



23 April 2014

Higher Education Standards Panel

Call for Comment (Number 3, 23 April 2014)

Proposed *Higher Education Standards Framework*

The Higher Education Standards Panel (the Panel) is inviting comment on proposed revisions to the current *Higher Education Standards Framework* (the *Framework*).

Closing date for comments is 27 June 2014.

Panel's approach

This consultation is an important step in revising the *Framework*. Development of the proposed *Framework* has been informed by feedback from previous calls for comment on Draft Standards for Course Design, Learning Outcomes (Coursework) and Research and Research Training, together with feedback from meetings with stakeholders (see <http://www.hestandards.gov.au/engagement#DocumentsforComment>).

Background

The Panel is required under the *Tertiary Education Quality and Standards Agency (Consequential Amendments & Transitional Provisions) Act 2011* to undertake a review of the current *Framework*. As outlined in its previous communiqués (see <http://www.hestandards.gov.au/engagement#Communiqués>) the Panel has, with the assistance of stakeholders, identified a range of opportunities for efficiencies and improvements within the current *Framework*.

Consultation process

The Panel is seeking comment on the proposed revisions to the *Framework* and the Standards therein from stakeholders within and beyond the higher education sector. The Panel also asks that this invitation be passed on to any other interested parties.

Consultation documentation and background information are provided as follows:

Consultation documents:

- Call for Comment Number 3
- **Background Paper:** Proposed Revisions to the *Higher Education Standards Framework*
- Proposed *Higher Education Standards Framework*

Background information:

- Comparison of the ESOS National Code 2007 Parts C & D to the Proposed *Higher Education Standards Framework*
- Comparison of the Proposed *Higher Education Standards Framework* with the current requirements of the Threshold Standards and ESOS National Code 2007

The background information will be made available on the HE Standards website. This background material is not part of the consultation documentation; it is a resource for those who are interested in how the proposed *Framework* compares to existing requirements.

A stakeholder information session for clarification and initial feedback is proposed for **14 May 2014**. Details and registration will be made available at <http://www.hestandards.gov.au>

Use of feedback

As part of the consultation process, the Panel will collect personal information (e.g. name, position, organisation), including the name of the person or persons making comments, for the purposes of informing the Panel's approach to the development of the proposed *Framework*. Unless requested otherwise, the Panel intends to make all comments available on the HE Standards website, including some of your personal information provided with the submission.

The Panel intends to disclose the content of submissions to assist the sector's consideration of the proposed *Framework*, unless a submission specifically states that it is made on a confidential basis. Automatically generated confidentiality statements in emails are not enough to note your intention that your submission should remain confidential. If you do not want your comments or some of your comments disclosed, please ensure the confidential material is clearly marked 'IN CONFIDENCE'. This can also apply where you are happy for the comments to be disclosed but not the author or organisation. The Panel may use a sector descriptor (e.g. student organisation, private provider) in such cases.

The comments received from stakeholders will be used to inform revisions to the proposed *Framework*. The Panel plans to post a report of its analysis of comments and any consequent revision of the drafts on the HE Standards website.

Comments will be accepted until 27 June 2014.

Format for submissions

Under the *Disability Discrimination Act 1992*, the Panel has an obligation to provide information in a manner accessible to everyone regardless of ability. Accordingly, the Panel needs to make sure that the documents published on its website are consistent with the relevant accessibility requirements. Submissions will be uploaded to the Panel's website progressively as they become available in an accessible format. The Panel may elect not to publish submissions that are not provided in an accessible format.

For accessibility reasons, the Panel would prefer comments to be submitted electronically in MS Word format and limited to 20MB. An email acknowledgement will be sent within two working days of receipt of submissions. If your submission is greater than 20MB, please contact the Higher Education Standards Panel Executive to arrange another method for sending your submission. Comments in hardcopy will also be accepted.

More information

For further information about the proposed *Framework* or the consultation process please email info@HEstandards.gov.au or telephone (+613) 8306 2509. The proposed *Framework* can be downloaded from the Higher Education Standards website at:

<http://www.hestandards.gov.au/engagement#Consultations>

How do I submit my comments?

Comments should be forwarded by **27 June 2014** to:

info@HEstandards.gov.au

OR

Higher Education Standards Panel Executive
GPO Box 1672
Melbourne VIC 3001

All comments will be held in a register.



Background Paper: Proposed Revisions to the Higher Education Standards Framework

A. Background to this Consultation

The Higher Education Standards Panel (the Panel) has consulted widely with the sector in relation to its review of the *Higher Education Standards Framework* (the *Framework*) through meetings with stakeholders (including providers involved in re-registration applications), presentations at various fora, periodic communiques and previous formal calls for comment on proposed material.

The Panel is now in a position to release a complete proposal for revision of the *Framework*. The proposed revisions take account of previous feedback generously given by stakeholders. The Panel has endeavoured to address all of the issues identified during earlier consultations. The Panel looks forward to your further feedback.

B. The Context

The review of the *Framework* is occurring in the context of the broader policy agenda for higher education and in light of the recommendations of the Review of Higher Education Regulation, which are directed at reducing regulatory burden. In proposing a revised *Framework*, the Panel has been cognisant of the recommendations of the Review of Higher Education Regulation and the Government's commitment to enabling high quality higher education and supporting innovation, competition and diversity in higher education.

At the time of the release of this consultation draft of the proposed *Framework*, the Panel had commenced a review of the Provider Category Standards. This will be subject to a later separate consultation process.

C. Continuing Consultation

This is the first phase of consultation with stakeholders on the entire proposed *Framework*. Submissions to this Call for Comment will be accepted until 27 June 2014, after which the Panel will provide an analysis of the feedback received. The Panel will also consult the Minister's TEQSA Advisory Council, and consultations with TEQSA will continue. Subject to the feedback received and any follow up consultation that may be required, the Panel hopes to be in a position to provide advice to the Minister in the latter part of 2014.

The *TEQSA Act 2011* requires the Commonwealth Minister to consult with Ministerial counterparts from the States and Territories and with TEQSA about advice provided by the Panel. The Minister may also request further advice from the Panel in relation to the feedback received from the Minister's own consultations, before deciding on a final *Framework* and proceeding to establish the *Framework* as a legislative instrument. The practical regulatory implications of a revised *Framework* will need to be considered, as will lead times for the sector and the regulator, including establishing appropriate and timely transitional arrangements.

D. Implementation of a revised *Framework*

In the light of the further consultation and other steps required prior to implementation, the Panel envisages that, should the Minister decide to implement a revised *Framework*, practical implementation would take effect sometime after 1 January 2016. This will allow sufficient lead time for the necessary legislative changes to be made and for transition provisions to be implemented.

E. Proposed *Higher Education Standards Framework*

- I. **Background:** In proposing the revised *Framework* the Panel has taken account of the following general points, aspects of which have been discussed in previous communiques:
 - a. The Panel considers that the current arrangement of (regulated) ‘Threshold’ and (unregulated) ‘Non-Threshold’ Standards should be replaced with a single set of regulated standards that are concerned with the quality of higher education and the outcomes achieved.
 - b. The Provider Category Standards (which are a classification system for providers) and the Criteria for authorising Self-Accrediting Authority for courses of study (which confer a particular responsibility on certain providers) are not standards relating to the quality of higher education, as such. These components are dealt with separately in the proposed *Framework* from the Standards that are directly concerned with the quality of higher education provision and the outcomes achieved.
 - c. The Panel has received feedback from the sector suggesting that the Panel consider including in the *Framework* some guidance on the application of standards for regulatory purposes. The Panel has responded to this feedback by including a part in the *Framework* to address this matter.

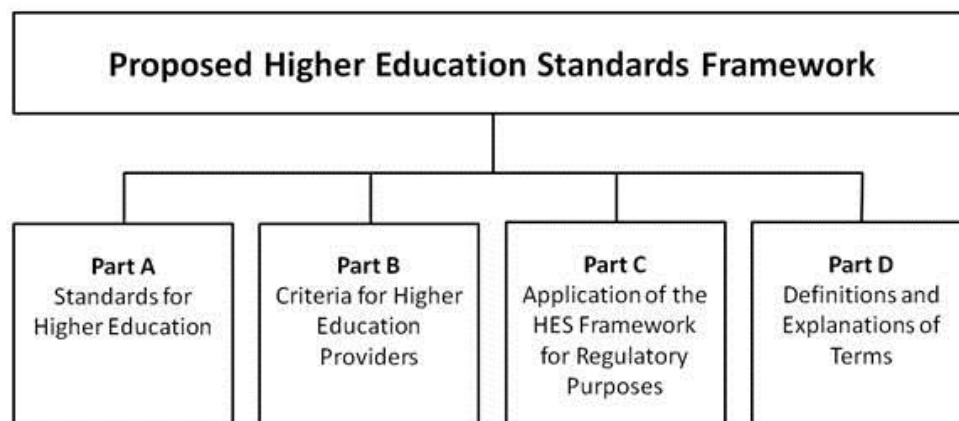
- II. **Structure of the Proposed Framework:** In the light of its views on the current *Higher Education Standards Framework*, the Panel is proposing a revised *Framework* consisting of four components:

Part A - Standards for Higher Education

Part B - Criteria for Higher Education Providers

Part C - Application of the Higher Education Standards Framework for Regulatory Purposes, and

Part D - Definitions and Explanations of Terms (as used in Parts A-C).



F. Explanation of the Proposed *Higher Education Standards Framework*

I. Part A

- a. **Overview of Part A:** This Part of the proposed *Framework* is concerned with the Standards for the provision and outcomes of higher education. The Standards in Part A are organised into seven major ‘Domains’, each of which consists of a number of ‘Sections’ that contain various ‘Standards Statements’. The Standards Statements in Part A replace most of the current Threshold Standards.

The set of Standards for Higher Education in Part A of the Framework have been drafted to represent collectively the minimum acceptable institutional conditions, arrangements and levels of performance for the provision of higher education in or from Australia by higher education providers registered under the TEQSA Act 2011.

In proposing a ‘minimum’ set of standards, the Panel is not implying that any particular Standards are seen as ‘low’ standards. Rather, the Standards cover the core requirements

that are essential for ensuring the quality of higher education provision and outcomes across a diverse sector.

The Panel believes that most providers will have internal quality assurance processes and arrangements that are able to demonstrate the level of achievement encompassed by the Standards overall, as part of the provider's normal monitoring of its higher education activities.

b. Underlying principles of Part A: Taking account of the large amount of feedback received to date, the Panel has sought to construct the Standards in Part A to achieve the following goals, several of which have been discussed in Panel communiques:

- i. The Standards are to be consistent with the Objects and the three Basic Principles for Regulation (necessity, risk and proportionality) of the *TEQSA Act 2011* (which establishes the *Framework*), and take account of the recent Review of the Regulation of Higher Education.
- ii. The Standards are organised according to the characteristics of higher education, rather than by regulatory purposes, such as registration and course accreditation, so as to avoid duplication of Standards.
- iii. The educational experience of students is at the centrepiece of the Standards, *i.e.* Domain 1 – Student Participation and Attainment.
- iv. The Standards will foster informed participation by students, including prospective students, e.g. Domain 7 – Representation, Information and Information Management.
- v. The Standards will be applicable to all providers who undertake the higher education activities¹ encompassed by the Standards, regardless of the category of provider.
- vi. Diversity of educational offerings and different types of educational provider are not inhibited, and the Standards will be applicable to any mode(s) of delivery or participation.
- vii. The Framework will be useful to providers as a framework for internal monitoring, quality assurance and quality improvement of their higher education operations, not just for external regulatory purposes.
- viii. The approaches employed by providers to achieve the Standards are likely to vary according to their particular circumstances. The Standards Statements do not presuppose any particular approaches or types of evidence that individual providers might adopt to ensure or confirm that specific Standards are being met.
- ix. Each Standards Statement addresses a particular risk to quality, or a related set of risks, that are regarded as material risks.
- x. Standards pertaining to a particular quality risk are not repeated throughout the Standards (although this does not preclude distribution of a concept, such as one Standard requiring the collection of data and another requiring the analysis of the data to inform review and improvement).
- xi. Outcomes rather than inputs and processes are addressed where practicable.
- xii. The proposed Standards will facilitate gathering evidence that they have been met through the normal course of internal monitoring by the provider.
- xiii. Nothing in the design of the Standards precludes them from being applied flexibly and differently across different providers for regulatory purposes, according to regulatory necessity and risk.
- xiv. The Standards will not address specific discipline content or discipline-related curriculum details.

c. Form and style of the Standards in Part A: The introduction to Part A outlines the structure of the Standards for Higher Education. The Panel has continued with its preferred approach

¹ Some providers will not undertake research or research training and the corresponding Standards would not be applicable to those particular providers.

to the form and style of the proposed Standards, informed by feedback from stakeholders on earlier drafts. In summary:

- i. the proposed Standards employ taxonomic headings for 'Domains' and 'Sections', rather than overarching Standards Statements that are used in some of the current Threshold Standards
- ii. the proposed Standards are written in a passive voice that describes a 'state of affairs', thus inviting an observer to ask whether or not such a state of affairs exists (the observer could be within or external to the provider); imperatives such as 'a provider must...' have been avoided
- iii. non-mandatory reference points are included where the Panel believes they will be helpful
- iv. the Panel has not shied away from a requirement for professional judgement in determining whether or not a Standard is met, where the Panel believes that is the best method of demonstrating achievement
- v. sometimes the content of a Standards Statement is amplified, typically under a heading of 'including', such as:

The admissions process ensures that, prior to admission and before fees are accepted, students are informed of their rights and obligations, including:

- a. *all charges associated with their proposed studies*
- b. *policies, arrangements and potential eligibility for credit for prior learning.....*

In Standards of this style, the amplifying examples would need to be met to comply with the Standard, but that does not preclude providers satisfying the requirements of the stem in other ways of their choosing as well; this is true of any Standards Statements or definitions that use 'include' or 'including', and

- vi. where technical detail is necessary to clarify a Standards Statement, e.g. the content of a record of results, for the sake of clarity and brevity in the Standards Statements, this detail is typically provided in the definitions (Part D) rather than in the body of the Standards Statements in Part A.

The proposed *Framework* has been edited extensively for content, coherency and consistency, but has not yet been subject to professional editing. This will be undertaken when the Panel believes that support for the general thrust of the Standards has been achieved.

Although other forms and styles could be used, the Panel believes the proposed approach will be attuned to the needs of providers, congruent with the culture of the sector and suitable for the proposed uses of the Standards (self-monitoring and external review).

II. Part B

- a. **Overview of Part B: Criteria for Higher Education Providers.** The intent of this Part of the Framework is to separate criteria concerning the characteristics of providers from the Standards concerned with the quality and outcomes of the education they provide (*i.e.* Part A of the Framework). This is seen as both a logical and a practical separation; the two Parts of the Framework typically serve different purposes, both for providers and for regulation.
- b. **Part B1: Criteria for Eligibility to Make an Initial Application for Registration as a Higher Education Provider² in Australia.** The intent of this Part is to aggregate in a single document the criteria that are to be met by an entity that is seeking to apply for initial registration as a higher education provider. It is believed that this set of criteria will be clearer and more accessible to intending applicants than the current arrangements.
- c. **Part B2: Criteria for Granting Authority for 'Self-accreditation' of Courses of Study.** This Part contains a revised version of the criteria for self-accreditation that are currently located within the Provider Course Accreditation Standards. The existing criteria are a mix of criteria concerning the track record of the provider, such as '*At least three cohorts of students in*

² All categories of higher education provider.

Australia have graduated from the course(s) of study ...'; and certain characteristics of its higher education provision, such as 'The higher education provider has highly effective academic governance processes and a robust internal capability to monitor and improve its higher education courses of study'.

The proposed criteria retain some criteria concerning a provider's 'track record'. However, where the intent of the criteria relates to provision of higher education, the proposed criteria simply point to the relevant Standards in Part A of the *Framework* rather than invoke other 'standards-like' criteria. The Panel believes that the proposed criteria are streamlined and will reduce the potential regulatory burden by reference to standards.

- d. **Part B3: Criteria for Higher Education Provider Categories.** The purpose of this Part is to incorporate the intent of the current Provider Category Standards into the proposed *Framework* as criteria for classification of providers. Like the content of Parts B1 & B2 (above) this material is seen to be of a different kind from the Standards in Part A of the *Framework*. **The Panel is not seeking feedback on its review of the Provider Category Standards as part of this round of consultation.**

III. Part C

- a. **Overview of Part C: Application of the HES Framework for Regulatory Purposes.** This Part of the proposed *Framework* has been developed partly in response to feedback from providers seeking some direction from within the Standards themselves about how the Standards might be applied for regulatory purposes. In addition, the change to the structure of the Standards necessitates an indication of their application for certain regulatory purposes.

Because the proposed Standards for Higher Education are structured according to the characteristics of higher education rather than a sequence of regulatory activity (*i.e.* in the current *Framework* there are registration and course accreditation standards), they do not of themselves indicate their application for regulatory purposes. Part C achieves that purpose by specifying the proposed application of the Standards for specific regulatory purposes.

How the Standards are proposed to be applied and which particular Standards have been chosen for each purpose, have been guided by the three basic principles of regulation set out in the *TEQSA Act* (*i.e.* necessity, risk and proportionality). In particular, the proposed application of the Standards takes account of whether a regulatory purpose is for 'initial' purposes or a subsequent purpose such as re-registration or a re-accreditation, where a provider would, ordinarily, have already demonstrated a history of meeting standards.

It is the responsibility of the regulator to determine the scope of its regulatory activity, having regard to the requirements of the *TEQSA Act 2011* and the circumstances of individual higher education providers. Notwithstanding that responsibility, this Part of the *Framework* specifies those aspects of the *Framework* that have been designed to identify significant potential risks with a minimum of regulatory burden on higher education providers.

In specifying the application of particular Standards for certain regulatory purposes, Part C does not absolve a provider from having to meet all of the Standards for Higher Education; that is an obligation of registration. However, the underlying structure and approach to application of the Standards envisages that a provider will assure itself that the Standards are being met in the normal course of its higher education operations.

In ordinary circumstances a regulatory assessment against the specified Standards for a particular regulatory purpose would provide the regulator with risk-based confidence in the provider's capacity to meet the Standards for that purpose.

In specifying the application of the Standards for certain regulatory purposes, this Part of the *Framework* does not limit the scope of the regulator's regulatory activity, nor does it intrude on regulatory decision making as a result of the regulator's assessments against the Standards. Nonetheless, the proposed application of the Standards for regulatory purposes is

intended to reduce regulatory burden by acknowledging the internal monitoring capacities of a provider in the ordinary course of its operations.

The Standards would only be expected to be applied more broadly or in their entirety for external regulatory purposes in exceptional or extraordinary circumstances in the face of significant risks. It is expected that a regulatory assessment involving a wider sweep of the provider's operations beyond a particular specified regulatory purpose, such as a compliance assessment (under Section 59 of the *TEQSA Act 2011*, for example) would still be undertaken according to identified risks.

IV. Part D

- a. **Overview of Part D: Definitions and Explanations of Terms.** This Part of the *Framework* defines or explains terms used in the *Framework*. A definition of a term may also elaborate on a specific aspect of a Standards Statement *e.g.* the required content of a record of results. In such cases, the elaboration constitutes part of the Standards Statement to which it refers. This approach avoids cluttering the Standards Statements with detail.

G. References to Related Matters

- I. **AQF:** The sector has expressed strong interest in the relationship between the Higher Education Standards Framework and the Australian Qualifications Framework. The Panel has consulted the AQF Council about the Panel's approach.

As indicated previously, the Panel has taken three approaches to this issue in the proposed Standards for Higher Education:

- a. mandating consistency with the level classifications of the AQF for AQF qualifications (see Part A Standards for Higher Education, Section 1.6 - Qualifications and Certification)
 - b. formally incorporating the intent of aspects of the AQF (and of the current Qualification Standards) into the proposed Standards for Higher Education (*e.g.* Credit and Recognition of Prior Learning, Certification of Qualifications), and
 - c. noting the AQF as a Reference Point where the Panel believes this may be helpful (*e.g.* in Section 3.1 - Course Design).
- II. **ESOS National Code:** There is a great deal of actual and potential overlap between the current and proposed Standards for Higher Education and the ESOS National Code. In drafting the proposed Standards for Higher Education, the Panel has addressed the overlap wherever practicable, as follows:
 - a. The Panel believes that generally speaking the Standards should serve the interests of all students, irrespective of their origin, but nonetheless accepts that there are particular measures relevant only to overseas students, *e.g.* assisting with familiarisation about living in Australia.
 - b. Where the intent of a Standards Statement and a part of the Code are similar, particularly in relation to educational outcomes, the Panel has sought to incorporate the same intent so there is no conflict between the Standards and the Code. However, in many cases the Code prescribes requirements and processes in greater detail than the Panel would prefer in the proposed Standards for Higher Education.
 - c. In some cases the Code prescribes requirements that the Panel does not believe can reasonably be required of all providers, particularly those who do not have overseas students (these points have been addressed by footnotes where that is workable).
 - d. The parts of the Code that relate principally to immigration requirements and outcomes have not been incorporated into the Standards for Higher Education.

The Panel believes this approach to harmonisation with the Code where practicable, particularly in avoiding conflict, will serve the sector well until such time as a more comprehensive review of the relationship is undertaken. The Panel also sees this harmonisation as a cornerstone of simplification of regulatory processes.

H. Flow-on effects

Without pre-supposing the outcomes of this consultation process, the Panel notes that the changes it proposes to the *Framework* would, if agreed by the Minister, result in some consequential flow-on effects, including potential amendments to the legislation *e.g.* to replace the current framework of Threshold and Non-Threshold standards and to deal with any consequential amendments such as changes to the nomenclature of the proposed Standards if needed. The practical regulatory implications of a revised Framework also need to be considered as will lead times for the sector and TEQSA.

Call for Comments:

Feedback on the proposed revisions to the *Higher Education Standards Framework* (the *Framework*) is invited by the Panel. It would be helpful if feedback could be framed around the following questions:

- Q1. Do you broadly support the proposed *Framework*? If not, why?
- Q2. Do you wish to make any suggestions in relation to the specific content of the *Framework*?
- Q3. Do you wish to make any overall or general comments about the *Framework*?

I. Next Steps

National Fora: In addition to the initial stakeholder information session proposed for 14 May 2014, and after the Panel has considered detailed feedback from this call for comment, the Panel proposes to hold one or more additional fora with stakeholders, subject to the issues raised. These follow-up fora will provide an opportunity for the Panel to consider and respond to further issues and concerns stakeholders may have in relation to the proposed *Framework*. Details and registration for any subsequent fora will be made available at <http://www.hestandards.gov.au>

Advice to the Minister: When the Panel has concluded its consultations it will provide advice to the Commonwealth Minister for Education on a proposed *Framework*.

J. Further Information

If you require further clarification of the proposed *Framework* to assist in providing feedback, please contact info@HEstandards.gov.au in the first instance.