



IHEA SUBMISSION

LEGAL AND CONSTITUTIONAL AFFAIRS REFERENCES COMMITTEE

**TERMS OF REFERENCE FOR A COVID–19 ROYAL COMMISSION THAT WOULD
ALLOW ALL AFFECTED STAKEHOLDERS TO BE HEARD**

14 December 2023

IHEA Submission

Legal and Constitutional Affairs References Committee on Terms of Reference for a COVID–19 Royal Commission that would Allow all Affected Stakeholders to be Heard

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On 19 October 2023, the Senate referred an inquiry into the appropriate terms of reference for a COVID–19 Royal Commission that would allow all affected stakeholders to be heard to the Legal and Constitutional Affairs References Committee for inquiry and report by 31 March 2024. Independent Higher Education Australia (IHEA) thanks the Senate and welcomes this opportunity.

The Terms of Reference for a COVID–19 Royal Commission should be such that they cover the issues outlined in this submission.

Introduction

The COVID–19 pandemic was an unprecedented global event that brought life as we knew it to a standstill and tested our level of preparedness and resilience to deal with such a fast–evolving crisis.

The pandemic created severe problems for higher education providers and students alike and raised several issues in terms of the recovery of international education and the structure of higher education funding. However, in some respects, the pandemic also accelerated many trends that were already in progress for higher education providers, including online and blended delivery, and the diversification of international student delivery to include hybrid, online, offshore, and third–party arrangements.

Independent Higher Education Australia (IHEA) welcomes the opportunity to reflect on the pandemic and to provide feedback on the actions that averted greater crises as well as what could be considered as part of a preparing for, and responding to, any future pandemic.

Response of IHEA and Independent Providers

Approximately three in four higher education providers that IHEA represent are based in New South Wales (~53 per cent) and Victoria (~23 per cent). Social distancing and then hard lockdowns were a necessary response to protect the health and safety of Australians and to prevent the spread of COVID–19. However, the impact and disruption caused by lockdowns – particularly in Victoria – significantly impacted providers and students.

In response, IHEA and member providers collaborated to share knowledge, contribute solutions to emerging issues and remained focused on the wellbeing of students. IHEA pivoted to working from home arrangements to ensure continuity of service and support. Weekly Zoom meetings were held with Chief Executive Officers of higher education providers to ensure they had up to date information about arrangements from Commonwealth and State and Territory governments. This included speakers and advice about education, health, policing, immigration, work safety, security, privacy, industrial relations and aviation. This was supplemented by IHEA seeking expert legal advice from Minter Ellison to produce a guide for members on the requirements of re–opening campus and the different regulations based on legislation in each jurisdiction.

Amongst IHEA and member providers, there was a clear focus to ensure that learning and work environments that put people's wellbeing first, addressing learning delivery requirements, and individuals' needs. Programs to provide financial assistance to students in need, counselling services to students and staff and avenues for communication were all put in place.

Governments were lobbied to ensure domestic and international students were appropriately supported. For example, five IHEA member providers worked with the NSW government alongside 11 public providers for 20 months to deliver on a program to bring international students back into NSW. This took some time to achieve but in December 2021, nine dedicated flights began bringing students back to complete their studies.

Led by key independent providers, these collaborative efforts ensured that matters of welfare, safety, compliance, community, and more were addressed to the highest levels and standards. In considering the future, independent providers are still identifying and addressing the needs of students who were impacted by the

experiences of the pandemic, whether it be it addressing the transition of school leavers into higher education after a very long period of being isolated, or the trauma of international students leaving their families as well the impact on people's lives and families who were severely impacted by COVID, including the death of loved ones.

The response of IHEA and independent providers during the pandemic and beyond has changed the way they engage, the way that they see the world, the way that they support their students, staff and each other. This included arguably the greatest contribution, which was to acknowledge the trauma, the disruption and to frame every response with compassion and understanding.

Responses of Government

Increased interactions through stakeholder meetings with the Department of Education and the Tertiary Education Quality and Standards Agency were a necessary feature of managing the iterative changes in response to COVID-19. These meetings were critical for receiving updates and understanding and implementing the Government's response. However, this was not without a significant call on IHEA and their members' time and resources. The very nature of adapting a response to an unexpected event such as the pandemic meant that stakeholders effectively needed to be on call to respond at a moment's notice.

In terms of the actual responses, there were a number of elements that worked well for independent higher education providers, which we would advocate for as part of any future pandemic response. Some, such as the extension of Commonwealth Supported Places and the pause on the loan fee for FEE-HELP students are policies we think should be adopted permanently and for which we have advocated this position through the Australian Universities Accord process being run through the Department of Education. However, we think a more holistic approach to preparedness and response and communication about updates be coordinated and centralised. IHEA is also of the view that more could be done to support international students, who are critical to the Australian education system and the economy.

JobKeeper

Under JobKeeper, businesses were able to receive a payment of \$1,500 per fortnight per eligible employee to support the retention of people they employed if their business had an aggregated turnover of less than \$1 billion (for income tax purposes) and estimated that their GST turnover had fallen or was likely to fall by 30 per cent or more. While all IHEA members fell within this turnover threshold, some did access the JobKeeper subsidy based on the impact on their business. Those who did access the subsidy were able to keep staff employed and subsequently continue to educate students. Further, IHEA supported the extension of JobKeeper to Table B universities, who operate without reliance on Commonwealth funding, as it ensured that IHEA's larger independent university members were also able to keep staff employed. The assistance was critical to supporting the independent sector and protect the diversity of choice and innovative educational experience that thousands of independent sector students currently benefit from. The government's crisis response was appropriate and proportionate to the impact felt by the independent higher education sector and was successful in avoiding the worst possible outcome of large-scale institution closures.

Recommendation: Measures such as JobKeeper should be activated to support independent higher education providers as part of any response to a future pandemic or crisis.

FEE-HELP Loan Fee Exemption

The Higher Education Relief Package included a short-term exemption on the then 25% FEE-HELP Loan Fee that was applied to students at independent higher education providers who access HELP support. The measure was welcomed by the sector, as it gave students an opportunity to avoid accruing additional debt while studying, simply for making the choice to do so at an independent provider. The loan fee exemption was applied from 1 April 2020 until 31 December 2022, with the loan fee subsequently reduced to 20 per cent from 1 January 2023.

Exemption of the loan tax for students at independent providers was implemented as a stimulus measure, which recognises that the loan tax is a deterrent to students enrolling with an independent provider. At a time when many are struggling with under or unemployment as well as dealing with cost-of-living issues, removing a deterrent to study will assist with upskilling and re-skilling of the economy for the recovery phase of the crisis

and remove an impediment to higher education that people may, if not for the additional cost, choose to undertake.

Recommendation: Measure such as FEE–Help loan fee exemption was an important and necessary support and should be called upon again in the future, if not instituted as a permanent measure to remove education barriers and innovation in the sector and to support the principles of competitive neutrality.

Access to Commonwealth Supported Places

The rollout of the Higher Education Relief Package during COVID–19 included the funding of 20,000 Commonwealth Supported Places (CSPs) for short courses across the higher education sector, with 1,000 places at independent providers funded through a \$7 million allocation. The program was well supported by the sector, with applications submitted for the funding of 4,500 places by independent providers. This greatly exceeded the 1,000 places being allocated.

The funding of six–month short courses created opportunities for employment for students and long–term benefit to the economy. This was a very positive and productive response to the crisis by government. The most important aspect of the short course proposal was agreement by the Commonwealth and States to include the undergraduate short course qualification in the Australian Qualifications Framework (AQF) as an ‘Undergraduate Certificate’. This fundamental change to the qualifications landscape ensured greater recognition of the short course qualification by employers and attract many more students to embark on an educational journey.

Inclusion of the Undergraduate Certificate in the AQF provided students with the opportunity to complete a nationally recognised qualification in a short period of time that can provide relevant, industry–specific skills. These courses will also assist with attrition issues for students who, for reasons of life events or course selection decisions, would otherwise withdraw from study with no qualification and having accumulated unnecessary and unproductive HELP debt. It further supports the ability of people to be lifelong learners and access necessary upskilling and reskilling to achieve their objectives and ensure they are competitive in an evolving job market.

Recommendation: IHEA recommends that expanding CSP eligibility to all registered higher education providers would increase contestability for students in national priority spaces and open student choice to select the provider they deem most able to meet their educational and career needs. Notably, the Independent Sector is already servicing students in national priority skills areas in volume, however, such students are just not eligible for CSP support given their provider choice, which seems counterintuitive, and we recommend that this be addressed. Such a measure would pre–emptively ready providers and students to navigate any future pandemic.

International Education

COVID–19 travel restrictions had an immediate impact on student visa holders, many of whom were outside the country when restrictions were introduced. Despite a regulatory response allowing students to continue studying from outside Australia, many faced barriers to taking up this option, and instead deferred or cancelled their studies. However, COVID crises management by the Australian and State and Territory governments did lead to Australia being highly regarded internationally for its handling of the crisis and preventing the spread of the virus. Arising from this, Australia will benefit through recognition by international students and their families that we are a safe destination.

International education remains a critical export for the Australian economy and in 2022 it was the fourth largest export and largest non–resources export. As such, it is critical that we maintain a welcoming place for international students and that the value of our educational experience is communicated globally. In the context of any pandemic, we need to making support services available for international students to assist them during and following any crises.

While the Australian Government’s fiscal stimulus packages were supported businesses, households and workers and the \$18 billion higher education COVID–19 support package focused on domestic issues and students, none of these packages contained provisions specific to international education and international students. In fact, visitors in Australia, including international students, were encouraged to return home given Australia was focussed on its citizens and its residents. Given the inward focussed response to the pandemic, there is a risk of

the general community not caring about the plight of international students, nor being aware of the significant contribution they make.

IHEA is of the view that a key learning from the previous pandemic – to best prepare for any subsequent crisis – is to be proactive and prepared. While a number of measures worked after the fact, they were ad hoc and on the run. In the case of international students, this meant significant work to resume the entry of students to Australia, when we believe keeping the students in Australia with better support would have been a more practical approach. It would also have ensured that these students were able to work and assist in addressing emerging skills shortages that ensued.

Recommendation: In any future pandemic, the Australian Government should extend welfare support to international students experiencing financial hardship. This support could be in the form of national emergency funding through scholarships for international students' accommodation and food as well as ensuring appropriate access to medical services. Further, it is recommended that all Australian governments support public campaigns that explain the contribution of international education to the economy and to the creation of jobs for Australian workers. This should occur in any future pandemic, but there is also an opportunity for this to occur in response to the release of the Australian Government's migration strategy.

Crisis Planning and Preparedness

Crises, such as the COVID–19 pandemic, highlight any shortfalls in planning and decisiveness, especially in the context of a plethora of changing directives. For higher education providers, some were able to transition to online learning smoothly, while others faced challenges in terms of technology, pedagogy, and student engagement.

As part of any consideration for a future pandemic or national crisis, it will be important to undertake planning in advance as well as to understand the complexities of delivery modes, maintaining and meeting specific regulatory requirements, provisions for international students, and accessibility of services. Advance planning will enable the development of a preparedness, response and recovery strategy for the higher education sector. Further, communication is at the forefront of managing the flow of accurate information to impacted parties. While the COVID–19 pandemic came as a surprise we have the opportunity to learn from the experience and put in place arrangements.

Augmenting what IHEA and their members were able to achieve to a national level of be the ambition to ensure there are strategies to support students and help them learn during the crisis, such as providing clear and frequent communication, fostering a sense of community, and promoting well-being.

Recommendation: IHEA recommends that a business continuity plan be developed by the Department of Education in consultation with higher education providers to prepare for any significant crisis or pandemic. This should include the formulation of a response and recovery strategy. Further, it is critical to ensure that consistent and timely communication flows to impacted provider and students and we would call on the Government to establish a national platform that collects and disseminates best practices, guidelines, and resources from various sources, such as government agencies and including issues such as Visa settings, health authorities, higher education associations, and research institutions. This platform could also facilitate communication and collaboration among stakeholders, such as educators, policymakers, students, and parents, to address common issues and challenges, such as online learning, curriculum change, mental wellbeing, and financial sustainability. In the event of a future pandemic or crisis, a dedicated department or taskforce should be established as the central co-ordination and communication point for the Australian Government.

Sustainability of Online Delivery

The onset of the COVID–19 pandemic has had a profound impact on all aspects of business and society. In the higher education sector, it triggered an immediate and total transition to offsite, mainly online, learning. Online was either mandated by or a consequence of various government edicts or was an operational response to the challenges of the pandemic.

Many higher education providers were forced into remote delivery in order to survive without an opportunity to plan or budget for this transition. While many providers were able to implement remote environments to meet

the immediate needs of students, significant investment is required to continue to deliver online education through high-quality platforms. With an expected changing student demand for online delivery, IHEA proposes that the government enables broader sector access to these online platforms, enabling open access for education consumers to publicly funded channels for the delivery of education services. This will be particularly important to ensuring that appropriate arrangements are in place to keep pace with the emergence of artificial intelligence and ensure that integrity is not compromised.

Recommendation: IHEA recommends for government support – including grants for providers – to support the development of necessary infrastructure and staff training to switch to online delivery. This will ensure the development of high-quality online learning environments and improved educational opportunities for domestic and international students.

Conclusion

The unprecedented nature of the COVID-19 pandemic meant that responses were developed in a reaction to the event and in real time. From IHEA's perspective, responses such as JobKeeper payments, a temporary exemption to the loan fee for FEE-HELP students and access to CSPs for undergraduate short course qualifications were not only beneficial and provided relief but were imperative to sustainability during the crisis.

However, the greatest learning that can be made from the crisis is that it has occurred so we can learn from it and be better prepared for any future event. As such, planning and business continuity plans should be developed and in place now with relevant Government agencies, but particularly the Department of Education and the Department of Home Affairs. This will circumvent the unexpected nature of any future event and ensure appropriate readiness. This will be particularly important in the case of managing international students, who were asked to leave Australia during the COVID-19 pandemic, after which significant efforts were made over a period of time to facilitate their return. Appropriate support arrangements for international students to remain in country should be put in place, which will acknowledge the significant role these students play in the higher education market and in terms of the importance of international education as Australia's fourth largest – and largest non-resources – export. Preparation should also involve giving consideration to permanently abolishing the loan-fee for FEE-HELP students, which was a stimulus measure, and the extension of CSPs to independent providers which would provide greater support to insulate the independent sector and their students ahead of any future pandemic.

IHEA asks the committee to consider the issues raised in this submission in formulating the Terms of Reference for a COVID-19 Royal Commission.

Who We Are

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

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

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

IHEA members have different missions, scales, and course offerings across the full AQF range (Diplomas to Doctorates). Members comprise:

- Four private universities (Bond University, Torrens University, University of Divinity, Avondale University).
- Four University Colleges (Alphacrucis University College, Moore Theological College, Australian College of Theology and Sydney College of Divinity).
- Sixty-nine not-for-profit and for-profit Higher Education providers.

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

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

Contacts:

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Appendix: Terms of Reference

That, noting that a fully empowered Royal Commission with appropriate terms of reference is necessary to learn from the unprecedented government response to COVID–19, the following matter be referred to the Legal and Constitutional Affairs References committee for inquiry and report by 31 March 2024:

- The appropriate terms of reference for a COVID–19 Royal Commission that would allow all affected stakeholders to be heard.