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TEQSA stakeholder feedback report 2020

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TEQSA

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Executive summary

1. Meetings were held with senior representatives of nine higher education peak organizations and with ASQA during a two-week period (3 July to 20 July). Three of the peak bodies organized meetings which included representative member organizations. A meeting was also held with members of the Student Experts Advisory Group (SEAG). In all, 40 individuals contributed to the consultations.
2. All stakeholder groups commented favourably on the way in which TEQSA had nimbly adjusted their regulatory processes in response to the coronavirus pandemic. TEQSA was flexible and responsive, reduced reporting demands, and provided materials on the website for transitioning to on-line and remote learning. The collaboration with RMIT particularly was seen as a positive development. The COVID period has brought a high level of collaboration, with TEQSA offering support and with the sector appreciating TEQSA's efforts.
3. Overall, experiences with case managers were positive. Case managers were central to TEQSA's regulatory effectiveness and to the favourable comparisons of TEQSA with other regulators. An experienced and knowledgeable case manager offered the advantage of being a single point of contact, a troubleshooter and a critical friend to providers who were willing to talk to them openly about their problems. One reason for dissatisfaction with the case management system was high turnover. Providers wanted a case manager who carried their history, not a series of case managers, each of whom needed a re-telling of case history in order to understand a provider's circumstances. Even so, it is important to note that willingness to talk openly to a case manager was not universal.
4. Overall, the sector was positive on TEQSA's transparency, openness, consultation and communication efforts. Strength in these areas underpins TEQSA's regulatory approach of building communities of best practice and managing risks of poor practice before problems become entrenched. Communication clarity is an ongoing issue for every regulator. Providers called for clearer understanding and TEQSA leadership in four areas: (1) Providers saw self-accreditation as a slippery concept in terms of the criteria for achievement; (2) Self-accredited providers expressed concern about TEQSA over-reaching its remit, a topic that came up more broadly and more specifically in the context of the proposed integrity unit; (3) Misunderstandings in the use of guidance notes by TEQSA and providers continue to cause annoyance (not an unusual regulatory problem); and (4) The breadth of experience and spirit of innovative inquiry present in external experts was challenged.
5. TEQSA's relational and responsive regulatory model is valued by the sector. Fundamental to such a regulatory approach is having a deep knowledge of the institutions being regulated – their histories, strengths and weaknesses, and adaptive capacities. Tailoring regulatory activity to the institution is important to TEQSA's higher education institutions from small private enterprises to large public universities.

That said, is TEQSA able to detect and act on issues where threshold standards are not being met? Is TEQSA at risk of being captured by the sector? Participants in the discussion groups believed that TEQSA set a high bar for registration and gave examples of TEQSA insistence on evidence of quality in higher education provision. This role was understood and accepted by providers, even if at times there were aggravations.

6. The TEQSA conference was highly valued particularly by independent providers. Networking and learning what others were doing and TEQSA's priorities were regarded as tangible benefits. More generally, the conference was seen as an opportunity to learn, share information, discuss issues with TEQSA, meet with case managers and strengthen what has been referred to here as relational, responsive regulation, or in the words of providers "a maturing, developmental relationship." Cost of conference attendance placed limitations on building a community of practice across different kinds of providers. This limitation may prevent an understanding of quality assurance running more deeply into the culture of higher education institutions.
7. The National Register was used by participants. Accuracy and prompt up-dating was an issue of concern for some providers. More salient in the minds of participants was the number of different data bases used in the sector and the need for an integrated, easy to use, real-time data base for higher education.
8. Risk takes on different meanings in different contexts. In times of stability risks are future projections. In times of upheaval, they are more immediate. Thematically, risk discussions revolved around: (1) hybridity in delivery, teaching and assessment modes and finding the best models; (2) TEQSA's leadership in navigating a new higher education environment; (3) creating a sector-wide responsive learning environment for providers, students and the regulator; and (4) streamlining and having more efficient data collection systems for education.
9. The Student Experts Advisory Group (SEAG) is enabling the students' voice to be heard in a changing educational environment. Strengthening the link between the formal regulator and students (as end users) is promising for purposes of sharing information on quality and standards and working toward shared goals. For example, students believed that TEQSA could collect and compare the different sets of student survey findings (collected by peak bodies, students and higher education institutions) and provide a "triangulated" perspective on the student experience.
10. The task of interpretation of policy changes for different student cohorts, particularly during times of upheaval and stress, is lacking in the higher education system and is needed to give students confidence for future planning. Consultations raised the question of whether TEQSA has a role to play as a hub for disseminating information. Students were particularly concerned that at present the differential impact of policy on different student cohorts was being systematically neglected.
11. ASQA openly acknowledged they could not use the relational responsive regulatory model of TEQSA. Their large numbers prevented them from case managing providers. Their approach, of necessity, was reliant on analysing data provided by government and providers with the hope that it would be of sufficiently high quality to reflect risk and detect likely sites of unsatisfactory standards. ASQA and dual sector providers had experience of the practical limits of regulatory convergence: In the interests of quality in higher education, regulatory convergence should proceed one step at a time.

12. Even so, ASQA was keen to benefit from TEQSA's continuous improvement initiatives (e.g. teaching on-line guidance developed in partnership with RMIT). ASQA also was committed to the idea of working with TEQSA to develop a data base of provider details that could be used by both TEQSA and ASQA to avoid documentation duplication for providers.
13. Finally, an issue for further discussion across the sector involves the interface between TEQSA as coach and detective. In particular, differences in the perspective of universities and independent providers need to be canvassed and discussed openly. The key challenge to resolve is how do the following sit alongside each other comfortably: TEQSA's generally highly valued role of leadership on continuous improvement in the sector, its role of being a trouble-shooter for systemic problems identified by government (e.g. integrity, sexual harassment), and the legislated principles of necessity, proportionality and risk which guide intervention when standards are suspected of not being met. Inclusive and thoughtful discussions on the boundaries and intersections of TEQSA's activities are necessary in an era where the landscape of higher education is changing rapidly and there are clear dangers for providers who are left behind.

Section 1: Feedback from higher education peak bodies and ASQA

1.1 Introduction

TEQSA has adopted a regulatory philosophy that embraces the roles of detective and coach. As detective, TEQSA ensures threshold standards are met by all providers. As coach, TEQSA inculcates a culture of continuous improvement and responsiveness that will protect student interests and the reputation of the higher education sector into the future. The consultations undertaken for this report provide a review of the regulator's performance over the past 12 months and offer a foundation for future regulatory directions, consultation with the sector, and continuous improvement in the coming year.


1.2 Method


Between Friday 3 July and Monday 20 July, meetings were held with stakeholder groups to provide feedback to TEQSA on its performance as a regulator over the past 12 months (2019–2020). Stakeholders included ASQA along with the following peak bodies: ATN, English Australia, G08, IHECA, IRU, ITECA, RUN, TAFE and UA. Thirty-seven of the 40 individuals scheduled for participation took part in 11 discussion groups. CEOs of ten peak bodies for higher education were invited to participate. Eight were involved in the feedback sessions. Two stakeholder organizations arranged separate sessions for peak CEOs and subsequently a separate session for their members.


For the independent providers and TAFEs, a balance was struck between the voices of the peak administrative bodies and the member institutions. For universities, the voices of the peak bodies dominated. In the sessions when peak bodies expressed uncertainty about particular matters, an offer was extended to conduct follow-up sessions with member institutions. None accepted the offer.


Consultations were held online. The methodology invited participants to address the issues of concern to them. The approach was conversational spanning the following topics: (a) responses to COVID-19; (b) case managers; (c) communication, consultation and openness; (d) efficiency, regulatory capacity and feedback; (e) TEQSA conference; (f) National Register and data collections; and (g) future risks. Where necessary, questions were asked to gain a deeper understanding of the issues raised by participants. I took written notes while the discussions took place. The quotes used in this report are from these notes and where possible represent the actual words used by participants. Participants were invited to submit supplementary material via email directly to me. Five did so.


1.3 Responses to COVID-19

-  “We have had to navigate the move to on-line teaching, without any prior experience. We have done 10 years of innovation in 10 days. Grateful to TEQSA for flexibility in enabling providers to do that transition. Appreciate assistance around resources for transition. TEQSA has worked hard to curate resources with RMIT, has recognised provider differences and difficulties, has been incredibly collaborative and flexible in adapting so providers can operate. Greatly appreciate the approach.”

-  “We appreciate ease of communication, accommodation from TEQSA and flexibility in a changing situation. They have been open and quick to respond.”

-  “We really appreciated our case manager, sought approval, got back in hours. TEQSA recognised urgency of responses, exemplary in every way.”

-  “Easing back on information requests appreciated.”

-  “Appreciate TEQSA’s pragmatic approach during the pandemic, reduced the admin burden, recognised the impact on the universities. It was not just spoken intent, actions backed it up in many respects. The whole sector appreciated this I think. Holding off of reporting obligations, postponed important regulatory measures like re-registration, valuable and helpful actions by TEQSA. Coupled with dropping administrative charges – and refunding those who had already paid. Clear indication of actioning intent.”

All stakeholder groups commented favourably on the way in which TEQSA had nimbly adjusted their regulatory processes in response to the coronavirus pandemic: “They have been really good during COVID.” The words repeatedly used to describe TEQSA’s response to the pandemic were “flexible” and “responsive”. This was mentioned in relation to reducing reporting requirements, extending accreditation and deferring re-registration, and quickly approving changes to course delivery necessitated by the pandemic. On COVID issues, TEQSA was described as “remarkably responsive.” Another described being “profoundly impressed” by TEQSA making a unilateral offer to extend registration.

Appreciation was expressed for the materials provided on the website for transitioning to on-line and remote learning. The collaboration with RMIT particularly was seen as a positive.





Participants explicitly expressed gratitude for their “health check” phone call from TEQSA when the first impact of COVID was being felt, as well as the COVID relief package which waived certain fees and charges until July 2021 and provided a refund in cases where payment had already been made: “TEQSA rang us to tell us they were giving a refund.” The drop-off in international students adversely affected many, but was felt particularly acutely by private niche English language providers with on-going commitments to paying staff, rent and utilities, and an interrupted cash flow.

Issue for future discussion with the sector

A common question across groups was how TEQSA would behave going forward: “We hope the high quality of communication continues as we go forward ... We need flexibility into 2021 and continued engagement from TEQSA.” The deeper concern was expressed more forcefully by another peak body: “In some sections of TEQSA there appears to be expectation of a V recovery – that is not going to happen.”

A broader question for TEQSA is have there been learnings from the flexibility and quick turn-around shown during the crisis that can be taken forward and consolidated into the way TEQSA engages with higher education providers post-COVID.

1.4 Case managers

-  “The case manager is fundamental to how the relationship works with TEQSA. Best if you have an ongoing relationship with someone. Frustrating when you start anew – A good case manager who knows about universities and understands you is a breath of fresh air.”
-  “The case manager knows your history, knows your strengths and weaknesses, knows how to assist and when. They have the context in which the institution works.”
-  “Style of case manager – really approachable, meaningful engagement – they understand your weaknesses and your strengths, helpful feedback, genuine engagement.”
-  “Positive on case managers. Colleges that have needed to engage with TEQSA report a positive experience – responsiveness, supportiveness. Service attitude particularly strong, not always so in the past.”

“Still have one concern – the rapid turnover of case managers. History of institution is lost, start over again, so inefficient for providers and TEQSA. So important to have a point of contact with TEQSA, the name of a dedicated person to ring when you have a problem. Otherwise you get passed around, and you are left wondering if anyone will get back to you.”

VB: “is this a matter of trust?”

“No, just efficiency.”

Participants placed high value on case managers as points of contact with TEQSA: “If you have a question and ask your case manager they will get back to you.” Was this about trust? It seems not. It seems that the case manager prevents providers from becoming lost in bureaucratic processes, and providers value that. Providers explained that case managers “help”. Case managers compared favourably with other regulatory agencies and government departments where “they quote the legislation back at you”.

Many spoke of “openness” with a case manager which meant you could talk about “what was wrong”. In turn, case managers could say “when things are going badly.” This was part of what providers referred to as a maturing of their relationship with TEQSA. At the same time some participants knew of providers “who are terrified to ring their case manager and say when they have a problem”. Capacity and willingness to talk openly to a case manager was not universal.

The qualities expected in case managers suggested that experience and knowledge mattered. Being knowledgeable about higher education was mentioned on a number of occasions: Providers above all else wanted TEQSA to understand their business, to know what it was like on the ground. In the words of one participant: “Having a senior case manager is a boon”.

It was important to providers that case managers understood and were familiar with their particular organization. Providers did not like high turnover in case managers: “3 different case managers in 18 months is too much.” Providers found it frustrating when they had to start again with a new case manager, having to explain the details and peculiarities of their operations over and over again. If a senior case manager was a boon, their loss was a sore point.

Was there then a problem of potential capture of TEQSA case managers by providers? That idea was rejected by participants: “In my many years of experience I have not seen or heard evidence of capture. Always professional in their dealings with providers in that sense”.





In sum, an experienced and knowledgeable case manager offered the advantage of being a single point of contact and “a critical friend” to providers. “Your case manager knows your history, knows your strengths and weaknesses, knows how to assist and when. They have the context in which the institution works.” A distinction was made in the course of discussions between consistency in the guidance and feedback given by TEQSA, and consistency in giving everyone the same treatment. Providers indicated it was consistency within the TEQSA-provider relationship that was important, not treating everyone the same. Case managers appeared to be central to the logistics of TEQSA, treating providers as individual entities with different needs, strengths and weaknesses. Respect for that individuality was communicated through the case manager.

While complaints over case manager turnover and lack of experience and knowledge were aired, they did not dominate the discussion of case managers. Overall, experiences with case managers were positive. And there was no doubt that they were central to TEQSA's regulatory effectiveness and to the favourable comparisons of TEQSA over other regulators. In some sense, they performed their roles too well. Providers mused that at times, case managers shielded commissioners: "Case managers help but we need a round table with more senior people to talk about these issues".

Issue for future discussion with the sector

When asked directly if there was a problem with case managers seeking resolution of a question from another part of TEQSA, the answer was no. The point of contact, regulatory conversation and reliability of a call back were more important than an instant answer. One issue that may need clarification with some providers is how information that is known to the case manager is shared in TEQSA. The peak bodies made it clear that some providers are "terrified" of making contact with TEQSA for fear of adverse regulatory consequences. It is unclear if the fears of these providers are well founded because they are not meeting threshold standards or if the fear reflects mistrust of regulatory oversight. The issue of over-engineering regulation is discussed below and may need discussion with the sector. Over-engineering regulation refers to increasing data collection, document collection, and risk analysis for little gain. Regulators follow routines that are wasteful: A direct question in a phone call or visit could have provided a quicker, more informative answer.

1.5 Communication, consultation and openness

-  "We don't feel unable to ask for a meeting – relationship is such that we do not need scheduled quarterly meetings – we can have them when we need. Nick is open. Feel there is a genuine openness to those who need issues discussed."
-  "TEQSA with Antony's leadership has improved on consultation and stakeholder engagement."
-  "TEQSA does not put up the shutters – engages openly. You don't feel they are talking down to you."
-  "TEQSA will engage with us – terrible experience with [a government department] – they quote the legislation back at you. No help at all."

“More generally TEQSA gives excellent support and excellent communication.”

“For peak bodies, good engagement and access to commissioners and senior staff.”

Participants expressed confidence in senior management, in particular the Chief Commissioner and the CEO. There was satisfaction with the level of consultation and the belief that the peak bodies could ask for a meeting when issues arose. Participants spoke of change in the relationship with TEQSA, that it had matured over time: “They are robust, each [TEQSA and regulator] can take critical exchanges appropriately.”

The view was expressed that relationships with directors were being developed and were increasingly being characterised by exchanges that were “open” and “constructive”. There was appreciation of “old hands” who brought to the table experience in TEQSA’s history and role in the sector.

TEQSA had become a regulator which was approachable and responsive and would engage actively with the sector: “They have been excellent, useful and productive each time they have engaged with us. ... At a working level, on redesigning the website TEQSA was wonderful and very collegial in its helpfulness.”

Generally, there was appreciation for the guidance notes and resources made available on the website. Providers were positive about TEQSA identifying a systemic issue and sending out guidance notes on that issue: “Helpful to have TEQSA say providers have got this wrong – let’s go in this direction – here is a guidance note. This is a strength.” A good deal of discussion took place around interpreting guidance notes which is considered in a special section below.

Some felt there could be better notification when new material was added to the website. The use of the stakeholder newsletter, intended to alert providers to 2020 changes, may resolve this issue. There was also a feeling that a provider needed to invest time in learning to navigate the portal: “There is complexity ... Sometimes hard finding new information.”

Some providers looked to TEQSA to defend the sector when it was being unfairly criticised in the media, particularly when TEQSA had data to refute media accusations. The issue of appeals against TEQSA decisions was also raised as was the need for clearer provisions for intermediate levels of dispute resolution before the Administrative Appeals Tribunal.

One issue on which there was unanimous agreement was the helpful role TEQSA was playing in addressing the tensions between professional accreditation/registration bodies, professional membership bodies, TEQSA and providers. Providers were critical of over-reach by professional bodies which were “dictating terms” to educational institutions. Some providers gave specific examples of how courses could not be delivered because of an impasse with professional accreditation bodies.

Providers of all kinds supported TEQSA for not waiting for legislative measures to determine such territorial boundaries and for taking “a different approach of negotiating”: “We need a working partnership with them – if TEQSA could help here it would be good.” Another pointed to progress: “TEQSA is working toward establishing complementary roles for accreditation bodies and universities.” The sector was appreciative of TEQSA

systematically working through MOUs with professional accreditation/membership bodies to set boundaries and delineate roles more clearly.

More diverse institutions in particular were aware of the necessity of negotiating with each professional body individually. The value of TEQSA's contribution was acknowledged by this peak body: "On professional accreditation we are talking to TEQSA a lot and we are aware of the good work that TEQSA is doing in this space. Entering into MOU agreements with professional accreditation bodies, one at a time is painstaking work. We are positive about that work and are glad we don't have to do it."

During the course of the feedback meetings, there were no reports of secrecy or deliberate obfuscation by TEQSA, but there were stories of administrative failures that participants found unacceptable. These are discussed in this section rather than as signs of inefficiency because such problems appeared to be one-offs rather than endemic. One peak said: "In general though timeliness is not too bad. A few bad stories of not getting back or asking for more info. ... Delay then disadvantages the provider." These were memorable events for those affected, shaped what the provider could and could not do, and coloured their view of TEQSA.

The problems could have been eased through immediate communication and remedial, open conversation. Examples were documents embedded in 500 or so pages being overlooked, other documents being misplaced or not processed in a timely fashion, risks associated with the special nature of a provider being explained repeatedly to TEQSA without special features being acknowledged in the risk rating. Complaints of this kind were exceptions rather than common experiences but tailoring regulation to circumstances requires their acknowledgment. The import of these events for providers was that failings at TEQSA's end prolonged the time needed for approvals or adversely and unfairly reflected on the reputation of a provider. Providers perceived these events as TEQSA's failings and not their own.

Overall, the sector was positive on TEQSA's transparency, openness, consultation and communication efforts. The purpose of the exercise of seeking feedback is to identify areas for improvement. The following four areas were identified: (1) Providers saw self-accreditation as a slippery concept in terms of the criteria for achievement; (2) Self-accredited providers expressed concern about TEQSA over-reaching its remit, a topic that came up more broadly and more specifically in the context of the proposed integrity unit; (3) Clarity around the use of guidance notes by TEQSA and providers; and (4) The breadth of experience and spirit of innovative inquiry present in external experts.

1.5.1 Self-accreditation pathway

Providers were confused and felt blocked on pathways to self-accreditation. They felt the criteria for success were elusive and stacked against them. Providers recalled the CEO being supportive of all providers having the ambition to achieve self-accreditation. But their observations and the stories they heard of what happens in practice deterred them. The costs of failure were seen as too high and too likely, even when the provider was encouraged and worked closely with TEQSA. The perceived slippery nature of the criteria meant some providers were aggrieved when they believed their institution to be just as worthy, if not more so, than already self-accredited providers.

1.5.2 The entitlement of self-accreditation

Historically, the established universities have been suspicious of TEQSA's propensity for over-reach. The concern about regulatory over-reach was a major theme in discussions with the peak bodies of the more established universities. The legislation provides the principles for TEQSA intervention. TEQSA only intervenes in an institution on the basis of necessity, proportionality and risk.

In the discussion groups, views on appropriateness of intervention starkly differentiated established universities from new universities and independent providers. In other words, independent providers expressed pride in developing a mature relationship with TEQSA going forward while universities talked more about having a distant, conditional relationship with TEQSA defined by the three legislated principles mentioned above.

It would be a misrepresentation to say that the more established universities were dismissive of TEQSA – the question of whether TEQSA mattered was asked directly. TEQSA was described as “playing an important role in the sector” and as “an important body, it has an important job as a regulator.” In short, no-one advocated abolishing TEQSA: “When TEQSA embarks on expansionary activities for good reason, no argument with that. If serious problems emerge, yes, pursue that by all means. But if there is no problem, don't interfere.” Another commented: “If policy is not in place, go in boots and all, that is necessary if something is wrong,” but universities as self-accrediting bodies “have policies and processes in place to foster high quality programs.”

There was a clear division in the sector with one group growing more comfortable with TEQSA and the other remaining guarded: “We have a close watching brief over TEQSA and our members' engagement” and as another peak put it: “It's like an arranged marriage where they [universities and TEQSA] are learning to live with each other.”

It is worth remembering the core identities in contest here. The integrity of universities is in no small way judged by their independence in the long durée of history. That is the role they have played in societies through wars, revolutions, political upheaval and pandemics.

As the higher education sector tries to manage and adapt to disruption of a kind that it has not experienced for decades, a conversation over entitlements and responsibilities that lead to a marriage of maturity is recommended. This recommendation arises out of this kind of comment, heard on more than one occasion: “The provider wants to say, what is the real issue here? Then we can address it – not be told what to do.”

This pathway signals a step to marital harmony and is consistent with TEQSA's relational and responsive regulatory model. The word maturity was used a lot across discussion groups – the maturity of the regulator, the need for TEQSA to mature more in quality assurance (in the eyes of established universities) and the aspiration of others to mature as regulated providers. A participant from a newly minted university described their view of TEQSA this way: “We are like a young teenager I guess. TEQSA was all over us. That is to be expected. Yes, we had some niggles around TEQSA responsiveness”, but there was acceptance. In contrast, established universities were moving in a different direction. They did not want to be told what to do: “You don't have to look under the hood at every academic's desk”. They objected to “TEQSA coming in over the top. The big Unis have robust processes, they feel satisfied with how they operate, they have had long running processes.” And then “to what extent should TEQSA be advising universities? Do they have

the competence and expertise?" Universities expressed confidence that they did have effective quality assurance mechanisms. At the same time, one added: "We should not be afraid of self-reflection".

As the entire sector, universities and independent providers, undergoes the changes necessary to deal with new funding and teaching environments and the coronavirus pandemic, the question of what self-accreditation means in practice requires boundary definition. The feedback sessions revealed a number of areas where such discussions might start: (a) The issue of intervention around financial sustainability, (b) intervention around the threshold standard of student well-being, specifically sexual harassment, (c) reporting material change (an issue I was told has been an area of confusion, misunderstanding and disagreement for years), and (d) the issue of the proposed integrity unit. On the latter, participants expressed concern over the ambiguity and breadth of scope in the government's media release, but also acknowledged TEQSA's communications to allay concerns about the scope of the work of the unit.

On the general issue of when TEQSA should intervene in self-accredited organizations, the observation was made that TEQSA is currently functioning as a default tertiary education commission, collecting odd jobs from government that don't belong elsewhere. Associated with these extra tasks was the view of some self-accredited institutions that TEQSA did not have the expertise required to perform them.

Others from self-accredited institutions argued for separating basic threshold standard assessment from quality assurance. It is concerning if they were saying that TEQSA should test minimum standards rather than assure continuous improvement in the quality of education. Such a view is at odds with best regulatory practice research undertaken within these very institutions. This opinion should be viewed perhaps less through the lens of knowledge of regulation and more through the lens of reactive fear of intrusion.

Finally, it may be useful for the sector to address their uneasiness about what is appropriate and what is not through the concept of "watchfulness" used by a peak body in relation to TEQSA activity. Watchfulness, of course, is also the primary responsibility of a regulator. When things go wrong, it is not acceptable to the public or industry for a regulator to say it was not looking. For a regulator, watchfulness should not differ for different segments of the sector. Watchfulness means being open to signals, knowing the pressures operating in the whole sector, having a broad understanding of policy and its impact, and knowing the regulatory environment, even at the street level. Different from watchfulness is regulatory action. Action can take the form of a guidance note signalling there are problems here, as has occurred around sexual harassment. Action can also involve an audit if regulatory signals are not actioned within an institution. Or the institution can be thoroughly investigated as happens for registration or when significant endemic harm has occurred. Action is likely to always be controversial and processes need to be in place to argue the case for and against. In contrast, regulatory watchfulness and the process of escalation should be something on which the sector can reach agreement.

1.5.3 The use of guidance notes

Guidance notes and other materials and resources were largely appreciated by the sector, particularly when they addressed systemic issues (e.g. sexual harassment issues) and when they kept the sector abreast of new developments (e.g. online and remote

learning and the academic integrity toolkit). But when does a guidance note turn into a rule? Participants described occasions when guidance notes were interpreted as standards: "In audit, a huge focus on micro level details. Guidance was being mistaken for standards by TEQSA." And when a guidance note became the basis for TEQSA saying "you have to do this". Some talked of misunderstanding, some spoke of TEQSA being "picky – a mild irritation when you are trying hard to do a good job." The tension over guidance notes seemed to be a problem that could just not be sorted: "TEQSA will say yes, we see the problem. They clarify guidance notes and their use. Then use guidance notes in the context of re-registration."

The use of guidance notes is a perennial problem for regulators, with those being regulated asking should they be interpreted as prescriptive, or rather as an example, that is, a guide to help providers develop something more suited to their institution. Guidance notes should be least likely to present complications within a relational and responsive regulatory model which is essentially how TEQSA operates. Yet the discussions proved that for some providers, guidance notes were being experienced as prescriptions.

Regulators can go to extraordinary lengths to communicate the meaning of guidance, and still problems arise. TEQSA is well versed in explaining what guidance means on their website, in fora, and across different channels. The discussion with peak bodies was particularly illuminating in providing insight into how the problem may arise in situ. The insight gained from the discussion across groups was on the logistics of guidance note use within TEQSA and within institutions. The problem can lie on either side or on both. The key to the explanation of misunderstanding and misinterpretation was experience. A guidance note means that there are a number of ways a standard can be met, with the guidance note representing one possibility. The guidance note is not prescriptive, but it can take on a prescriptive hue in the hands of inexperienced staff or managers. If a person has not had the experience or does not have the knowledge or even perhaps the courage that is necessary to do things in other ways, the guidance note becomes a bible. It provides security for getting things right when uncertainty of other acceptable options abounds.

1.5.4 The bias of external experts

External experts who were used for accrediting courses received mixed reviews. On the positive side: "We are happy with the system of experts. For the most part it is working well. You can get two experts with polarised views, needs to be more transparent how TEQSA deals with this. How is the adjudication made for accreditation? Does TEQSA use a third expert to adjudicate?" Participants seemed unclear on TEQSA's decision making process. One participant recalled a time when contested cases were resolved through a "level-headed and experienced panel chair who would navigate difficult areas through to finalisation."

On the negative side were calls for change to the system. Among non-self-accrediting providers, the external experts were criticised for being unable to see the potential for teaching innovation in method and substance – of not understanding, of "not being open to new knowledge." At best the process for accreditation for innovative courses was slow: "Sometimes slowness to accredit. We can lose the competitive advantage. Try something new. Takes ages. By the time it is accredited a larger institution gets accredited to do the same thing." The "approval ready stamp" was suggested as one way of reducing unnecessary delays.

Some providers felt “stuck” when they were rejected after proposing courses that were different, cutting across traditional disciplines or representing a non-traditional approach to a field of education. One provider saw a conflict of interest in the external experts chosen in his field. TAFEs felt at a disadvantage compared to universities: “We are frustrated that unis are grabbing the micro-credentials and getting a jump on others because they are self-accredited and take the more innovative ideas that they see others trying to get up in the sector. They have 7 years to put innovation into practice. TAFES do not. We need TEQSA to work with TAFEs to turn their innovation and capacity into courses that they can competitively deliver.”

Of particular concern was absence of opportunity to contest feedback without incurring substantial cost. While particular institutions felt aggrieved on grounds of recognition of capacity and competitive advantage, the more general point for discussion is one of diversity and whether or not diversity and adaptation is being hampered by “old school ways”. According to one participant, “the problem is a calcified perspective on what is knowledge, a hardened fixed view of knowledge. There is unwillingness to broaden perspective and diversity.”

Maybe the way through is accrediting quickly and evaluating intensively after two years of teaching. Students can be advised that this is the accreditation the course has. Regardless of how the issue of innovation is handled, the fundamental problem is the absence of a forum for external experts to justify their decisions and the absence of opportunity to have the debate about what excellence and quality means going forward.

Summary and issues for future discussion with the sector

Communication, consultation and openness are essential elements of a relational and responsive regulatory approach. Building communities of best practice and managing risk through good communication are the outcomes that follow from TEQSA’s approach. But within this regulatory tradition, conversations never end, they are on-going. Conversations between TEQSA and the sector also are necessary around issues where there are unavoidable grey areas and where there are historical sensitivities around status. These sensitivities are known to all. Current disruptions in the higher education sector suggest it may be time for them to be addressed. If institutions are ready for a mature relationship between the regulator and those regulated, and the independent providers say they are, it may be time to clear the air on pathways to self-accreditation and find ways to work through the weaknesses that some providers perceived in external experts, namely their lack of openness to non-traditional approaches to disciplinary and cross-disciplinary subjects.






On the issue of guidance notes, the discussion groups pointed to a possible logistics problem at the level of practice – what a guidance note means in theory may lose its meaning when inexperienced staff under pressure have to translate standards into practice or assess how a standard is being practised. This is an issue for further discussion because peak bodies were being consulted, not individual providers. Individual providers would be more familiar with and are in a better position to reflect on what is happening at the TEQSA-provider interface.


The wariness of the university sector peak bodies around unnecessary interference was striking. All were on message, keen to point out the principles of necessity, proportionality and risk in the legislation. There can be little argument that the universities are managing


an extraordinarily difficult situation at the time of the feedback meetings and this alone could explain defensiveness against unnecessary TEQSA intrusion. At the same time, claims of historical excellence and quality control processes that have served universities well in the past may not be serving universities well in the future. Universities were once professional bureaucracies where professional labour markets, while not always perfect, ensured that the best professionals got the jobs and promotions. As more of the teaching is done by casual professionals, this internal regulatory mechanism for delivering quality is weakened considerably.


Discussions with private providers made reference to their development as providers and as TEQSA playing a role in this development. TEQSA's role in the development of universities in times of upheaval and change will be visible at re-registration. But establishing a working relationship before that time in which motives, risks and actions are clarified may serve both well into the future.

1.6 Efficiency, regulatory capacity and feedback

-  “TEQSA does not act like a top down regulator, with intent to punish people.”
-  “TEQSA is not soft on providers not doing the right thing - Action when required is swift and firm, not too soft. But better results are achieved through collaboration than adversarialism.”
-  “Not good enough to adopt the approach that if you hear nothing therefore it is ok. Sometimes it is not. But hearing ‘yes, that is what we want’ or ‘that is good evidence’ is part of the developmental journey and continuous improvement in the working relationship. The exchange must be robust both ways.”
-  “TEQSA is quite clear that it takes context into account. This is good. Antony and Nick understand the sector is not uniform. Differences exist in program delivery, geography, student cohorts, there is diversity.”
-  “Appreciate TEQSA does not adopt a one size fits all regulatory model. Appreciate context and importance of stakeholder engagement to understand different kinds of institutions in higher ed. Public university is different from a business focused provider.”

- 
 “One problem is that the data for risk assessment is not up to date. Data are not timely for risk assessment.”

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 There are different clusters – international, business, creative, theology – they all have different student profiles. “Normal” attrition is a waste of time. Need to use adjusted attrition. There are better ways, more nuanced ways of looking at risk. For example, by cluster. What will it be in 2–3 years’ time? How does risk change – timeline that shows risks and how they develop for a type of provider.

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 “TEQSA needs to explain why information is required, how is it being used, to allay fear. Struggling providers should be “honest and be heard”. Sometimes providers think it does not matter if they are heard. Financial ratios cause angst in this way.”

TEQSA’s relational and responsive regulatory model is valued by the sector. Fundamental to such a regulatory approach is having a deep knowledge of the institutions being regulated – their histories, strengths and weaknesses, and adaptive capacities. Tailoring regulatory activity to the institution is important to TEQSA’s higher education institutions from small private enterprises to large public universities. That said, participants in the discussion groups affirmed the high bar that TEQSA set for registration and its insistence on quality. According to one provider, “TEQSA expects us to defend our very existence. They are not afraid to ask difficult questions.” Another affirmed that “TEQSA has to have the authority to press for quality.” The regulatory role was respected: “Of course, TEQSA can’t get too close – it will not be an effective regulator.”

Complaints about regulatory practice centred largely on deviations from the relational and responsive model as described above. Some of these deviations have already been discussed. In this section the focus is on departures that undermine efficiency.

Consistent with TEQSA’s regulatory approach is the notion of a developmental journey with the regulator and the maturing of their regulatory relationship. As part of that developmental and maturing journey, providers expected feedback on their reports to TEQSA. If they had done a good job, they wanted to know that as part of their developmental journey. The notion that “if you hear nothing, all is well” was not regarded as consistent with the idea of a mature regulatory relationship. This issue that providers spontaneously raised is supported by regulatory research which shows that praise and positive feedback is the most cost-effective lever that a regulator has at its disposal for winning industry compliance.

Risk was a second issue that for some seemed at odds with TEQSA’s relational and responsive regulatory approach. It was on the minds of providers who had participated in risk assessment consultations in 2019. Views on risk varied. One provider described the framework as “solid, proves itself to be operating effectively,” another described it as “laudable”. While frustrated by algorithmic anomalies in the risk matrix and the fact that data were old and not always correct in the eyes of providers, some providers appreciated the extra steps TEQSA went to in assessing risk: “Fortunately TEQSA does not act adversely as soon as you have a red flag because risk assessment is actuarially

determined. Organizations can have unusual programs that explain it.” Graduate programs and courses that attract part-time students with jobs and families and other responsibilities are bound to have different attrition and completion rates than courses that attract school leavers. But other providers felt this was not always taken into account.

Of particular concern was responding in the same way to the risk rating each year and having no idea of how to change it. One provider described the risk matrix as “a blunt instrument – we need more nuance.” Another explained that the “narrow confines of the risk framework makes it an extraordinary bureaucratic process.” Field notes explain the frustration as follows:

“For instance, each year we are told this is a risk and it is not. Each year we go through the whole process of explaining why it looks that way. No changes from one year to the next. TEQSA engages if the provider requests it but it is not the best going over the same ground. So many of their formulae are designed with the school leaver undergraduate in mind. It is not that the regulatory load is more onerous. It is about respect for difference. Some allowance needs to be made for trying to do something different, bringing some variety. We need opportunity if you don’t fit the standard risk model.”

Providers agreed it would be useful if TEQSA had a register of institutions that kept getting the same flag of risk but where this risk had been established as not a valid risk.

In other cases, TEQSA’s risk assessment process was seen as demanding on small providers but ultimately helpful if combined with useful feedback: “Small providers are expected to give more detailed responses if they have risk flags.” One provider saw opportunity to learn from it: “As a small provider, it would be helpful to know what we have to do to prove things.” For another, “we have to learn how to do things – that is on us. We want to align our internal and external checking processes and outcomes of processes. For instance, we are learning we need more short stories than epics in our documentation. We are learning how to streamline not duplicate documentation and data collection. I think we are caught in needing to overprove.” A relational and responsive regulatory approach should be capable of increasing the gains for small providers without imposing ritualistic reporting that is burdensome. Being “a regulatory mentor” is possible for TEQSA, using good communication to ensure providers can manage their risks.

The final regulatory issue relating to efficiency is duplication. The issue was of concern to established universities. They believed TEQSA could better use its resources on the basics of ensuring minimum threshold standards were being met and not entering other spaces around quality where they had little value to add. Regulating for minimum standards is not recommended as an efficient or effective approach based on the literature and on Australia’s string of Royal Commissions and public inquiries. By the same token, over-engineering regulation by trying to exert too much control and collecting too much data is equally counterproductive. The established universities have raised an important point for further discussion around balancing steering the activities of the sector against giving the sector freedom to steer itself under observance of agreed upon principles of quality education.

A more pressing issue of efficiency arguably is the overlap in the regulatory requirements of TEQSA and ASQA. The TAFEs held a preference for “one regulator and one regulatory model, as well as nationalised qualifications and national portability.”

Dual sector providers are eager to see “regulatory convergence”, that is, streamlining between the two regulatory agencies of ASQA and TEQSA. The discussion groups provided opportunity to explore exactly where streamlining might be advanced. The dual sector providers had given much consideration to the issue as illustrated below:

“While there are some things which are specific to each sector, and which would need to be given their own focus, there is a lot in common (e.g. evidence of financial sustainability, quality assurance, legislative compliance, provision of support services, complaints and appeals processes, governance and administration). To submit this once for registration as both a VET provider and higher education provider would save a lot of time and resources.”

ASQA reported an “improved relationship” with TEQSA, even more so since COVID, with “positive energy” and collaboration at all levels. According to ASQA, in spite of TEQSA and ASQA operating in quite different regulatory environments, “good relationships mean we can make processes more compatible without legislative changes.” At the top of the list was a common repository of documentation, in particular CRICOS registration, but also financial viability, business information, and corporate issues. Fit and proper person documentation was another example given of wasteful duplication by providers.

ASQA saw opportunities to collaborate with TEQSA on on-line and distance learning, and more broadly integrity issues. ASQA reported doing shared presentations with TEQSA on distance learning. While recognising these opportunities and welcoming greater collaboration, ASQA emphasized that part of growing and maturing as agencies was recognition of each other’s differences, and how TEQSA and ASQA used different regulatory approaches to ensure effective and efficient regulation in their respective domains: “ASQA can’t do case management as TEQSA does because of the numbers. ASQA relies on data scanning and audit and can’t get into the intricacies that TEQSA can get into with case management.” Yet “we are well placed to work together.”

ASQA and dual sector providers had experience of the practical limits of regulatory convergence. Different regulatory environments and approaches as well as different data sets for risk assessment meant that the trial of joint TEQSA/ASQA inspections “just did not work well.” Providers agreed that it was far too difficult and demanding to deal with ASQA and TEQSA together. That said, a dual sector provider made the following observation: “In our eyes TEQSA and ASQA should not be different fruits, but it makes sense that TEQSA may require more of certain characteristics – this is the idea of a higher bar in certain areas.” It is in the interests of quality for regulatory convergence to proceed one step at a time.

1.7 TEQSA Conference

- “Conference was very useful, half hour sessions brilliant, dynamic, good exchange of information. Cross sectional diversity good.”
- “Last year conference tremendous. Huge event. Testament to sector’s appetite to attend. Robust program. Best I have been to and I have been to all of them. Shows accessibility of regulator. It is not just a building you send documents to. Facilitating information sharing, establish trust, valuable experience.”
- “Very beneficial, well run. Important to send students to conference as participants.”
- “It is a shame conference does not work toward conclusions and summaries of actions to follow.”
- “Benefits include fantastic quality, high engagement. It is for higher ed nerds and a lot go. More interactive sessions would be good – experiential learning opportunities. There is a good mix- covers different kinds of providers.”
- “Cost of conference high. Not everyone can go. Would like more representatives to go. Many are paying their own way. Believe conference could be run much more cheaply.”

The TEQSA conference was highly valued particularly by independent providers. Networking and learning what others were doing and TEQSA’s priorities were regarded as tangible benefits. More generally, the conference was seen as an opportunity to learn, share information, discuss issues with TEQSA, meet with case managers and strengthen what has been referred to here as relational, responsive regulation, or in the words of providers “a maturing, developmental relationship.”

Special mention was made of the 30-minute sessions and of the assemblage of presentations that covered the diversity of higher education providers. Having sessions relevant to both private and public providers was popular, as were sessions on higher education quality, best practice, and compliance. Blended learning was a topic of interest to some: What kind of hybridity in the learning space should we be aiming for? One provider was looking for “more leading on new things” at the conference.

Cost was seen as a constraint on who could attend, both geographically and in terms of seniority within organizations. The issue of reduced registration fees for certain groups was raised. Cost of conference attendance places limitations on building a community of practice across different kinds of providers and prevents an understanding of quality assurance running more deeply into the culture of higher education institutions.

A criticism was made of policy-oriented presentations on the grounds that TEQSA was an operational regulatory body. Without discounting the criticism and the fact that the conference needs to meet the needs of attendees, distinctions between operational and policy engagement, minimum standards and quality assurance are from a regulatory perspective, distinctions that can constrain the effectiveness of a regulator.

1.8 National Register and data collections

“Good to get symmetry around data collection – improve real time data. Responsiveness depends on streamlining data in real time. The ATO now gets real time data from employers. Need more timely data in education. Real time data would help quality assurance and make it possible to give more meaningful sector advice – like this is happening now, this is a potential problem.”

“On National Register, still have different information in different places. It would be good to have a single cohesive register and make register useful for students so they can engage in informed decision making.”

“National Register – timely updates needed, if not static, then useful.”

“National Register – add commentary that addresses circumstance – narrative.”

The National Register was used by participants. It was not a salient issue for discussion, but when prompted some concerns were voiced. Providers who had “conditions” noted on the Register had concerns. Some noted that conditions noted on the Register were not up to date, although a check in the discussion group revealed changes had been made in the interim. In another case, the condition was regarded as harming reputation and prospects of attracting support. The suggestion of a narrative explaining the condition may go some way to easing concerns.

The discussion of the National Register quickly led to ideas being shared on various data collections, their accuracy, timeliness, ease of access and overall coherence. The need for a combined, easy to use, real-time data base for education providers was considered a worthy ambition if students were to make fully informed choices.

Another discussion took place around QILT, an assessment of teaching quality that delighted some and worried others. One provider complained: “I don’t understand why we get marked down on QILT and all our own surveys say we are wonderful.” Another said: “maybe your students are telling you what you want to hear!” Such jovial exchanges are the essence of informal regulation within communities of practice where providers impose a degree of self-reflection on each other, in the kindest of ways.

1.9 From risk to survival – with quality education intact

“Risk is the admission standards and maintaining quality. It is a numbers game now. Each provider is under pressure in the system. Maintain admission standards, but each provider has to have processes and outcomes that value add in this system.”

“A question we ask is what will the audit look like in 2-3 years’ time? What will be the requirements? What will be the expectations? Our roll out would be imperfect. We can learn from our mistakes – will that be appreciated? Will there be appreciation of continuous improvement?”

“Robustness of assessment of work is a problem we face.”

“Needs a more refined way of hearing student input.”

“We need to bring all parties together and discuss this, we need to be with universities – we learn from them. We will not entirely return to the old way. We need to find new common ground.”

“TEQSA needs to create space for this discussion, open up for many contributions that promote flexibility. There is danger of losing credibility. What is our vision around our changing role? Need to find ways to move, consolidate what we have learnt. Use this time to benefit and position ourselves for the fourth revolution.”

“TEQSA has a leadership role. Host an educational summit, New Zealand and the Australian states.”

Risk takes on different meanings in different contexts. In times of stability risks are future projections and have an analytic edge. They are debated in terms of their likelihood. Depending on the consensus, preparations are made or not, effectively or not.

In the midst of the COVID pandemic, peak body and provider thinking about risk is more immediate and visceral across the sector. The discussion described in this section was not based on a specific question: What are the risks facing the sector in the future? The future had a component of immediacy about it and was salient in all discussion groups. Dangers were brought up without prompting. Thematically, risk discussions were grouped as follows: (1) a future of hybridity; (2) TEQSA leadership; (3) Learning – from student to provider; and (4) streamlined and efficient data collection for education.

1.9.1 A future of hybridity

There was refreshing openness in some discussion groups about the challenges in moving rapidly to on-line and remote learning. Others made the observation that they had been doing education in this way for some time and had confidence in their capacity to deliver quality education through this medium. Others were searching for the best way. The collaboration between TEQSA and RMIT was a source of assistance which was greatly appreciated.

There was widespread interest in more opportunities to collaborate and learn from each other. This extended to conference presentations, forming communities of practice and inclusiveness such that private and public, small and large institutions shared together. Participants discussed having a hub of expertise that enabled benchmarking: “Benchmarking is important – RMIT resources provided by TEQSA were excellent. Bring in other bodies with expertise so we can all learn.”

This is not to suggest competition was dead, far from it. But there was awareness of the risks if the sector lost credibility and public trust. Across the sector was the question of what is the best form of hybridization. Their mindset of working together was expressed by one provider in this way: We need “a proof of concept on blended modes of learning”.

Hybridization not only referred to the form of delivery but also the substance. The two are connected. Changing the delivery of music, drama, and human resource management on-line changes traditions of teaching in substance as well as method, as observed by one participant. According to another, configuring courses that meet the demands of the fourth industrial revolution should not be put to one side because of the current disruption.

It was interesting in the discussion groups that private providers were almost energized by the opportunities, while simultaneously intensely aware of threats to their financial viability. Private providers and TAFES spoke as if they were gearing up for an industry-led higher education recovery. They wanted the universities to be part of that: “We need to find the new common ground.” The topic also arose in discussions of the over-reach of professional associations into the education agenda: We need an independent space to work out these alignments. With universities too. We would welcome more engagement with universities.”

Consultancy firms can be relied upon to make contributions to designing the future of higher education. If higher education providers are willing to cooperate, and there is evidence from the current discussions to support this proposition, it is worth asking the question of whether they are best placed to shape their own destiny. There are many in the sector looking to TEQSA to show this kind of leadership.

1.9.2 TEQSA leadership

The approval of the sector for TEQSA's role in systematically working through details for resolving tensions between higher education providers and professional registration boards and associations was unqualified. In short, it was a practical intervention that addressed a shared problem, one that was costly and difficult for individual providers to resolve, and that benefited the sector more broadly.

A position that should carry some weight on the basis of discussions with peak bodies is that the regulator receives unanimous support from peak bodies when it is doing something that individual providers can't do easily. Setting the higher education sector up to flourish in the fourth revolution is something that individual providers are not likely to be able to do alone.

The higher education sector has been criticised for not diversifying and not meeting employer needs. The discussion groups suggested that the higher education sector was ready to be nimble and enthusiastic about "learning for labour and life, technical and interpersonal, for developing 21st century skills". Does the advantage gained by a particular institution competitively promoting the benefits it offers to individuals, business, society and the economy outweigh the benefit of investing collectively in the sector as a contributor to the future well-being of society? Greater cooperation and collaboration at this time in the sector is worthy of consideration. The challenge of broadcasting and coordinating developments in the sector could potentially be taken up by TEQSA. Private providers would likely support this suggestion. Established universities would likely have greater reservations on the basis of this consultation process. The issue is one that is left to the sector to resolve.

1.9.3 Learning – from student to provider to student

Risks of financial viability, student numbers, teacher retention and assessment integrity loomed large in discussions with peak bodies.

All of these risks came together when providers asked: "What is TEQSA's integrity unit going to do?" The responses were extraordinarily diverse as shown below. Universities feared over-reach, private providers expressed mixed responses. Some were keen to have TEQSA on board:

"With the integrity unit and contract teaching, TEQSA will be supportive and work with providers – the intent will be an intelligence gathering capability to help identify problems when a provider is on board."

Universities expressed resistance. They were concerned about TEQSA's role in "incentivising enrolments", "types of courses," "cybersecurity," "foreign interference" and "research integrity." Again, the common theme was legislated boundaries and opposition to TEQSA dictating terms.

A challenge for TEQSA's integrity unit and how it might help rather than hinder was posed as a question by one participant: "The integrity push by TEQSA will be interesting – how will they engage and share good practice? How will they do that inclusively – with a boost for all stakeholders?"

In general, providers seemed to be thinking about TEQSA as they considered how they would manage future risks of financial viability, student numbers, teacher retention and assessment integrity.

Loosening regulatory demands into the future was advocated by one provider: "Give an Incentive to providers – two registration periods depending on being a low risk or other. If low risk on financials give them self-accrediting authority. Stop having to go to TEQSA for everything under the sun. Make it all as simple as possible."

Another provider supported the view that financial viability was the big risk for TEQSA's consideration: "Going forward financial viability is going to be the big thing. Best indicator of risk. We need clarification for this year going forward." TEQSA's recent advice on when to notify TEQSA of material change in relation to cash flow and liquidity ratios raised levels of anxiety: "What actions does TEQSA intend to take should they fall below the ratios?"

Some providers were deeply concerned about disruption in the pipeline of off-shore and overseas students, and the implications for their business' survival. One peak body spoke of putting businesses into hibernation and asking TEQSA to hold their provider registration, given that the businesses would not have funds to re-establish themselves.

TEQSA's role in the survival of these businesses was not unimportant given the following datum shared in the discussion groups: "For English language providers, 30-50% were on the verge of closure in April-May." Jobkeeper was providing support to the independent sector, but not to all.

Given financial pressures and competition for students, one provider identified admission standards as a major risk going forward: "We need to maintain admission standards, but each provider has to have processes and outcomes that value add in this system. We don't rely just on ATAR – we go lower, but we use supplementary material to test for uni suitability."

Providers were active in thinking about and acting to protect themselves from various risks in the new environment.

Staffing came up in a number of discussions. One provider raised the issue of needing different kinds of staff with on-line learning: "If all material can be obtained on-line, we need now learning facilitators, mentors for teaching programs and courses."

Of concern in the sector was holding on to talent and expertise in the higher education labour market. One peak, whose members were affected by the lack of new overseas students, feared "that with no employment, there will be a brain drain out of the industry as teachers leave, and will they come back?" One university peak would argue correctly this was a policy issue, and not TEQSA's concern. Maybe, but it demonstrates the intersection of regulation and policy and the need for them to be considered jointly.

For education, the productive unit is the teacher-student relationship and the researcher-researcher relationship. One university peak had given considerable thought to the problem: "The student is the end user and somehow they need to be heard. We need an office for the student advocate or some such thing. The student perspective is not represented in the current legislation." An associated issue is workplace input into learning quality. It is of note that what is referred to above as the productive unit is in the words of one provider: "too distant from where providers are. Student experience is important but they are too far removed from where TEQSA is and should be focused."

One way of thinking about this situation is that regulation is meant to curb predatory commercial behaviour in the market. In practice, regulators do not have the resources to successfully do this. TEQSA has responded by holding high standards of entry into the market. In its quest for quality assurance, TEQSA has provided support to providers with the expectation that knowledge and expertise, and more generally capacity, will be built among professionals who operate within the productive unit. If that productive unit is harmed by current disruptions through loss of talented staff or outsourcing of work, TEQSA's regulatory model of quality assurance may unravel. The foundation for quality education in the form of talented and skilled teachers and researchers will have disappeared.

While providers did not go to this length in articulating concerns about staffing losses (a problem for universities as well as independent providers), they were not reticent in voicing their concerns about whether they would be delivering quality education in the future and how they would prove it to themselves and TEQSA.

Discussions of learning remotely and on-line drew some surprising responses: "If you want to check teaching quality TEQSA could enrol and sit in on a class!"

Providers were anxious about a delivery mode for assessment that was secure and reliable.

The risk that education agents posed to the sector was also spoken of with some passion:

"Don't have any time for agents – they say "we can get this price for this course," trying to force you to give a course for a lower price. Undercut institutions. Have been bombarded by agents playing one off against another. They are a cash cow. They game the system."

1.9.4 Streamlined and efficient data collection for higher education

This has been a perennial plea from the tertiary sector from those involved in assessing risk to those submitting tomes of files and documents to prove themselves worthy of being a provider. Traditionally these calls are associated with enhancing informed decision making among students. The evidence gives little reason to be confident that choices are made on the basis of information that governments provide. But as the sector remodels itself using new teaching modalities and in some cases new subject matter, one provider's idea of "proof of concept" for new modes of learning for the sector is an important one. Mistakes will be made, but with real time data that reflect on the educational quality of innovations, the sector has every reason to move forward with confidence.

Section 2: Student feedback

The student members of the Student Experts Advisory Group (SEAG) who attended the session were “newly minted” and were just settling into their roles. They were eager to learn more about the role of TEQSA and pointed out that most students were unaware of TEQSA. The students were enormously appreciative that TEQSA had provided a space to hear their views. This section of the report did not canvas a wide variety of voices. The bias was toward university post-graduate students. The feedback is best used as topics for further discussion with the Advisory Group. The students were quick to point out that they did not, and could not, represent all the student groups deserving a voice. TEQSA is working toward broadening representation on SEAG.

The students’ voice needs to be heard

We discussed the importance of a regulator understanding the environment in which it operates and being able to see problems from all perspectives. Within this context, the student perspective was an important one. The question that students raised was how could TEQSA assist student groups (e.g. Would TEQSA advocate for them?). This is an item that could be discussed in future SEAG meetings.

A specific example arose in relation to sexual harassment. The guidance notes were developed with input from the students which they appreciated. They reported seeing little change in the student experience as yet, but were accepting of the difficulty of turning guidance notes into best practice. In their view, it was like developing a new medical treatment. It may be tested and available, but that does not mean it will be used.

While curious as to how TEQSA could help them, it was clear that their lobbying efforts were not restricted to TEQSA. Intuitively they understood the regulatory principle that if things are to change, many different interventions needed to be in the mix to make it happen. Their access to Minister Karen Andrews on the issue of gender inequality in STEM was a case in point. More generally, the student bodies were well networked in the higher education community (e.g. Universities Australia, G08, IRU) and supportive of each other. TEQSA was the agency that was more of a mystery to them.

Strengthening this link between the formal regulator and students (as end users) is promising for purposes of sharing information on quality and standards and working toward shared goals.

Concerns about the plight of international students were shared by student groups. Times were “tough and uncertain” for international students. They were finding it “difficult to plan into the future.” They were concerned that they were not getting value for money given the high fees they were paying, they were keen to discuss reduced fees, and they were concerned about the quality of their education with greater reliance on on-line learning. They “did not come to Australia for expensive on-line study.” They were looking for more from their educational experience. More generally concerns were expressed over assessment protocols on-line which involved tracking eye and body movements to catch cheating. Assessment surveillance was regarded as highly problematic with inbuilt unfairness toward groups whose patterns of behaviour depart from the “algorithmic normal”.

The students at the meeting were keen to acknowledge that they could not speak for all students: They were not representatives of the student body. They went to great lengths to explain how differentiated the student body was and how communications generally from universities and government did not recognise the different ways in which policy affected the groups: for example, they differentiated international and domestic students, on-shore and off-shore students, undergraduates and postgraduates, and Aboriginal and Torres Strait Islander students. To this list one might add regional and urban students, full-time and part-time students, mature age students and school leavers. The student members well understood how one policy announcement had different implications for different groups and they identified a need for someone to translate the message for the different groups. This point was not dissimilar to providers telling the story of ringing a government department for guidance and having the law quoted back at them.

▲ The task of interpretation of policy changes for different student cohorts, particularly during times of upheaval and stress, is lacking in the higher education system and is needed to give students confidence for future planning.

Students were adamant that the diversity in student cohorts needed recognition and that they were likely to have different views. The possibility of a future TEQSA survey was welcomed as a way of better understanding the full range of student experiences. Students also believed that their peers were often “terrified to share stories.” They were very familiar with the numerous surveys being conducted – same questions asked by different bodies. They observed differences in responses depending on who was asking the question. They favoured an independent body carrying out the student surveys.

In their experience, survey results conducted within higher education institutions did not reflect what students were saying to each other. Student associations apparently have done their own surveys. They were keen to share these findings with TEQSA.

▲ Comparing TEQSA survey results and the results of the surveys conducted by students (as well as those of institutions and peak bodies) would be useful for developing a “triangulated” perspective on the student experience.

As newcomers to TEQSA's consultation, the students were of the view that structuring meetings would be helpful. Since the meeting I found that TEQSA had used agendas in the past and found that a formal meeting with an overly structured agenda seemed to discourage free flowing discussion and the organic emergence of issues of concern. The new student members felt that important issues, particularly topical issues like the plight of international students, may need a dedicated time slot. Students also liked the idea of asking their peers for possible agenda items and then focusing on the items that came up most often. Raising one student's concern because that person was insistent while overlooking other issues that may affect many more students did not sit well with the students at the meeting.

▲ Student members and TEQSA staff need to consider ways in which they might structure conversations to be of mutual benefit and ensure that the concerns of particular cohorts of students are not systematically neglected. In the course of these discussions, students were interested in TEQSA providing reports of the big issues in the sector and how students were affected.

Section 3: Conclusion

TEQSA continues to perform an important role in the sector, carrying out its dual functions of regulating against threshold standards and protecting the reputation of the sector through promoting continuous improvement. The past 12 months have shown TEQSA flexible, responsive and capable of forming partnerships with experts and stakeholders to support the sector through crises such as COVID-19. Its role as an information hub appears to be growing for higher education providers. Students show signs of wanting to be included as beneficiaries of information about changes in the sector and how it is operating.

Providers' criticisms focused on slowness in streamlining and integrating the collection of data around basic business information (e.g. fit and proper person documentation that serves ASQA and TEQSA requirements, removing unnecessary duplication in CRICOS registration) and time frames for decision making. Case managers played a crucial role in smoothing out some of the bureaucratic sticking points, but case managers' skill and knowledge of the history of their cases was critical to effectiveness.

The question of what TEQSA does was raised in different ways by different stakeholders. Students expressed interest in knowing more about TEQSA and how it protected their interests as consumers of higher education. They were particularly interested to know whether TEQSA could help them highlight the plight of different cohorts of students, instead of treating all students as a homogenous group.

ASQA openly acknowledged they could not use the relational responsive regulatory model of TEQSA. Their large numbers prevented them from case managing providers. Their approach, of necessity, was reliant on analysing data provided by government and providers with the hope that it would be of sufficiently high quality to reflect risk and detect likely sites of unsatisfactory standards.

Even so, ASQA was keen to benefit from TEQSA's continuous improvement initiatives (e.g. teaching on-line guidance developed in partnership with RMIT). They also reported being committed to working with TEQSA to develop a data base of provider details that could be used by both TEQSA and ASQA and avoid documentation duplication for providers.

Finally, an issue for further discussion across the sector involves the interface between coach and detective. How do the following sit alongside each other comfortably: the generally highly valued role of leadership on continuous improvement in the sector, the role of being a trouble-shooter for systemic problems identified by government (e.g. integrity, sexual harassment) and the legislated principles of necessity, proportionality and risk which guide intervention when standards are suspected of not being met? Inclusive and thoughtful discussions on the boundaries of TEQSA's activities are necessary in an era where the landscape of higher education is changing rapidly and there are clear dangers for providers who are left behind.

TEQSA