

## **Senate Standing Committees on Education and Employment**

### **Education Services for Overseas Students Amendment (Quality and Integrity) Bill 2024 [Provisions]**

#### **QUESTION ON NOTICE**

**Date of hearing: 02 October 2024**

**Outcome: Tertiary Education Quality and Standards Agency (TEQSA)**

**Department of Education Question No. IQ24-000089**

Senator Sarah Henderson on 02 October 2024, Proof Hansard page 73

#### ***TEQSA | Letter of 26 September 2024 to Providers***

##### **Question**

Senator HENDERSON: I table a letter from TEQSA to a provider—the details have been redacted—dated 26 September 2024. It says: 'TEQSA has recently been conducting sectorwide analysis on the impact of reductions of overseas students on providers from a financial perspective. During this analysis, TEQSA identified'—provider name—'as being at significant risk regarding financial sustainability and/or financial viability.' Dr Mary Russell, I put to you that these are very threatening letters. Many providers have been placed in a horrific position in relation to their financial viability as a result of the government's actions. Again, I ask you: on what basis have you sent this letter, without disclosing at the very minimum that this proposed reduction in overseas students is subject to legislation passed in the parliament?

Dr Russell: Senator, I will provide you with a fuller response on notice, but it appears that this is a letter that was sent to 10 providers that have been identified as high risk. What you've provided is the beginning of the letter, but there's also a relevant appendix setting out in more detail the basis for that, including that the providers that received the letter have been issued a warning letter by the Department of Home Affairs under section 97 of the ESOS Act, asking the providers for specific information to understand their circumstances and their response to the issues raised by the Department of Home Affairs that go to their risk as a higher education provider.

##### **Answer**

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

TEQSA has attached a copy of a redacted letter and appendix sent to one of the 10 providers on 26 September 2024, as Attachment A.

Some information within this letter has been redacted to protect identifying information related to this provider.

In the letters we incorrectly suggested the reduction of overseas student numbers had been legislated.

TEQSA apologises for this and is contacting affected providers to clarify this miscommunication.

Feedback has been provided to staff about this matter to minimise the risk of a recurrence.



Dear [REDACTED]

#### TEQSA Concern – Action requested

You may be aware the Australian Government is reducing the number of overseas students that can come to Australia to study higher education.

#### Nature of Concern

TEQSA has recently been conducting sector-wide analysis on the impact of reductions of overseas students on providers from a financial perspective.

During this analysis, TEQSA identified [REDACTED] as being at significant risk regarding your financial sustainability and/or financial viability.

Following the above, TEQSA is concerned about the ability of [REDACTED] to comply with the [Threshold Standards](#), particularly the obligations of [REDACTED] under [Goverance and Accountability](#) (6.2 Corporate Monitoring and Accountability):

- **Standard 6.2.1a** which requires that the provider complies with their governing legislation, constitution and equivalent as well as any other legislative requirements.
- **Standard 6.2.1b** which requires that the provider's future directions in higher education have been determined, realistic performance targets have been established, progress against targets is monitored and action is taken to correct underperformance.
- **Standard 6.2.1c** which requires that the provider is financially viable and applies, and has the capacity to continue to apply, sufficient financial and other resources to maintain the viability of the entity and its business model, to meet and continue to meet the requirements of the *Higher Education Standards Framework*, to achieve the providers higher education objectives and performance targets and to sustain the quality of higher education that is offered.
- **Standard 6.2.1d** which requires that the financial position, financial performance and cash flows of the entity are monitored regularly and understood, financial reporting is materially accurate, financial management meets Australian accounting standards, effective financial safeguards and controls are operating and financial statements are audited independently by a qualified auditor against Australian accounting and auditing standards.
- **Standard 6.2.1e** which requires that risks to higher education operations have been identified and material risks are being managed and mitigated effectively.

TEQSA is also concerned about the ability of [REDACTED] to comply with the [ESOS Act](#) particularly your obligations under

- **Section 29(3)** which requires that at all times, there is a sufficient amount (the **protected amount**) standing to the credit of the account to repay all tuition fees to every overseas student or intending overseas student

**OFFICIAL: Sensitive**

I am writing to request that you provide information at Appendix 1 that demonstrates the ability of [REDACTED] to comply with the above standards and legislative requirements.

We ask that you provide TEQSA with your response to the concern and questions, and details of any mitigatory actions in place to ensure ongoing compliance with the identified legislative requirements

Please submit your response to this request by **31 October 2024** via [REDACTED] in the Provider Portal.

Please contact us at [compliance@teqsa.gov.au](mailto:compliance@teqsa.gov.au) if you have any further questions and quote [REDACTED]

Best Regards,

[REDACTED]

Tertiary Education Quality and Standards Agency

**26 September 2024**

**OFFICIAL: Sensitive**

## Appendix 1 – Information requested

**By 31 October 2024, please provide the following information with reference to supporting evidence:**

1. Your risk register, as approved by your governing body, showing:
  - a. the financial and non-financial risks that have been identified regarding a reduction in the recruitment and enrolment of overseas students and
  - b. the risk controls and risk treatments in place to respond to the identified risks.
2. In the event financial distress may lead to the unplanned closure of your institution, what arrangements or plans do you have to ensure your students could continue studying their course with another institution? Please provide the documented plans that have been approved by your governing body. Please also provide copies of the correspondence to be sent to students regarding the default.
3. The current asset position your institution has reported does not appear sufficient to cover a short to medium term reduction in income from declining overseas student revenue. As such, please:
  - a. tell us how your institution will be able to meet your short to medium liquidity needs in the event of declining student revenue
  - b. tell us what external sources of funds are available to your institution to meet short to medium liquidity needs and on what terms these funds are available to you
  - c. for the 6 months immediately preceding the date of this letter, provide the monthly bank account statements of your institution's operating accounts and the account used to hold the **protected amount** prescribed by [section 29 of the ESOS Act](#)
  - d. tell us how your governing body assures itself there is enough money held in account used to hold the protected amount to comply with its obligations under section 29 of the ESOS Act?
4. It has been noted that the Department of Home Affairs issued you a warning letter, under section 97 of the ESOS Act regarding the proportion of adverse immigration outcomes arising from your recruitment practices.

The warning letter encouraged your institution to review and improve recruitment practices to minimise adverse immigration outcome to avoid being issued with a suspension certificate when Home Affairs reviews again in 6 months' time. We understand a suspension certificate, if issued, would prevent your institution from recruiting overseas students for the time the suspension certificate was in force.

Please tell us:

- a. what steps has your institution has taken to address the issues raised in the Home Affairs letter? Please provide a copy of action plans provided to your governing body on this point.
- b. what are your risk management plans to respond to a potential suspension of ESOS Act registration? Please provide a copy of relevant risk management plans provided to your governing body.

- c. how a potential suspension has been factored into your institution's strategic plans and financial forecasts. Please provide copies of the relevant plans and financial forecasts that have previously been provided to your governing body.

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#### **QUESTION ON NOTICE**

**Date of hearing: 02 October 2024**

**Outcome: Tertiary Education Quality and Standards Agency (TEQSA)**

**Department of Education Question No. IQ24-000097**

Senator Sarah Henderson provided in writing.

***TEQSA | Information and associated correspondence sought about each provider - student cap concerns***

#### **Question**

Coalition senators have sought information about each provider which has raised concerns about its proposed student cap including copies of the relevant correspondence. For each such impacted provider, please advise the individual student cap which is either proposed to be varied or has been varied including for:

- the pilot training sector;
- pathways colleges;
- providers which are delivering courses to support skills shortages;
- universities; and
- providers who have given evidence before the Employment and Education Legislation Committee (committee).

We reiterate that in order to assess the bill and its ramifications, this information is critically important.

#### **Answer**

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

Providers have discussed the proposed allocations in general conversation with TEQSA, but none have registered concerns about their specific allocation with TEQSA. Providers are aware this is being managed by the Department for Education.

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**Department of Education Question No. IQ24-000098**

Senator Sarah Henderson provided in writing.

#### ***TEQSA | Student cap allocation - financial viability of higher education and VET providers***

##### **Question**

We have heard at every public hearing that numerous private higher education and VET providers are concerned about their financial viability as a result of the proposed student cap allocation they have received. How will TESQA and ASQA, as applicable, deal with providers facing financial difficulty including potential insolvency as a result of this bill?

##### **Answer**

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

TEQSA has longstanding process for monitoring for and responding to financial viability concerns about registered higher education providers.

Should TEQSA become concerned about a provider's financial viability, we will first seek information regarding their plans to manage this risk.

In the event TEQSA is not be satisfied the risk is being adequately managed, resulting in an increased risk to students, TEQSA may take proportionate action where necessary as per our powers under the TEQSA Act. TEQSA will also liaise with the Tuition Protection Service.

Should a provider face insolvency, TEQSA can place conditions on the provider to ensure they do not enrol any more students, do not accept payment from students where they will not be able to deliver education, have adequate teach-out arrangements and ensure student records can be transferred to TEQSA.

In circumstances of provider closure, TEQSA will maintain student records to enable orderly transition to a new provider where possible and minimise disruption to students.

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**Department of Education Question No. IQ24-000099**

Senator Sarah Henderson provided in writing.

***TEQSA | Appeal mechanisms or transition arrangements to support providers which are facing financial viability***

**Question**

Have you considered internally or with the Department of Education appeal mechanisms or transition arrangements to support providers which are facing financial viability compliance concerns as a result of this bill and, if so, please provide details and copies of any relevant correspondence.

**Answer**

The Tertiary Education Quality and Standards Agency has provided the following response:

No. Appeal mechanisms will be a question for the Department of Education.