



Queensland University of Technology

**Response to the
Tertiary Education Quality and Standards Agency
consultation paper on its**

***Interim guidance:
Managing external actors***

Thank you for the opportunity to provide feedback on the *Interim guidance: Managing external actors*. QUT recognises the Agency's interest in the historical and potential effects of the activities of external actors on the normal operation of higher education providers.

Our advice responds primarily to the section 'Emerging practice to manage external actors'. Much of the practical advice offered in this section constitutes sensible measures that are either already standard practice at QUT (and most if not all Australian universities), or that would be developed and adopted in the course of routine, continual review and updating of institutional policies and procedures. However, a small number of the suggested strategies are either implausible or undesirable, for good reasons that are not taken into sufficient account by TEQSA.

In the preamble to that section, the third paragraph opens with the qualifying phrase, 'To the extent that legal obligations and institutional instruments permit...' This caveat is far too narrow: it should also include reference to physical and cultural factors that may legitimately limit the adoption of suggested strategies. We suggest changing the opening of that sentence to something like, 'To the extent that legal obligations, institutional instruments, physical constraints and cultural considerations permit...'

These physical and cultural factors include those constraints already acknowledged in the foregoing text of the interim guidance note, such as the physical porosity of campuses to foot traffic and universities' deep and enduring historical commitment to academic freedom and diversity of thought. They also include important considerations that are not mentioned in the document, such as the contribution to student and staff wellbeing that derives from the ability to work and study in an open, welcoming and relaxed environment, free from constant suspicion and surveillance, and the fact that Australia's public universities are public resources, including campuses that are physically and philosophically open to the public. The freedoms of movement, thought and expression we enjoy on Australian university campuses are not universally observed everywhere in the world: they are to be cherished, nurtured and protected. Elements of the suggested strategies are antagonistic to these long- and widely-held values, and fundamentally misconstrue the practical realities of modern university campuses in Australia.

The section on 'Campus Management' is particularly problematic in this respect. We take the dot-points by turn.

- *A statement should be displayed at entrances to campus for external actors and campus visitors that outlines conditions associated with access to campus*

Like virtually all Australian university campuses, the two main campuses of QUT are just not built this way. Our Kelvin Grove campus is fully integrated in a residential, retail, business and educational estate in a 'university village' model. It is difficult to nominate even a hypothetical 'entrance' where a sign detailing conditions of entry could be meaningfully posted. Our Gardens Point campus does exclusively occupy a discrete and defined area, in a cadastral sense, but its perimeter is completely open to foot traffic in almost all directions. There is a nominal 'front gate' where a sign could be hung, at the top of Main Drive adjacent to the Queensland Parliament, but to do so would be a largely symbolic exercise, and a provocative one – immediately outside Main Drive is Speaker's Corner, the current and historical locus of all forms of protest in front of the Queensland Parliament.

- *Manage building access, through access cards or other mechanisms where appropriate*

Where it is feasible and desirable to limit QUT building access to authorised persons, access generally already is limited by the means recommended. For primarily student-oriented spaces, however, the practical requirement to quickly and safely move large volumes of students in and out at the same time makes this a practical impossibility. These are precisely the kinds of internal spaces that lend themselves to the protest actions the interim guidance is concerned about. A control regime built around individual swipe card access for each person entering such an indoor space is not only unfeasible, but would indeed be unsafe, given the high volumes of people crushing into the points of entry and exit at the same time, once every hour.

It is worth noting that we require the QUT Guild to give the University notice of their intention to use indoor facilities for meetings involving controversial matters: under these circumstances we do limit access to staff and students only. Limiting access on demand to relatively small spaces is already our current practice, but scaling such arrangements to a general regime of controlled access would be impractical and problematic.

- *Examine how student and staff identification cards could be used to enable identification of external actors.*
 - *This includes establishing an expectation that staff and students carry their identification with them and show it to security when requested.*

QUT does not believe that university staff and students should be compelled to carry university identification. Most actually do so, of course, in order to park their cars, access specific spaces, use regulated equipment, borrow books, obtain staff and student discounts at bookstores and food outlets, and for any number of work- and study-related purposes. However, common voluntary practice is a very different thing to the compulsory regime envisaged in this advice. The establishment of a requirement to prove one's identity at the request of a person in uniform would introduce an unwelcome sense of surveillance and

suspicion that would be detrimental to staff and student individual welfare, and to campus culture more generally.

Even were it desirable to accept that cost, the practical implications of the idea render it unworkable. It is not enough to simply mandate that staff and students carry and produce identification upon request – such a requirement immediately and necessarily raises the question of what happens when identification cannot be produced? Are we expected to impose a penalty on students for not having ID on them? Or on staff?

Each year we do enforce a limited number of legitimate exclusions of specific individuals when we are concerned about the safety of staff and students, but it requires major effort by security staff, in light of the extremely porous nature of our Gardens Point campus and the highly integrated nature of Kelvin Grove. We cannot envisage how this concentrated effort on a small number of identified threats could be broadened significantly. A regime of ID stops would contribute negligibly to this effort of excluding those specific individuals we feel pose a threat to our staff and students, while alienating innocent users of our campuses. Diverting security resources from the focus on such legitimate cases of genuine threat to the broad policing of the trivial matter of carrying identity documents would actually heighten underlying safety risk, rather than reduce it.

We want to foster a welcoming campus for the community at large, but the inference of this recommendation is completely at odds with this intention. Knowing who is who on campus can be important, especially in times of turmoil, but it requires a fine balance, and blunt mechanisms such as identity stops by uniformed officers under the implied threat of penalty or physical ejection from campus are not the answer. In the event that laws are broken or safety is at risk, police powers to establish the identity of (and even detain) persons of interest are just as effective on university campuses as they are in any other public space.

- *Reflect on the necessity and effectiveness of monitoring through CCTV and security guards wearing body cams*
 - *Ensure relevant privacy laws and obligations are considered, and that there are appropriate policies in place around the use, storage and access of data captured.*

As with the physical surveillance recommendation above, this advice risks imposing the look and feel of a police state on a public space that is meant to be free and open. QUT already uses CCTV where required, including the legitimate exclusion cases mentioned above, but we deploy it judiciously on the grounds of assessed need, not for the maintenance of a universal surveillance capability. As the sub-point indicates, TEQSA is alert to the privacy implications of visual surveillance, but it needs to also consider the potential damaging effect on campus culture by placing staff and students in workplaces, learning spaces and the wider campus under constant surveillance, even when they are not in a secure space or security black spot.

While the term ‘external actors’ is used in the interim guidance to denote protesters and ‘outside agitators’, the vast majority of so-called external actors are better known around campus as ‘visitors’, ‘guests’, and ‘the public’. All the measures proposed in this section, while aimed at identifying, monitoring and potentially excluding the former, would

adversely affect the latter, in myriad ways. Australian university campuses are widely regarded as public spaces, and Australians like them that way. While they are administered under the custodianship of institutional management – significantly (but not only) for the benefit of the students who study on them and the staff who work on them – our university campuses are shared public assets that quite appropriately welcome members of the community that sustains them. Measures that risk intimidating, excluding and alienating the public would constitute a significant departure from long established and widely supported practice, and should not be imposed upon universities by incremental regulatory expectation. These elements of the interim guidance note should be removed before it is finalised.

More generally, while the interim guidance note makes passing reference to academic freedom and freedom of speech in its contextual remarks, it fails to integrate into the proposed strategies the implications of the genuine and significant intersection of one set of rights, privileges and obligations with another. After sustained pressure from the Commonwealth, most (if not all) Australian universities adopted an explicit and discrete policy covering academic freedom and freedom of speech derived from the French Model Code, which included unequivocal commitments to openness to visitors (synonymous with the category of ‘external actors’ of the interim guidance note). This was not a new consideration for universities, of course – the commitment to academic freedom and open enquiry is as old as universities themselves, and visiting speakers have addressed university audiences since the earliest days – but the push for adoption of a more or less uniform policy across the sector was driven primarily by government anxiety about perceived variations in institutional handling of the rights and privileges of controversial speakers – guest speakers, in particular. This consideration is integral to the handling of guest speakers as external actors, yet the interim guidance note tends to downplay the centrality of considerations of freedom of speech and academic freedom. For universities to fulfil their myriad obligations, including to the Threshold Standards, these considerations cannot be sidelined, ignored or compartmentalised, but need to be taken into account alongside and with equal priority to the imperatives foregrounded by the interim guidance note.

The French Model Code makes clear that the ‘university’ may invite a speaker onto campus, with ‘university’ being defined very broadly to include not only staff members and academic units, but also student representative bodies as well as societies and associations recognised by the student representative body. It is commonplace at QUT and all other universities for students and student bodies to invite non-student external actors onto campus to attend and make speeches at rallies, protests, demonstrations and the like. The intersection of these considerations with the concerns highlighted by TEQSA presents a challenge to institutions and the regulator that is not sufficiently recognised in the interim guidance.

Additionally, an inference can be drawn from the tone of the interim guidance that protest is seen to be inherently unwelcome on university campuses. Such a framing would be at odds with universities’ obligations to entertain and safeguard the peaceful expression of a diversity of views. We are beholden not only to a millennium of tradition – which has

underwritten the astonishing success of universities in helping to shape modern society – but also to Australian law to protect those rights and practices. Indeed, TEQSA shares this obligation through its regulatory responsibility to ensure that universities comply with the provisions of the *Higher Education Support Act 2003*, including section 19-115. The interim guidance needs to be revised to better incorporate the obligations of universities (and TEQSA itself) to uphold and defend the right to free speech, including peaceful protest, that co-exist with our obligations to protect the wellbeing and safety of students, staff and community members.

Further, the use of the selected foreign example of the New York Police Department in the contextual section risks complicating the discussion with critiques that are extraneous to the discussion we are having here in Australia (such as concerns voiced in the USA about the vigour of that police response). The inclusion is of dubious evidentiary value, in any case: on the one hand, the alleged proportion of unaffiliated individuals arrested on two New York campuses has no bearing on the Australian situation; on the other hand, it is likely that conflicting international examples could be found in which few arrested protesters turned out to be external actors. QUT recommends the omission of cherry-picked overseas examples from the guidance note. The survey of global locations of protest action throughout 2024 in the opening paragraph of the Context section is sufficient to establish the point about the breadth of the international experience of protest actions.

Finally, the heavy emphasis throughout the interim guidance on universities (cf. providers more broadly) is narrow and unhelpful, when all higher education providers are subject to the same regulatory expectations that underpin its rationale and are potentially subject to events similar to those described in the opening section. We have spoken about universities in this submission because that is the portion of the sector we occupy and know well – by contrast, the regulator’s range of expertise and concern spans the entire sector. Except where specifically, deliberately and exclusively speaking about universities as such, TEQSA should consistently use the broader term ‘provider’ throughout.

We would be pleased to discuss these matters further should that be of assistance.