Australian Government
Higher Education Standards

Higher Education Standards Panel

Communique Number 14 – 12 December 2014

Introduction

Welcome to the fourteenth Communique from the Higher Education Standards Panel (the Panel). The purpose of this Communique is to provide the sector and other stakeholders with an update on the changes made to the proposed Higher Education Standards Framework (the Framework) as a result of feedback received from the Panel's Call for Comment Number 3. This Communique builds on the Panel's initial response to the feedback, as outlined in Communique Number 12.
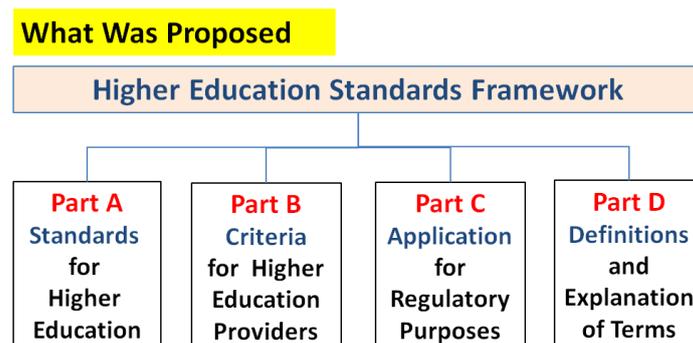
Context

The Panel has now provided its advice on proposed revisions to the Higher Education Standards Framework to the Commonwealth Minister for Education. The version of the Framework that accompanies the Panel's advice to the Minister is available on the Panel's website at http://www.HEstandards.gov.au. The TEQSA Act 2011 requires the Minister to consult with his state and territory counterparts and with TEQSA in relation to the advice received from the Panel. The Minister may also undertake other consultation of his choosing. The final form of the Framework will be determined by the Minister, who will formally 'make' any standards that he adopts as a legislative instrument. Some consequential amendments to the TEQSA Act 2011 may be required and transitional arrangements to accommodate the application of any changes to the Framework for regulatory purposes by TEQSA will also need to be considered.

Overview

As noted previously in Communique Number 12, the response to the proposed Framework was overwhelmingly positive and supportive, and included many helpful constructive suggestions for further improvements. In view of the positive feedback received, the overall direction and intent of the Framework has been retained, although many detailed improvements have been incorporated. In the Panel's view the proposed Framework is now substantially improved and the Panel is grateful for the feedback received. In view of the broad support received from the sector and from TEQSA, the relatively minor nature of the changes, the extent of prior consultation already undertaken and the Minister's forthcoming consultations, the Panel does not believe it is necessary for the Panel to undertake any further rounds of consultation with the sector. A minority of suggestions for change, including some mutually contradictory proposals, were not taken up by the Panel. Some of these are discussed below.

Summary of Changes

Structure of the Framework: The Panel had proposed a four-part Framework as shown below.

What Was Proposed

Higher Education Standards Framework

Part A	Part B	Part C	Part D
Standards for Higher Education	**Criteria for Higher Education Providers**	**Application for Regulatory Purposes**	**Definitions and Explanation of Terms**

While the intent of Part C seemed to be broadly supported as a means of addressing regulatory burden, the idea of incorporation of Part C in the legislative instrument raised a series of potential regulatory difficulties for TEQSA as well as drafting issues for a legislative instrument *per se*. The Framework has now been redrafted as a three-part Framework without the former Part C. The former Part C has been replaced by advice from the Panel to TEQSA on application of the Framework for regulatory purposes, as provided for in Section 168 of the TEQSA Act. The Panel is comfortable that this approach retains the intent of Part C, but in a more workable form, which is also supported by TEQSA.
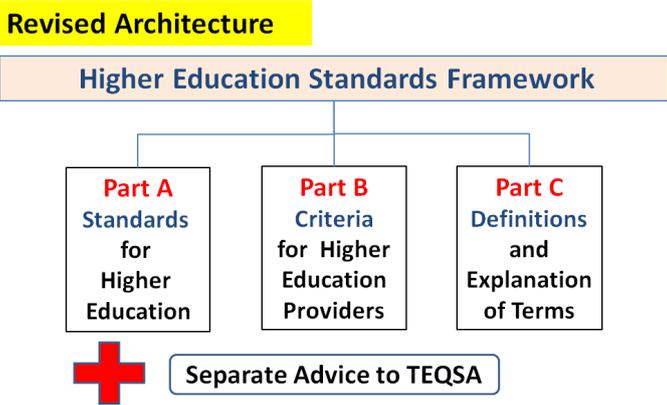
Two domains of the Standards in Part A have been renamed: Institutional Quality Assurance and Governance and Accountability; the former recognising that all of the Standards are about 'quality assurance', while this particular domain is about institutional systems to self-assure quality, and the latter to reflect strengthened corporate governance requirements. Some sections within domains have also been streamlined, merged or relocated. For example, 'Orientation' and 'Progression' have been merged and streamlined, 'Course delivery' has been refocussed on 'Staffing' and 'Delivery Arrangements with other Parties' has been transferred to 'Institutional Quality Assurance' to better reflect the focus of these Standards.

Form of the Standards: The Panel had sought to streamline the drafting of the Standards by transferring some details, e.g. 'qualifiers' and 'lists', to either footnotes or definitions. This approach was widely unpopular for various reasons. It also created a number of unintended consequences. In light of these issues, all of the detail associated with particular Standards statements has now been included in the Standards Statements themselves. While this approach has added detail, the Panel feels that it has not detracted unduly from the streamlining of the Standards and removes any doubt about the content and intent of the individual Standards concerned. In addition, a number of Standards Statements have been edited to better reflect an outcome rather than a process.

Scope of the Standards: Some commentators suggested that a minority of Standards statements could be deleted for various reasons such as being 'unnecessary' or 'too prescriptive' or being about 'process *vs* outcome'. In response, the Panel has undertaken some streamlining of the Standards and some editing of various Standards towards outcomes as discussed above, but on the whole the Panel believes that the scope of the Standards is balanced. In forming this view the Panel has taken account of the overall feedback received, the potential risks associated with each Standards Statement, the role of each component of the Standards as part of a coherent framework for internal quality assurance, the appropriateness of particular Standards given the varying scale and scope of providers and the differing scope and maturity of their internal quality assurance mechanisms, and the importance of internally generated evidence of quality assurance in reducing external regulatory burden.

The Panel does not believe that the Standards ask for anything that a responsible provider would not ordinarily be seeking to do for itself in understanding, monitoring and improving its higher education operations. This is also consistent with the aim for regulation identified in the Review of Higher

Education Regulation (2013)[1], to 'enable a dynamic and increasingly self-managed regulating environment'.

Preserved Intent: The following features of the Framework received widespread support and have been retained:

- the elimination of the concept of threshold/non-threshold standards
- the separation of the Parts A & B of the Framework
- a focus on students and the facilitation of informed choice
- the value of the Framework for internal monitoring
- the form, style, structure and language of the Framework
- a combination of technically detailed and overarching standards e.g. learning outcomes vs academic governance
- an emphasis on outcomes rather than processes
- room for flexibility rather than 'standardised' approaches
- integration of the AQF and the educational quality aspects of the ESOS National Code.

The Provider Category Standards will remain unchanged except for minor editorial changes to achieve consistency with the proposed Framework. As previously advised by the Panel, a separate review and consultation on the Provider Category Standards is planned.

Technical Improvements: Most of the suggestions for improvement were seen by the Panel as both helpful and uncontroversial. The Panel has paid particular attention to improvements in standards concerned with the following:

- staffing (to articulate more clearly the role of academic leadership and oversight and to clearly acknowledge the role of teachers of different backgrounds who may teach in parts of a course of study such as experienced practitioners or higher degree students)
- corporate governance and accountability (to strengthen the requirements in certain respects, such as continuing financial viability and to re-introduce a requirement for some independent directors)
- academic governance (to provide more emphasis on evaluating the effectiveness of academic policies and practices)
- complaints handling (to reintroduce access to an independent process where internal processes fail to resolve a complaint)
- various refinements to the research and research training standards (to better reflect accepted good practice)
- criteria for seeking self-accrediting authority (to maintain the intent of current requirements but with clearer specification)
- the application of the Standards for regulatory purposes (to ensure an appropriate balance between the value of the Framework for internal monitoring purposes and its effectiveness for external regulatory purposes).

Matters of Divided Opinion: The Panel noted differing and sometimes mutually contradictory views on some aspects of the proposed Framework. All of these views were considered in detail as the Panel reached its decision. In so doing, the Panel agreed that it was not prepared to prescribe the following:

- formal teaching qualifications for teaching staff, as against being otherwise equipped for their roles
- particular academic governance structures such as an academic board, as against governance outcomes and processes

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[1] Professor Kwong Lee Dow AO & Professor Valerie Braithwaite, *Review of Higher Education Regulation: Report*, 2013, p.58.

- a majority of independent directors, as against requiring some independent directors
- a single pathway to seeking self-accrediting authority, as against various options
- detailed requirements for recognition of prior learning, as against more overarching requirements concerned with the integrity of educational outcomes
- two external examiners for a masters degree (research), as against the examiners otherwise being competent, independent and without conflict of interest.

In reaching its views on these matters the Panel notes that the position taken in the Standards does not in any way preclude a provider from taking a particular approach to meeting the outcome of the standards e.g. preferring an academic board as its chosen mechanism to meet the requirements for academic governance or having a majority of independent directors on the corporate board or teachers holding teaching qualifications.

Consultation with the TEQSA

The Panel consulted with TEQSA in relation to its concerns about the potential regulatory effectiveness of some standards. While the Panel had sought to achieve a Framework that would be helpful for internal quality assurance purposes as well as external regulatory purposes, the Panel accepted TEQSA's concerns that in some cases this balance had not been achieved as well as it might have been. These concerns have been addressed to TEQSA's satisfaction and the Panel believes that this has been done without any detriment to the Framework's utility for internal purposes for providers. TEQSA is also satisfied that the new Framework will support TEQSA's continuing effort to streamline its approach through the 'core plus extension' model of regulatory application of standards. The Panel is grateful for TEQSA's input and the consultative and collaborative spirit in which it was provided.

Consultation with the TEQSA Advisory Council

Following the Panel's review of the proposed Framework, revised drafts were provided to the TEQSA Advisory Council during September and November. The Council suggested the following changes:
- that learning outcomes be informed by national and international comparators
- corporate governing bodies include independent directors
- corporate governing bodies undertake their function effectively as well as diligently
- reviews of corporate and academic governing bodies be independent reviews
- financial monitoring includes financial performance as well as financial position
- disclosure of information regarding the financial standing of the provider as a means of indicating the scale and viability of the provider to prospective students.

The Panel considered these suggestions and made modifications in line with the Council's intent.

Conclusion

The Panel believes that the final version of the Framework as proposed to the Minister will be helpful and effective as a framework for internal quality assurance by providers as well as an effective instrument for external regulatory purposes in the hands of TEQSA. The Panel also believes the Framework is consistent with achieving all of the objects of the TEQSA Act including, importantly, increasing information for students, and that the Framework will be able to be applied for regulatory purposes according to the three basic principles for regulation articulated in the TEQSA Act (Section 13):
- the principle of regulatory necessity
- the principle of reflecting risk, and
- the principle of proportionate regulation.

For further information, please refer to the Higher Education Standards website: http://www.HEstandards.gov.au

The Panel is grateful for the generous cooperation and support it has received in its work.

Alan Robson
Chair, Higher Education Standards Panel
12 December 2014