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RE: Inquiry into the Higher Education Support Amendment (Maximum Payment Amounts and Other Measures) Bill 2012.

Submission from: National Tertiary Education Union (NTEU)
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National President

The National Tertiary Education Union welcomes the opportunity to provide feedback on the ***the Higher Education Support Amendment (Maximum Payment Amounts and Other Measures) Bill 2012***. NTEU's comments are confined to the clauses in the proposed Legislation that relate to the collection and sharing of student and staff personal information.

While noting the usefulness of accurate and targeted data in the context of quality assurance and policy planning, we note that the objectives under this proposal for the disclosure of personal information of staff and students are very broadly defined, and may be accessed by a range of organisations for almost any purpose relating to

"...improving the provision of higher education or vocational education and training and for research relating to the provision of higher education and training, including research relating to quality assurance or planning the provision of higher education or vocational education and training (a "permitted purpose"). (Bill's Explanatory Memorandum, pg 5.)

We note that there are currently proposals to increase the level of detail for staff data collection by Government departments and the regulatory bodies. In our previous submissions, we have argued for improvements in the targeting of higher education data; for example, the breakdown of general and professional staffing numbers by HEW level for each institution data of actual casual staff, student staff ratios and information on private providers.

However, we have also noted a number of major concerns, including privacy concern, costs versus benefits of a more detailed data collection, and the capacity of institutions to manipulate and/or game staffing data, especially in relation to the apportionment of different functions.

We note that the explanatory memorandum for the proposed legislations states that *"...the proposed measures are reasonable, necessary and proportionate to achieve the legitimate objectives..."* (pg 5) and that it is an offence for HESA information to be disclosed for a non-

permitted purpose However, the very broad definition of the objectives, it is impossible to be certain that the impact of this legislation will be ‘...*reasonable, necessary and proportionate*’.
(pg 5).

NTEU also has concerns over the stated intention to use personal information to “...*to construct accurate and robust survey sample frames to assess the quality of teaching and learning.*” (*Bill’s Explanatory Memorandum, pg 5.*) When viewed in the context of a number of other proposals from DIISR and the regulatory bodies, NTEU is concerned that privacy overrides proposed by this Bill will be used to drill down to individual levels and include details of staff teaching qualifications as a proxy for quality assessment.

NTEU holds the strong view that is an employer’s responsibility to ensure that people have the appropriate and necessary qualifications to undertake the duties which they have been employed to do. For example, we would assume that it is the responsibility of DIISTRE to employ people who are appropriately qualified to provide policy advice and/or undertake certain administrative duties. We would also assert that it would be totally inappropriate for there to be a requirement for DIISTRE to publish staff data as to what proportion of staff had relevant public policy and/or public administration qualifications as if this was in itself some quality assurance measure.

NTEU’s submission to the Department of Industry, Innovation, Science, Research and Tertiary Education (DIISR) review on *Higher Education Staff Data Collection Review: Issues Paper, May 2012* detailed a number of specific concerns in relation to the collection of detailed staff data. While we support improvements to data collection, we are conscious of the potential impact that having detailed, private information of individuals accessed for the purposes of quality assessment. We are not convinced by the Bill’s explanatory memorandum that the bill is “..*compatible with human rights because, to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate.*” (*Bill’s Explanatory Memorandum, pg 6.*) as there is not enough information as to how what kind of information is to be accessed, how it will be done, by whom and for what purpose.

Finally, we note that the timeline for this submission has set a new record for tight deadlines, with a total of 3 working days to review the proposed Legislation and submit comments to the Inquiry. While we understand that need for timely action by Government and Departments, we do underline the need for meaningful consultation, particularly in relation to issues relation to human rights and privacy.

If you have any further questions or queries please do not hesitate to contact Jeannie Rea (jrea@nteu.org.au) or Terri MacDonald (tmacdonald@nteu.org.au) or phone 03 92541910.

Regards

Jeannie Rea
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18.09.12