

Australian Catholic University

**Submission to the Senate Education and
Employment Legislation Committee**

**Inquiry into the Quality of Governance at
Australian Higher Education Providers**

March 2025

Submission to the Senate Inquiry into the Quality of Governance at Australian Higher Education Providers

Australian Catholic University (ACU) acknowledges the opportunity to make a submission to the Senate Education and Employment Legislation Committee regarding its inquiry into the quality of governance at Australian higher education providers.

The Committee's terms of reference relate to the adequacy of the powers available to the Tertiary Education Quality and Standards Agency (TEQSA) to perform its role in identifying and addressing corporate governance issues at Australian higher education providers (HEPs). However, examples of reference, in particular reference (d), blur the distinction between governance and management. For this reason, ACU's submission is solely concerned with corporate governance at higher education providers and explicitly does not engage with perceived management issues.

We emphasise the importance of maintaining this separation to ensure a clear and focused discussion on the quality of governance.

ACU's submission makes three key points:

- The current legislative and regulatory framework equips TEQSA with adequate powers to fulfill its regulatory and quality assurance roles regarding corporate governance and higher education standards.
- It is essential to accommodate and represent the diversity of governance structures within Australia's higher education sector in regulatory provisions and standards.
- Upholding university autonomy is crucial for effective regulatory principles and corporate governance, enabling universities to fulfill their core functions and maintain global competitiveness in Australian higher education.

TEQSA's role and powers

TEQSA oversees quality assurance in Australian higher education under the *Tertiary Education Quality and Standards Agency Act 2011* (Cth), with the Higher Education Standards Framework (Threshold Standards) 2021 (hereafter "HESF") outlining the requirements for providers' entry to, and continued operations within, Australia's higher education sector.

Regulatory standards pertaining to corporate governance are articulated in the HESF. TEQSA has also issued a suite of Guidance Notes relating to corporate governance to assist providers meet their obligations. This includes Guidance Notes on: Corporate Governance¹; Academic Governance²; and Academic Monitoring, Review and Improvement³. These resources assist the sector to develop its capacity for self-assurance and assist providers to operate effectively as self-governing institutions.

TEQSA articulates:

The centrepiece of corporate governance is a formally constituted governing body (e.g. a board of governance) that is collectively accountable for the governance and performance of the entity overall, including, in the case of registered higher education providers, meeting and continuing to meet [HESF] requirements.⁴

While TEQSA purportedly adopts a risk-based approach to its regulatory activities, its current approach raises concerns regarding the proportionality of regulatory actions for low-risk providers, and the effectiveness of its engagement with the sector. Its distributed organisational structure

¹ TEQSA. Guidance Note: Corporate Governance. <https://www.teqsa.gov.au/guides-resources/resources/guidance-notes/guidance-note-corporate-governance>

² TEQSA. Guidance Note: Academic Governance. <https://www.teqsa.gov.au/guides-resources/resources/guidance-notes/guidance-note-academic-governance>

³ TEQSA. Guidance Note: Academic Monitoring, Review and Improvement. <https://www.teqsa.gov.au/guides-resources/resources/guidance-notes/guidance-note-academic-monitoring-review-and-improvement>

⁴ TEQSA. Guidance Note: Corporate Governance. <https://www.teqsa.gov.au/guides-resources/resources/guidance-notes/guidance-note-corporate-governance>

promotes a largely reactive regulatory approach, rather than a proactive one. This increases the burden on both the regulator and the HEPs, without improved quality or accountability, and ultimately hampers effective regulatory actions.

Additionally, the current resource provision model within TEQSA should not replicate the functions of the now-defunct Office for Learning and Teaching (OLT). Instead, TEQSA should focus on its core regulatory responsibilities and collaborate with other entities to support institutional development and foster innovation and improvement of the Australian higher education sector.

As an underlying principle, TEQSA should maintain a proportionate approach toward well-performing institutions assessed as low risk, particularly those with robust performance in evaluation metrics such as financial stability and student satisfaction. However, it should closely monitor high and moderate risk providers, especially the many non-university higher education providers which have not obtained self-accrediting authority. This balance is essential for maintaining the quality and integrity of Australia's higher education sector into the future, and to more appropriately deploy resources. It should be recognised, however, that adverse "risk" outcomes are not of themselves evidence of poor performance.

Further, TEQSA's Guidance Notes, which sometimes extend beyond established standards, are leading to mission creep. For example, the Academic Governance Guidance Note⁵ implies that Academic Boards must oversee student safety, while the Monitoring and Analysis of Student Performance Guidance Note⁶ sets near-unattainable standards and pre-empts the critical analyses providers should conduct regarding student performance. This shift risks diluting core regulatory objectives and imposes unnecessary burdens on institutions. Moreover, the changing approach to the renewal of registration has created uncertainty within the sector, emphasising the need for a stable regulatory model that institutions can rely upon.

While TEQSA plays an essential role in safeguarding the quality of higher education in Australia, it must recognise institutional autonomy, foster meaningful engagement, and eliminate unnecessary regulatory burdens. Aligning its actions with stated goals and being responsive to the needs of the institutions it regulates, including corporate governance issues, is essential for a vibrant and diverse higher education sector.

University governance principles

ACU supports the implementation of recommendations from the Australian Universities Accord Panel, emphasising that any consideration of corporate governance must account for the Panel's focus on the critical role of diversity in the higher education sector. Embracing diversity within robust governance frameworks fosters institutional innovation and improves access and participation for a diverse student body, essential for addressing the evolving needs of our students and the broader economy, and for meeting the Accord Panel's ambitious attainment targets.

ACU looks forward to the Expert Council on University Governance developing new principles to strengthen governing bodies and clarifying baseline activities for evaluating corporate governance through a framework that fosters robust, transparent, and effective university governance.

Promoting and upholding diversity in Australia's higher education sector

Australia's higher education sector is vibrant and diverse, comprising 44 universities, eight university colleges, and 160 institutes of higher education⁷, which collectively educate over 1.6 million students; most are attending public universities. Australian universities self-accredit their courses and determine their own admissions requirements. Achieving self-accrediting authority reflects a high level of institutional maturity, which is necessarily grounded in a robust corporate governance framework.

⁵ TEQSA. Guidance Note: Academic Governance. <https://www.teqsa.gov.au/guides-resources/resources/guidance-notes/guidance-note-academic-governance>

⁶ TEQSA. Guidance Note: Academic Governance. <https://www.teqsa.gov.au/guides-resources/resources/guidance-notes/guidance-note-monitoring-and-analysis-student-performance>

⁷ TEQSA National Register 2025, as at 10 February 2025.

Appropriately, the HESF accommodates and makes provision for a range of provider types to operate in the higher education sector in order to meet community educational needs. These providers have diverse governance structures reflective of, and responsive to, their particular histories, missions, and/or the particular communities they serve.

ACU, for example, is a national, publicly funded Catholic university with campuses in three states and one territory, and an overseas campus in Rome, Italy. The University has around 34,000 students and over 2,300 staff and welcomes people of all faiths and none.⁸ The University was established as Australian Catholic University Limited (Corporation), a public company limited by guarantee. The company was established under the repealed Companies (Victoria) Code and its activities are now regulated by the *Corporations Act 2001* (Cth), and the Australian Charities and Not-for-Profits Commission (ACNC); meeting ACNC requirements for registration as a charitable organisation through the University's pursuit of advancing education.

The University is recognised by three State Acts of Parliament: *Australian Catholic University Act 1990* (NSW), *Australian Catholic University (Victoria) Act 1991* (Vic) and *Australian Catholic University (Queensland) Act 1991* (Qld). The main objective of the Corporation is to conduct ACU as a Catholic university. Within this charter, the University is open to persons of all religious beliefs and persuasions and is fundamentally committed to the pursuit of truth through academic inquiry. ACU's Senate, which serves as the governing body of the University and assures ACU's HESF compliance, has a diverse membership; including representation from each Australian state and territory in which ACU has a campus, and with industry (including areas of ACU's teaching and research focus such as health and education), professional, church, and ACU staff and student representation or expertise.

These characteristics make ACU unique in the Australian university sector in that it operates across local, state and federal law. Furthermore, as a Catholic university, inspired by the standards of *Ex Corde Ecclesiae*, the University strives to live up to the Church's long-standing vision of a higher education of the whole person, body, mind and spirit, informed by the Church's social teaching and intellectual tradition. As a leading Catholic university, ACU brings a distinctive diversity to the sector through its individual mission.

ACU stresses the importance of recognising and accommodating, in regulatory settings, the range of governance structures that exist across Australia's higher education sector. These diverse structures strengthen the sector through the distinct contributions providers make in the national interest and to the communities they serve. Supporting diversity over a homogeneous, one-size-fits-all governance approach is essential for maintaining a vibrant, competitive, and responsive higher education sector. The regulator should be equipped to navigate governance arrangements that are tailored to the specific contexts of different providers, thereby fostering an environment that respects institutional autonomy.

Streamlining regulatory and reporting arrangements

ACU welcomes federal government's progressive implementation of recommendations from the Australian Universities Accord Panel in relation to corporate governance, and other matters bearing on higher education standards and delivery. As the sector evolves, it is imperative that we collectively address the regulatory and reporting frameworks to foster a more efficient higher education system.

A significant challenge for institutions is the multitude of requests from TEQSA. ACU has experienced a lack of meaningful feedback in response to these inquiries. There is a need for clearer communication and more constructive engagement to effectively support institutions and uphold robust regulatory processes. ACU encourages TEQSA to enhance its feedback processes, ensuring engagement with each HEP submission thoughtfully and constructively.

⁸ Student numbers refer to headcount figures while staff numbers refer to full-time equivalent (FTE).

As the higher education sector transitions into new arrangements, it is crucial that regulatory and reporting requirements are reviewed holistically. A streamlined approach will facilitate efficient and effective administration while avoiding unnecessary red tape that burdens both providers and government. The goal should be to foster a regulatory environment that is conducive to innovation and educational excellence rather than one that stifles progress through excessive bureaucracy.

Concluding remarks

ACU believes that corporate governance arrangements should empower universities and other HEPs to deliver on their missions, offering sufficient flexibility to leverage their strengths and adapt to the changing needs of the communities they serve. Supporting autonomy for low-risk providers and institutional diversity is essential for successfully implementing the Australian Universities Accord Panel's recommendations.

Regulatory arrangements and higher education standards, encompassing those bearing on corporate governance, should affirm the following principles:

1. Australian universities are autonomous institutions⁹, with their own distinct missions.
2. Policy settings should reflect the multi-faceted roles and contributions of Australia's higher education sector – including the responsibility to teach students, conduct research and contribute to the economic, cultural and intellectual life of the Australian community.
3. Regulatory reform should seek to promote administrative efficiency and minimise undue regulatory burden or complexity.

ACU is committed to working collaboratively with all stakeholders to build a more effective higher education system and to foster an environment that supports the growth and development of Australian higher education, including robust, effective and fit-for-purpose corporate governance frameworks.

⁹ Higher Education Standards Framework (Threshold Standards) 2021.