



# Submission to the Tertiary Education Quality and Standards Agency Amendment (Prohibiting Academic Cheating Services) Bill 2019

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## Introduction

The National Union of Students (NUS) welcomes the opportunity to present feedback to the Australian Government on the proposed Tertiary Education Quality and Standards Agency Amendment (Prohibiting Academic Cheating Services) Bill 2019.

NUS is the peak representative body representing the interests of all post-secondary students in Australia, including vocational, higher education, international and domestic students. NUS supports the introduction of legislation to deal with the issue of contract cheating, particularly targeting commercial providers of contract cheating services. However, in this submission, NUS will be focusing on the potential unwanted impacts of the proposed amendment to the Tertiary Education Quality and Standards Agency Act, which aims to target providers of contract cheating services for university students and give TEQSA the ability to prosecute offenders. We will suggest potential changes to the amendment to ensure that the scope does not unnecessarily capture students who are not the target of the bill.

## Background

NUS's previous submission on contract cheating focused primarily on what contract cheating is defined as, and what factors lead students to consider employing such services despite the risks associated.<sup>1</sup> NUS focused on the growing influence of market forces in education, and their repercussions. These ranged from increased pressure on students, coupled with a lack of support through university services,<sup>2</sup> to the damaging effects of corporatisation upon quality of learning and environments of academic integrity.<sup>3</sup>

## Distinguishing contract cheating services

NUS is concerned that students who unwittingly breach academic integrity may contravene the proposed section 114A, without engaging in the provision of contract cheating services; that is, organised, commercial cheating services. An example of this is where individual students may assist their peers through the provision of a model assessment, offering to rewrite work, colluding in individual assessments, or otherwise providing help to their peers in the course of completing examined or marked work. While these students may have breached academic integrity, they have not provided a contract cheating service.

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<sup>1</sup> National Union of Students, Submission to Department of Education, *Tackling Contract Cheating*, 7 March 2019 (online) <[https://melbourne-systems.s3.amazonaws.com/asset/file/5c81a3f633f798723f0006a4/NUS\\_Submission\\_\\_Tackling\\_Contract\\_Cheating.pdf](https://melbourne-systems.s3.amazonaws.com/asset/file/5c81a3f633f798723f0006a4/NUS_Submission__Tackling_Contract_Cheating.pdf)>.

<sup>2</sup> Susan Rowland et al, "Just turn to us": the persuasive features of contract cheating websites' (2018) 43(4) *Assessment & Evaluation in Higher Education*, 652, 655-56.

<sup>3</sup> Michael Gillings & Jane Williamson, 'Universities run as businesses can't pursue genuine learning', *The Conversation* (online, at 19 June 2015) <<https://theconversation.com/universities-run-as-businesses-cant-pursue-genuine-learning-43402>>.

NUS agrees with the assertion that students who cheat or breach academic integrity should remain subject to their institutes' own academic integrity policies, and any consequences that result from those. We believe this should extend to students who breach academic integrity in ways described in proposed section 114A(3), but are not engaged with the provision of the kinds of advertised contract cheating services that this legislation is targeting. Further to this, while NUS is in favour of the strong penalties for breaches of the proposed legislation, if they are applied to individual students who fall in the above circumstances, this punishment becomes severely disproportionate to the offence committed.

Recommendation 1: that institutes be solely responsible for enforcing against breaches of academic integrity by their own students.

Recommendation 2: that institutes adapt their academic integrity policies to account for the services outlined in proposed section 114A(3).

## **Breadth and enforcement of the proposed legislation**

One of the key issues with the proposed legislation is that it captures individuals in its scope, particularly those who are not providing cheating services for commercial gain. This includes people (such as students, family or friends) who provide too much assistance with assessments – something not clearly defined or limited in the proposed legislation:

*'(3)[...](b) providing, or arranging the provision of, any part of a piece of work or assignment that a student is required to complete as part of a course of study[...]'*

– Draft Bill - Prohibiting Academic Cheating Services.<sup>4</sup>

TEQSA has assured NUS and others that the intention behind this legislation is to deter and enforce against providers of contract cheating, not the students who use them or individuals who breach academic integrity. NUS has also been advised that TEQSA would not have the capacity (or desire) to enforce the legislation against individual students. According to the Department of Education's own documents on 'tackling contract cheating', the focus is on those providing contract cheating services, rather than students.<sup>5</sup>

The issue with this broad 'catch-all' scope is that it relies on selective enforcement to be effective. Requiring TEQSA's resource limitations (and the intention behind the legislation) to ensure this legislation is interpreted appropriately is a band-aid solution to a problem written into the proposed

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<sup>4</sup> Department of Education, 'Draft Bill - Prohibiting Academic Cheating Services', *Tackling contract cheating* (Web Page) <<https://www.education.gov.au/tackling-contract-cheating>>.

<sup>5</sup> Department of Education, 'Overview of draft legislation to tackle contract cheating', *Tackling contract cheating* (Web Page) <<https://www.education.gov.au/tackling-contract-cheating>>.

laws. Whilst it is encouraging that TEQSA does not want to see individual students prosecuted for contract cheating, there should not be any scope for this afforded by the legislation.

**Recommendation 3: change proposed section 8(2) to read as follows:**

*5 At the end of section 8*

*Add:*

*(2) Section 114A has effect only if the relevant service is provided in the course of, or intended for, trade or commerce to which paragraph 51(i) of the Constitution applies, and if one or more of the following paragraphs applies:*

**Recommendation 4: remove 8(2)(a) from Schedule 1 amendment 5, to read as follows:**

*(a) the conduct constituting the contravention involves the use of postal, telegraphic, telephonic or other like services (within the meaning of paragraph 51(v) of the Constitution);*

*(b) the student is an alien (within the meaning of paragraph 51(xix) of the Constitution);*

*(c) the person engaging in the conduct is an alien (within the meaning of paragraph 51(xix) of the Constitution);*

*(d) the person engaging in the conduct is a corporation (within the meaning of paragraph 51(xx) of the Constitution);*

*(e) the conduct constituting the contravention occurs in a Territory or a Commonwealth place;*

*(f) the conduct constituting the contravention occurs to any extent outside Australia.*

## **Encouraging a culture of academic integrity**

Further to the work within this legislation which targets the providers of contract cheating, we encourage the Australian Government, Department of Education and TEQSA to look at other means to encourage a culture of academic integrity at Australian Universities.

The increasing policy perception of public education institutes as mere education 'service providers' misplaces the focus of education. Under this discourse, the university experience is no longer considered one of academic growth and learning so much as a transaction of a contribution fee in exchange for a qualification.<sup>6</sup>

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<sup>6</sup> Michael Kremmer, Mark Brimble & Peta Stevenson-Clarke, 'Investigating the Probability of Student Cheating: The Relevance of Student Characteristics, Assessment Items, Perceptions of Prevalence and History of Engagement' (2007) 3(2) *International Journal for Educational Integrity*, 3, 4-7.

*'[W]ith education now a "business" and degrees sold as a "product" - there is less connection and understanding that University is about acquiring knowledge. It is seen as a user-pays system to get the degree. The degree will get the job, or the extended visa for the Masters, the job, etc. [...] It's about getting passes, getting through the process - hence, little attachment to the ethics of cheating...'*

– Student interviewed for HEQN conference.<sup>7</sup>

The report into the demand driven system revealed that universities have clear financial incentives to increase enrolments, but lack incentives to support those students through their study.<sup>8</sup>

This resulted in a failure to retain the target groups identified for enrolment through the system.<sup>9</sup> This issue of financial incentives and a failure to provide support has been demonstrated with international students,<sup>10</sup> who generated over \$32bn for the Australian economy in 2017,<sup>11</sup> yet continue to feel unsupported by their institutes.<sup>12</sup> Evidence also suggests that despite the growing trend of universities-as-service providers,<sup>13</sup> they are ill-equipped to prepare large numbers of students for the workforce.<sup>14</sup>

Recommendation 5: that the TEQSA Act be amended to allow regulation of university services, so as to provide students with better-quality support and intervention before instances of contract cheating.

Recommendation 6: that policies to address contract cheating seek also to address the issues that lead to contract cheating, such as inadequate university support services and the growing corporatisation of universities.

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<sup>7</sup> Tracey Bretag & Rowena Harper, 'Contract cheating in Australian universities: Implications for assessment, integrity and review of quality and standards' (Strategic Priority Project Findings No SP16-5283, Department of Education & Training, presented at Higher Education Quality Network Conference 7 June 2018) <[https://www.hes.edu.au/sites/default/files/uploaded-content/website-content/Images/Documents/2018-HEQN-Conference/bretag\\_harper.pdf](https://www.hes.edu.au/sites/default/files/uploaded-content/website-content/Images/Documents/2018-HEQN-Conference/bretag_harper.pdf)>.

<sup>8</sup> Productivity Commission, Australian Government, The Demand Driven University System: A Mixed Report Card (Productivity Commission Research Paper, June 2019) (online) <<https://www.pc.gov.au/research/completed/university-report-card/university-report-card.pdf>>.

<sup>9</sup> Ibid.

<sup>10</sup> Robert Burton-Bradley, 'Poor English, few jobs: Are Australian universities using international students as 'cash cows'?', *ABC News* (online, 27 November 2018) <<https://www.abc.net.au/news/2018-11-25/poor-english-no-jobs-little-support-international-students/10513590>>.

<sup>11</sup> ICEF Monitor, 'Australia's international education exports grew by 22% in 2017' (Article, 17 April 2018) <<http://monitor.icef.com/2018/04/australias-international-education-exports-grew-22-2017>>.

<sup>12</sup> Tracey Bretag et al, 'Contract cheating and assessment design: exploring the relationship' (2018) *Assessment & Evaluation in Higher Education*, 1, 12.

<sup>13</sup> Kremmer et al (n 4) 6-7.

<sup>14</sup> Robert Bolton, 'Schools not preparing students for university or work', *Financial Review* (online, 17 June 2019) <<https://www.afr.com/news/policy/health/schools-not-preparing-students-for-university-or-work-20190614-p51xra>>.

## Conclusion and summary of recommendations

NUS strongly advises that the proposed legislation be amended to ensure that it is effectively targeting contract cheating services, and narrows the scope to avoid the risks of selective enforcement or the possibility of the legislation being interpreted differently to how it was intended. NUS also advises that efforts to reduce contract cheating and instil a sense of academic integrity in universities expands beyond post-facto repercussions and looks also to address the causes of contract cheating and the needs of the student population as a whole.

Recommendation 1: that institutes be solely responsible for enforcing against breaches of academic integrity by their own students.

Recommendation 2: that institutes adapt their academic integrity policies to account for the services outlined in proposed section 114A(3).

Recommendation 3: change proposed section 8(2) to read as follows:

*5 At the end of section 8*

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