



University of Sydney submission to the Senate Education and Employment Legislation Committee's inquiry into the provisions of the *Higher Education Support Amendment (Response to the Australian Universities Accord Interim Report) Bill 2023*, August 2023

Introduction

The University of Sydney welcomes the opportunity to make a submission to the Committee's inquiry into the [Higher Education Support Amendment \(Response to the Australian Universities Accord Interim Report\) Bill 2023](#) (hereafter the 'Bill'). We preface our comments on the Bill and relevant background below by emphasising that the two related policy objectives the legislation contains have the University of Sydney's strong support. These are (1) improving the higher education participation and success of Aboriginal and Torres Strait Islander students, and (2) ensuring that Commonwealth-supported students enrolled with any registered higher education provider in Australia - especially those from underrepresented groups - are well-supported to succeed in their studies, and do not accumulate unnecessarily large Higher Education Loan Program (HELP) debts.

We are committed to ensuring that all our students have access to timely and high quality academic and pastoral support services. We have relatively high admission standards, low failure and attrition rates, sophisticated monitoring of student academic performance in place to identify those who may be at risk of failure early, and specialised supports available to students with diverse and complex needs.

While we undoubtedly have room for improvement, we have been investing heavily to strengthen our student support services, especially during and since the pandemic. Moreover, less than two percent of our domestic students who have commenced with Commonwealth-supported places since 1 January 2022 have triggered the former Government's *Low Completion Rate* measure. We estimate the direct annual compliance costs of that measure at just under \$400,000 (or \$2,400 per affected student in 2022), with significant indirect costs above that level incurred by different parts of the University. We anticipate that the Government's proposed new mandatory requirements may add to these costs. However, we are not able to accurately estimate the cost of complying with these new proposals because the Government's [consultation paper](#) about the supporting guidelines was only released on 16 August. Like all other providers, we are reviewing the policy, practical and budget implications of the proposals, and expect to make a submission by the Government's deadline of 15 September.

Our main concern with the Bill therefore, is not with its policy objectives, but that by not genuinely consulting with stakeholders before introducing it to Parliament, the Government is risking similar unintended consequences to those it is seeking to address after the *Low Completion Rate* measure was extended to students enrolled with Commonwealth-support in Australia's public universities – as part of the *Job-ready Graduates (JRG)* package in 2020.

Summary and recommendations

The University of Sydney strongly supports the extension of demand-driven funding to all eligible Aboriginal and Torres Strait Islander students (**Schedule 1 – Part 1**) and therefore **recommends that the Committee advise the Parliament that:**

- 1. All amendments in the Bill needed to give effect to that commitment (Items 1-5 of Schedule 1 – Part 1) should be passed without amendment.**

Regarding the provisions contained in **Schedule 1 – Part 2**, we understand and share the Government's desire to move as quickly as possible to address the unfair consequences arising for too many domestic students from underrepresented groups, from the *Low Completion Rate* measure. However, we have a range of significant concerns about the proposed alternative mandatory "Support for Students Policy", which we are confident can be addressed if the Government takes a little more time to consult openly with stakeholders. More time is needed to clearly define and quantify the policy problem the Government is seeking to address, and to consider the merits of other possible solutions, at least for Table A providers (predominantly public Australian universities), that are more likely to achieve the desired outcomes while being cost-effective for institutions with different risk profiles.

We therefore recommend that the Committee advise the Parliament to:

2. Pass only the sections of Schedule 1 – Part 2 that are necessary to abolish the application of the *Low Completion Rate* measure to Commonwealth-supported students enrolled with public Australian universities, and
3. Advise the Executive Government that it should not proceed further with the sections of Schedule 1 – Part 2 relating to the proposed “Support for Students Policy”, until it has reported to the Senate Education and Employment Legislation Committee on the outcomes of the genuine consultations it has undertaken with stakeholders – in line with the Department of Prime Minister and Cabinet’s latest (March 2023) guidance to agencies regarding the Commonwealth’s expectations for evidence-based policy development and decision making.¹

Even though there are now caps in place on the total HELP liability domestic students may accrue, it is important that the *Low Completion Rate* measure continues to apply to students studying with the assistance of FEE-HELP at non-university providers.² This is because the measure’s application to students on these loans had applied as a quality and integrity measure for these providers since 2017.

Our main concern has always been the consequences of extending the measure to students enrolling in public universities with Commonwealth-supported places, and especially on young people, who are seeking to navigate successfully, the often-difficult transition from school to university. The measure has added unnecessary and dangerous additional stress and anxiety to all students commencing their first years at university with Commonwealth-supported places. It has also signalled to students that they should play it safe by not extending themselves by enrolling in difficult subjects, or units that they are uncertain about, for fear of failure. For some providers, it may have placed pressure on academic staff to lower assessment standards, especially for students who are on the borderline of passing or failing a course. None of these unforeseen or unintended outcomes are desirable for government, students, providers or the nation.

Support for Schedule 1, Part 1—Indigenous students

In our [December 2022 submission to the Australian Universities Accord](#), we asked the Panel to consider the appropriateness of restricting demand-driven funding to Aboriginal and Torres Strait Islander students who live in regional and remote communities. We therefore welcome the Government’s decision to address this unfair policy. We know that successful attainment of a bachelor degree improves a person’s employment prospects and other measures of wellbeing. We are committed to working with governments, schools and other education providers, to give far more Aboriginal and Torres Strait Islander students this opportunity. This amendment will help deliver that outcome by expanding demand-driven funding for bachelor degrees to include all eligible First Nations students, regardless of where they live.

Support for the aims of Schedule 1, Part 2—Supporting students to succeed

We also welcome and support the Accord Panel’s recommended cessation of the *Low Completion Rate* measure (sometimes referred to as the ‘50 percent Pass Rate Rule’) introduced as part of the JRG package, and which has applied to all commencing Commonwealth-supported students in public universities from 1 January 2022. In our [September 2020](#) submission to this Committee’s inquiry into the enabling legislation for that package, we highlighted how this measure was also introduced without prior consultation with the sector, or any evidence that alternative policy options had been considered. We also argued then, that the proposal risked exacerbating the mental health problems of the sector’s most vulnerable commencing students, who are likely to be affected by the threat of their Commonwealth support being withdrawn if they fail more than 50 percent of their units of study in first year. Similarly, like many universities and their representative bodies, our [April submission to the Accord](#) asked the panel to consider the merits of persisting with the *Low Completion Rate* measure, due to the disproportionate consequence it was having, as we predicted in 2020, for students from underrepresented backgrounds, while enabling students from affluent backgrounds to continue in their chosen courses by paying their fees upfront.

The impact of the *Low Completion Rate* measure at the University of Sydney

At the end of the 2022 academic year, we had 162 commencing Commonwealth-supported students who triggered the application of the *Low Completion Rate* measure due to failing more than 50 percent of eight or more units of study. This represented 1.5 percent of our 10,800 Commonwealth-supported students that year. Of these:

- 4 had late discontinuations under special circumstances applications approved
- 93 moved to paying their fees upfront
- 44 transferred to another course at the University of Sydney
- 21 suspended their studies with us.

We draw the Committee's attention to the fact that almost 60 percent of our students who triggered the measure in 2022 had access to sufficient financial resources to continue in the same course by paying their required student contributions up-front. Moreover, for domestic undergraduate students, this is one of the limited ways they may legally be enrolled as fee-paying students with Australian public universities.³

Policy development process and implementation issues

The Bill before Parliament includes some positive amendments, and we recognise the need for timely action to avoid more cohorts of commencing students being adversely affected by the two unfair measures the Bill seeks to address. Nevertheless, we are concerned that the proposed changes do not resolve, and could exacerbate, concerns about unnecessary regulatory burdens, while running the same risks of potential unintended consequences as were foreseen by stakeholders when the proposed extension of the *Low Completion Rate* measure to Commonwealth-supported students in public universities was added late and without consultation to the JRG enabling Bill in 2020.

These problems could have been avoided, or at least mitigated significantly, if the Government had followed its own guidelines for good policy making.⁴ Like the JRG package, we are concerned that there has been no clear articulation of the policy problem, nor of why a detailed and externally mandated law needs to be applied uniformly to all providers to address the issues. The Department of Prime Minister and Cabinet's good-practice guidelines for the development of policy exist to maximise the prospects of Commonwealth regulatory interventions being accompanied by robust analysis, the consideration of a range of responses (including non-regulatory) options, which are informed by genuine and timely consultation with affected stakeholders. Unfortunately, as for the JRG package in 2020, none of these steps have occurred prior to the Bill's introduction to Parliament, leaving it again to this Committee to facilitate consultations with stakeholders, while the Government consults in parallel on the detail of its proposed supporting guidelines that have been released after the Bill's tabling in Parliament.

The implementation of the proposed requirements would require considerable administrative, policy, and systems changes that are not straightforward to implement. Instead, an approach is needed that addresses the immediate issue of students from underrepresented groups adversely impacted by the *Low Completion Rate* requirement, but which allows for sufficient time to develop an approach *with* universities and other providers to support students, and which acknowledges the complexities of administration, identification, delivery, tracking and reporting in this space.

We are aware of no evidence that the Government's proposed approach will cost-effectively produce the intended results, or that any alternative options for improving student support services across the higher education sector have been considered. The literature on student belonging, student success, learning analytics, and relational pedagogy observe that one-size-fits-all approaches to identification and support are not the most effective means of improving student outcomes. Requiring institution-level policy and reporting will necessitate the introduction of high-level identification points and tracking processes for all Commonwealth-supported students, regardless of their likely risk of failure, to practically deliver these new legislative requirements. Moreover, identification and support for students at risk is a multifaceted issue, which often best occurs at the local level (i.e., faculty, school, or discipline) with distinct approaches reflecting the particular setting, student needs and personalised supports.

The JRG package resulted in an unfunded increase of administrative burdens on providers, which these proposed legislative changes will not resolve. Rather, the Bill's amendments are likely to exacerbate administrative burdens and workloads by mandating new policy, systems, and reporting

obligations that are required of all providers, regardless of risk profile, at extremely short notice. The compulsory nature of the proposals contained in this Bill are inconsistent with the emphasis the *Higher Education Support Act 2003* gives in its objects clause to the importance of university autonomy and independence, as well as the *Tertiary Education Quality and Standards Agency Act 2011 (TEQSA Act)*'s regulatory principles of *necessity, reflecting risk and proportionality*. The exhaustive list of 'student supports' detailed in the Bill's second reading speech and the Government's consultation paper for the guidelines, do not account for the various ways providers deliver disparate forms of support, at the local level, to reflect the different needs of students across disciplines.

In addition, the mandating of a specific policy also requires significant administrative work, without any evidence of the benefits of such approach compared to alternative options. Many of the types of student support included in the Minister's second reading speech are already covered in either policy or localised practice, but the requirement to include all these areas under a standalone "Support for Students Policy" is not a straightforward proposal to implement at short notice. Depending on the detail to be confirmed in the guidelines, this could require the disestablishment of our existing policy architecture, even though less than 2 percent of students have triggered the *Low Completion Rate* measure to date. For instance, we have detailed policy and procedural documents on [student critical incidents](#) and responding to [student sexual misconduct](#), which are separate to our academic progression tracking requirements covered by our [coursework policy](#). The "Support for Students Policy" requirement seeks to capture a range of areas under one policy umbrella that may be better codified under distinct documents that reflect unique institutional approaches to these issues.

The current proposal not only requires a duplication or re-writing of internal university policies, but appears to duplicate existing requirements under the *Higher Education Standards Framework (Threshold Standards) 2021 (HESF)* and *TEQSA Act*. For instance, the *HESF* already requires regulated institutions to 'identify students at risk of unsatisfactory progress and provide specific support [that is] implemented across all courses of study'. While the *HESF* currently requires providers to have 'a critical-incident policy together with readily accessible procedures that cover the immediate actions to be taken in the event of a critical incident and any follow-up required', the second reading speech for this Bill states that the new "Support for Students Policy" will also need to cover student 'crisis and critical harm response arrangements'. It is unclear why such duplication is needed, or which of the two regulatory requirements providers should adopt.

Another issue with this change is the short notice and timing of its effect. This will not only result in considerable administrative burden to reconfigure systems and policy to meet the new delivery and reporting requirements, but prevents sufficient scope to assess the impact of the proposal to ensure there are no unintended consequences. For instance, what assessment has occurred on the implications of this Bill for student privacy related to its various reporting obligations and the requirements for proactive identification of a student's 'non-academic suitability for continuing study'? Privacy legislation requires universities to protect personal information, including health information. This sometimes inhibits the sharing of information that might be used in targeted support, assessing non-academic factors that might impact on suitability for continuing study, and in providing 'pro-active' special consideration provisions for students who have been affected by significant life events.

Students who experience mental health issues often take time to identify what is troubling them, to develop trust and seek treatment, and to realise the effect of treatment. Mandating proactive identification of such 'non-academic' issues, particularly where such identification may have implications for whether a student continues their studies, is a significant change that should be thoroughly considered against broader national and state legislative requirements (including privacy and anti-discrimination law) rather than mandated via a rushed Bill as currently proposed.

We thank the Committee for considering our submission and would be happy to provide further information if that would assist its consideration of this important draft legislation.

Endnotes

¹ Department of Prime Minister and Cabinet, [Australian Government Guide to Policy Impact Analysis](#)

² <https://www.studyassist.gov.au/help-loans/combined-help-loan-limit>

³ <https://www.education.gov.au/higher-education-publications/higher-education-administrative-information-providers-october-2021/25-domestic-undergraduate-fee-paying-students>

⁴ Department of Prime Minister and Cabinet, [Australian Government Guide to Policy Impact Analysis](#), March 2023, pp.6-7.