

Senate Standing Committees on Legal and Constitutional Affairs

Commission of Inquiry into Antisemitism at Australian Universities Bill 2024

QUESTION ON NOTICE

Date of hearing: 20 September 2024

Outcome: Tertiary Education Quality and Standards Agency (TEQSA)

Department of Education Question No. IQ24-000039

The Committee on 20 September 2024, Proof Hansard page 70, 71

TEQSA | Minutes and documentation of all meetings between the Minister and TEQSA

Question

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Senator HENDERSON: Did the minister ever raise concerns with you that not enough has been done by TEQSA?

Dr Russell: The minister asked a variety of questions to understand the rationale and focus of our regulatory work as these issues unfolded.

Senator HENDERSON: Are you able to table on notice to the committee that correspondence between TEQSA and the minister, please?

Dr Russell: We've had a number of verbal briefings with the minister.

Senator HENDERSON: Yes. You haven't got anything in writing? Wow. That's extraordinary. Maybe you could provide the minutes and details of each meeting you've had with the minister.

Dr Russell: We can provide the details of the meetings we've had with the minister.

Senator HENDERSON: Did you take minutes of those meetings?

Dr Russell: I did not. I was fully focused on the discussion at hand and understanding the minister's questions.

Senator HENDERSON: Did anyone take minutes of those meetings?

Dr Russell: That may be a question for the minister's office.

Senator HENDERSON: So you didn't take minutes. Did you take notes in a notebook?

Dr Russell: I did not.

Senator HENDERSON: You took nothing?

Dr Russell: No.

Senator HENDERSON: Did you make a file note of the telephone conversation?

Dr Russell: It was a Teams meeting. I was focused on the meeting.

Senator HENDERSON: Is there a recording of the Teams meeting?

Dr Russell: No.

Senator HENDERSON: Who else attended those meetings?

Dr Russell: Our assistant director of policy, research and engagement did.

Senator HENDERSON: On notice, could you please check whether anyone took minutes? I am pretty concerned that, if you are having briefings with the minister, and there are certain actions or questions raised, no notes are taken whatsoever by you as an organisation.

Dr Russell: I will check if there are any minutes that we have access to.

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Senator HENDERSON: When you have meetings, is it your normal practice to take minutes of meetings, including file notes of meetings and telephone conversations, and document the actions you might take as a regulator?

Dr Russell: The nature of the minutes we take is relative to the type of meeting we're undertaking. Often, we try to focus on decisions and actions.

Senator HENDERSON: Alright. As the regulator, I would put it to you that this is highly unusual. On notice, could you please provide to the committee any notes, messages, file

notes, notations in your own notebook, scraps of paper or anything in your diary. In relation to your two meetings with the minister, were there any decisions or actions that were made as a result of those meetings? Did you give a commitment that you would take certain actions?

Senator REYNOLDS: Can I also add that that's also for any meetings with their offices—so not just for those two meetings with the minister but also for any other meetings that you've had with any of the minister's staff.

Dr Russell: Noted.

Senator HENDERSON: Have you had any meetings with the minister's staff?

Dr Russell: No, there were ministerial staff in those meetings.

Answer

The Tertiary Education Quality and Standards Agency (TEQSA) has provided the following response.

TEQSA met with the Minister for Education via Microsoft Teams on 8 May and 23 July 2024.

At the 8 May 2024 meeting, TEQSA committed to sending a letter to the sector. This letter was sent on 9 May 2024.

At the 23 July 2024 meeting, TEQSA committed to sending another letter to universities. This letter was sent on 7 August 2024. There was also discussion about how to engage universities, at VC level, in defining and publishing best practice guidance. It was also agreed that the Ministerial Office would facilitate contact with key stakeholders relevant to TEQSA's ongoing work (newly appointed Special Envoy to Combat Antisemitism; research group at Monash University, anti-racism inquiry team at Race Discrimination Commissioner/Australian Human Rights Commission).

Copies of TEQSA's correspondence with higher education providers is included as [Attachment A](#).

Copies of the handwritten notes of the meetings, made by TEQSA's Acting Assistant Director Policy, Research and Engagement, are included as [Attachment B](#) for the 8 May 2024 meeting and [Attachment C](#) for the 23 July 2024 meeting. These are personal notes, not an official record of the meeting.



Title Name
Position
Organisation
Address (email or postal)

Dear Title Family-Name,

Subject: Protecting student and staff safety and wellbeing at Australian universities

As you know, the ongoing conflict in the Middle East is continuing to impact many Australians, including students and staff within our universities. Throughout this conflict, Australians have engaged in a variety of protest actions, most of these peaceful.

In recent weeks we have seen protest activities escalate on some campuses. The management of these activities by providers so far has been characterised by responding to the presence of protests, with clear communication around institutional policies, procedures and support services. This communication has emphasised efforts to minimise operational disruptions, ensuring student safety and messages highlighting that behaviour that vilifies or incites hatred towards Jewish or Muslim people will not be tolerated and will be the subject of action.

Anecdotally, TEQSA is also aware of some incidents within universities where there has been behaviour and acts of symbolism that risk falling outside the French Model Code's definition of academic freedom and freedom of speech, due to these being against the law or risking harm to students and staff. We are also aware of reports that students and staff are concerned about their safety due to people who are not part of the university community coming on to campus to engage in protest activity. There have also been reports of protester actions within tutorial and other learning environments, which have resulted in students feeling intimidated and unsafe.

We take this opportunity to stress the obligations universities and their governing bodies have under the Higher Education Standards Framework (Threshold Standards) 2021, for student and staff safety and wellbeing. Standard 2.3 encompasses organisational responsibilities for safeguarding and supporting the wellbeing and safety of students and staff, while Standard 6.1.4 applies to the governing body taking steps to maintain an institutional environment where the wellbeing of students and staff is fostered.

It is therefore critical that universities ensure they have the appropriate measures in place to:

- remove materials that breach Australian law or conflict with institutional policies, from university property. This includes removal from physical property and digital platforms
- take appropriate action against students and staff whose conduct breaches institutional policies - this includes behaviour as part of organised protest activity and language that goes beyond what is acceptable in academic discussion in learning settings
- support students and staff who have concerns for their safety and security on campus, and that information on how to access this support is routinely shared, and the effectiveness of these supports is regularly reviewed
- identify and support at-risk students, through measures such as special consideration or other academic supports to ensure students can continue their studies
- address the specific needs and institutional obligations in relation to any students aged under 18

- have effective relationships with law enforcement and proactive approaches to ensure that any risks to student and staff safety are identified, shared and acted upon
- ensure institutional policies and procedures are fairly and consistently applied and any cases where action is taken are transparently reported in line with organisational policy, and
- take appropriate action against people from outside the university community who may engage in behaviour in breach of institutional standards while on university property or when using university-owned digital platforms.

TEQSA is continuing to monitor this whole issue, including compliance with Standards 2.3 and 6.1.3 and free speech undertakings within universities.

In addition to our engagement directly with affected universities, we are asking that all Australian universities provide the following information by **Wednesday 15 May 2024 and updates fortnightly thereafter**, to assist us in understanding any emerging sector risks. It will also assist us to report, in aggregate, action being taken to apply relevant policies.

- the number of complaints about specific instances of student or staff conduct, relating to freedom of speech or protest action, or related allegations of misconduct in relation to the Middle East conflict.
- the number of complaints being assessed or investigated by your university related to the previous point
- the number of student or staff misconduct cases that are in progress or have been finalised.

This information can be shared with TEQSA using this template, which can be returned via email to Graem Kelly, Director, Sector Risk and Compliance, at graem.kelly@teqsa.gov.au. In addition to this request, institutions should continue to make use of the Material Change Notification process.

If you would like to discuss any of these issues, please feel free to contact TEQSA CEO Dr Mary Russell or Acting Executive Director of Regulatory Operations Katrina Quinn.

We seek your cooperation as we monitor sector responses to these very difficult matters. We appreciate that events are evolving very quickly and responses need to be constantly reviewed and adjusted. We will also keep you updated about any key developments or insights that we become aware of, that may be helpful to your own work.



Professor Peter Coaldrake AO
Chief Commissioner, TEQSA



Dr Mary Russell
Chief Executive Officer, TEQSA

9 May 2024



Title Name
Position
Organisation
Address (email or postal)

Dear Title Family-Name,

Subject: Protecting student and staff safety and wellbeing within higher education institutions

As you know, the ongoing conflict in the Middle East is continuing to impact many Australians, including students and staff within our higher education institutions. Throughout this conflict, Australians have engaged in a variety of protest actions, most of these peaceful.

In recent weeks we have seen protest activities escalate on some campuses. The management of these activities by providers so far has been characterised by responding to the presence of protests, with clear communication around institutional policies, procedures and support services. This communication has emphasised efforts to minimise operational disruptions, ensuring student safety and messages highlighting that behaviour that vilifies or incites hatred towards Jewish or Muslim people will not be tolerated and will be the subject of action.

Anecdotally, TEQSA is also aware of some incidents where there has been behaviour and acts of symbolism that risk falling outside the French Model Code's definition of academic freedom and freedom of speech, due to these being against the law or risking harm to students and staff. We are also aware of reports that students and staff are concerned about their safety due to people who are not part of the provider's community coming on to campus to engage in protest action. There have also been reports of actions within tutorials and other learning environments which have resulted in students feeling intimidated and unsafe.

We take this opportunity to stress the obligations institutions and their governing bodies have under the Higher Education Standards Framework (Threshold Standards) 2021, for student and staff safety and wellbeing. Standard 2.3 encompasses organisational responsibilities for safeguarding and supporting the wellbeing and safety of students and staff, while Standard 6.1.4 applies to the governing body taking steps to maintain an institutional environment where the wellbeing of students and staff is fostered.

It is therefore critical that provider ensure they have the appropriate measures in place to:

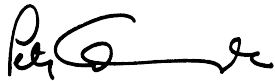
- remove materials that breach Australian law or conflict with institutional policies from their property. This includes removal from physical property and digital platforms
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- address the specific needs and institutional obligations in relation to any students aged under 18
- have effective relationships with law enforcement and proactive approaches to ensure that any risks to student and staff safety are identified, shared and acted upon

- ensure institutional policies and procedures are fairly and consistently applied and any cases where action is taken are transparently reported, and
- take appropriate action against people from outside the provider's community who may engage in behaviour in breach of institutional standards while on the provider's property or when using provider-managed digital platforms.

TEQSA is continuing to monitor this whole issue, including compliance with Standards 2.3 and 6.1.3 and free speech undertakings within higher education providers. This includes engaging directly with institutions where protest activities are taking place.

We encourage and welcome any reporting that institutions wish to make through the Material Change Notification process. You can also contact TEQSA's CEO Dr Mary Russell or Acting Executive Director of Regulatory Operations Katrina Quinn if wish to discuss this matter with TEQSA.

We seek your cooperation as we monitor sector responses to these very difficult matters. We appreciate that events are evolving very quickly and responses need to be constantly reviewed and adjusted. We will also keep you updated about any key developments or insights that we become aware of, that may be helpful to your own work.



Professor Peter Coaldrake AO
Chief Commissioner, TEQSA



Dr Mary Russell
Chief Executive Officer, TEQSA

9 May 2024



Title Name
Position
Organisation
Address (email or postal)

Dear Title Family-Name,

Subject: Update regarding campus protests relating to the Middle East conflict

Dear xxx

I am writing to update you on TEQSA's work to understand and monitor universities' responses to ongoing protests about the conflict in the Middle East.

In our letter of 10 May 2024, we highlighted the student and staff safety and wellbeing obligations that universities and their governing bodies have under the Higher Education Standards Framework (Threshold Standards) 2021. Standard 2.3 encompasses organisational responsibilities for safeguarding and supporting the wellbeing and safety of students and staff, while Standard 6.1.4 applies to the governing body taking steps to maintain an institutional environment where the wellbeing of students and staff is fostered.

Since that letter, we have spoken with senior staff in all universities that are managing ongoing protests and encampments. I thank Vice-Chancellors and other senior university staff for making time during this period to share details of local issues and responses. It has assisted our work to have real-time information and to be able to discuss directly, any concerns we have.

To date, TEQSA has observed a high level of senior leadership oversight and engagement in response to the protests. A focus on de-escalation of conflict is being reported, with TEQSA noting accounts of written communication and direct engagement with students to set expectations for peaceful protest and reinforce that behaviour vilifying or inciting hatred towards Jewish or Muslim people will not be tolerated and will be the subject of action.

As this issue continues to evolve, TEQSA has identified the following areas where a continued focus is required.

Academic support and adjustment

It is clear many students are significantly affected by the conflict in the Middle East, some quite directly and others by public commentary and statements and actions during protests. Some universities have put in place special arrangements for at-risk students to receive support. TEQSA encourages all universities to give special attention to making sure that processes for academic adjustment are fit for the current circumstances, and that thought be given to how impacted students are supported next semester. This should include making sure that processes for lodging requests for special consideration, as well as consideration of these requests are embedded with trauma-informed principles.

OFFICIAL

Safety of teaching and learning spaces

While it has been longstanding custom for students to announce details of protests at the start of classes in many universities, this has been problematic given the charged and often personalised nature of these events. Feedback to TEQSA from student groups and some public reports indicate that people entering classrooms to put positions on protests and on the conflict are engaging in behaviour that is disruptive and intimidating to many, and that particular efforts are needed to ensure learning and teaching spaces are safe for all. Universities should take advantage of the semester break to carefully consider these matters, including university freedom of speech and academic freedom policies ahead of the resumption of classes next semester. This consideration should include the need for further advice and training for staff and communication with students.

Presence of outside parties on campuses

One common theme TEQSA has identified is the complexity in legal provisions for dealing with occupation of university grounds and disbanding protests, and how these vary greatly. Constraints in identifying and responding to protesters who are not students or staff of the university has been a complicating issue for many institutions. While many universities in Australia have an 'open campus' policy, ongoing consideration needs to be given to managing building access, the use of student and staff ID cards, and making use of appropriate legal avenues to remove people that are not part of the university community who are engaging in behaviour that poses a risk to the safety and wellbeing of students and staff.

Ensuring complaint and support mechanisms are accessible

While we note that more than 220 concerns or complaints related to this issue are being considered by universities, there needs to be a continued focus on ensuring students and staff are aware of complaint and support processes. We have heard from some student representatives that their members do not feel safe making specific complaints. Universities should ensure these processes are trauma informed and should continue to highlight the ways staff and students can make complaints and access support. Measures for maintaining confidentiality during complaints processes should be considered.

TEQSA will make another request for data about universities' responses to ongoing protest activity, after which we expect to conclude this aspect of our monitoring. This request will be due on 12 June 2024. Where there is an identified need to continue specific reporting from universities, we will assess this on a case-by-case basis or as broader circumstances continue to evolve.

In the meantime, please don't hesitate to contact [REDACTED] Director, Sector Risk and Compliance, via [REDACTED] with any queries. If you would like to speak more generally about TEQSA's requests or response on these issues, please do not hesitate to contact Mary directly.

Kind regards,



Ms Adrienne Nieuwenhuis
Acting Chief Commissioner
TEQSA



Dr Mary Russell
Chief Executive Officer
TEQSA

5 June 2024

OFFICIAL



Title Name
Position
Organisation
Address (email or postal)

Dear Title Family-Name,

Continuing to assure wellbeing and safety, freedom of speech and academic freedom

We are writing to update you on TEQSA's continuing monitoring of how Australian universities are assuring wellbeing and safety, freedom of speech and academic freedom following the increase in protest activity related to the Middle East conflict observed between April – June 2024.

We again thank you for cooperating with our request for information relating to complaints and concerns within your university stemming from the conflict. Our early analysis of the information has given TEQSA some confidence that most institutions are focused on ensuring these concerns are dealt with appropriately and in accordance with institutional policies.

While the mid-year break has seen fewer people active within universities, and therefore a major reduction in protest activities and tensions within online and campus environments, TEQSA continues to have concerns about risks to students and staff as teaching resumes and activity within universities increases. We understand this is a concern shared by a number of institutions.

In the coming days, TEQSA will publish a sector update on our website that summarises our expectations previously communicated with you on 10 May and 5 June 2024 in relation to the *Higher Education Standards Framework (Threshold Standards) 2021*. Our aim is to make it easier for providers to understand their obligations in accordance with the standards by consolidating information that has previously been shared with you.

However, given the need for continued vigilance, we also wanted to share the below points with you to assist your institution with managing these risks as students return.

Post-action reviews

TEQSA expects institutions will have used the opportunity offered by the break to undertake a review of actions taken in response to increased community and campus tensions relating to the conflict.

Such reviews should include, but not be limited to:

- the effectiveness of institutional policies and procedures, such as misconduct procedures, freedom of speech and academic freedom policies, academic support
- the opportunity to review and update documents such as student charters to communicate expectations of respectful engagement and exercising freedom of speech
- addressing any identified gaps in policies and procedures or legal frameworks. For example, one area of focus identified by several institutions has been whether statutes/by-laws regarding the use of university land meet contemporary expectations
- effectiveness of critical incident management structures and relationships with outside agencies, such as police, and effectiveness of institutional security
- effectiveness of governance decision-making and oversight
- training and support for staff to respond to disruption to learning environments both on-campus and online
- effectiveness and oversight of concerns regarding student and staff safety.

Protecting wellbeing and safety

In addition to ensuring your student and staff conduct charters/policies are up-to-date and reflective of your university community's expectations, and misconduct policies are consistently and fairly applied, TEQSA expects institutions will maintain a focus on wellbeing and safety. These themes were noted in the CEO Update during the TEQSA Talks webinar last month – [a recording is available on our website](#).

Actions by universities should include, but not be limited to:

- educating students and training staff about expectations for acceptable engagement and expression of views, including in learning and teaching spaces
- ensuring academic support is available for students whose wellbeing has been impacted by the conflict or associated protest activity
- engaging with student groups on campus to ensure any protest activities are respectful and in keeping with university policies
- sharing information about student conduct policies, expectations and how to access support through student communications and other communication channels
- ensuring hate speech and symbols are promptly removed from university property, including online spaces
- being aware of who is accessing the campus and ensuring security arrangements are appropriate to mitigate any identified risks.

Upholding freedom of speech and academic freedom

Last semester's protest activity presented a major test of changes to university freedom of speech and academic freedom policies following the development of the French Model code in 2019.

TEQSA expects that universities will evaluate the effectiveness and operation of their policies relating to freedom of speech and academic freedom and make any required adjustments. Additionally, TEQSA expects universities to actively consider how they work to assure their governing bodies that students and staff understand the content of the relevant policies and how they intersect with the law in relation to anti-discrimination and hate speech that may be applicable on campuses (and online).

TEQSA's approach going forward

As part of our ongoing engagement with students and providers, we will also be seeking examples of good practice that can be shared to support institutions in responding to these ongoing risks. If you believe there are examples of good practice or learnings from your institution that you wish to share with TEQSA, please email policyandresearch@teqsa.gov.au.

Longer term, TEQSA is planning engage with providers, students and government as part of a project to explore how social cohesion principles can be embedded within university environments and learning experiences. TEQSA is in the early stages of planning this work, and we look forward to further engaging with the sector about this in the coming weeks and months.

If you have any questions, or wish to speak with TEQSA regarding any issues relating to social cohesion or protest activity within your institution, please contact [Katrina Quinn](#), Acting Executive Director, Regulatory Operations.

Our monitoring of this situation is ongoing, and we will continue to engage with higher education providers where we have questions or concerns.

Kind regards,

Adrienne Nieuwenhuis
Acting Chief Commissioner
7 August 2024

Dr Mary Russell
Chief Executive Officer

No meeting -

9:30 8/14 - Tues

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MO meeting - RRG

Tuesday, 23 July 2024

2:07 PM

Attendees:

TEQSA:

Mary

Bryan

MO

Minister Clare

Lachlan Cameron

Notes

Focus to ensure social cohesion is not further strained

Minister outlined his engagement across govt, sector (unis and students)

TEQSA update:

Continued to monitor things with Uni Melb, USyd, where matters are protracted

break period has reduced tension

Advising us the first four weeks wouldn't be surprised to see preferences return

Group of 8 sharing some best practice amongst themselves - limited

Giving mid-action review - turned to next steps - messaging having ongoing vigilance adverse impacts on student after - keeping wellbeing support, setting expectations, conduct, symbols or messaging - discriminatory people feel vulnerable - university social licence - depend on effective investment in social cohesion - sensitive anniversary Oct 7, sector guidance

Initial work items

- Student wellbeing - using on to strengthen and material and set ways
- Update student charters - staff are strained to deal with disruption - sharing of good practice areas

Timely university review of response - looking at systems, - freedom of speech, - campus disruption of bylaws or statutes security responses

Longer term

Guide practice - deeper consultation, social

cohesion, engages - embed expect effective,
respectful education environment and ind
teaching = graduate graduate - if you are a
graduate demonstrate engagement
respectfully and around context

More cross- government
broader governance issues - sufficient
capacities?

Teqsa action
Writing universities - reviewing responses -
next steps - Min sooner we can move on letter
= better

Broader considerations:

Powers to remove - how might that apply

- What have unis done, what are next
steps unis intending to apply
- Deeper systemic change - Human Rights
Commission work - symmetry
- Recommendations that empowers
TEQSA - draw on experience and
submissions - interim report end of the
year
- Run at speed comfortable - don't wait
for report - help to integrate
- Governance work with Dept
- National security - risk social cohesion
impacts
- TEQSA reaching out to Home Affairs
social cohesion

Cognisant - syd uni stabbing - Vague
commentary police - violent behaviour
can encourage more people to act in a
violent way

Element of opportunism 0

Senate inquiry - anti-semitism