. Common concerns related to the capacity for third parties to replicate risk assessments and generate potentially damaging provider rankings as a result. There was strong feedback in favour of TEQSA providing general information about its approach for developing risk thresholds, and for TEQSA to explain directly to a provider the basis for a risk rating in the context of its operations.

In updating and implementing the RRF, TEQSA will take immediate steps to address key areas of feedback. In particular, TEQSA will further embed the principle of applying context in its approach and practices. TEQSA also notes that the RRF will continue to evolve beyond this current update. There are a number of areas of feedback that will need to be the subject of ongoing discussion and development with the sector. TEQSA will also take a staged approach to sharing information about risk thresholds, noting the level of cautionary comments expressed in this area. In the first instance, TEQSA will release advice about its broad approach to setting risk thresholds and will provide more explanatory notes to providers in individual risk assessments.

TEQSA would like to acknowledge the time and effort spent, as well as the constructive feedback provided through this process, and to thank all the providers, representative bodies and individuals involved for their contributions. While there is a need to stabilise the RRF as a

tool for informing regulatory processes, ongoing feedback is welcome to inform further refinements via the TEQSA enquiries inbox. TEQSA will also continue to consult its expert reference groups and engage with peak bodies.

## 2. Consultation questions

TEQSA has carefully considered all feedback received through submissions to the paper and through the discussions led by sector peak bodies during the consultation period. TEQSA has drawn together feedback in response to each of the questions posed in the consultation paper, covering the design of the RRF, the refinement of risk indicators, the publication of risk thresholds and the provision of further information on TEQSA's risk assessment process.

TEQSA's response to the comments received follow in section 5.

### 2.1 The design of the RRF

There was strong agreement that the refinements proposed to the design of the RRF are an improvement on the previous approach. Respondents commented that the simplified scope would reduce burden on providers and should result in a more efficient risk assessment process.

There was broad support for a reduction to four key risk areas (student load, experience and outcomes; academic staff profile; financial viability and sustainability; and regulatory history and standing). It was noted that these encompass the bulk of those areas of institutional practice and performance that are central to all providers. In particular, there was strong support for the proposal to strengthen the role of a provider's regulatory history. While it was noted that research was not reflected in the approach, this was viewed as reasonable given that not all providers undertake research and that research quality is considered through other existing mechanisms. There were some concerns expressed that a reduced scope should not diminish TEQSA's capacity to identify and monitor risks to academic standards.

In relation to the overall risk evaluation areas, feedback supported the proposed removal of 'Risk to Sector Reputation' due to the confluence between it and the other evaluation areas (Risk to Financial Position and Risk to Students). The proposed amendment from 'Risk of Provider Collapse' to 'Risk to Financial Position' was also strongly supported with respondents noting that the better nuanced version was more appropriate for reflecting risk to educational quality and less emotive. There was also a suggestion that the overall risk evaluation areas could be refined further to only focus on 'Risk to Students', noting that any risks to a provider's financial position would also present a risk to students and the quality of higher education delivery.

### 2.2 Refinement of Risk Indicators

There was unanimous support for the reduction of the overall number and breadth of risk indicators. Overall, feedback was supportive of the proposed set of indicators as generally accepted measures and representing a significant reduction from the previous set. Many respondents noted, however, that consideration of provider context (e.g. approach to delivery, field of education, student profile) would be important to ensure a more accurate assessment of risk against an indicator.

Other general comments included:

- ▶ Strong support for the linking of risk indicators to the Threshold Standards and the ESOS Act and National Code.
- ▶ Strong support for the indicators being explicitly tied to existing data sources.
- ▶ The need for a holistic consideration of individual risk indicators within the context of the whole profile, other related indicators and risk control information.
- ▶ The need to ensure indicators point to risks to academic standards. For example, it was noted that tertiary admissions data was not captured as an indicator and yet is an important consideration in relation to student outcomes and resource requirements.
- ▶ Some providers queried how the assessment of offshore operations would be undertaken and whether there was sufficient focus on this area.
- ▶ Some respondents highlighted the importance of trend data rather than year on year change.
- ▶ Some feedback suggested that the set of indicators does not sufficiently capture the range of risks facing providers.
- ▶ Some feedback commented that the proposed model is comprised largely of input indicators as opposed to outcome indicators.
- ▶ A very small minority of responses thought that there should be different indicators based on provider type, and/or special treatment of public institutions.

TEQSA notes that feedback was not always consistent on the usefulness of indicators or on the definitions for indicators and how they should be calculated. Further, while challenges were frequently noted there were not necessarily alternative approaches offered.

An overview of comments on individual risk indicators is provided at [Appendix 1](#). Note that where comments sought clarifications of definitions these have not been included, but will be addressed in the updated RRF.

## 2.3 Advice on Risk Thresholds and information provision

There was a consistent message that TEQSA should improve information for providers about how it assesses risk and arrives at risk ratings. Feedback indicated a desire to see more material on the methodology employed by TEQSA in setting and applying the thresholds. Submissions noted that further information in this regard would build understanding and enshrine greater transparency into the process.

Some submissions suggested that the risk thresholds themselves should be available to the provider, with caveats around the release of thresholds outside the risk process. Others thought that this would not be realised in practice. Overall, the majority of submissions outlined significant concerns about any release of TEQSA's risk thresholds. The potential for misuse and resulting damage to the sector was seen as significant, particularly given that 'risk' does not mean a confirmed failure or breach of the higher education standards. Concerns included that:

- ▶ Risk assessments could be replicated outside of the provider/TEQSA relationship and result in unintended use such as league table rankings of providers.

- ▶ Too much emphasis would be given to the risk thresholds, encouraging a focus on ‘minimum benchmarks’ for providers to meet and without recognition of the importance of context.
- ▶ There is the potential for misuse or misinterpretation even where caveats on the intent and use are clear.

Minimal feedback was received on whether information indicating where a provider sits in relation to the sector (e.g. through quintiles) would aid understanding of the risk assessment. Responses that were received were mixed. Submissions in favour of this suggestion noted that it may aid their own benchmarking activities, while those not in favour noted that such analysis does not aid the focus of the risk assessment process as it does not account for individual context. Further, if information such as this was released to a third party it may be used to the detriment of the institutions without the broader contextual or explanatory information.

Feedback indicated it was more important for TEQSA to share other information that would support providers in understanding TEQSA’s approach to regulatory risk. This included information on the risk assessment process, risk indicators (definitions and calculations), and examples of relevant risk controls and context. This would help illuminate the risk ratings of providers and demonstrate greater transparency about TEQSA’s decision-making processes.

## 2.4 Other comments

In addressing the discussion paper, other common comments beyond the specific consultation questions included:

- ▶ Support for making more use of risk assessments to reduce regulatory burden and inform tailored regulatory processes.
- ▶ That TEQSA should focus on drawing information from existing data collections and seek to minimise any regulatory burden on providers through the risk assessment process.
- ▶ The importance of the role of the provider case manager in forming an understanding of regulatory history and context, and the potential value of regular dialogue encompassing risk.
- ▶ That an optional ‘context statement’ in the annual Provider Information Request (PIR) would enable providers to explain upfront any significant changes in operations.

# 3. TEQSA’s response to key issues raised

TEQSA’s update of the RRF will reflect immediate steps in response to issues addressed through this process. TEQSA also welcomes ongoing feedback on the RRF, particularly noting that some indicators may be refined over time with further suggestions from the sector. Ongoing calibration on TEQSA’s approach to risk includes continuing engagement with TEQSA’s expert Risk Reference Group.

## 3.1 Design of the Regulatory Risk Framework

Given the broad support for the proposed changes to the overall risk evaluation areas and four key areas of risk, TEQSA will reflect these changes in the update of the RRF and give effect to these changes in the implementation of the next cycle of risk assessments.

The importance of retaining a strong focus on risks to academic standards is noted and supported by TEQSA. TEQSA considers that the four key risk areas all contribute to a view of

potential risks to academic standards. The expansion of the role of regulatory history in the risk assessment process will strengthen the focus on any risks to academic standards identified through previous regulatory review processes, such as findings relating to quality assurance processes in a past re-registration process. TEQSA would be pleased to continue dialogue with the sector, and individual providers via TEQSA case managers, about alternative or new measures that point to risks to academic standards as the RRF evolves over time.

TEQSA believes that there is merit in considering a further rationalisation of the overall risk evaluation areas to focus only on 'Risk to Students'. Noting the broad support for the current proposal focusing on the two areas of 'Risk to Students' and 'Risk to Financial Position', TEQSA will further reflect on this issue after experience in implementing the current proposal and through further consultation with the sector.

### 3.2 Refinement of Risk Indicators

Given the broad support for the proposed smaller set of indicators, TEQSA will reflect these changes in the update of the RRF and in implementing the next cycle of risk assessments.

TEQSA acknowledges consistent feedback that provider context is critical to the assessment of risk indicators and the overall evaluation of risk. TEQSA will strengthen this aspect of the approach within the RRF policy and in practice. In particular, TEQSA will to the extent possible consider context and other relevant and available information already known to TEQSA upfront in assessing a risk indicator – prior to the application of a risk rating. For example, in the instance of a significant one year increase in student load, the provider's strategic planning and resources to accommodate growth, as well as the length of the provider's operations, may be considered as context in rating the indicator in the first instance. This is a departure from the previous approach where initial risk ratings were automatically applied based on quantitative risk thresholds alone.

Related to this issue, TEQSA has reflected on feedback from a small number of respondents that there could be different indicators according to 'provider type'. TEQSA has selected indicators with careful consideration of their relevance across the sector, with the flexibility to take into account provider context (which can vary significantly within 'provider types'). Other comments received through the consultation process support this view, endorsing the set as relevant to all providers. TEQSA maintains that a focus on risk at a sector level is appropriate when assessing risk to standards as they apply to all registered entities. Importantly, TEQSA notes that risk indicators need to be broadly comparable across the sector, and reflective of the Threshold Standards, ESOS Act and National Code, to inform a differentiated regulatory approach across providers. If specific indicators were tailored for different provider types it would likely result in additional indicators to the proposed set.

In relation to tailored indicators for public institutions (e.g. for financial risk), TEQSA agrees that this may be appropriate if the risk framework was only monitoring viability. However, TEQSA is interested in the financial capacity of providers to sustain educational quality, not just viability. The experience from the first cycle of risk assessments has also indicated that financial risk is an important component of TEQSA's assessment for all providers. More broadly, the context of public institutions which have a long track record and mature quality systems would be reflected in the regulatory history component of the risk assessment and therefore taken into account in the overall risk evaluation. The incorporation of regulatory history in the risk assessment is also a means for capturing provider specific risks where relevant. TEQSA will continue to reflect on the application of indicators across the sector with experience in applying the framework.

Queries regarding whether the set of indicators as a whole adequately captures the range of risks in the sector are noted by TEQSA. While feedback has highlighted issues requiring further consideration in relation to specific indicators, suggestions on how to meet these challenges or alternative indicators for measuring regulatory risk in the sector were not offered. In considering this feedback, TEQSA notes that the purpose of the RRF is not to identify all institutional risk, but rather to focus on key operational risks across the sector to prioritise TEQSA's regulatory focus. TEQSA is also conscious of the need to rely on existing data to the extent possible, and the role of material change notifications in alerting TEQSA to significant changes in providers' circumstances that may impact compliance with the standards. TEQSA will continue dialogue with the sector in relation to alternative or additional areas of risk that should potentially be considered in a risk assessment.

In relation to specific components of the risk indicators, TEQSA responds as follows:

- ▶ **Admissions:** TEQSA agrees that tertiary admissions standards provide important context, particularly in considering student progress and outcomes, and resourcing. TEQSA acknowledges the limited purpose for which the Australian Tertiary Admissions Rank (ATAR) is created, and its varying relevance across the sector, and as such will not include it as a risk indicator. Where ATAR information is available it will be included in the context section of the risk profile (the median and minimum ATAR of students in the institution, not advertised ATAR). Information from regulatory processes (e.g. course accreditation) in relation to admissions criteria and practices will also be included.
- ▶ **Offshore operations:** TEQSA notes the importance of the extent and maturity of offshore operations in considering risks to students and the protection of the sector's reputation. Under the revised RRF, TEQSA will include a strengthened focus on offshore students, including in relation to indicators on student load, progress and attrition. The assessment will be informed by the provider's context (capturing offshore partnerships and campuses), with findings about the quality and maturity of these operations captured through regulatory history and standing.
- ▶ **Trend data:** In relation to the use of a longer time series of data, TEQSA will consider trend data prior to the application of a risk rating. In TEQSA's regulatory experience to date, single year measures of volatility have been important in identifying regulatory risk and therefore this approach will continue to be applied for some indicators, in the context of the overall trend.
- ▶ **Input indicators:** TEQSA notes comments in relation to the use of input indicators in the proposed set of indicators (e.g. staff and financial resourcing). To the extent possible, TEQSA has strengthened a focus on student outcomes and experience in the proposed revisions to the design of the RRF. However, indicators relating to financial position and staff profile have been important in the first cycle and are directly relevant to the standards. In particular, it should be noted that student outcomes data is quite lagged in providing a view of any emergent risks, while changes in staff profile and financial resourcing can provide earlier leads on potential risks to students. This supports TEQSA as a proactive and preventative regulator in working with the sector.

TEQSA's response to comments on individual indicators in the proposed set is outlined at [Appendix 2](#). A number of refinements and areas for future development are noted.

### 3.3 Advice on Risk Thresholds and information provision

TEQSA notes the variety of views in the sector on the release of risk indicator thresholds and acknowledges the strong concerns from those who oppose their release. TEQSA remains aware of the potential for misinformed and possibly damaging comparative analysis and ranking of providers as an unintended consequence of the release of risk threshold information. The confidential nature of the risk assessment between the provider and TEQSA is also seen as an important component in fostering an open dialogue between the two parties in which potential risks can be openly discussed, supporting effective regulatory processes. Other concerns have also been reflected on, including in relation to plotting providers against sector bands (e.g. quintiles).

In light of this, TEQSA will not release its risk thresholds in this update but will share more information with providers about its approach to assessing risk. TEQSA agrees that further information for providers on how TEQSA assesses risk is an important component in fostering a mutual understanding and building transparent regulation into the future. TEQSA will include supporting material in the updated RRF about how it sets risk thresholds. TEQSA will also provide further information on how provider context and risk controls are taken into account in risk assessments and will publish examples. To further support a shared understanding of TEQSA's RRF and approach to risk, TEQSA will develop fact sheets and FAQs on more common queries.

TEQSA will work with the sector to continue to identify information and advice to support understanding of TEQSA's risk assessment process and may progressively expand on sharing information on risk thresholds in the future. Where requested, TEQSA will also work with peak bodies to share PIR data that may support members' benchmarking activities.

### 3.4 Other comments

TEQSA will focus on drawing information from existing data collections where available and seek to minimise any regulatory burden on providers through the risk assessment process. This includes only issuing a risk assessment to a provider for comment where TEQSA considers necessary. In addition, TEQSA is working with stakeholders to further rationalise annual reporting for providers where possible.

TEQSA agrees with the importance of the role of the provider case manager in forming an understanding of regulatory history and context. In practice, TEQSA risk analysts work closely with case managers to ensure knowledge of the provider is appropriately captured. TEQSA also notes that the suggestion of regular meetings with case managers may present an opportunity to discuss broader institutional and environmental risk.

TEQSA will include an optional 'context statement' in future PIRs.

## 4. Next steps

TEQSA will update the RRF, including the policy, indicators and supporting information as reflected in the feedback and undertakings in this Summary Report. The feedback and proposed revisions have been provided to the TEQSA Risk Reference Group for comment and further refinement.

The updated RRF will be published on the TEQSA website in March 2014.

Further background on TEQSA's reform agenda is available at:

<http://www.teqsa.gov.au/regulatory-approach/reform-and-continuous-improvement>

# Appendix 1 – Overview of comments on individual risk indicators

## Student load:

- ▶ Commentary highlighted the importance of assessing trend in student numbers.

## Attrition rate:

- ▶ Some respondents commented that the focus on first to second year transition and Bachelor courses might be too limited.
- ▶ Some respondents noted that consideration should be given to delivery mode in understanding rates of attrition.

## Student satisfaction and graduate destinations:

- ▶ Feedback noted that the field of education, educational purpose of the institution / course (i.e. pathway) and geographic locations require consideration as important context.
- ▶ Submissions noted that a small sample size might skew results.
- ▶ Feedback noted that macro-economic considerations must inform analysis of graduate destinations.

## Student / staff ratio:

- ▶ Feedback indicated strong support for the inclusion of casual staff in the calculation.
- ▶ Feedback raised delivery modes as an important consideration.
- ▶ Consideration of partnership arrangements in delivery was highlighted.
- ▶ Some respondents raised that support from staff not classified as 'teaching' staff or 'teaching and research' staff requires consideration.
- ▶ The possibility of misinterpretation of this data as representative of class size was highlighted.

## Senior Academic Leaders (SAL):

- ▶ Feedback that this indicator needs to be flexible to account for delivery model, field of education and have the capacity to take into account SAL available through partnership arrangements.
- ▶ Some concerns raised regarding the use of salary levels as a proxy for seniority with further information sought on alternative evidence that would be considered.

## Staff on casual work contracts:

- ▶ Feedback that this indicator appears to assume that staff employed on casual work contracts are not as able to provide an appropriate level of teaching and support.
- ▶ Consideration should be given to field of education and the need to have teaching staff currently professionally engaged in the sector that they teach.

## Financial viability and sustainability:

- ▶ Strong support for revisions to focus on commonly accepted measures of viability.

- ▶ Support for composite measures for viability and sustainability as an appropriate way to capture the interrelated components.
- ▶ Support for the removal of absolute measures of capital expenditure and assets.
- ▶ Feedback that financial indicators and measures need to be understood in light of the corporate and ownership structure it operates within.
- ▶ It was noted in some submissions that financial risk assessments are focused in the registered legal entity and that financial support or resources held at affiliated entities may not be captured in the proposed indicators.
- ▶ Some feedback questioned the need for self-accrediting providers to have a financial component to their risk assessment given other public reporting requirements.

Other issues raised related to clarification on the definitions, metrics and calculations that are used to formulate ratings.

# Appendix 2 – TEQSA’s response on individual risk indicators

## Student load:

- ▶ TEQSA affirms that the use of trend data is a consideration in applying the rating, along with changes in course offerings, projections and resourcing levels. At this time TEQSA will continue to use a single year measure as a large growth or decline over a single year has proved an important indicator of volatility and a prescient measure of issues identified during regulatory assessment.

## Attrition rate:

- ▶ Current data availability across the sector means that the ability to measure cohort attrition is limited. Given this, and to ensure consistency with existing national data collections, TEQSA will maintain first to second year attrition at this point in time. TEQSA considers that first year attrition is a salient measure but will consider adjusted attrition rates and other cohort data where available and will consider a cohort-based measure in future iterations of the RRF.
- ▶ TEQSA agrees with the importance of assessing attrition rates beyond Bachelor level and where appropriate data is available will do so under the revised RRF.

## Student satisfaction and graduate destinations:

- ▶ TEQSA affirms that sample size is considered when assessing these indicators.
- ▶ In regards to graduate destinations, the threshold considers activity in the sector more broadly, which is reflective of the macro-economic environment.
- ▶ For graduate destinations TEQSA may take into account context, such as field of education, mission, and location.

## Student / staff ratio (SSR):

- ▶ TEQSA notes feedback that delivery mode (i.e. online) is an important consideration, however maintains that the level of staff to students, across delivery platforms, remains an important resource measure.
- ▶ TEQSA agrees that SSR is not a proxy for class size and will reflect this in the updated RRF.

## Senior Academic Leaders (SAL):

- ▶ TEQSA will provide further clarification on the data considered when assessing this indicator, and will work with the sector to continue to refine its approach to measurement.
- ▶ Based on experience to date, TEQSA notes that this indicator, in combination with other indicators, has been important in assisting in identifying risks in relation to academic standards and scholarship during regulatory review.

## Staff on casual work contracts:

- ▶ TEQSA notes feedback that the wording for this indicator suggests that these staff members are not as able to provide an appropriate level of teaching. This is not the intention and TEQSA will amend wording in the updated RRF.

- ▶ TEQSA agrees that consideration should be given to field of education and the need to have teaching staff currently professionally engaged in the sector they teach, as a central component in understanding provider employment models and structures.

Financial viability and sustainability:

- ▶ TEQSA agrees that financial indicators and measures need to be understood in light of the corporate and ownership structure it operates within and where this information is available to TEQSA, will incorporate these matters into the assessment prior to the application of risk ratings.
- ▶ TEQSA agrees that further clarification / transparency on calculation methodology is important for providers. This information will be made available through the updated RRF, as well as through supporting documentations such FAQs and fact sheets.
- ▶ TEQSA notes that financial resources at affiliated entities that are available to the registered entity are an important element in determining financial viability and sustainability and consider these arrangements as context before applying a risk rating.
- ▶ TEQSA notes that indicators of financial viability and sustainability provide an indication of risk of non-compliance to the Threshold Standards, and are central to understanding providers' operations. TEQSA notes that the process for information collection will continue to be streamlined and moves to improve information sharing across government agencies remain a focus for TEQSA.