

English Language Testing for International Students in Australia

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ABSTRACT

International education is an important market for Australia. It is also highly regulated, in particular reference to the private providers in the country – less so the public universities. Yet, despite the regulations there is a gap in assisting institutions in relation to suitability of English preparedness for international students. Private providers are advised to look to universities for assistance in setting out entry requirements for their programs for example. This practice is fraught with problems given the fact that the universities themselves struggle with the issue. Universities in Australia have also been the subject of scandals in relation to entry requirements. This paper will consider the implications of this approach for the Australian higher education sector and hopefully explain the complexity of the issue. The lack of transparency and guideline in this space is concerning and needs attention. There remains no other sector in Australia, where private providers are encouraged to model large publicly funded institutions as best practice.

1. INTRODUCTION

The international student market in Australia is worth some \$39.6 billion in revenue. Globally, Australia is the third most popular education destination in the world (1). Education remains the country's fourth largest export industry (2) with some 8% share of the global market. While, the industry has taken a battering due to COVID-19 it is still an important source of revenue for Australia (3). International education in Australia supports conservatively more than 250,000 jobs across the Sector. It is the largest services export contributing to some \$14.617 billion to the New South Wales economy alone in 2019-2020 (4).

Considerable effort and energy has been put into developing this all important sector over many years. Australia remains unique in this regard. This effort to build the sector has been done via a whole of Government approach with the cooperation of all States, Territories and Federal Government agencies. The Australian International Education Unit that is part of the Department of Education Skills and Employment has largely spearheaded this push. The current COVID-19 pandemic has placed enormous stress on market and those delivering the products as evidenced in significant staffing cut and resourcing.

The current thinking is that while 2020/2021 will continue to be challenged by restrictions on students coming into Australia, 2022 is likely to see a revival. This revival is likely to be slow, but inevitable. The actual shape and dimension of this returning market, though, remains unsure. The actual mode of delivery to international students is also under considerable scrutiny. Whether or not there is a full return to face to face teaching or a hybrid (blended) model is a matter for considerable discussion and reflection at the moment across the education sector. What is intriguing, though, is the high levels of satisfaction with the online alternative by postgraduate students in particular. The recent Deloitte study of postgraduate students (5) suggests that 77% of surveyed students preferred to stay on line rather than return to the classroom.

In our institution, Universal Business School Sydney (UBSS), the outcome of the most recent survey suggested 93% of postgraduate students preferred to stay on line. The mindset could see growth in the sector continue – just not in the usual face to face context. Our institution is examining the option of a 'hybrid' return – that is classes will remain on line throughout 2021 and 2022 and students will be invited to attend face to face learning observing COVID-19 protocols. In recent weeks, UBSS has secured New South Wales Government certification as providing a COVID safe environment to ensure maximum support and safety. The success of this return will largely depend on the willingness of students to return to the formal classroom – or at any rate the pre COVID-19 classroom environment. If the current survey data is anything to go by, this return to face to face, will be a slow and possibly tedious process. There is a view that things will never be the same.

2. FEATURES OF INTERNATIONAL STUDENTS AND HIGHER EDUCATION

Potential applicants – whether for face to face or online delivery - need to apply for a Student Sub Class 500 Visa at the cost of AUD\$620.00 (6). Students are eligible to stay in country for up to five years with dependents. However, they must meet certain conditions of the visa. This includes maintaining adequate health insurance for one, and only being allowed to work hours a fortnight during a teaching semester (7). This, issue may be debatable if students choose to study online and offshore. Part of the attraction of the Student Sub Class 500 visa is that students may be able to apply for an additional two year graduate visa upon completion of their studies. There are currently a number of UBSS students who remain offshore given the travel restrictions and border controls currently in place that made it impossible for them to return to study. The fact that Australia turned to online delivery was to the advantage of these students in some respects. The assumption is these students will return to Australia when permitted. For the purpose of this discussion we will assume in country, on campus status applies.

Higher Education accounted for some 68.5% of export income in 2017-2018 and 45.6% of all enrolments in 2018 (8). Prior to COVID-19 there were some 653,000 international students in Australia (9). Previously, the aim was for Australia to host some 720,000 students onshore (10). This lofty goal has of course has been seriously compromised and will take some time to recover such aspirational figures. Some consider the fact that this may not actually occur moving forward.

Applicants who wish to study in Australia also need to demonstrate that they meet the Genuine Entry Requirement (11). This means that a student is coming to Australia to gain a quality education and accepts the responsibilities and commitments associated with achieving this goal. The ‘Genuine’ status has measures attached including satisfactory progression through the selected course – usually a minimum of 50% of subjects passed in a given trimester. This ‘genuine’ commitment is spelt out in all formal documentation including the initial letter of offer. All institutions go to lengths – through ongoing correspondence, orientation programs and the like – to ensure international students are aware of the ‘genuine’ obligations. Additional elements include not doing paid work more than 40 hours a fortnight and not breaching any State laws. Attendance at class was, in the past, an issue but is no longer an requirement under the various legislation that governs international education for higher education.

3. LEGISLATIVE BACKGROUND TO THE SECTOR

The Australian International Education sector is governed by various pieces of legislation. Australia was at the forefront of developing legislation specifically for the needs of international students. The United Kingdom only relatively recently introduced a higher education regulatory regime being the Higher Education Funding Council for England (HEFCE) (12). For the purposes of this paper, the focus will be confined only to higher education. The relevant and binding legislation, then, includes the *Education Services for Overseas Students Act 2000* (ESOS Act), the *National Code of Practice for Providers of Education and Training to Overseas Students 2018* (the National Code) and the *Tertiary Education Quality and Standards Agency Act 2011*. These documents contain relevant and supportive guidelines for best practice.

4. ENGLISH LANGUAGE PROFICIENCY

Section 5 of the ESOS Act defines ‘overseas student’ or ‘intending overseas student’ as a person who holds a student visa. An intending overseas student is defined ‘as a person (whether within or outside Australia) who intends to become or who has taken any steps towards becoming an overseas student.’ Note that the ESOS Act refers to ‘overseas students’ yet other government agencies refer to ‘international students’ (13). They are one and the same. For the purposes of this paper the term ‘international students’ is referenced and used throughout.

For international students studying at undergraduate and/or postgraduate level and from Non English Speaking countries they must also demonstrate English language proficiency (14). The view is that proficiency is essential to performance given that all instruction and assessment is in the English language. An important consideration, of course, is the nature of the study and the language requirement. That is, a ‘one size fits all’ scenario is inappropriate. Given the extensive range of offerings across multiple disciplines and foci it becomes essential that a given organization has a clear understanding of the level of English proficiency required for success and at the same time ensures that the required standard is aligned with the relevant program demands of like institutions. This becomes the challenge. This also becomes the most apparent reason for the lack of a standardized requirement – essentially it is extremely difficult to do.

Standard 2 of the National Code requires registered providers to have and implement a documented policy and process for assessing that the overseas student’s English language proficiency, educational qualifications or work

experience is sufficient to enter a course (15). How this is measured is largely up to the individual provider and as noted may vary according to the nature of the offering. What is important is that the language requirement needs to be evident and supportable in the admissions process. The standard approach has been an IELTS measure – or equivalent. IELTS is a popular device, and understandably so, given it is recognised by more than 10,000 organisations across 140 countries globally (16). The popularity of IELTS has also led to a relatively new trend occurring that of IELTS marriages (17).

There is no statutory definition of what is meant by English equivalency contained in the ESOS Act. In fact, the TEQSA Act is also silent on English equivalency. This provides a degree of anxiety for both providers and the Regulator and is in no way helpful. This often leads to confusion and discrepancy in the market.

It is also worth noting that in order to take an IELTS test for study in Australia a student will need to sit the exam at a specified IELTS centre. IELTS centres in Australia are run by a for profit organisation called IDP. It is a publicly listed company on the Australian Stock Exchange (18). There is, then, a commercial element to sitting IELTS exams. The fee for sitting an IELTS exam is currently AUD\$375.00 (19). There have been documented cases where students have taken the IELTS test up to 21 times (20).

This paper will now consider the practical implications of the lack of clarity around English language proficiency and equivalency.

5. WHY IS THIS IMPORTANT?

It is important to determine whether students are suitable for the course for which they wish to study. This suitability would likely indicate if a student would be successful in the completion of the program. The aim of any provider is to provide the best learning and student experience possible and in turn optimize learning outcomes for students. Consideration of suitability to enroll then is of utmost importance. Though this suitability is never an absolute guarantee of success – it is an important consideration in the overall process. The convenience of using standardized test results - such as IELTS - is evident, though troublesome at a number of levels.

The English language abilities of international students remain an issue of concern. The key issue as noted by Professor Andrew Norton in his blog (21) is there is little evidence available to state that English language abilities of international students are not an area of concern (22). In fact a google search of ‘international students poor English’ reveals some 85,900,000 results in 0.47 seconds (23). Completing an IELTS test for example and achieving the necessary score some months prior to arriving in Australia and commencing formal studies does not guarantee the necessary language skills are in place. A number of studies have demonstrated that English proficiency can in fact deteriorate over a period of time especially in the context of not using English on a daily/regular basis. International students supported by ethnic communities in country serves as a good example. The support and comfort provided is essential – but the tendency not to use English language within that situation can often lead to a deterioration of English language proficiency.

The challenge, then, for providers is not only ensuring the standard of English is suitable from the outset (to maximize the opportunity for study success) but also ensuring the English standard is both maintained and improved throughout the duration of the learning process.

6. HIGHER EDUCATION AND TEQSA

Higher education in Australia is regulated by the Tertiary Education Quality Standards Agency (TEQSA). It is the national regulatory agency for all higher education. TEQSA commenced operations on 29 January 2012. The agency’s role is to ensure that quality standards are being met by all higher education providers (HEPs), so that the interests of students and the reputation of Australia’s higher education sector are promoted and protected. TEQSA takes a risk based approach to planning and implementing its assessments of provider compliance with these standards. Providers who offer higher education qualifications in Australia or from Australia must be registered by TEQSA. Providers who are not self-accrediting in regard to the awards being offered must also have their courses accredited by TEQSA (24). The divide between self-accrediting and non-self-accrediting HEPs is significant and biased towards universities.

The issue to consider is what is meant by self-accrediting. Australia in 2020 has some 40 universities all with self-accrediting status (25). Universities, the bulk of which are publicly funded, are under the TEQSA Act deemed to

be self-accrediting. This means that universities are not required to apply for their courses to be accredited by TEQSA (26). Furthermore, at the end of the period of accreditation, non-self-accrediting higher education providers also must re-apply for course re-accreditation from TEQSA. This means in essence providers (non –self accrediting) are at the mercy of TEQSA and dependent on how long it takes for them to make a decision. Obviously this usually places the provider at a disadvantage in terms of currency and response to market flexibility.

This, in turn, gives universities an advantage in the market as they can react quickly to market changes by offering new courses in a fairly streamlined approach – typically taking three to four months to achieve. Private providers are not afforded the same luxury. The median time to process course accreditation applications in 2019/2020 is some 140 days (27). Our own Institution has some nine awards in the process of TEQSA accreditation which has not yet been resolved after 500 days. The average time for course re-accreditation when there has been and adverse finding is some 150 days. This is a decrease of two days from 2018/2019 (28). We also note that under section 49 of the TEQSA Act, TEQSA must make a decision on an application for accreditation of a course of study within nine months of receiving it. According to its own annual report, TEQSA have mostly achieved this status as 99% of decisions about applications were made within nine months and only one decision was not made within specified time period (29). It is difficult to ascertain how and on what basis such blanket statements of 99% are made in this regard. The sole decision that has not been made is presumably one that impacts our Institution.

While still trading as a higher education provider this time drag slows down innovation and proactivity. Material changes, in a similar way, have been slowed down. One such example is our request for a material change to establish a Melbourne CBD campus that has been delayed for more than 1,500 days. While the delays experienced in the sector due to the regulatory environment are common knowledge, there seems to be a reluctance from the sector to actually voice the concerns. Anecdotally, both the authors of this paper have been approached by the members of the sector confirming their dissatisfaction with TEQSA but, are reluctant to formally articulate the feedback due to fear of TEQSA reprisals. Whether this is real or imagined remains unknown. Nonetheless, it is a genuine concern in relation to transparency for the sector in general. For instance, one of the authors created a poll on LinkedIn. Despite getting over 1200 views less than 10% actually voted (30). The author instead received a number of private messages commenting on her ‘bravery’ on establishing such a poll. Both the authors have noted that no other regulatory office other than the Australian Tax Office inspires such fear or uncertainty.

Of more concern is that every single TEQSA Commissioner is made up of former university employees. The exiting CEO was also from the university sector (albeit from the United Kingdom) (31). This bias has been in part addressed in relation to the incoming CEO who is a former diplomat (32). There appears to be an inherent bias towards universities in Australia by its own Regulator as evidenced by senior appointments and the publication of material. This is covered more in detail below. This is not helpful for quality private providers. The notion of better representation and understanding of private institutions is a key deficiency in the current regulation and this needs to be addressed.

One of TEQSA’s goals is to publish information about quality assurance and regulatory matters (33). This is done through the publication of ‘guidance notes’. As of October 2020, the TEQSA has published some 35 guidance notes on best practice (34). The guidance notes cover a range of subjects such as academic integrity, corporate governance and course design (35). Also of note is that the most recent new Guidance Note (on a new topic) was published on 6 January 2020 (36). Curiously, TEQSA rate themselves as achieving their objective to provide information about quality assurance (37). It is difficult to see how this is true given that the sector is navigating an extraordinary set of circumstances due to a pandemic. TEQSA has published its much lauded guide to online learning good practice presumably because of the online learning requirements of the pandemic. This is commendable but of concern is that it was last updated on 2 April 2020 (38). At the date of writing this paper (October 2020) there have been no further updates. Presumably because online learning at least according to TEQSA is someone static. Also telling is that the information sheets provided for providers under ‘Experts Advice Hub’ have all been written by staff members of universities except one written by a Former TEQSA Commissioner (39). Again, universities are heralded to be the standard of teaching and expertise (40) which is dubious and in so many cases simply unfounded. As noted earlier these guidance notes are useful, though not legally binding. In an attempt to be collegial and non-binding they also are often vague and general in nature - but remain useful at a number of levels including the opportunity to self-assess against them. In the perfect world the triangulation of guidance notes (Regulator advice), self-assessment and benchmarking can achieve some quality outcomes.

Interestingly, in the 2019/2020 TEQSA Annual Report, TEQSA rate themselves as achieving the target of publishing good information for the sector. Of interest is that stakeholder survey data is not available due to the COVID-19 pandemic (41). Again it is not known on what basis TEQSA has assessed themselves as achieving a target when it appears no stakeholders have been consulted.

As noted earlier there is no definition in the ESOS Act and the TEQSA Act for English language equivalency and the like. Curiously, there is also no guidance note on the same despite the apparent concern on the matter expressed by TEQSA in public fora. It is important to remember that guidance notes published by TEQSA are useful as a means of identifying topics of importance considered by the Regulator. The notes have no legislative basis and should be seen as a 'guide' only – TEQSA goes to some length to point this out (43). The absence of a guidance note on English language issues then is odd. Given the current high profile of concerns related to language proficiency it seems quite odd that there is little in the way of guidance provided.

This lack of definition has created a vacuum. While there are some best practice guides such as the European Framework (43), it is often left to the provider itself to determine what suitability into the program looks like by way of comparison to what others are doing in the sector. Benchmarking is a useful tool here – and has been used by many private providers to ensure appropriateness. This has created a business opportunity for consultants producing benchmarking tools. In addition, the industry body catering for private higher education providers namely IHEA promote one of their membership benefits as being benchmarking (44). To give credit, where credit is due, this focus has provided a range of benchmarking activities for members that has been extremely useful. Anecdotal evidence reveals that a common complaint by TEQSA is that providers do not engage in enough benchmarking or fail to provide adequate evidence that the benchmarking is acted upon. It is worth noting there is no guidance note on what is effective benchmarking nor how it should be applied. In fact, one provider was critiqued by TEQSA at not benchmarking enough despite being involved in over 30 benchmarking activities. The provider in question asked for further and better particulars but to date this has not been provided.

This process of comparison is actually part of the course accreditation process used by TEQSA, whereby, providers must furnish evidence to TEQSA that their entry requirements into the program meet what is already accepted practice. TEQSA uses external experts to assess provider applications who are actually competitors with the applicant (45). This is a matter of considerable concern. The role of the TEQSA external expert is to provide independent advice on specific elements of the regulatory assessments. The expert advice according to TEQSA is only one part of input in the regulatory process (46). There are a number of ambiguities and concerns embedded in the current practice that needs to be remedied. These will now be addressed separately.

Firstly as mentioned previously TEQSA uses external experts. While this is not unusual for regulatory authorities the use of TEQSA external experts remains clouded in secrecy. For example, the list of experts is not published on the TEQSA website raising questions of transparency and due process. Who are these experts and where do they come from remains unknown. The experts themselves are not public service appointments. Instead, experts apply for a role via the TEQSA website, are appointed for up to three years and are paid a daily rate of some AUD\$864.70 (including GST) (47). Our recent experience of the accreditation process for nine awards has been the involvement of some seven experts (all competitors of UBSS) who essentially disagree with each other and are often contradictory. This is not helpful and further slows down the accreditation process. The Regulator, in turn, appears to then 'cherry pick' any negative issues raised (by the competitors) and requires detailed response and justification furthering the delays to the process of accreditation and re-accreditation of courses.

The qualifications of the TEQSA staff themselves also warrant some mention. TEQSA staff are Australian Public Servants and required to undergo an Australian Government Security clearance. In publicly available TEQSA job advertisements such as, a most recent opportunity - the Director of the Higher Education Integrity Unit - applicants are *preferred* to have extensive senior experience in Australian Higher Education or related role in the government (48). It is not mandatory. Nor is there any requirement for legal or governance qualifications, which is curious given TEQSA is a regulatory body. While this is positive as it allows a movement of staff across government agencies there are some shortcomings. (It is noted that TEQSA have a designated Legal Office). Notably, TEQSA staff may be at a disadvantage when it comes to the sector participants. As those in the sector may have (and frequently do have) substantially more knowledge than those at TEQSA (49). This further creates a culture of mistrust and unease between the regulator and those it seeks to regulate.

Often universities are held in high regard in that their entry requirements are representative of best practice. Most staff from the Regulator's office have completed a university award – though few appear to have actually worked in the University context and certainly not at senior levels. This rather tainted view is not helpful. As of 30 June 2020, TEQSA employed some 56 Australian Public Service Level and 33 Executive Level Staff (50). Yet, there is little thought given to whether this so called 'best practice' is actually the case. The reasons for viewing universities as best practice is by virtue of their self-accrediting status coupled with being part of the streamlined visa process. This is examined in more detail below.

The streamlined visa process was introduced in 2016. This allowed universities to take responsibility for assessing suitability of students including vetting English standards prior to being granted a visa. So universities can set their English levels but also waive them where appropriate. Applicants with *streamlined evidentiary requirements* do not need to satisfy the requirements in Immi 18/015: English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa Instrument 2018 made under clause 500.213(1) (51) unless the decision maker invokes this requirement and requests the applicant to provide evidence.

The streamlined process allows universities themselves to determine whether an applicant has adequate English (52). As demonstrated earlier given that universities are self-accrediting TEQSA does not need to consider the suitability of entry requirements into a course. This has created some high profile issues.

The ABC Four Corners television show ran a program in May 2019 on this very issue. Universities were profiled as waiving English language requirements. The rationale for the lowering of entry requirements was due to a shortfall in government funding. This resulted in a poor academic experience for both international students and domestic students. The universities profiled were Southern Cross University, University of Tasmania, Swinburne University and Murdoch University. This waiving was seen as inappropriate and responsible for a so called lowering of academic standards to the detriment of domestic students. The University of Tasmania was the first university who acted proactively. They responded by commissioning an independent review of entry requirements (53). The results of which as yet are unknown. Southern Cross University mentioned that English waivers are common sector policy and directed the journalists to Universities Australia. Interestingly, TEQSA was quoted (off camera) on the program as stating that there was no evidence to suggest compliance problems with English language requirements of the universities mentioned.

The most significant claims were levelled at Murdoch University around the engagement of an Indian recruitment agent known as OECC that was supposedly 'dodgy'. According to Four Corners, former immigration officials alerted the university to the unsavoury practices of the agent. Current employed staff also warned management about the recruitment practices of this agent and that students did not meet entry requirements. Poor English aside students enrolled into the IT programs were not familiar with computers. These warnings were ignored or not acted upon. Instead, staff were sent emails about the importance of recruiting more international students (presumably from India) to reduce the debt of the University (54). Staff members then approached ABCs Four Corners program to disclose this information. The academics in question also revealed that an internal review was conducted by Murdoch University, which revealed no negative findings. Instead, the academics in question were directed to attend cultural awareness training. In response to these explosive allegations, the University responded by suing the main Academic involved in the disclosure (55). The central academic at the centre of the allegations later resigned from Murdoch University and the matter is still in front of the Courts (56).

Interestingly, on 9 October 2020, TEQSA finalised its compliance assessment of Murdoch University and found that Murdoch had demonstrated continuous improvement in relation to its international admissions practices in 2019/2020. Curiously, this was reported in the Campus Morning Mail a day *before* on 8 October 2020 prior to the announcement made on the TEQSA website (57). As expected, no details were forthcoming as to what 'continuous improvement measures' actually are presumably it is on a needs basis only (58). Furthermore, the issue of TEQSA staff being quoted on the ABC Four Corners as not being concerned about Murdoch University's compliance issues has not been addressed. In fact the most recent TEQSA Annual Report does not even refer to Murdoch University. This is presumably as it is a university. It is worth noting that nearly 30% of Melbourne University international students say their English fluency is moderate or low (59). So, it is evident, universities struggle with English Entry Requirements for students and it is unclear how this matter will be resolved.

7. WHERE DOES THIS ENGLISH LANGUAGE REQUIREMENT ORIGINATE?

For students to apply for a Subclass 500 (Student Visa) they are required to provide evidence of a level of English language proficiency (60). Applicants with **streamlined evidentiary requirements** do not need to satisfy the requirements in clause 500.213(1) unless the decision maker invokes this requirement and requests the applicant provide evidence. There is, then, a degree of flexibility embedded.

The instrument (61) states that an applicant does not need to provide evidence of English where –

- you are a citizen and hold a passport from UK, USA, Canada, NZ or Republic of Ireland;
- you are an applicant who is a Foreign Affairs or, Defence sponsored student or a Secondary Exchange student (AASES);
- you are enrolled in a principal course of study that is a registered school course, a standalone English Language Intensive Course for Overseas Students (ELICOS), a course registered to be delivered in a language other than English, or a registered post-graduate research course;
- you have completed at least 5 years' study in English in one or more of the following countries: Australia, UK, USA, Canada, New Zealand, South Africa, or the Republic of Ireland;
- within the 2 years before applying for the student visa, you completed, in Australia and in the English language, either the Senior Secondary Certificate of Education or a substantial component of a course leading to a qualification from the Australian Qualifications Framework at the Certificate IV or higher level, while you held a student visa.

The above criteria is summarised on the Department of Home Affairs website, which lists English language tests for potential applicants for the Subclass 500 visa (62). The tests listed are IELTS, TOEFL, Cambridge Based English and an occupational English Test. Students who refer to the 'Study in Australia' website are also directed to this page on the Department of Home Affairs (63).

Interestingly, the very tests themselves have been the subject of scandals on a number of occasions. For example, a former staffer at Curtin University in Australia was imprisoned for taking bribes to falsify IELTS scores (64). There are entire 'quora' and 'reddit' threads on cheating and 'hacks' (65). In fact, a google search will reveal some 3,050,000 results in 98 seconds. Therefore, the conclusion must be there is no such thing as a test that cannot be compromised and there is evidence that this is occurring. This in itself is concerning.

This issue is not unique to Australia. For example, in May 2019, five people were arrested for taking TOEFL scores for other students in the USA (66). A similar scandal rocked the UK with the Home Office investigating some 34,000 international students accused of cheating their English language tests (67).

8. SO WHAT DOES THIS MEAN?

In essence, there is a peculiar situation whereby private providers (those without self-accrediting status) are required to submit all course accreditations through TEQSA. In the case of most private higher education providers the admissions process is governed by robust rules of entry which are benchmarked against those of the universities. But, as demonstrated earlier universities can and do sometimes get it wrong. Interestingly there have been no media reports on private higher education providers and English language scandals.

As discussed earlier providers who do not have self-accrediting authority must apply to TEQSA for course accreditation and re-accreditation of its programs. And, also pay for the privilege. This is a further barrier to the market share that universities do not have to concern themselves with. The re-accreditation process involves filling in an application form (via the TEQSA portal) and paying an application fee. As of October 2020 it costs AUD\$2,000 (initial assessment) plus AUD\$7,000 (substantial assessment) **per** course (68). As of the date of writing the motion of TEQSA cost recovery has been delayed due to the pandemic (69). We note that this full 'cost recovery' would impose a greater burden on providers who are not self-accrediting. The suspension of fees – in response to the COVID-19 scenario – has been accompanied by further delays in the re-accreditation process. The time lines for TEQSA approvals have been previously addressed by this paper.

9. WHY IS THIS IMPORTANT FOR THE SECTOR AND TO THE PRIVATE PROVIDER?

It is very important for all private providers to assess suitability of students for their courses. This includes language proficiency. Students who do not have the requisite English language skills may fail their chosen course as a result of inadequate language proficiency. As noted, language proficiency does not guarantee success but it is generally believed that it is a contributing factor – though does vary from discipline to discipline and award to award. Inadequate preparedness for study and subsequent failure reflects poorly on the provider in terms of its progression rates (70). In addition, it may also influence and adversely affect the employability of graduates. Given that a number of graduates apply for skilled migration visas in Australia, it may also, then, impact on the student's ability to apply for permanent residency. For example, to apply for permanent residency includes a requirement of meeting a level of competency of the English language (71). Assuming that the entry requirement is robust and students demonstrate improvement in English language proficiency throughout the length of the study period this would not be an issue.

10. CONCLUSIONS

The higher education sector is unusual in that it remains the only known sector whereby comparisons are encouraged and it is standard practice to 'model' other providers. The absence of set standards provides a high level of insecurity and concern. The absence of specified language proficiency also creates unnecessary conflicts and tensions between providers and the Regulator. In the current environment private providers have a genuine opportunity - by virtue of being tarnish free reputation in this domain - to group together and develop best practice models for themselves that work towards maintaining standards of entry and success.

As discussed TEQSA (the national regulator) is either unwilling or too slow to react to changing market trends. It is up to private providers to make a stand and insist on a more level playing field – or at least one that does not base success on emulating university practice with its many flaws. The last few years of national student experience surveys provides significant evidence that private providers lead the way.

It is also time for self-accreditation for private providers to be sector wide and for TEQSA to play a more supportive role as opposed to the role of prosecutor. Extended time delays have created inappropriate barriers to growth and development of many private providers. This is inappropriate and needs to be addressed through self-accreditation options accompanied by a better understanding of the needs of private providers.

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13. <https://www.studyinaustralia.gov.au/English/Study-in-Australia-student-support/travel-visas> referenced 12 October 2020
14. English language proficiency defined as the ability of students to use the English language to make and communicate meaning in spoken and written contexts while completing their course of study. See [https://www.teqsa.gov.au/glossary-terms#:~:text=Higher%20education%20provider%20\(provider%20FHEP,a%20regulated%20higher%20education%20award](https://www.teqsa.gov.au/glossary-terms#:~:text=Higher%20education%20provider%20(provider%20FHEP,a%20regulated%20higher%20education%20award) accessed 9 October 2020 note this is not in the Acts.
15. <https://internationaleducation.gov.au/Regulatory-Information/Documents/National%20Code%202018%20Factsheets/Standard%202.pdf>
16. <https://www.idp.com/australia/ielts/> accessed 12 October 2020
17. <https://www.sbs.com.au/language/english/audio/ielts-brides-the-business-of-marriage-in-punjab> accessed 12 October 2020
18. <https://investors.idp.com/Investor-Centre/> accessed 13 October 2020
19. <https://ielts.com.au/articles/how-much-does-ielts-cost/> accessed 12 October 2020
20. <https://www.sbs.com.au/language/english/i-feel-they-are-harassing-me-says-woman-who-took-ielts-21-times> accessed 12 October 2020
21. <https://andrewnorton.net.au/category/higher-education/higher-education-admissions/page/2/> accessed 9 October 2020

22. <https://www.smh.com.au/politics/federal/government-working-on-tougher-enforcement-of-international-student-standards-and-wellbeing-20190530-p51srb.html> accessed 12 October 2020
23. https://www.google.com/search?q=international+student+visa+english+poor&rlz=1C1EKKP_enAU802AU802&oq=international+student+visa+english+poor+&qs=chrome..69i57j33i22i29i30.7966j0j4&sourceid=chrome&ie=UTF-8 on 12 October 2020
24. TEQSA Annual Report 2019/2020 available at <https://www.teqsa.gov.au/sites/default/files/teqsa-annual-report-2019-20.pdf?v=1601954980> accessed 9 October 2020
25. TEQSA Annual Report at 2019/2020 at page 43.
26. See section 45 of the TEQSA Act 2011.
27. TEQSA Annual Report 2019/2020 at page 23
28. TEQSA Annual Report 2019/2020 at page 24
29. TEQSA Annual Report 2019/2020 at page 25
30. See <https://www.linkedin.com/in/anurag-k-26a6183/detail/recent-activity/shares/>
31. TEQSA Annual Report page 9
32. <https://www.teqsa.gov.au/latest-news/articles/teqsa-welcomes-new-ceo> accessed 12 October 2020
33. TEQSA Annual Report page 39
34. <https://www.teqsa.gov.au/guidance-notes>
35. <https://www.teqsa.gov.au/latest-news/publications/guidance-note-corporate-governance>
36. <https://www.teqsa.gov.au/guidance-notes> accessed on 9 October 2020
37. TEQSA Annual Report page 39
38. <https://www.teqsa.gov.au/online-learning-good-practice> accessed 12 October 2020 there are some 39 contributors, 19 from major universities, 1 a TEQSA former Commissioner and 3 from UK/Ireland, 1 from Curio (Education Consultancy to Universities) see <https://www.curio.co/> accessed 12 October 2020
39. Lin Martin prior to joining TEQSA worked at RMIT and was a PhD graduate at the University of Melbourne see <https://au.linkedin.com/in/lin-martin-b7489446> accessed 12 October 2020
40. <https://www.teqsa.gov.au/experts-advice-hub> accessed 13 October 2020
41. TEQSA Annual Report page 39
42. Note the disclaimer at <https://www.teqsa.gov.au/guidance-notes> accessed 12 October 2020
43. <https://www.ielts.org/ielts-for-organisations/common-european-framework>
44. See <https://ihea.edu.au/ihea-membership/> accessed on 12 October 2020
45. Higher education remains a strange industry whereby comparisons are encouraged.
46. <https://www.teqsa.gov.au/information-teqsa-experts> accessed 9 October 2020
47. <https://www.teqsa.gov.au/for-providers/resources/teqsa-register-experts-frequently-asked-questions> accessed 9 October 2020
48. <https://www.teqsa.gov.au/position-description-director-higher-education-integrity-unit> accessed on 12 October 2020 and Risk Analyst position at <https://www.teqsa.gov.au/position-description-risk-analyst-1>
49. Also of note is a number of TEQSA staff who rebrand as consultants.
50. TEQSA Annual Report page 58
51. Schedule 2 to the Migration Regulations 1994
52. <https://immi.homeaffairs.gov.au/what-we-do/education-program/what-we-do/simplified-student-visa-framework> accessed 2 October 2020
53. <https://www.clairfield.com.au/reflections-on-abc-four-corners-investigation-into-australias-international-education-sector/> accessed 8 October 2020 it is worth noting that Murdoch University enrolled 680 international students 2/3 from Punjab via the agent in question.
54. <https://www.abc.net.au/news/2019-10-11/murdoch-university-sues-four-corners-whistleblower/11591520> accessed on 2 October 2020.
55. <https://www.theguardian.com/australia-news/2019/oct/11/murdoch-university-sues-whistleblower-after-comments-on-international-students> accessed 2 October 2020.
56. <https://www.abc.net.au/news/2019-10-25/professor-quits-murdoch-university-over-whistleblower-case/11641228> accessed 2 October 2020
57. <https://campusmorningmail.com.au/murdoch-u-gets-the-essential-tick-from-teqsa/> accessed 12 October 2020
58. <https://www.teqsa.gov.au/latest-news/articles/murdoch-university-compliance-assessment> accessed 12 October 2020
59. <https://andrewnorton.net.au/2019/09/18/how-bad-is-the-international-student-english-language-problem/> accessed 2 October 2020
60. English Language Tests and Evidence Exemptions for Subclass 500 (Student) Visa Instrument 2018 regulation 500.213 <https://www.legislation.gov.au/Details/F2018C00474>
61. Note that legislative instruments are laws on matters of detail made by a body authorised to do so. This includes rules, regulations and determinations. See Section 8 of the Legislation Act (2003).
62. <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/student-500#Eligibility> accessed 2 October 2020
63. <https://www.studyinaustralia.gov.au/English/How-to-apply/Entry-requirements/Entry-requirements> accessed 2 October 2020
64. <https://www.couriermail.com.au/ipad/corrupt-curtin-university-official-kok-keith-low-jailed-for-two-years/news-story/a6bfe1bffc6db7df605b5e4e8e0bf10> accessed on 2 October 2020
65. <https://www.quora.com/Is-it-possible-to-cheat-on-the-IELTS-test> accessed on 2 October 2020
66. see <https://www.lamag.com/citythinkblog/ucla-cheating/> accessed 2 October 2020
67. <https://www.universityworldnews.com/post.php?story=20190207192224757> accessed 2 October 2020
68. Tertiary Education Quality and Standards Agency Determination of Fees No. 1 of 2020
69. https://www.iteca.edu.au/ITECA/Content/News/News_Archive/20200414_NewsArticle_TEQSA_Cost_Recovery_To_Be_Delayed.aspx accessed 13 October 2020
70. Progression is not defined in the TEQSA Act it is referred to in Standard 8 of the National Code, which requires Providers to inform students to achieve satisfactory course progress prior to commencement. Noting that students themselves do not know they must pass the course.
71. Most skilled migration visas 189, 190, 491 and 494 require competent English see <https://migrationdownunder.com/english-requirements-for-australian-visas/> accessed 2 October 2020.