Australian Government
Tertiary Education Quality and Standards Agency

Fees and charges proposal for cost recovery for quality assurance and regulation of higher education

Consultation paper response template

Please complete and return your submission to the cost recovery consultation team at: consultation@teqsa.gov.au by 5:00pm AEST Thursday 3 June 2021.

Submission cover sheet

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☐ **I consent to** this submission being published in full on the TEQSA website.

OR

☐ **I do NOT consent to** this submission being published on the TEQSA website.

Signature:

Date: 3rd June 2021

Consultation response

Please refer to the submission guidelines as outlined in Section 7 (p. 28) of the Consultation paper.

Q1: What are your views on TEQSA's proposed approach to implementing increased cost recovery in line with the Government's policy?

Timing

The imposition of increased cost recovery comes at the worst possible time.

The COVID-19 pandemic has been recognised broadly as a black swan event.

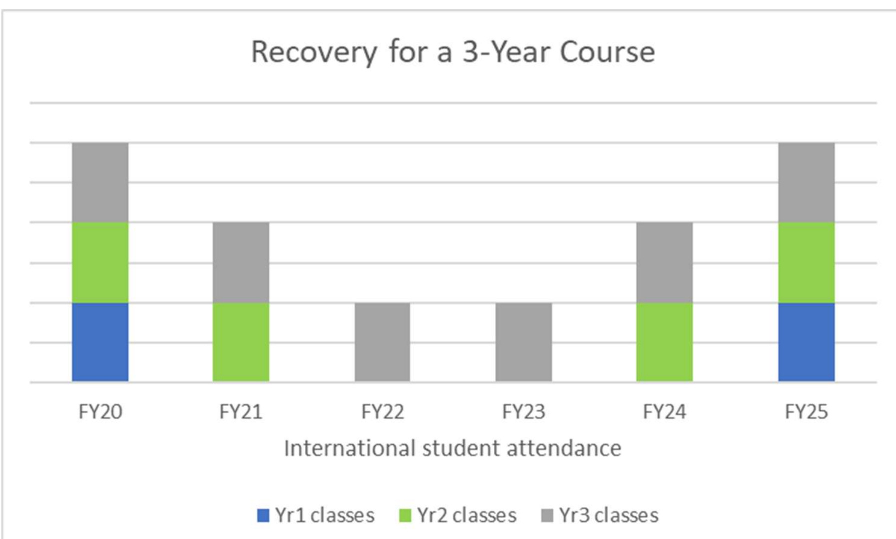
58% of student EFTSL for non-university higher education institutions are international (35% for the universities). The entire sector has been negatively affected by international travel restrictions. Many providers have enacted harsh rationalisation measures to navigate through the pandemic. Being in a service sector, the employees have been absorbing the blow. Redundancies, stand downs, unpaid leave, voluntary pay reduction and numerous cutbacks are common. It will take several years for international enrolments to return to pre-pandemic levels even after the international border restrictions are lifted.

The continued financial hardships are increasing. The negative impact on FY22 and likely FY23 will be greater than FY21.

Cost recovery should be delayed until international borders re-open and the international student market has returned to normal.

Section 4.6 of the Consultation Paper states that the new regulatory levy will be phased over three years, with 20% for 1 January 2022, 50% a year later and 100% from 1 January 2024.

For most of the higher education providers that provide a three-year course, the diagram below illustrates how the absence of international students will play out in the optimistic case that international borders are opened in 2022:



If the opening of international borders is further delayed, the FY23 bar in the chart above will completely disappear and full recovery is unlikely to materialise until FY2026.

A commencement of 1 January 2023 pending the opening of international borders would be mores suitable. Should the border opening be delayed, the commencement should be adjusted accordingly.

In addition, it is more relevant to the sector if the 3-year phase-in of the levy were a 7 year phase in alignment to provider registrations and accreditation periods,

Accordingly, the phased in approach should be applied to the increase in application-based cost recovery.

A mechanism is required to ensure that TEQSA's indirect and levy-based costs are contained to a maximum of the annual CPI increase. Providers should not be required to fund inefficiency.

Rising Costs

Table 9 of the Consultation paper summarised the direct and indirect nature of the regulatory costs in 2020-21. Each category of the regulatory costs reflects one third with indirect expenses totalling $6.2M. Of this amount, 91% is associated with three Operating Units i.e., Overhead $3.1M, Corporate $1.9M, and Executive Office $0.6M (Table 8).

On Table 9, the estimated application-based activity cost in 2020-21 is estimated at $9.1M with $3M classified as indirect costs at 33%. Compared to the percentage of indirect costs in TEQSA's current published Cost Recovery Implementation Statement Table 2, which shows the indirect costs of $1M or 13%, the percentage variance is more than 2.5 times higher. However, no comparison or explanation is available in the Consultation paper.

https://www.teqsa.gov.au/for-providers/resources/cost-recovery-implementation-statement

	2015-16 CRIS		2020-21 Estimates	
Regulatory Activity	**Costs attributed to (re) registration and (re) accreditation activities**		**Application-based activities**	
	$'000	%	$'000	%
Direct costs	$6,695	87%	$6,044	67%
Indirect costs	$1,008	13%	$3,043	33%
Total	$7,703	100%	$9,087	100%

It would be beneficial for the providers to understand the nature of this material change, how it is generated and if there is a plan to reduce it..

Simplifying the above numbers into a common factor makes this clearer;

	2015-16 CRIS		2020-21 Estimates	
Regulatory Activity	**Costs attributed to (re) registration and (re) accreditation activities**		**Application-based activities**	
	$'000	Ratio	$'000	Ratio
Direct costs	$6,695	$ 1.00	$6,044	$ 1.00
Indirect costs	$1,008	$ 0.15	$3,043	$ 0.50

In 2015-16, for every dollar of direct cost, fifteen cents of indirect costs were allocated. In the 2020-21 estimates, fifty cents of indirect costs. are added to every dollar of cost directly related to the application-based activities.

Assurance must be given to the providers whereby an acceptable rationale can be provided for expenditure increases.

As stated in its 2019-20 Annual Report (page 79), the revenue collected in 2019 was $2M and the budgeted revenue for 2020 budget was $7.4M. A 370% increase of revenue.

https://treasury.gov.au/publication/portfolio-budget-statements-201920

Although the Consultation paper proposes cost recovery will have a phased approach over three years, the rise in costs to the sector represents over 800% increase when compared to 2019, pre-pandemic, collected revenue of $2M.

Q2: Do you agree or disagree with TEQSA's proposed approach to attribute application-based costs according to relative regulatory effort?

If the costs are over-recovered based on the estimates provided, what is the mechanism to return these costs to providers?

The volume of the estimated increases in registration renewal fees for many non-university providers is significant, ranging from 92% for Level 1 to 719% at Level 3. Should a provider plan to seek to self-accredit one or more courses, the increase is $81,700 or 371% rise.

Section 3.5.1 of the Consultation paper stated that:

"The cost of delivery application-based activities was determined by surveying managers and staff who work directly on assessments or contribute to the assessment process."

"TEQSA has now developed an Activity Based Costing process to ensure that the calculation …."

It will be reassuring for the sector to gain an understanding of how the survey was carried out and the nature of the new Activity Based Costing process.

All cost recovery needs to be carefully monitored and aligned to measurable quality service standards provided to benefit the providers.

Q3: Do you have any comments on the proposed method of adjusting course accreditation fees based on a provider's student numbers?

EFTSL Perspective

	Student EFTSL 2019					
	Domestic Students		Overseas Students		TOTAL EFTSL	
Universities	714,629	95%	348,077	88%	1,062,705	93%
NUHEP	34,003	5%	46,727	12%	80,719	7%
	748,632	**100%**	**394,804**	**100%**	**1,143,424**	**100%**

Source: 2019 student load data published by the Department of Education Skills and Employment (DESE)

The average EFTSL for universities in 2019 was close to twenty-five thousand compared to the average EFTSL of non-university higher education providers of almost a thousand.

2019	Average EFTSL
Universities	24,714
NUHEP	869

Source: 2019 student load data published by the Department of Education Skills and Employment (DESE)

The proposed annual levy to be divided equally across all providers is inequitable.

Based on Table 6 in the Consultation Paper, the attempt to discharge a third of its costs ($5,396M) not budget funded, means government funded universities will be footing less than quarter share. Non-university providers will eventually be paying approximately $4.2M or more than three-quarter share, after the phasing in is complete.

The annual levy should be based on the EFTSL of each provider, not divided equally across all providers. Non-university higher education providers have just over 7% of the total EFTSL therefore should not be made to bear 75% of the costs. The proposed approach makes no account for the lopsided nature of the sector.

Another example is the course accreditation and reaccreditation fees in Table 2 and Appendix A. While the sliding scale in section 3.6.3 and Table 3 aims to lessen the financial burden of the proposed higher fees on smaller providers, however universities are not affected by the rise in this category of fees. Universities do not seek course accreditations.

Recovery of costs is not 'one size fits all' as the impact it will have on many smaller providers will negatively impact competitiveness and potentially overall business effectiveness.

Q4: Do you agree or disagree that the cost of compliance and investigatory activities should be borne by those providers being investigated?

In Section 4.4 Summary of non-application-based-activities and costs of the Consultation paper indicated that cost analysis has been performed and some best estimates have been used. In addition, an Activity Based Costing process has also been used. It would be beneficial for the sector to gain a better understanding by providing more information on the details of the analysis carried out and the Activity Based Costing process. Where best estimates have been used, the rationale behind those estimates.

Given that cost analysis has been performed as indicated in the Consultation paper, it would be helpful for the sector to gauge the impact if an indicative range of hours or average hours involved for each of the regulatory activities shown in Table 5.

Section 4.5.1 of the Consultation paper relates to new charges from 1 January 2022 of $150 per hour for provider specific regulatory activities relating to investigations, compliance assessments and monitoring of compliance with conditions. It is estimated that $1.9M will be recovered. Where there is no adverse finding in an investigation, no charge is made.

Regarding the $150 per hour provider specific charge, questions of quantity of hours charged and motivation must be raised. It is necessary for the purpose of assurance of fairness to providers, that a cap is applied to the number of total hours that can be charged.

Will there be any motivation to pursue cost recovery when there are missed budget targets or shortfall for the entire agency. What is there to regulate the regulator to maintain that work carried out is in the interests of ensuring the quality of providers?

Compounding this concern is the expense incurred by small providers with less resources when it comes to the time consumed to adequately defend an investigation. In particular, in the event of an investigation that results in no adverse finding, the provider will incur non-recoverable costs.

Q5: Do you have any comments on the structure of the proposed new annual levy?

The annual levy should follow the more equitable process of EFTSL rather than a flat fee which will disadvantage smaller providers. There are many existing forms of government levies which are revenue or customer based rather than divided equally among all the range of large and small stakeholders, for example, the TPS levy which is largely EFTLS based.

The annual cost recovery levy is another form of tax on independent providers that are already subject to income tax. Public universities are exempt from income tax.

Para 1 of the Australian Government Cost Recovery Policy states that the Australian Government provides a diverse range of services, support and benefits to the Australian public to achieve its policy outcomes, the Cost Recovery Guidelines principally focus on the costs of the activities and has little or no reference to alternate recovery approaches based on benefits generated or enjoyed.

Are there any other comments you wish to make in relation to the fees and charges proposal for cost recovery consultation paper?
How does a provider know what level they have been classed as for the purposes of determining likely application-based fees? Other than registration renewal, which contains three levels or tiers of cost, all other fees are shown as being based on Level 1. Can we assume that all providers will be charged this same cost or are there additional cost structures omitted from Appendix A? Based on the new fees and charges, it is estimated that the compliance costs of our institution will rise by approximately $725K over the next five years. In summary: - The inequity of the distribution, which can be somewhat rectified by relating cost to EFTSL; and, - Assurance is required of reasonable parameters and regulation on the regulators use of ‘investigation’ hours charged; and, - TEQSA’s performance should have increased visibility and accountability under a cost recovery regime; and, - There needs to be awareness that significantly increasing costs may impede competitiveness of providers. Providers must potentially absorb additional expenses into tuition fees, thereby impacting the student - accessibility and choice in education, and the overall financial burden on the business; and, - The phase in needs to align to regular accreditation and registration time frames of seven years.