Response to Consultation Paper: Modernising and Strengthening TEQSA's powers

Universities Australia (UA) appreciates the opportunity to respond to the Consultation Paper on Modernising and Strengthening TEQSA's Powers.

TEQSA plays a vital role in Australian higher education by safeguarding quality and integrity, ensuring students receive a safe, world-class learning experience. UA supports work that ensures TEQSA remains fit for purpose and can deliver on its critical mission to contribute to a high-quality higher education sector. When considering changes to the TEQSA Act we ask that any expanded regulatory powers for TEQSA remain grounded in the well-established principles of necessity, risk-based decision-making and proportionality.

In accordance with the above, Universities Australia offers the following high levels recommendations.

- Preserve Core Regulatory Principles: Ensure all reforms to the TEQSA Act uphold the principles of necessity, risk-based decision-making, and proportionality to maintain a fair and effective regulatory environment.
- Clarify and Coordinate Regulatory Roles: Clearly define the roles of TEQSA, ATEC, NSO, and other agencies to avoid duplication, reduce compliance burden, and promote regulatory coherence.
- Undertake an Independent Review of the Regulatory Framework: Commission a comprehensive review of the TEQSA Act and related powers to identify overlaps and gaps and ensure alignment with broader sector reforms.
- Enable Proactive Risk Management: Strengthen TEQSA's capacity to identify and respond to systemic risks using sector-wide data, shifting from cyclical compliance checks to targeted interventions.
- Streamline Regulatory Processes: Simplify and consolidate regulatory requirements to minimise administrative burden and support universities' core teaching, learning, and research functions.

When considering changes to the Tertiary Education Quality and Standards Agency Act 2011, we urge the Government to ensure that regulatory reform is consistent with the Treasurer's call for better regulation and reduced duplication of effort.

University Governance

The consultation on TEQSA's powers conveniently coincides with the Expert Council on University Governance's Final Report and Principles of 17 October 2025. In particular, the recommendation of the Expert Council that the University Governance Principles be implemented through their inclusion in the Higher Education Standards Framework.

The inclusion of the Principles in the Threshold Standards are highly consequential changes which, due to the timing of the respective processes, are not considered in the Consultation Paper. Universities Australia (UA) firmly supports the Government's commitment to strengthening governance and integrity across the higher education sector, including through potential reforms to the TEQSA Act.

As publicly funded institutions, universities recognise that governance must continue to evolve to meet contemporary expectations. We are committed partners in this work. UA has actively engaged with government, TEQSA, and the University Chancellors Council to strengthen governance leadership, maturity, and visibility across the sector. Through this partnership, universities have already begun aligning governance practice with government and community expectations, supported by the significant reforms underway to improve accountability, transparency, and responsiveness.

In progressing this agenda, it is critical that any expanded regulatory powers for TEQSA remain grounded in the well-established principles of necessity, risk-based decision-making, and proportionality. These principles are fundamental to preserving a regulatory environment that supports student outcomes without diverting already limited university resources away from core teaching, learning and research responsibilities. UA supports a modern regulatory approach that enables rapid and proactive responses to genuine systemic risk while ensuring universities demonstrating strong governance are not burdened with additional compliance.

Delineating roles and responsibilities

With multiple regulatory reforms concurrently reshaping the operating environment, UA encourages careful sequencing and clear roles across agencies to avoid duplication or fragmentation. Done well, reform will reinforce the strength and integrity of Australia's higher education system and allow our universities to continue delivering for students, communities, and the nation.

While UA shares the Government's commitment to improving regulatory effectiveness there are concerns regarding the expanding regulatory environment and its contribution to a disproportionate compliance burden. The higher education regulatory architecture is undergoing significant transformation, with an increasing number of agencies involved, the introduction of civil penalty provisions, frequent changes to grant conditions and an expansion of codes and other guidance. This includes the establishment of the Australian Tertiary Education Commission (ATEC), the National Student Ombudsman (NSO), and the National Code to Prevent and Respond to Gender-based Violence (National Code).

Given that the legislation for the ATEC is currently being developed, how its powers will sit with the current regulatory architecture is not yet clear. To ensure regulatory harmony it is critical that ATEC's functions are clearly defined and coordinated within the context of the regulatory framework, with ATEC not duplicating existing responsibilities or introducing additional layers of oversight that increase burden without improving outcomes.

To this end, UA recommends a substantial, independent review of both the TEQSA Act and its attendant powers to ensure that TEQSA and other competing regulation works in harmony in a proportionate and risk based approach to ensure the system is fit for purpose and creating an environment that will ensure the next phase of governance reform is coherent, evidence-based and aligned with the shared objective of a high-performing, resilient and world-leading university sector.

A modern regulator for emerging challenges

A modern and efficient regulator must retain the three basic principles of regulation enshrined in the TEQSA Act – not imposing burdens that are more than reasonably necessary, reflecting risk, and being proportionate. These principles ensure regulation is targeted and fair, particularly in a resource-constrained environment such as the one in which Australian universities continue to operate. The TEQSA Act includes an object "to regulate higher education using principles relating to regulatory

necessity, risk, and proportionality." UA strongly supports retaining these three principles of regulation. Over-regulation and duplication across agencies is inefficient, ineffective, and should be avoided.

Effective regulation should engage meaningfully with risk and be applied proportionately. UA supports the application of these principles to decisions taken under the TEQSA Act and the Higher Education Support Act (2003) (HESA). UA notes that the TEQSA Act permits the creation of standards other than the Threshold Standards, against which TEQSA may assess higher education providers. This power was specifically retained following the Review of the TEQSA Act in 2017 and represents an avenue through which to better exercise TEQSA's powers without legislative amendment.

UA acknowledges the suggestion that TEQSA be empowered to appoint monitors or independent advisers in cases of serious governance failure. While TEQSA already has mechanisms to impose conditions and enforce compliance, further exploration of alternative approaches like appointing monitors to support corrective action may be warranted. Any such change should be carefully considered to ensure it complements existing state and territory governance frameworks and does not duplicate responsibilities. UA supports further consultation to assess the feasibility and effectiveness of this model before legislative change is considered.

Proactive risk management and rapid response

When considering the future state of TEQSA a shift from a compliance-checking approach to one that actively engages with and prevents systemic risks would be appropriate. This would allow earlier intervention in issues that affect multiple providers or pose significant threats to student outcomes and sector integrity.

The introduction of a 'positive duty' would require providers to continuously demonstrate compliance with the Threshold Standards rather than requiring TEQSA to assume a reactive role. Most providers already interpret their obligations as a positive duty to always comply with the HESF. Legislating this may not materially change provider behaviour but could clarify expectations for new entrants or in high-risk contexts.

TEQSA currently has the power to review or examine systemic issues under Section 60. As part of modernising TEQSA's use of existing powers, consideration could be given to reducing the notice period for sectoral quality assessments. This may facilitate faster, more visible responses to risks regarding student safety and integrity.

TEQSA would benefit from an improved ability to respond to emerging systemic risks and shift focus from cyclical compliance checks, such as the standard re-registration process, to more proactive risk mitigation that leverages existing powers and engages appropriately with risk. UA supports strengthening TEQSA's ability to use sector data to identify emerging risks and target responses appropriately. But such an approach should be carefully balanced to avoid unnecessary regulatory burden.

Streamlining regulation and minimising burden

It is essential that the remits of an increasingly crowded regulatory environment are clearly articulated. Recent reforms across the higher education sector reflect a genuine and commendable effort to address complex challenges. At the same time, regulatory responsibilities across TEQSA, the Commonwealth, and state and territory governments have become increasingly complex. These reforms are positive and meaningful but have inadvertently introduced a degree of fragmentation that risks increasing reporting burdens and creating overlaps in regulatory responsibilities. This can make it difficult for providers to navigate requirements and diverts resources meant to support teaching and research to regulatory activities.

The expansion of the regulatory architecture over the past two decades has been driven by important priorities like freedom of speech, foreign interference, student loan integrity, provider quality, and

racism on campus. These are critical responses to genuine issues but there is an opportunity to ensure that any future regulatory mechanisms are streamlined, proportionate, and fit for purpose.

Universities Australia supports efforts to streamline regulatory arrangements across TEQSA and ASQA and notes the work underway to support a joined up tertiary system which may require future consideration of adjustments to regulatory frameworks and legislative provisions.

UA supports the development of new alternative and more effective approaches to regulation, in consultation with affected providers, along with a deeper understanding of their resource implications. If new approaches to regulation are being considered UA recommends a staged approach as follows:

- Finalise the new threshold standards on governance and the ATEC legislation.
- Appoint an independent assessor or ATEC to undertake an overview of the existing regulatory environment, including overlaps, gaps and areas that may not comply with the principles of regulatory necessity, risk, and proportionality.
- Determine necessary changes to the TEQSA Act in light of this assessment to ensure that it complements rather than conflicts with the rest of the regulatory regime. Other elements of the existing regulatory environment which are determined to require amendment could be dealt with in one legislative package (e.g. if new TEQSA powers have implications for other regulatory bodies).

Given the scale and pace of reform underway in the sector, it is critical that changes to the regulatory framework are carefully sequenced to ensure coherence, alignment, and effectiveness. In particular, proposed amendments to the TEQSA Act should follow any updates to the Threshold Standards.

The Government should consider the interoperability of higher education regulation and delay any proposed changes to the TEQSA Act until they can be considered in conjunction with proposed changes to the Threshold Standards. Universities will be best placed to provide meaningful feedback when the totality of proposed changes is better communicated, including how the soon-to-be-legislated powers of ATEC will sit with the current regulatory architecture.