



8 March 2019

REVIEW OF THE HIGHER EDUCATION PROVIDER CATEGORY STANDARDS

Dear Professor Coaldrake,

We are grateful for the opportunity to contribute to this Review of the Higher Education Provider Category Standards. The Australian Institute of Police Management (AIPM) has been a Higher Education Provider (HEP) under the Tertiary Education Quality Standards Agency Act 2011 (the TESQA Act) since 2012, following transfer of regulation of higher education services from the NSW Department of Education and Training to TEQSA.

The AIPM is a national common police service that derives its legal status as part of the Australian Federal Police and as such it can be regarded as a Commonwealth Government agency. The state policing jurisdictions and New Zealand contribute financially and to the strategic management of the AIPM.

The AIPM is registered under s5 (c) as the Commissioner of the AFP. This oddity arose due to an oversight in writing the TEQSA Act, which meant AIPM's status as an entity was no longer recognised as sufficient to confer HEP status. The AIPM suggested legislative amendment at the time, although a decision was taken to pursue a more expedient *work around* by registering the AIPM as the Commissioner of the Australian Federal Police.

In the days leading up to the transfer of registration and accreditation the AIPM were informed by TEQSA that they no longer met the definition of a HEP set out in the new Act (despite initial advice to the contrary). Under previous arrangements with the NSW Department of Education and Training, the AIPM had met the definition of a HEP. This language was removed from the TEQSA Act, we were told, likely, as an oversight. However, because the AIPM derives its legal status through the Australian Federal Police (AFP), which is a statutory law enforcement body established under the *Australian Federal Police Act (1979)*, the AIPM itself can be regarded as an unincorporated association with a common purpose (see attached documentation). The AFP itself is not a constitutional corporation, nor a corporation, and as such cannot meet the definition for a HEP under s5 (a) or (b) of the Act.

Following significant discussion with TEQSA it was determined the most appropriate *work around* for this oversight was to register the AIPM under part (c) as "a person who confers a regulated higher education award for completing a course of study that is provided wholly or partly in a territory" because:

- I. the Commissioner of the AFP is 'a person';
- II. the relevant higher education awards are offered or conferred by the Commissioner of the AFP;
- III. the course of study for which each AIPM award is conferred occurs partly in the Australian Capital Territory.

- IV. the Commissioner of the AFP is recognised by the Australian Federal Police Act 1979, and existed immediately before 29 January 2012, for the purposes of paragraph 1(2)(b) of Schedule 3 to the Tertiary Education Quality and Standards Agency (Consequential Amendments and Transitional Provisions) Act 2011.

This means that the AIPM is currently registered as “the Commissioner of the AFP” with TEQSA, which neither reflects the true status of the AIPM, nor the ‘spirit’ of the Act. Since registration transferred to TEQSA, the AIPM has undergone reregistration and reaccreditation of its two awards in 2014 – a Graduate Certificate in Applied Management (Police and Emergency Services) and a Graduate Diploma in Executive Leadership (Police and Emergency Services), both of which have been approved until 2021. The AIPM also provides annual data to enable a risk profile to be compiled and has responded promptly to any concerns. The AIPM has, we believe, demonstrated itself to be a responsible HEP.

It is noteworthy that had this workaround not been agreed, the AIPM would not have been able to continue offering graduate education to police and emergency service leaders. As one of a small number of providers in this position, it is easy to understand how this issue was overlooked when writing the legislation. However, if the Australian Higher Education sector is to continue to innovate (Discussion paper, page 4), TEQSA must look beyond traditional universities to provide tailored, rigorous, education to the professions and ensure the legislative architecture is in place to enable this sector to thrive. As such we urge the review committee to consider the role neo-academic institutions – like the AIPM - have in the development of the professions, and through this, Australia’s national security. We ask also, the opportunity be taken to review the existing definition of HEPs under the Threshold Standards, and amend the legislation so the AIPM registration as an HEP more properly reflects the AIPM’s status.

The AIPM believes a review of the definitions set out in the TESQA Act is timely. The possibility of legislative amendment was raised during initial discussions with TEQSA in early 2012. At that time, progressing this avenue or recourse was deemed unfeasible because:

- I. the Act was newly in place and appetite for change was thought unlikely,
- II. the timelines involved were long, and the resulting uncertainty for AIPM and Australian police education was too high a risk

Subsequently the AIPM proposed registration as the Commissioner of the AFP under (c), with an understanding that legislative change could be pursued in the longer term.

While it is legislatively compliant to be registered as the Commissioner of the AFP, this reflects neither the status of the AIPM accurately, nor the spirit of the Act to ensure that individuals and organisations are held duly accountable for the education services provided. This review provides an opportunity to amend this misalignment, and by ensuring the AIPM is registered as a HEP through the Australian Federal Police (as the statutory body), TEQSA can support students and other stakeholders, and ensure greater transparency on arrangements for higher education.

PROPOSED AMENDMENT

The AIPM proposes the addition of the term “statutory body” into the definition of HEP in s5 of the TESQA Act which would allow the AIPM as represented by the AFP to apply for registration. The AIPM recognises the review team will have received multiple submissions from stakeholders and we

propose working with TEQSA and legislators to identify a suitable amendment to the wording of the TESQA Act, to meet the AIPM requirements and those of other stakeholders.

CONNECTION WITH THE REVIEW

While this issue has been a concern for the AIPM since 2012, the AIPM has operated successfully as a HEP under the TEQSA legislation. We also believe this issue of central importance to the Review as it pertains directly to question 4, and question 5, relating to *categories of HEP* (including their definition) and the *needs of providers, students, industry, regulator and broader public interest* respectively.

Principally we urge the Review to recognise the importance of inclusivity in definitional arrangements for HEPs under the Threshold Standards. If HEP definitions are to ensure the Australian higher education sector can be responsive to students, and industry, while protecting the standards and quality (and associated international reputation) delivered by providers in the sector; and if we take AIPM's experience as a case in point, it is clear that future changes to the definition of, or agreed characteristics of 'Higher Education Provider' need careful consideration against the characteristics of providers already successfully operating across the sector.

We believe the legislative oversight evident in the 2011 TESQA Act very nearly undermined the AIPM's ability to be responsive to the police and public safety sector and students. Australian police and public safety professionals require tailored education experiences to support the effective operation of these public entities. AIPM provides that service under the arrangements set out in the documentation. As the review considers the future of the Threshold Standards and associated legislation, we urge the Review to take into consideration there are a range of high quality providers that do not fit a uniform definition.

Legislative amendments, including a change to the definition of HEP in s5 of the TESQA Act, to include a 'statutory body' should be considered to ensure industry attracts the highest quality higher education providers, irrespective of their corporate arrangements particularly if they are part of the Commonwealth Government structures.

Sincerely



Warwick Jones
Executive Director
Australian Institute of Police Management