Research

NUS Submission To Senate Education and Employment Legislation Committee

Tertiary Education Quality and Standards Agency Bill 2014

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May 2014

Introduction

NUS welcomes this opportunity to present our views to the Senate Legislation and Employment Legislation Committee on the *Tertiary Education and Standards Agency Bill 2014*.

We have prefaced our specific comments on the bill contained in part two with more general comments on the relation of students to quality education regulation in the transition from the Australian Universities Quality Agency and TEQSA.

The desire by higher education provider administrators to reduce compliance costs associated with quality regulation has been the backdrop to the current legislation. NUS is not opposed to some of the sensible measures to reduce compliance costs such as the prevention of multiple reporting requirements through the use of the National Advisory Group for Higher Education Data and Information as clearing house for TEQSA.

However, students are looking at this from a different perspective. We are concerned that the participation of students in quality assurance processes and the regulatory protections for students have been/or are at risk of being considerably diminished in this transition.

In the second part of the submission we address the bill specifically on the matters of (1) the removal of the quality assurance functions from the TEQSA Act, (2) ministerial direction of TEQSA and (3) delegation of authority from TEQSA commissioners.

PART ONE: Students and Quality Education Regulation

Students are ultimately the prime beneficiaries of a strong quality regulatory framework to underpin their higher education experience.

International and postgraduate coursework students are generally paying full cost fees. HECS-liable Australian domestic undergraduates are also in the top six of the OECD when it comes to the tuition fees incurred through studying at a public university. Students want to be reasonably

confident that they will get a quality education experience for their substantial time and cost investment.

In the late 1990s NUS began campaigning about the quality of education from the perspective of deteriorating input measures (such as staff: student ratios, class sizes, student support and library services) linked to the inadequate indexation of university operating grants (post 1995) and the reliance on marginally funded over-enrolments as a vehicle for enrolment growth.

NUS now runs a biennial survey of undergraduate student experiences. About seven thousand students (internal and external) take part in the survey addressing matters such as: class sizes, facility quality, assessment feedback, on-line flexibility, academic challenge, course and support resources, interaction with campus life and an overall satisfaction rating. These are the issues that the ordinary student raises when talking about quality of education.

However, the main framework for quality of Australian higher education developed along a different track. Following the attempts by some alleged degree mills to get official registration in Australian territories (ie Norfolk Island) to allow them to trade as universities, the then Education Minister Dr. Kemp established the Australian Universities Quality Agency (AUQA) in 2001 to protect the reputation of the sector.

AUQA's principle approach was to look at the robustness of individual universities' internal quality assurances processes taking into account the different education missions of each university (ie, the quality assurance processes were not benchmarked against a national standard so that university mission diversity would not be stifled). University claims about their own internal quality assurance processes were verified by an external quality audit team that visited the campus, analysed pertinent data and conducted interviews. The audits also developed proposals to enhance the campus quality assurance processes. Sometimes there were thematic studies across the sector.

Students were normally quite involved in providing input to the audit team. A typical audit visit to a university included panel members interviewing a sample of 20-30 students. The sample included a cross section of students including: male, female, undergraduate, postgraduate coursework, and higher degree research, and onshore international. In cases where a university has various campuses, the panel visited different campuses and interviewed students. Interviews were also held with several members of undergraduate and post-gradate student associations.

In *Partners or Opponents: The Engagement of Students in a Compliance Driven Quality Assessment* (Shah M, Hartman K and Hastings G) we identified a range of improvements arising

from the decade (2001-2011) AUQA audits:

- Engagement of students, student representative associations, and student unions in self-reviews and trial audits in preparation for the AUQA audit;

- Engagement of students in self-initiated internal and external reviews using AUQA audit methodology e.g. review of offshore programs/partnerships;

- Engagement of quality units/departments with various students groups such as undergraduate and postgraduate student associations;

- Increased promotion on the purpose of quality audits and the role of students in the process with promotional materials prepared explicitly for students;

- Enhancement in the measurement of student experience with different cohorts of students e.g. offshore students and benchmarking the results with other cohorts;

- Strengthened role of various academic committees in prompting and reviewing reports on student experience with different cohorts of students e.g. onshore and offshore international;

- Systematic approach in the management of student complaints with fears that such complaints may be raised by students in panel interviews and open sessions;
  Increased emphasis on sharing student survey results with partner institutions as a direct result of AUQA recommendations;

- Increased dialogue within the University on the need to close the loop on student feedback; and;

- The engagement of student unions and student representative associations in communicating and promoting improvements as a direct result of student voice.

AUQA also played a role in quality enhancement by maintaining a data-base of best practices and organising the Australian Quality Forum (AQF), a national conference for university and sectoral quality practioners. The NUS Research Co-ordinator was a member of the AQF conference steering committee and NUS office bearers took part in conference plenaries.

These sort of relationships between students and education regulators are common amongst OECD counties, and are particularly strong in the UK.

The fundamental weakness was that AUQA did not have the powers to enforce compliance, with the registration of providers lying with state governments (ie university acts or the state registration /accreditation bodies for non-self accrediting institutions).

In December 2008, the Bradley Review of Higher Education[1] recommended that an independent, national regulatory body be responsible for regulating all types of tertiary education. The Australian Government responded to this recommendation by announcing the establishment of TEQSA, starting its quality assurance role in July 2011.

According to the 2011 DEEWR fact sheet:
"TEQSA will be a new national regulatory and quality assurance agency for higher education with the power to regulate university and non-university higher education providers and monitor quality against a Standards Framework developed by the Higher Education Standards Panel…TEQSA will join together the regulatory activity currently undertaken in the States and Territories with the quality assurance activities currently undertaken by the Australian Universities Quality Agency."

The role of TEQSA would be to strengthen and enhance the quality of higher education by:
providing for national consistency in the regulation of higher education;
regulating higher education using a standards-based framework and principles relating to regulatory necessity, risk and proportionality;
protecting and enhancing:
- Australia's reputation for quality higher education and training services;
- Australia's international competitiveness in the higher education sector; and
- excellence, diversity and innovation in higher education in Australia;
encouraging and promoting a higher education system that meets Australia's social and economic needs for a highly educated and skilled population;
protecting students undertaking, or proposing to undertake, higher education in Australia by requiring the provision of quality higher education; and

ensuring students undertaking or proposing to undertake higher education have access to information relating to higher education in Australia.[2]

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[1] Review of Higher Education, Final Report, Dec 2008, Commonwealth of Australia, pp 115-121
[2] DEEWR, Fact Sheet No. 1 – Establishment of the Tertiary Education Quality and Standards Agency ((TEQSA), 2011

NUS initially welcomed the shift to having quality regulator with compliance powers (a regulator with teeth) and that TEQSA was going to have enforceable national quality standards.

However, as TEQSA has evolved it became clear that the enforceable standards are only minimum threshold standards for tertiary education provider registration.   The campus audits and AQF have disappeared, and along with them the traditional forms of student engagement with quality regulators.

There are four sets of standards that set minimum threshold standards:

- Provider Registration Standards;

- Provider Category Standards;

- Provider Course Accreditation Standards;

- Qualification Standards

Some other standards have/are been developed but are non-threshold standards (ie non-enforceable)

- Teaching and Learning Standards

- Research/Research Training Standards

- Information Standards

- Course Design Standards

Quality related issues are also included by TEQSA in its Risk Assessment Framework[3] that is reliant on statistical indicators of the overall provider student profile (such as attrition and completion rates) and student satisfaction surveys (Course Experience Questionairre, Postgraduate Research Experience Questionairre, Graduate Destinations Survey). While these indicators have some role to play in highlighting potential areas of institutional dysfunction they do not drill down as deep as the previous AUQA arrangements, nor do they offer solutions.

TEQSA's one foray into quality assessment outside of threshold standards and risk assessment threshold was the 2013 thematic study of third party arrangements, with the proposed 2014 study of English language proficiency postponed.

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[3] *TEQSA Risk Assessment Framework*, V 2.0, March 2014

PART TWO: Comments on the Bill and Current Student Protections

1. Removal of Quality Assurance provisions

The bill is predicated on the assumption that quality assurance is seen as a matter left to higher education providers themselves provided they meet the threshold standards for registration.

As discussed above due to the erosion of national quality assurance since the demise of AUQA the practical impact of the *Tertiary Education and Standards Agency Bill 2014* is the removal of the power of TEQSA to conduct thematic studies (ie, such as into third party teaching arrangements).

The rationale for this seems to lie with the Dow-Braithwaite review of higher education regulation that argued that the sector was hostile to the approach and design of the TEQSA survey into third party arrangements and also the lack of consultation.[4] The recently announced creation of the TEQSA Advisory Council would seem to be an avenue where the sector could be consulted over the design and appropriateness of thematic studies. NUS believes that TEQSA should retain the power to pursue this residual quality assessment function.

More generally, we ask the question: what are the remaining quality protections for students? In the Provider Registration Standards the following are the most pertinent quality requirements for providers to meet:

- That the higher education provider's history shows a track record in the provision of education and related services "at an acceptable level of quality" (Provider Registration Standard, 1.5)

- The higher education provider's corporate governing body protects the academic integrity and quality of the higher education provider's higher education operations through academic governance arrangements that provide a clear and discernible separation between corporate and academic governance, including a properly constituted academic board and course advisory committees. (Provider Registration Standard, 3.7)

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[4] Dow KL and Braithwaite V, " Review of Higher Education Regulation, Final Report, Commonwealth of Australia, 2013, pp 47-8

- The higher education provider promotes and protects free intellectual inquiry and expression in its higher education learning, teaching, and research activities. (Provider Registration Standard, 4.2)

- Where the higher education provider has an arrangement in place with another entity to manage or deliver some or all of a course of study on its behalf, the higher education provider has effective mechanisms to manage and quality assure all aspects of the arrangement (Provider Registration Standard, 4.5)

- Students have ready access to effective grievance processes, which enable them to make complaints about any aspect of the higher education provider's higher education operations, including operations provided by other entities on behalf of the higher education provider, without fear of reprisal, and which provide for review by an appropriate independent third party if internal processes fail to resolve a grievance (Provider Registration Standard, 6.4)

- As appropriate to its scale and scope, the higher education provider has student representation within its deliberative and decision-making processes and encourages students to participate in these processes. (Provider Registration Standard, 6.8)

- The higher education provider ensures that there are safe, well-maintained facilities and infrastructure sufficient to achieve expected student learning and research outcomes, as appropriate to the scale, scope, location, mode of delivery and nature of its courses of study, including:
    - classrooms and other teaching and learning spaces;
    - library and/or learning resource centre spaces and collections, and electronic learning resources;
    - laboratories and technical facilities;
    - appropriate work environments for personnel who are on site, including research students;
    - facilities for student support services; and,
    - student meeting and recreation areas. (Provider Registration Standard, 7.1)

- The higher education provider has adequate IT infrastructure and software to support student learning in its courses of study, including a website with current content, and ensures that students and personnel have ready access to online information and resources. (Provider Registration Standard, 7.2)

- The higher education provider ensures that all students, regardless of mode of study, have access to one or more contact people who can respond to queries in a timely manner and has effective arrangements to actively maintain contact with and support students who are remote from or away from its locations. (Provider Registration Standard, 7.3)

Non-self accrediting higher education providers also need to fulfill the Provider Course Accreditation Standards (that the course design is appropriate and meets the relevant Qualifications Standards).

The Risk Assessment Framework has recently been considerably narrowed in its scope. However, it still does include the collection of some statistical data that could indicate potential risks to quality:

- Student Attrition Rates;
- Student Satisfaction Rates (more accurately graduate satisfaction) using the Undergraduate and Postgraduate Coursework Course Experience Questionnaires administered by the Graduate Council of Australia;
- Student: Staff ratio;
- Percentage of academic staff on casual work contracts

While all of these are important protections they are drafted broadly to encompass the very large differences between a small higher education provider such as a specialist college offering a course) and a large multi-campus public university. How are issues such as 'appropriate' or 'adequate' resourcing for the scale of higher education provider determined given that TEQSA has abandoned the campus visit audit processes?

What is the status of the current non-threshold standards such as those involved with teaching and learning? The Higher Education Standards Panel has recently released a consultation paper proposing a revision of the standards to remove the distinction between threshold and non-threshold standards. The consultation paper aspires to have a revised standards framework in place for 2016.[5] Given this flux students will not know for a considerable period what legislative threshold protections about quality will be in place to protect their rights.

What happens to the quality assurance improvement functions that AUQA used to perform? The Dow-Braithwaite report argues that aspects of sector or discipline-based quality assurance – best practice and continuous improvement – could be better delivered through the Office of Learning and Teaching. NUS would be concerned about the adequacy of current resource levels for the

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[5] Higher Education Standards Panel, Call for Comment, 23 April 2014

Office of Learning and Teaching to take on this role. The Government needs to reveal its intentions with regard to these functions.

There is also a strategic question about the possible damage to the reputation of the sector if Australia was seen as getting rid of externally verifiable quality assurance processes beyond minimum thresholds. Given the challenges in the international student education and the future impact of Massive Open On-Line Courses run by international universities the Australian higher education sector need to be seen to have a world class quality assurance system. The cost of getting this wrong would undoubtedly be higher than compliance costs associated with sustaining a robust quality regime.

2. Ministerial Direction

Currently the Minister is able to give direction by written legislative instrument to TEQSA if the Minister considers it "necessary to protect the integrity of the higher education system". Item 54 of the bill widens the scope for Minister to give TEQSA directions to the "performance of its functions" and the "the exercise of its powers". While there is Item 55 that specifies that the instruction must be general in nature this does raise questions about the independence of TEQSA. For example, a Minister could hypothetically give directions to suppress bad news about the sector. Also in terms of transparency and accountability NUS believes that the legislative instrument should be disallowable by parliament.

3. Allow for greater delegation of authority to improve the efficiency of TEQSA's procedures.

NUS supports the general intent of Items 6 – 11 in that they will improve the efficiency by which TEQSA deals with the existing backlog of course accreditation applications. We also support the proposed legislative change that allows TEQSA to delegate authority from the Commissioners to senior TEQSA staff (APS Executive level 1 or above).

However, we are concerned that the bill extends this power of delegation of TEQSA's functions and powers (apart from changing legislative instruments) to also include "a Commonwealth authority" (Section 199 (1) (c)) or "a person holding an appointment or office under a Commonwealth law" (Section 199 (1) (d). NUS is concerned the appropriateness about non

TEQSA staff being delegated such extensive powers. We recommend that 199 (1) (c) and 199 (1) (d) be removed.