Australian Government

Tertiary Education Quality and Standards Agency

Compliance report 2023

September 2024

TEQSA

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Foreword

As Australia's independent, national regulatory and quality assurance agency, one of TEQSA's key functions is to monitor and assess higher education providers' compliance with the *Higher Education Standards Framework (Threshold Standards) 2021* (HES Framework).

In keeping with contemporary approaches to regulation and quality assurance, our regulatory effort is focused on the areas of greatest risk, impact and consequence. We incorporate this into all our regulatory assessments, including our compliance monitoring. Therefore, our compliance priorities are reviewed on an annual basis to ensure they remain relevant and reflective of risk in the sector.

In 2023, TEQSA's compliance priorities included ensuring academic quality, upholding wellbeing and safety, protecting sector integrity, maintaining information security and monitoring the financial standing of providers.

This report outlines our compliance activities within these areas of focus, such as our action to disrupt a further 137 commercial academic cheating websites. In this report we also include resources to support providers in self-assuring their activities to address identified compliance risks.

In 2024, we will continue to support the sector as it adapts to new opportunities and challenges, while ensuring that our regulatory monitoring and compliance activities protect and enhance the integrity, quality and reputation of Australian higher education.

Upholding wellbeing and safety, ensuring academic quality, protecting sector integrity and monitoring providers' financial standing will continue to be priorities for TEQSA in 2024, joined by a focus on strengthening corporate governance and maintaining information security.

In determining these priorities, TEQSA has considered information including:

- emerging risks and trends across Australian and international higher education
- concerns and complaints data received by TEQSA
- feedback from students, providers and other higher education peak bodies.

In addition to the compliance activities detailed in this report, TEQSA will support the proposed National Student Ombudsman and the implementation of the Action Plan Addressing Gender-based Violence in Higher Education. We will also support the Australian Government's implementation of the Australian Universities Accord reforms announced as part of the 2024-25 Budget and the International Education and Skills Strategic Framework. TEQSA looks forward to further engagement with the sector on our regulatory approach in 2024.

Dr Mary Russell
Chief Executive Officer
TEQSA

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Compliance monitoring approach

Australian higher education providers must meet a range of obligations under the *Higher Education Standards Framework (Threshold Standards) 2021* (HES Framework) and, if registered for international students, the *National Code of Practice for Providers of Education and Training to Overseas Students 2018* (National Code).

TEQSA's compliance monitoring approach supports us to identify any current or emerging risks of non-compliance with these obligations and target them proactively.

This work is informed by our compliance monitoring framework, provider risk assessments and other information sources (see Figure 1).

Figure 1: Key elements of TEQSA's compliance monitoring cycle
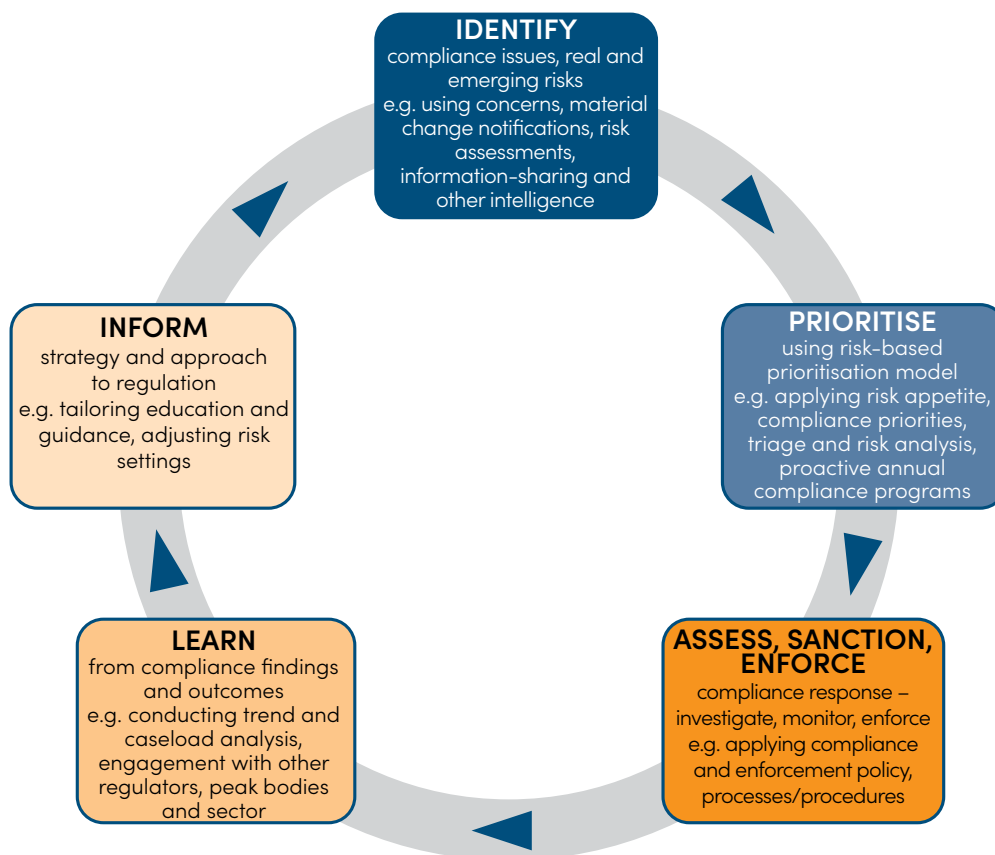
TEQSA uses a prioritisation model to identify risks and allocate resources. This includes setting annual compliance priorities to focus our work.

In the event we identify non-compliance with the HES Framework or National Code, our response is guided by our compliance and enforcement policy.

Determining our annual compliance priorities

Our compliance priorities are reviewed annually, within agreed risk tolerance parameters approved by TEQSA's Commission. They guide our compliance monitoring activities for the greatest regulatory impact to protect students and the integrity, quality and reputation of the sector.

These priorities are informed by emerging trends observed in the sector, and TEQSA's own compliance assessments and intelligence. We also incorporate feedback from students, providers, peak bodies, other government agencies and international partners when determining our annual priorities.

See page 3 for our 2024 compliance priorities.

Annual compliance program

In support of our compliance priorities, TEQSA undertakes an annual compliance program as part of our oversight and educational activities to support providers to meet their regulatory obligations. The program focuses on a specific cohort of providers each year against areas of identified risk within the sector.

See page 11 for more information.

2024 compliance priorities

Upholding wellbeing and safety

Issues of student safety and wellbeing (including those vulnerable or under 18) with particular focus on systemic failures to:

- provide adequate assistance and support mechanisms for students, including academic advice, learning support and mental health support
- address barriers for students with a disability
- adequately inform staff and students about grievance mechanisms.

Ensuring academic quality

Issues affecting academic quality, focusing on:

- monitoring students at (academic) risk
- systemic deterioration or failure of academic quality (including quality of online delivery)
- admission of students who are ill-equipped to succeed
- inadequate oversight of third-party delivery.

Protecting sector integrity

Issues that put the integrity of the sector at risk, with a focus on fraud and criminality, including:

- not implementing policies and procedures relating to academic integrity
- creating incentives for non-genuine students
- poor oversight and management of overseas education agents
- commercial academic cheating services.

Strengthening corporate governance

Issues that impede the delivery of quality higher education including:

- changes in ownership and cross ownership
- insufficient expertise in higher education
- inadequate risk management
- underpayment of staff.

Maintaining information security

Issues with information security, including those related to:

- poor identification and management of cyber security risks
- inadequate protection of staff and student data, research data technology development and use
- intellectual property.

Monitoring financial standing

Issues that affect a provider's present and projected financial sustainability and viability, with a particular focus on:

- significant financial mismanagement
- lack of resilience to shifts in revenue sources.

Snapshot of compliance activities from 1 January to 31 December 2023

COMPLIANCE ACTIVITIES

	2022		2023
Material change notifications received and assessed	532	▼	**471**
Concerns about registered higher education providers received and assessed	305	▲	**477**
Condition assessments undertaken	159	▼	**87**
Conditions imposed	27	▼	**25**
Conditions varied	1	▲	**2**
Conditions revoked or removed	70	▼	**32**
Cheating websites blocked	150	▼	**137**
Warning letters issued to unregistered entities	12	▼	**7**
Satisfactory resolution to investigations of unregistered entities issued with warning letters	12	▼	**7**
Voluntary undertakings entered into with providers	13	▼	**2**
Voluntary undertakings cancelled	12	▼	**3**

COMPLIANCE ASSESSMENTS*

	2022		2023
Preliminary compliance assessments initiated	28	▲	**88**
Preliminary compliance assessments escalated to full compliance assessment	4	—	**4**
Preliminary assessments finalised	20	▲	**67**
Compliance assessments finalised	7	▼	**2**
Warning letters issued to registered providers	2	▼	**1**

* A compliance assessment is undertaken to assess if a provider is continuing to meet its obligations under TEQSA's legislative framework. Please refer to page 8 for further information.

▲▼ The arrows above indicate an increase/decrease from the totals recorded in 2022. — Indicates no change from 2022.

Concerns about providers

TEQSA collects and analyses information about higher education providers to ensure their compliance with regulatory obligations under TEQSA's legislative framework.

Concerns, including complaints and allegations of non-compliance, are an important intelligence source for TEQSA.

In 2023, we recorded 477 concerns about higher education providers.

We receive concerns from internal referrals, students, employees of providers, professional accreditation bodies, government departments and agencies, other regulatory bodies and members of the public. TEQSA also monitors media reporting, and any potential compliance issues identified are recorded as concerns.

When we receive a concern

TEQSA applies a risk-based triage process, guided by our compliance priorities, to assess concerns in the context of broader systemic issues in higher education. TEQSA is not established to be a complaints resolution body and typically does not have a role in addressing individual complainants' concerns or grievances. We pursue matters of non-compliance with the HES Framework and National Code, placing our focus on the effectiveness of governance and self-assurance mechanisms and how providers understand, anticipate and respond to risks.

When we receive a concern, we first determine whether it relates to TEQSA's legislative functions and powers.

When a concern falls within TEQSA's regulatory remit, and is triaged as a high priority, we undertake a preliminary assessment to determine the level of risk, and the potential harm it poses. As part of the preliminary assessment, we gather and analyse relevant information before deciding if a compliance assessment is warranted.

For concerns that pose a significant risk, TEQSA may fast track the preliminary assessment process and commence a compliance assessment under section 59 of the *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act). A compliance assessment entails a [charge](#) to providers. A decision to commence a compliance assessment is guided by our principles of being risk-based, proportionate and necessary.

For lower risk matters, we may provide regulatory advice to the provider, or take no action but keep a record to inform future monitoring and assessment activities, including renewal of registration and course accreditation.

If a concern does not relate to TEQSA's remit, we advise the individual on how to best progress their concern. This may include advising them on the most relevant government department or agency to assist with their concern or providing advice on channels to address the matter with their provider.

Key observations in 2023

- The number of concerns received in 2023 (583) was significantly higher than 2022 (342). Of these 583 concerns, 477 were related to higher education providers, 17 to unregistered entities and 89 were outside of our jurisdiction, most often relating to a registered training organisation.

- The largest source of concerns was current domestic students (26%), followed by current international students (16%) and internally identified concerns (15%). Please refer to Figure 2 for details.

- Of the 477 concerns received where a specific provider was identified, 53% related to universities and 47% to other higher education providers.

- The 477 concerns TEQSA received covered 146 higher education providers (72% of all higher education providers registered with TEQSA). Of these 146 providers, 88% were the subject of one or 2 concerns and 27% were the subject of 3 to 5 concerns. 10 providers were the subject of 10 or more concerns.

- The most common types of concerns received in 2023 were related to:

  - student services/learning environment (18%)

  - governance (18%)

  - course delivery (teaching and courses) (15%).

  Please refer to Figure 3 for details.

- The median time to finalise a concern in 2023 was 17 business days.

Figure 2: Source of concerns received in 2023

Figure 3: Type and number of concerns received

Figure 3: Type and number of concerns received

Categories (top to bottom):
- Student services / learning environment
- Governance
- Delivery (teaching and courses)
- Tuition and refunds
- Admission
- Misrepresentation
- Wellbeing and safety – other
- Academic misconduct
- Sexual harm
- ESOS Act
- Research integrity / quality

Legend: 2023, 2022
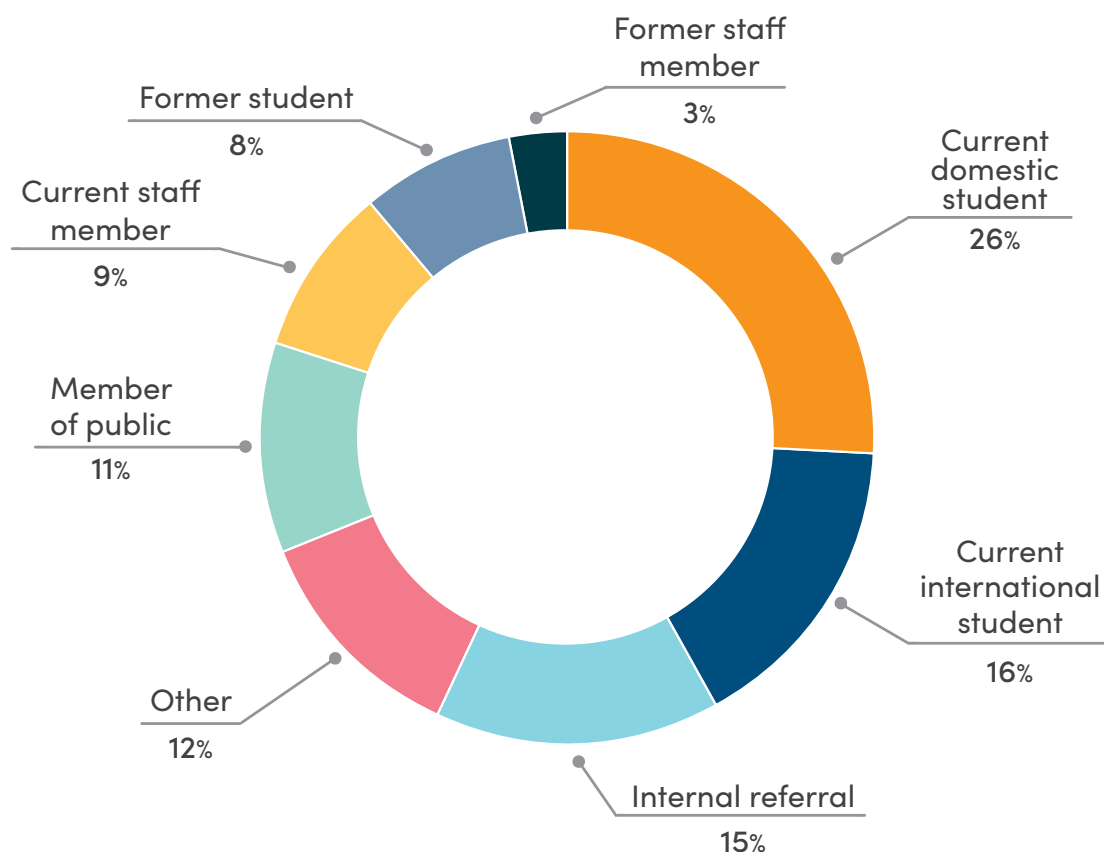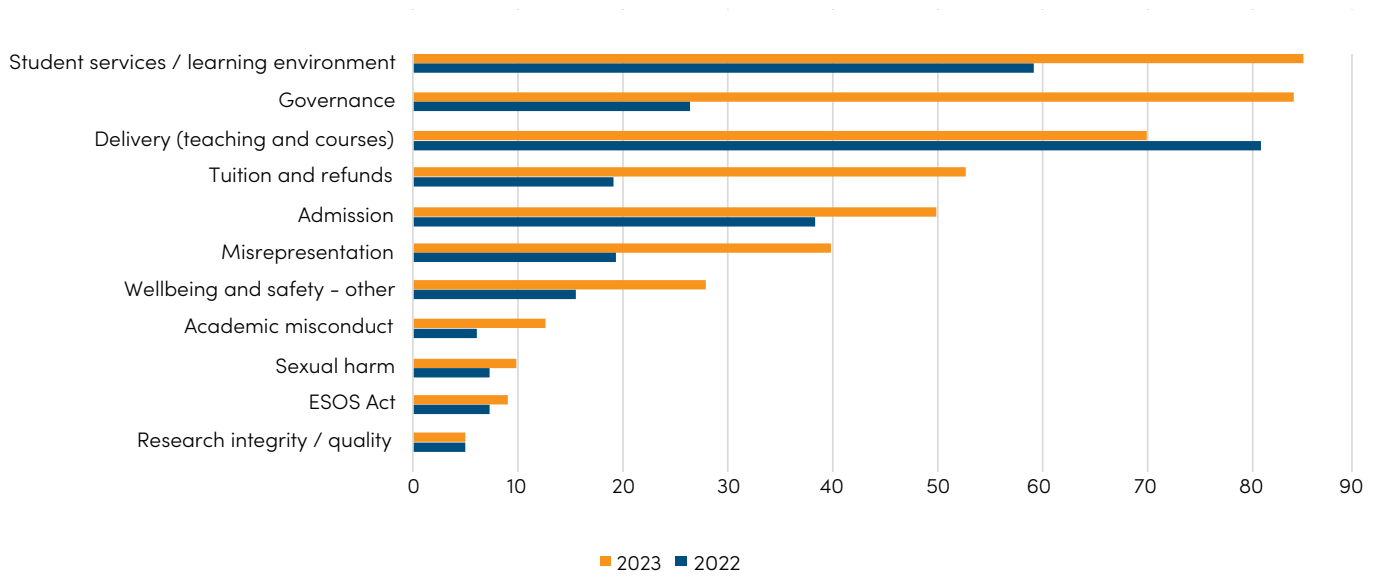
Compliance assessments

TEQSA's approach to compliance assessments is guided by our [compliance monitoring framework](#), and our [compliance and enforcement policy](#). We undertake a staged approach to compliance assessments, as shown in Figure 4.

Figure 4: Stages preceding a compliance assessment

Triage > Preliminary assessment > Compliance assessment

Preliminary assessments

TEQSA applies a risk-based triage process to prioritise issues that pose the greatest risk of harm to students and the quality, integrity and reputation of Australia's higher education sector. A preliminary assessment is undertaken for concerns triaged as a priority.

The preliminary assessment informs TEQSA's decisions on the appropriate regulatory response, if needed, that may be required to address and mitigate the risk associated with the concern.

However, where there is a reasonable basis to a concern and our engagement with the provider has not mitigated the concern, TEQSA may commence a compliance assessment[1].

Typical outcomes of preliminary and compliance assessments depend on the analysis and are proportionate to the level of risk or non-compliance identified. The range of outcomes that may flow from these activities include TEQSA:

- finalising a matter with no further action, as the provider has demonstrated a willingness to cooperate and has addressed the identified risks
- finalising a matter with a watching brief in cases where further information is required (a statutory or non-statutory request is usually set-up to monitor potential non-compliance)
- finalising a matter with a warning letter where the provider has not complied with TEQSA's legislative framework
- referring a matter to the provider, along with relevant guidance, for appropriate action
- referring a matter internally to inform a current or pending application-based assessment, such as a re-registration assessment
- imposing conditions on the provider's registration or course accreditation
- using its monitoring powers under the TEQSA Act to monitor compliance with the TEQSA Act
- shortening the period of accreditation of a provider's course of study, or cancelling the accreditation
- shortening or cancelling the period of registration of the provider
- taking steps to enforce compliance with the TEQSA Act. This may include TEQSA accepting an enforceable undertaking (if appropriate), or imposing an infringement notice or applying to a relevant court for an injunction or an order imposing a civil penalty.

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1. A compliance assessment entails a charge to providers. All TEQSA's [fees and charges](#) can be found on our website.

Key activities in 2023

In 2023, TEQSA initiated 88 preliminary assessments shown in Figure 5 by category. Most of the preliminary assessments related to corporate governance, misrepresentation, and wellbeing and safety.

Of these 88 preliminary assessments, 36 were initiated in response to concerns, 49 in response to an internal referral or media reporting, and 3 in response to concerns arising from material change notifications.

The significant increase in the internal referrals was due to:

- TEQSA's comprehensive review assessing compliance with Standard 7.3.1 of the HES Framework

- some providers' failure to submit the annual financial statement in the approved form, as required under section 27 of the TEQSA Act.

In 2023, we finalised 67 preliminary assessments. The processing time to finalise these assessments was between 1 to 12 months, depending on the complexity of the preliminary assessment. Of the 67 preliminary assessments finalised in 2023:

- 44 were finalised with no further action, as no non-compliance was identified, or compliance was restored as a result of TEQSA's engagement with the provider

- 11 were referred internally to inform other regulatory assessments

- in 5 cases, we issued regulatory guidance and advice to the providers

- 4 progressed to a compliance assessment

- in one case, we issued a warning letter to the provider

- 2 assessments remain under monitoring.

In 2023, TEQSA commenced 4 compliance assessments related to student recruitment and admission, and the monitoring of education agents. Each of the 4 compliance assessments incurred a charge to the provider.

We finalised 2 compliance assessments which commenced in 2022. The average processing time for compliance assessments finalised in 2023 was just under 12 months. Of the 2 compliance assessments finalised in 2023:

- one was closed as the provider satisfied TEQSA that identified risks had been mitigated

- one resulted in TEQSA imposing a condition on the provider's registration.

As of 31 December 2023, we had 74 preliminary assessments and 4 compliance assessments in progress.

Figure 5: Number of preliminary assessments initiated in 2023 by category

- Academic misconduct 5%
- ESOS Act 2%
- Student services / learning environment 2%
- Wellbeing and safety – Other 5%
- Corporate governance 35%
- Admission 5%
- Other* 6%
- Wellbeing and safety – sexual harm 11%
- Misrepresentation 29%
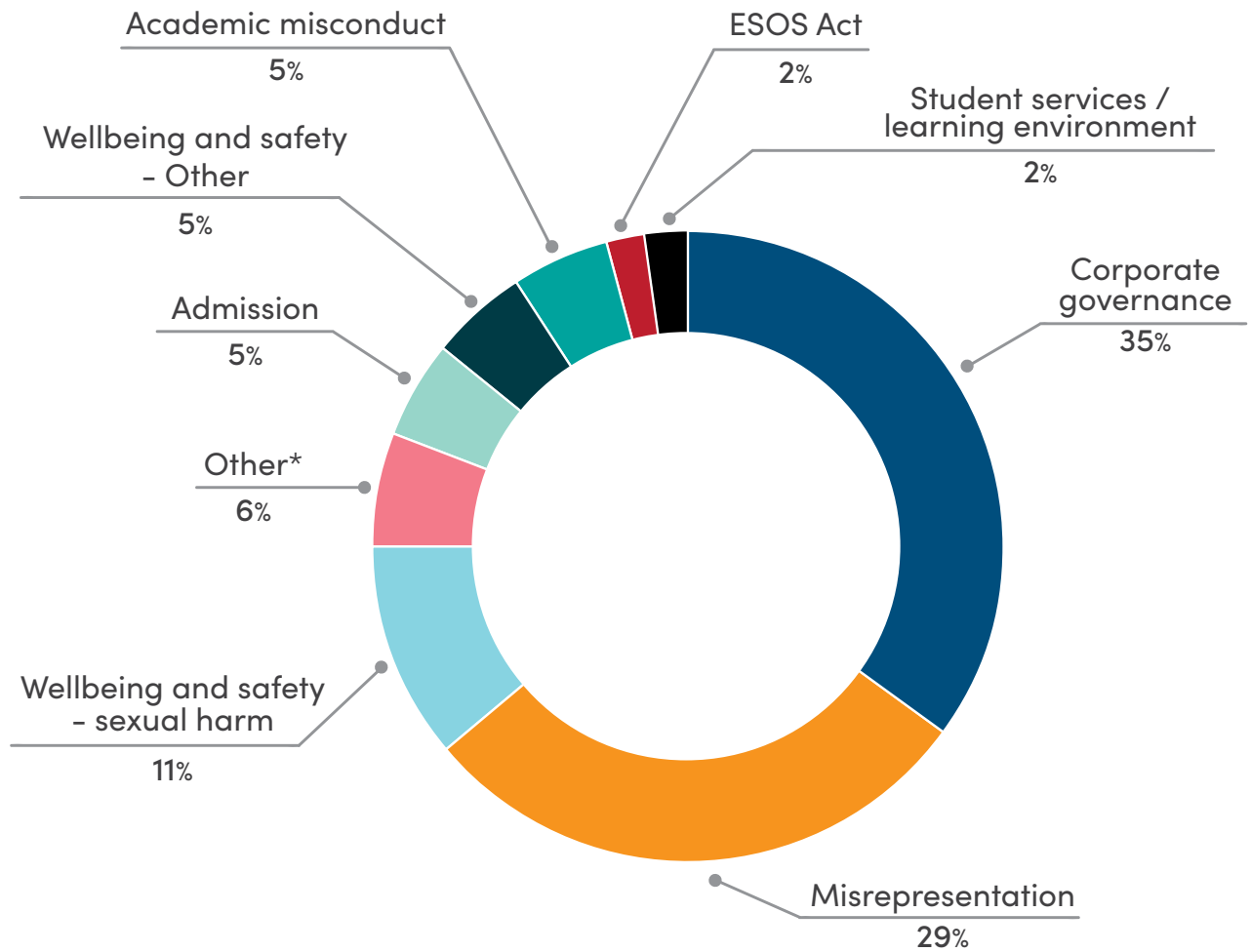
*includes information security, refunds, delivery, third-party mismanagement and provider closure

Annual compliance program

2022–23 program overview

TEQSA's 2022–23 annual compliance program involved a sample of 8 providers, focusing on the quality of course review and support services. Specifically, how providers used available data to inform continuous improvement of courses delivered in full online mode.

The program's purpose was to understand the measures taken by those who shifted to, or expanded, their online learning offerings and how they managed the associated risks, particularly regarding student support.

The sampled 8 providers were 4 universities and 4 institutes of higher education.

We also reviewed all concerns received about online learning offered by the providers, as well as material change notifications about their online courses.

Key observations

- Overall, TEQSA's results showed a consistent provider maturity with respect to oversight of online learning delivery and support.

- The providers had either designed tools or developed processes to assist in student progression and verify students' attainment of course learning outcomes.

- In some cases, we identified potential improvement opportunities and these were communicated to individual providers, including:

    - being vigilant to the needs of different student cohorts, for example graduate versus undergraduate students, onshore international versus offshore international students, and part-time versus full-time students

    - clearly mapping out the processes to identify and support online students not satisfactorily engaging and participating in learning

    - ensuring that third-party providers have adequate support mechanisms in place for students studying online

    - ensuring that staff are adequately trained to deliver online courses and provided with adequate administrative support.

- Positively, TEQSA observed no non-compliance or material non-compliance risks for the relevant HES Framework and National Code standards examined as part of this compliance program.

Outcome

At the conclusion of the 2022–23 program, we provided feedback to the selected providers in relation to good practice, areas of risk and opportunities for improvement.

TEQSA plans to develop a good practice note for the sector based on the findings from the 2022–23 annual compliance program. The note will cover general practices for the effective review of online courses and for assessing the effectiveness of related student support measures, and best practices from providers maintaining full online delivery.

2023–24 program overview

The 2023–24 annual compliance program focuses on the prevention of, and response to, gender-based violence, specifically with regards to providers' policies, procedures and programs.

The program's purpose is to review information and evidence from sampled providers on:

- their action and progress in implementing prevention, response and wellbeing support measures
- how they monitor for effectiveness
- the extent of reporting to the governing body.

The scope is to ensure providers continue to comply with the requirements of the HES Framework, notably (but not limited to) Sections 2.3, 2.4, 6.1 and 6.2.

This program will assist TEQSA to better understand how providers are managing risks associated with the provision of information related to preventing and responding to sexual harm. The findings will help us identify good practice examples and opportunities for improvement across the sector.

Furthermore, the program will guide our efforts to support the sector in further strengthening their own wellbeing and safety activities, and the support they provide to students.

Compliance in focus – student wellbeing and safety

The circumstances

In 2023, TEQSA noted an increase in concerns from students about the availability and adequacy of support services and wellbeing services. These included concerns that providers had left vacant student counselling and wellbeing officer positions, and that funding for on-campus support services withdrawn by providers during COVID-19 had not been restored.

Additionally, we consulted with higher education students, which helped inform our compliance priorities for 2024 and highlighted their concerns, including:

- lack of wellbeing and support services available for students
- lack of awareness amongst students and staff about the availability of support services and complaint handling mechanisms
- inadequate level of staffing and staff training to ensure students are provided with accurate and timely advice
- mismanagement of conflicts of interest when handling complaints.

Our role

TEQSA expects providers to meet their obligations under the HES Framework, which includes specific requirements regarding student wellbeing and safety. These include the need for a safe learning environment to be promoted and fostered, support services for students, formal complaints handling policies and procedures, and compliance with relevant legislation including Commonwealth, state and territory laws. Relevant sections and standards of the HES Framework include Sections 2.3, 2.4 and 6.2, and Standards 6.1.4 and 7.2.1.

Providers also have statutory obligations to provide for the support of international students who are studying in Australia under the *Education Services for Overseas Students Act 2000* (ESOS Act), with its associated National Code.

Our focus

TEQSA focuses on:

- providers' compliance with their own policies and procedures
- the extent to which providers take steps to identify and mitigate risks associated with wellbeing and safety
- whether providers have adequate levels of oversight to address the issues relating to the wellbeing and safety of students and staff.

What providers can do

We encourage providers to:

- engage with staff and students in developing strategies relating to wellbeing and safety, including strategies relating to gender-based violence

- have mechanisms to evaluate the effectiveness of the strategies and framework, which in turn inform continuous improvement

- ensure adequate level of staffing, and that the first points of contact for students and staff responsible for providing support and managing complaints have the required training for their respective roles

- increase awareness amongst students and staff about options for wellbeing support services and complaint handling mechanisms, relevant policies and procedures, including student obligations and expected standards of behaviour.

Resources

- TEQSA: Guidance note on wellbeing and safety

- TEQSA: Guidance note on grievance and complaint handling

- Our Watch: Resource links

- Orygen Institute: University Mental Health Framework

- ACT Ombudsman and Commonwealth Ombudsman: Complaint handling at Universities: Australasian Best Practices Guidelines

- Universities Australia: Guidelines for University Responses to Sexual Assault and Sexual Harassment

- Universities Australia: Primary Prevention of Sexual Harm in the University Sector – Good Practice Guide

Compliance in focus – education agent monitoring

The circumstances

In 2023, TEQSA observed an increase in risks to compliance in the recruitment of overseas students and the monitoring of education agents. This included a large increase in the number of overseas students who, after being recruited by education agents, were refused a visa, failed to commence, or left the provider before completing their course of study. This raised concerns that providers were not meeting their obligations under the National Code and HES Framework to recruit responsibly and to ensure their education agents were acting ethically, honestly and in the best interests of students.

Our role

TEQSA expects each provider to vigilantly monitor the conduct and performance of the education agents it engages to formally represent it. Further, providers are expected to develop mature processes for evaluating student performance and outcomes to inform its recruitment activities.

- **Standard 4.1** of the National Code requires providers to enter into a written agreement with each education agent.

- **Standard 4.3** of the National Code expects providers to ensure education agents act honestly and in good faith, and in the best interests of the student.

- **Standards 4.4 and 4.5** of the National Code require providers to take immediate corrective action where an education agent or its subcontractor has not complied with its obligations, or terminate its relationship if the education agent has engaged in false or misleading recruitment practices.

- **Standard 4.6** of the National Code requires providers to not accept students from an education agent that has engaged in dishonest recruitment practices, or facilitated the enrolment of an overseas student that is not bona fide or that the agent believes will not comply with visa conditions.

- **Standard 7.1.1** of the HES Framework requires providers to ensure that representation of the higher education provider, its educational offerings and charges, whether directly or through agents and other parties, is accurate and not misleading.

- **Standard 7.1.4** of the HES Framework requires providers to ensure that agents and other parties that are involved in representing the higher education provider are bound by formal contracts with the provider, their performance is monitored, and prompt corrective action is taken in the event or likelihood of misrepresentation or unethical conduct.

Our focus

In 2023, TEQSA's assessments identified significant risks to compliance in the monitoring of education agents for numerous providers, including universities. TEQSA sought information from each of these providers to better understand their processes for monitoring education agents, and their response to the elevated risk.

Some providers were able to address TEQSA's concerns by demonstrating that robust and effective self-assurance mechanisms were in place. This included evidence that the provider had identified issues independent of TEQSA's assessment, had taken steps to understand the root cause of the problems, and was in the process of implementing measures to address them. Importantly, these providers were able to demonstrate that their governing bodies had sufficient and effective oversight of these risks and the actions to address them. In contrast, some providers were unable to adequately address TEQSA's concerns, and further regulatory intervention was required.

TEQSA is working closely with the Department of Home Affairs, the Department of Education, and the Australian Skills Quality Authority to continue to monitor risks in the recruitment of overseas students and provider management of education agents. Providers are expected to be able to demonstrate that they have effective processes and mechanisms in place for monitoring their education agents.

What providers can do

We encourage providers to:

- independently identify issues related to the recruitment of overseas students and the monitoring of education agents and take reasonable steps to understand the issues once identified

- take sufficient and immediate corrective action when poor performance by education agents is identified

- take comprehensive steps to address the root causes of identified issues, rather than implementing superficial or temporary measures

- develop mature monitoring and review processes for their education agents, informed by student progression, performance, and feedback

- implement quality assurance measures to address risks at an institutional level prior to the matter being raised by TEQSA.

Resources

- TEQSA: Sector alert on the recruitment, admission, and support of overseas students
- TEQSA: Sector alert on provider responsibilities when using education agents
- TEQSA: Guidance note on corporate governance

Addressing academic cheating

Sections 114A and 114B of the TEQSA Act prohibit providing or advertising academic cheating services to students undertaking a course of study at an Australian higher education provider. Penalties of up to 2 years imprisonment or a fine of up to $156,500 may apply.

To disrupt the operations of commercial academic cheating services, TEQSA works in partnership with a range of stakeholders, including higher education providers, internet service providers (ISPs), social media companies, law enforcement and other government agencies. Our enforcement actions are complemented by ongoing sector engagement to assist providers in promoting academic integrity and addressing academic misconduct, including through use of commercial academic cheating services, within their institutions.

In 2023, we received 336 concerns about commercial academic cheating services (commonly called contract cheating services). This is a 23% decrease from the number received in 2022 (432). Many of the concerns received in 2023 were reported by staff of higher education providers and students.

Our activities in 2023

Blocking access to commercial academic cheating sites

TEQSA has signed protocols with Australia's 7 major internet service providers to facilitate the blocking of commercial academic cheating sites. This collaboration streamlines our ability to disrupt access to websites that are in breach of the TEQSA Act.

In May and October 2023, we used the protocols to lawfully disrupt access to a further 137 academic cheating websites, including foreign language websites targeting students at Australian institutions, bringing the total number of websites disrupted to 287. The disruption requests were timed to coincide with peak periods for internet traffic to websites advertising cheating services. We are continuing to see declines in website numbers, and while the volume of sites we disrupt mirrors this, the decrease is a result of our continued focus on this issue.

Removal of social media advertisements for academic cheating services

The TEQSA Act prohibits the advertising of academic cheating services targeting students undertaking an Australian course of study at a higher education provider. In 2023, we continued to identify and report academic cheating services advertising on social media platforms. To date, over 850 social media advertisements and profiles have been removed across Facebook, Instagram, YouTube, LinkedIn and Gumtree.

Commercial academic cheating – educative activities

In April 2023, we launched the TEQSA Masterclass: Contract cheating detection and deterrence.

The self-directed and self-paced masterclass, developed with Australian academic integrity experts, aims to strengthen the knowledge and skills of higher education academic and professional staff to prevent and investigate instances of contract cheating. This online resource has over 3,000 registered users and is available to all staff at registered Australian higher education providers.

To enhance the sector's ability to combat the threat posed by contract cheating and build upon the masterclass content, TEQSA delivered a series of in-person full-day workshops across all capital cities in Australia between June and October 2023. The workshops were free for staff from Australian higher education providers and were attended by close to 500 people. Attendees were predominantly from universities and institutions of higher education, although there were some representatives from other provider categories. The feedback received was highly positive across all cohorts, with an overall satisfaction rating of 4.7 out of 5.

Material changes

Section 29 of the TEQSA Act requires all registered higher education providers to notify TEQSA if an event happens or is likely to happen:

- that will significantly affect the provider's ability to comply with the HES Framework, or

- that will require changes to the National Register.

Providers are required to notify TEQSA within 14 days after the day that they would reasonably be expected to have become aware of the event.

CRICOS registered providers are also required to notify TEQSA of certain changes under the ESOS Act and National Code.

TEQSA's material change notification policy outlines some of the circumstances in which providers should notify TEQSA and the method for notification. To support the policy, in January 2023 TEQSA issued guidance on material change notifications, including an indicative list of events that should be reported.

Reporting gives TEQSA assurance that the provider is identifying and responding to risks, including through insights about how risks are identified, responded to, and managed. Timely disclosure allows us to identify any potential issues or concerns at an early stage, including risks that may have an impact on multiple providers or the sector as a whole.

While notifications do not constitute an application for approval, TEQSA engages with, and provides support to, providers if there is a risk of non-compliance with the HES Framework.

Key observations in 2023

In 2023, TEQSA received a total of 471 material change notifications (MCNs), as illustrated in Figure 6. This represents an 11% decrease in the number of MCNs compared to 2022 (532). TEQSA notes this decrease in reporting, and makes the following observations:

- The majority of notifications (215) were in relation to changes to Chief Executive Officer and Principal Executive Officer and/or Governing Body membership, representing 46% of the total MCNs received. Similar to 2021 and 2022, this remains the most frequently reported notification category.

- 101 notifications related to campus changes, and major course changes including course design, delivery mode, course structure and discontinuation. This represents an 8% decrease from 2022. There has been a gradual decline in the number of campus relocations and course changes over the past 3 years.

- 38 notifications were about third-party arrangements, including new agreements, changes to existing agreements and discontinuing arrangements. The overall decline of 22% in reporting from 2022 reduces visibility of any risks associated with such arrangements. TEQSA has identified this as an ongoing regulatory challenge.

- There were 25 notifications relating to the National Register for 2023 compared to 66 for 2022, representing a 62% decrease. In 2022, TEQSA requested providers confirm the currency of certain details including principal contacts via a material change notification. This led to a significant increase in notifications in 2022.

- 17 notifications were for changes in ownership/shareholdings/control, a decline of 19% from 2022. TEQSA is closely monitoring these changes for cross-ownership of businesses between education providers and education agents.

- Of the 39 notifications identified as 'other', 9 related to underpayment of staff (23%) and 6 for admission-related matters (15%).

To strengthen corporate governance of the providers, TEQSA has identified issues relating to changes in ownership, cross-ownership and underpayment of staff as compliance priorities for 2024.

Figure 6: Type of material change notifications received in 2022 and 2023
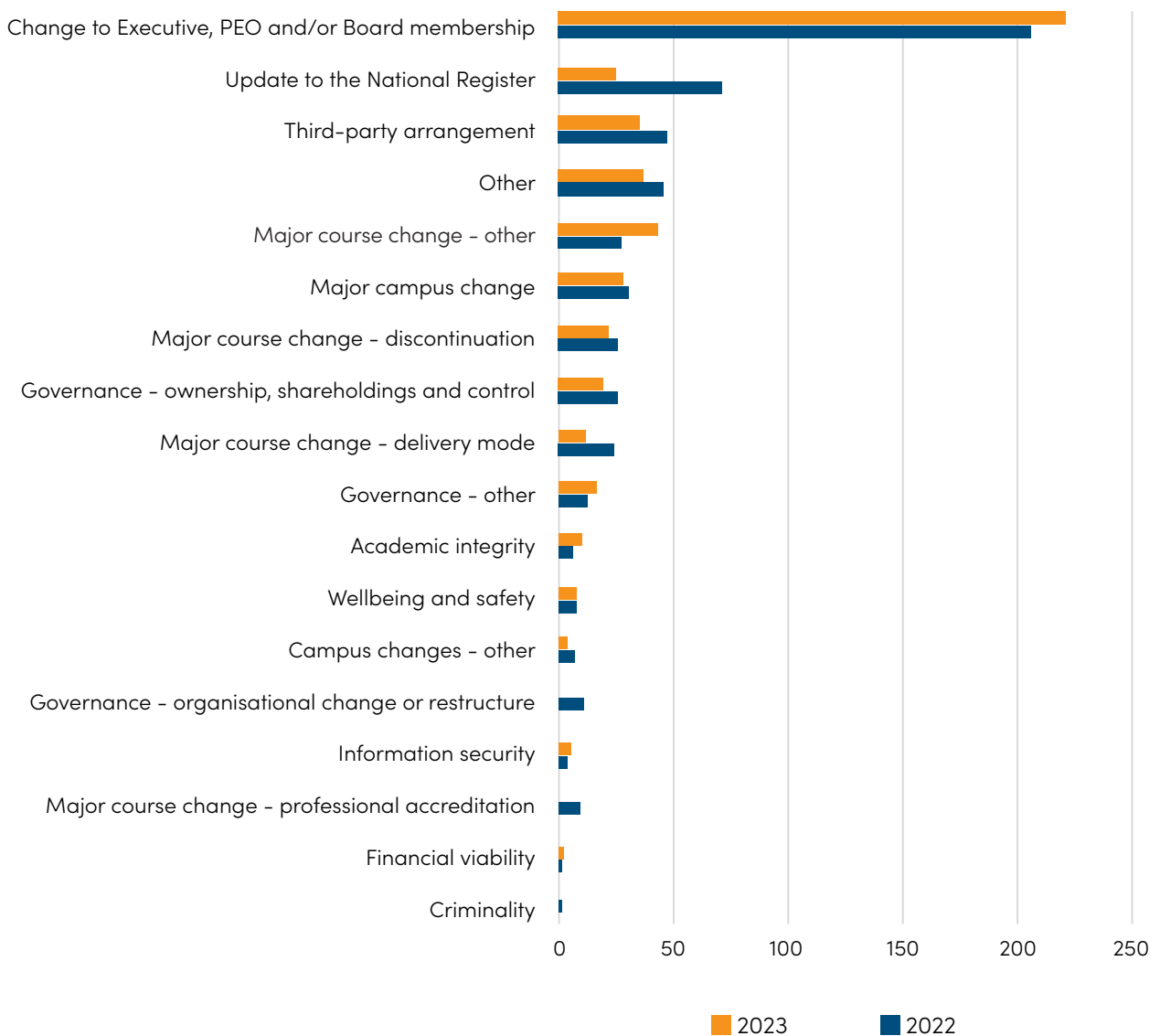
Unregistered entities

Australian law requires all higher education providers to be registered by TEQSA. Anyone who is not registered with TEQSA who advertises higher education services is known as an unregistered entity.

Risks posed by unregistered entities

Unregistered entities pose a risk to students and the integrity of Australian higher education, including:

- the quality of education offered by unregistered entities has not been assured by TEQSA
- awards from unregistered entities are not recognised in Australia, potentially harming students' future employment or study prospects
- the financial cost and time lost by students who enrol at an unregistered entity.

Concerns about unregistered entities

It is an offence under sections 105-106 of the TEQSA Act for an unregistered entity to offer or represent to offer a higher education award.

Concerns about potential unregistered entities and their behaviours are received by TEQSA through a number of channels, including internal referrals, online monitoring and information received from students, registered providers and members of the public.

Before exercising our regulatory powers, we attempt to educate unregistered entities about voluntarily complying with their obligations under the TEQSA Act. This may include sending the unregistered entity a warning letter about its non-compliance. Where an unregistered entity does not comply with their obligations we may take regulatory action against it and, to make the public aware of the ongoing non-compliance, list its details on our website.

Our activities in 2023

In 2023, we investigated 12 alleged unregistered higher education entities and identified compliance concerns in 7 cases.

Warning letters were issued to the 7 identified entities, leading to voluntary compliance in all cases.

Publication on the TEQSA website

TEQSA publishes details of unregistered entities on our website to provide clarity on the registration status of these entities and their courses, and to help inform decisions of prospective students.

Conditions

Across all our compliance monitoring activities, TEQSA can employ a range of regulatory tools to help providers move back to compliance and build capability for effective self-assurance. Our compliance and enforcement policy outlines TEQSA's regulatory powers that may be used in response to suspected or identified non-compliance.

TEQSA may impose conditions on a provider's registration or course accreditation to mitigate risk. This may be in instances where:

- TEQSA has concluded that a provider is non-compliant with a standard or standards of the HES Framework or National Code

- TEQSA is not confident a provider is managing risks effectively

- informal engagement has not been successful and targeted action is needed to address non-compliance or risks of non-compliance

- TEQSA is not confident that alternative assurance measures, such as a voluntary undertaking or a statutory request for information, will sufficiently mitigate the risks.

Condition monitoring requirements have moved away from expecting providers to prepare specific reports for TEQSA.

Instead, TEQSA asks for evidence based on documentation as part of the provider's existing operations. This may include meeting minutes, marketing material, policies, risk registers and staffing matrices. This not only results in lessened administrative burden on a provider but, more importantly, provides more robust evidence of a provider's capacity for self-assurance. The approach has been especially effective for conditions requiring repeated reporting over a period of time.

If a provider breaches a condition, TEQSA may take enforcement action under the TEQSA Act. This is because breaching a condition can be a trigger for such action by reference to sections 113 and 114 of the TEQSA Act (as applicable).

Conditions snapshot 2023

In 2023, under section 32 and section 53 of the TEQSA Act and section 10B and section 83 of the ESOS Act, TEQSA:

- imposed 3 TEQSA Act conditions each on 3 provider registrations and 16 conditions on course accreditations across 8 providers

- revoked or removed 29 TEQSA Act conditions and varied 2 conditions

- imposed 6 ESOS Act conditions imposed across 5 providers

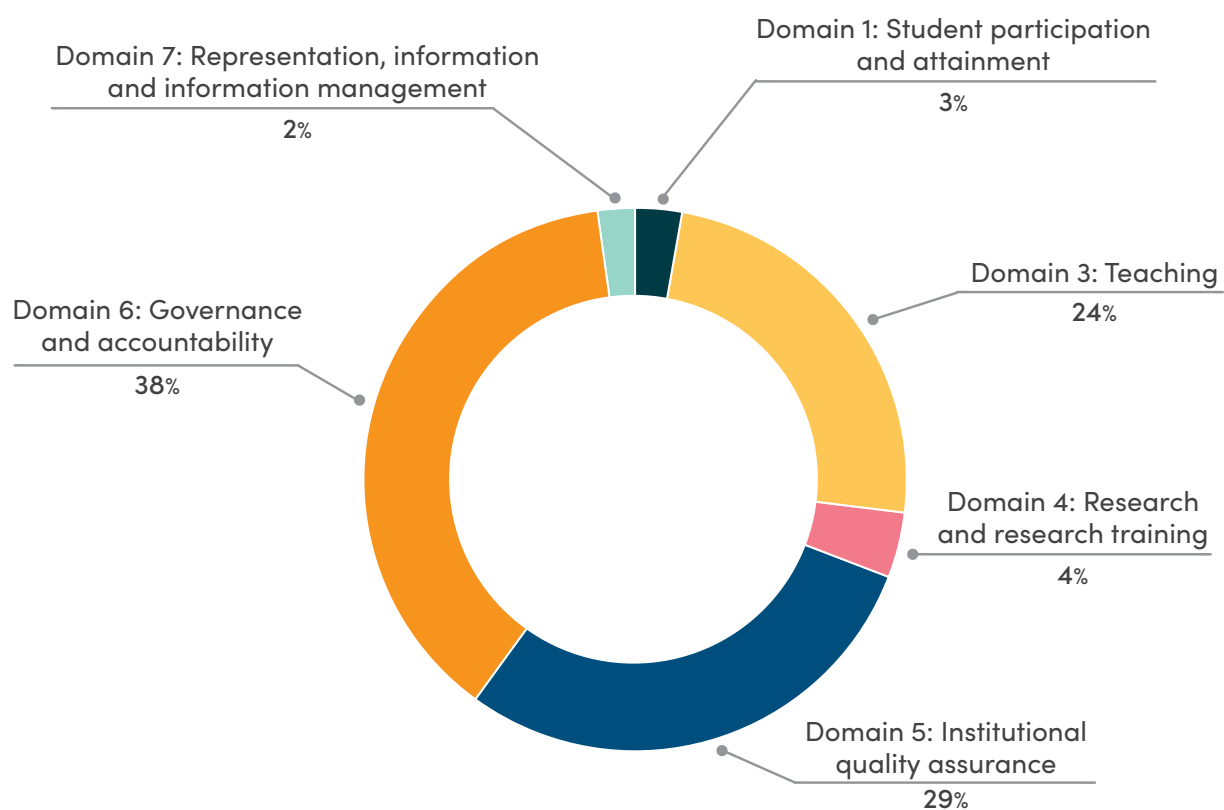- revoked 3 ESOS Act conditions across 3 providers.

As of 31 December 2023, there were:

- 62 active TEQSA Act conditions on registration and 33 active conditions on courses across 37 providers

- 37 active ESOS Act conditions across 25 providers.

In 2020, over a third of all providers had an active statutory condition on their registration or on a course or courses. At the end of 2023, this figure had dropped to less than 18%.

The most notable areas of risk leading to the imposition of conditions have remained constant within Domains 3, 5, and 6 of the HES Framework, as shown in Figure 7.

Figure 7: Relevant domains under the HES Framework for active conditions on 31 December 2023

Domain 7: Representation, information and information management
2%

Domain 1: Student participation and attainment
3%

Domain 3: Teaching
24%

Domain 6: Governance and accountability
38%

Domain 4: Research and research training
4%

Domain 5: Institutional quality assurance
29%

For registration and course accreditation conditions, the standards and sections most often at risk are as follows:

Domain 3: Teaching, in particular Section 3.2 Staffing

Conditions related to Domain 3 are imposed to address risks related to courses not having appropriate or qualified staff, especially those with teaching and supervisory responsibilities. In cases where staff may not have a relevant qualification one level above the course being taught, TEQSA pays particular attention to how a provider determines equivalency in compliance with Standard 3.2.3 paragraph (c). The other most common risk areas within Domain 3 are related to ensuring effective policies are in place to address qualifications in cognate disciplines, and the scholarly engagement of academic staff.

Domain 5: Institutional Quality Assurance, in particular Section 5.3 Monitoring, Review and Improvement

Most conditions imposed in relation to Section 5.3 were related to external referencing activities, usually in the form of reviews by independent experts. Additionally, conditions in response to Domain 5 concerns sought to ensure that the relevant board had oversight of the drafting, and continued to monitor the effectiveness, of any action plan prepared to address the recommendations resulting from external reviews or the monitoring of student outcomes and/or feedback.

Domain 6: Governance and Accountability, in particular Section 6.2 Corporate Monitoring and Accountability

Competent and sustainable governance is essential for the provider's operations and to ensure the provision of high-quality education. As in 2022, conditions imposed in 2023 in relation to Section 6.2 sought to ensure that the governing body had appropriate oversight of strategic plans and was accountable for the resourcing and achievement of objectives detailed in the strategic plans. Conditions were also imposed to ensure the financial viability and sustainability of providers.

For more information on conditions, please see TEQSA's guide to conditions.

Undertakings

The compliance and enforcement tools available to TEQSA include enforceable undertakings and voluntary undertakings.

- Section 119 of the TEQSA Act provides for the use of enforceable undertakings in response to breaches of the Act.

    - In 2023 no enforceable undertakings were active with any higher education providers.

- A voluntary undertaking is an action plan that empowers regulated providers to take greater responsibility for their own regulatory compliance in developing and agreeing upon tailored solutions to address concerns. A voluntary undertaking does not involve the use of formal enforcement power under the TEQSA Act. However if a voluntary undertaking is not complied with, TEQSA may take proportionate regulatory action to bring the provider into compliance.

    - At the start of 2023, there were 13 active voluntary undertakings across all higher education providers. Over the 2023 calendar year, providers entered into a further 2 voluntary undertakings.

    - Over the 2023 calendar year, 14 voluntary undertakings were reviewed and 3 were cancelled.

    - The total number of active voluntary undertakings on 31 December 2023 remained at 13, but with assessments complete and decisions pending on 11 of these.

    - Of the voluntary undertakings still active at the end of 2023, most were entered into by providers as a result of assessments relating to applications for course accreditation and provider category changes.

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TEQSA