ACPET response:

TEQSA 2012 Provider Information Request

May 2012
Introduction

Established in 1992, the Australian Council for Private Education and Training (ACPET) is the national industry association for private providers of post-compulsory education and training. ACPET has 1,100 members nationally, delivering a full range of higher and vocational education and training (VET) and English language courses across all states and territories. ACPET has approximately 100 members delivering higher education throughout all Australian states.

Non self accrediting Higher Education Institutions (NSAIIs) form a very diverse group of specialised institutions. ACPET’s members deliver qualifications in the fields of theology, business, information technology, natural therapies, hospitality, health, law, design, accounting, music and linguistics. Approximately half of Australia’s non self accrediting institutions are approved under the Higher Education Support Act 2003 as FEE HELP providers.

As the peak body for private providers, ACPET is committed to ensuring that its policies, products and services contribute to an inclusive tertiary education system.
**Question 1: Is a more consolidated approach to higher education collections necessary? Why?**

ACPET believes a consolidated approach to information collection is required in order to eliminate unnecessary data collection requirements and reduce duplication of data collection. Of particular importance will be the requirement that the Tertiary Education and Quality Standards Agency (TEQSA) and the Department of Innovation, Industry, Science, Research and Tertiary Education (DISSRTE) enter into a formal agreement by which data collected by one agency can be reviewed by the other. Any other outcome is not acceptable as it will place unnecessary burden on institutions.

Onerous data collection requirements divert institutions’ resources away from their core activity and *raison d’être*, which is to engage in academic advancement of both students and staff. ACPET is concerned that the 2012 Information Provider Request will not lead to a consolidation of data, but rather will lead to an increased amount of data being requested from institutions. This would seem to be at odds with TEQSA’s regulatory principles of regulatory necessity, reflecting risk and proportionate regulation.

ACPET takes this opportunity to raise concerns that those institutions that are not FEE HELP approved will be faced with significantly increased requirements to provide data under the proposed arrangements. ACPET impresses upon TEQSA that these institutions will be moving from a regulatory environment in which they were required to provide limited data to an environment where data provision requirements will be much higher, and an additional burden.

**Question 2: Should other data areas be given equal or greater priority in the 2012 information request? Why?**

A regulatory judgment in which data is prioritised seeks to normalise and classify an offering into segmented metrics. This should not be the starting point of higher education regulation, rather data collected should be reviewed from a holistic perspective to ensure regulatory action is consistent with one of the Objects set out in the *TEQSA Act 2011*, “to protect and enhance excellence, diversity and innovation in higher education in Australia”.

From our reading of the consultation paper, ACPET believes that TEQSA has not fully grasped the intricacies of how ACPET member higher education institutions operate. Many ACPET members have revolutionized aspects of higher education in Australia and have been responsible for diversifying Australia’s higher education sector. ACPET fears that TEQSA will default to a position where it is cautious and weary of innovation and diversity, and will use data to try and pull innovative and diverse institutions towards a homogenous style of higher education. The competitive business environment in which ACPET members operate means that they are always striving to remain ‘ahead of the curve’ and therefore regulating an institution according to one data area against the total pool of data will disadvantage innovative institutions.

**Question 3: Is the entity scope definition appropriate in the context of this proposal? If not, why not?**

ACPET is concerned that entity scope definition does not take into account dual sector providers whose business model’s success is predicated on the delivery tertiary education. The definition currently states that “Collecting data beyond the scope of the registered entity within the corporate group raises issues including data quality, certification and comparability.” ACPET seeks assurances
from TEQSA that a provider who is registered as both a higher education provider and VET provider (by ASQA or a state-based registration authority) will be viewed as a corporate group. This is particularly important when the dual sector institution is financially viable due to the combination of its delivery of both vocational and higher education qualifications.

**Question 4: Are unit record extracts appropriate in the context of this proposal? Why?**

Unit record extracts are not appropriate in the context of this proposal. ACPET contends that TEQSA’s proposal will increase the administrative burden placed upon institutions and that the collection of personal information may lead to identification of staff and students. Of particular concern is TEQSA’s proposal that institutions will be required to generate an identifier for each student and staff member, hence privacy issues may occur. ACPET would also like clarification from TEQSA relating to how the development of identifiers at student level relates to the imminent development of a Unique Student Identifier for VET students.

ACPET believes that what TEQSA is proposing goes beyond regulatory necessity. Under the current proposal, high quality institutions will be required to direct additional resources to prepare for data collection, when such a level of data is not required for effective regulation of the sector.

**Question 5: Are there any student data elements that should be excluded, included or defined differently from those proposed? If so, why?**

ACPET is concerned that TEQSA is seeking student data elements retrospectively from institutions i.e. 2009 -2011 data. TEQSA should seek data from annual reports that institutions have already submitted to state registering bodies prior to TEQSA’s establishment.

In relation to the Consolation document lists to Provider Course Accreditation Standards:

- Section 4 ‘Teaching and learning are of high quality’
- Section 5 ‘Assessment is effective and expected student learning outcomes are achieved’,

ACPET seeks clarity on how a regulatory assessment will be made using these two standards. ACPET believes that reliance on quantitative data alone will not provide sufficient evidence to make a regulatory judgement on these standards, but rather TEQSA should take a holistic approach, understand the entire operation of an institution, and, in fact, demonstrate an understanding of the sectors views on what teaching and learning quality is.

**Question 6: Should any staff elements be excluded, included or defined differently from those proposed? If so, why?**

ACPET is concerned that once data is collected relating to staff salary bands and classification, university practice will become the baseline against which all institutions will be assessed. Non-university providers outnumber universities 3 to 1, accordingly regulatory judgements should not default to university practices as the baseline.
ACPET has raised previously in this submission concerns relating to unit record collections, and as such, believes that aggregate data collection is more appropriate.

**Question 7: Should any financial data elements be excluded, included or defined differently from those proposed? If so, why?**

ACPET supports the concept of financial viability being part of the regulatory process. However ACPET contends that it is not appropriate as a first step in the regulatory relationship to expect the level of detail that TEQSA is proposing. Once again, ACPET believes that TEQSA’s proposal goes beyond what is necessary for effective regulation. ACPET’s position is that audited financial statements should be the basis for the initial regulatory assessment.

If following the receipt of audited financial data, TEQSA has ‘concerns’ about the financial viability of an institution, then a deeper regulatory interaction would be appropriate along with the provision of more data. What would encapsulate ‘concerns’ would require further consultation and discussion.

The emphasis that TEQSA is placing on forward estimates is also of concern to ACPET. ACPET contends that businesses that are projecting their own demise will develop strategies to trade out of financial trouble, sell the business or exit the market. ACPET is concerned that to greater emphasis on forward estimates by TEQSA may see an institution being subject to significant regulatory action, including having their regulation cancelled without the opportunity to implement a strategy that improves their financial position.

Using forward estimates to retrospectively assess an institution’s finance department’s assessments and then pass judgment on their capabilities is also not appropriate. Forward estimates can be inaccurate for a number of reasons, including changes to general market conditions, such as a recession and government intervention through policy changes that distort the market and negatively (or positively) affect market conditions.

**Question 8: Noting the optional basis of the proposed student survey data, are there any data elements that should be excluded, included or defined differently from those proposed? If so, why?**

ACPET notes that student survey data is optional throughout 2012.

ACPET notes that TEQSA proposes to specify general requirements for student survey data from 2013 onwards. ACPET would be pleased to work with TEQSA during the development of general requirements, and explore the viability of formulating a survey that ACPET members can access that meets TEQSA’s general requirements.

**Question 9: Should TEQSA’s approach to information handling be different from that outlined above, where permissible? Why?**

ACPET is concerned that any of the information provided to TEQSA could be subject to requests under the *Freedom of Information Act 1982*. ACPET members are commercial business entities. It is not acceptable for data that they have submitted to become available under a freedom of information request. An example of this could be record data on staff salary levels. A mechanism to protect commercial entities should be established before any data is collected.
**Question 10:** Do you have any suggestions about the proposed timetable, balancing the impact on providers, and TEQSA’s need to ensure it is informed by current and complete data?

The general time line for this consultation process and the introduction of the 2012 provider information request is very short. ACPET is concerned that both the sector and TEQSA will not have had adequate time to fully consult on issues raised, analyse feedback from stakeholders and examine the likely impact of the introduction of the Provider Information Request.

ACPET is also concerned that there has not been enough analysis on the impact that increased data provision requirements will have on non self-accrediting institutions particularly non FEE HELP approved institutions. Under the proposed arrangements these institutions will be required to meet exceedingly higher data provision requirements; this will pose an increased administrative and financial impost on these institutions.

A similar issue is being discussed and assessed in the VET sector where Registered Training Organisations (RTOs) that deliver fee for service training and have not previously been required to submit data will be required to do so. It is ACPET’s understanding that DISSRTE will imminently release a Regulatory Impact Statement as part of detailed assessment of the impact of this change in regulation on RTOs. ACPET believes a similar action is required for the higher education sector. At the very least ACPET contends that a transitional strategy should be developed by TEQSA to ensure that a change in the regulatory setting will not risk the viability of institutions.

ACPET welcomes ongoing dialogue with TEQSA so that we are able to fully convey how elements of the introduction of the 2012 Provider Information Request are being managed by ACPET members. Further we call on TEQSA to have a flexible approach in its regulatory interactions with ACPET members during this transitional phase.

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