

ATN submission to Department of Education, Skills and Employment consultation

JOB-READY GRADUATES PACKAGE DRAFT LEGISLATION

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The Australian Technology Network of Universities (ATN) welcomes the opportunity to provide comments on the draft Higher Education Support Amendment (Job-ready Graduates and Supporting Regional and Remote Students) Bill 2020. Our submission is structured into three sections:

1. **Drafting** – whether the legislation reflects Government policy and potential unintended consequences
2. **Implementation** – potential practicalities of implementing the legislation
3. **Further consultation** – aspects of the legislation that require further consultation.

While this submission is focused on the draft legislation, ATN will seek other opportunities to engage with the Government on a broader range of issues with the Job-ready Graduates package.

1. Drafting

Demand driven funding for eligible Indigenous persons (Schedule 2)

The Bill provides for demand driven funding for eligible Indigenous persons with the definition of such a person being restricted to someone whose permanent residential address at the time of enrolment is in a regional or remote area. Over a third of Indigenous persons do not live in regional or remote areas and a high priority needs to be given to reducing the gap in further educational attainment for all Indigenous persons.

The definition of an eligible Indigenous person in the Bill should be broadened to include all Indigenous persons. This would better align the Bill with the Government's recently announced approach to Closing the Gap and revised further education target.

Tertiary Access Payment (TAP)

The Bill does not provide for the implementation of the TAP. The intention may be to legislate for this payment in a social security bill at a later time.

All regional and remote students should have access to the TAP regardless of the location of the institution at which they choose to study. This would meet the aims of improving the access and attainment of regional students in the Government's National Regional, Rural and Remote Education Strategy.

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Disruptive funding uncertainty for universities (Schedule 2)

The Bill does not provide universities with any certainty about their future levels of funding. This applies in respect of:

- the level of funding universities are to receive as the 'funding envelope';
- future indexation of the amount of the funding envelope; and
- the growth component of the funding envelope for additional student places to maintain student opportunity as Australia's population grows.

ATN notes that the Department has not advised universities of their proposed level of funding for 2021 or subsequent years. It also has not advised universities of the level of growth funding for additional student places for the first funding agreement period. This is creating considerable planning uncertainty.

The funding envelope is intended to cover all student places, other than those for medicine and Indigenous students from regional and remote areas. Government policy is, over the three transition years, to phase down the Commonwealth Grant Scheme (CGS) component and increase the student contribution component of funding. However, the Bill allows a future Minister to substantially reduce a university's funding envelope without reasonable notice and without parliamentary scrutiny.

The Bill should provide current certainty to universities by including a schedule specifying the Maximum Basic Grant Amounts (MBGA), or equivalent, for all course types (higher education courses, designated higher education courses, and demand driven higher education courses) and for each university. It should include provision for the maintenance and indexation of this amount beyond the three transition years.

Grandfathering of existing students (Schedule 1)

The provisions for the grandfathering of students whose student contribution is to increase is not time limited or restricted. Two implementation problems arise from the Bill's provisions:

- Many grandfathered students do not complete within three years for reasons such as part time study or interruptions to their study. We know from past experience that grandfathered students can remain in the system for many years, leading to excessive administrative and IT system complexity.
- The arrangements result in the underfunding of student places for grandfathered students. The allowance in a university's Maximum Basic Grant Amount (MBGA) for grandfathered students is proposed to be phased out over three years according to a standard formula (pipeline). This means Commonwealth Grant Scheme (CGS) amounts for grandfathered students are reduced without student contributions increasing. This shifts the cost of grandfathering to universities. In the case of communication and media arts, the CGS shortfall would be \$12,447 per student place. For history, archaeology, Indigenous studies, justice, law enforcement, philosophy and religious studies, the shortfall would be \$5,126 per student place.

Students who have commenced an undergraduate certificate this year are only grandfathered if they proceed to a related bachelor degree. It is unclear why the Bill does not provide for these students to be grandfathered if they proceed to a related sub-bachelor degree (i.e. diploma, advanced diploma or associate degree).

The Bill appears to omit students undertaking units in pathology from the grandfathering provisions. ATN's understanding is that the student contribution for these students is proposed to increase from \$9,698 to \$11,300.

The Bill should:

- *place an end date on grandfathering that provides students with a reasonable period of time within which to complete their study, such as five years;*
- *provide for grandfathering in diplomas, advanced diplomas and associate degrees for students currently undertaking an undergraduate certificate; and*
- *provide for grandfathering for students undertaking pathology units of study.*

2. Implementation

Funding clusters (Schedule 1)

The Bill accurately reflects the announced policy on the redesign of funding clusters.

ATN has reservations about the reduction in total funding for science, engineering and clinical psychology disciplines, and the inclusion in cluster 1 of social work and other human welfare studies and services (e.g. care for aged, disabled, children) – particularly in light of the social impact of COVID-19.

The student contribution for cluster 1 is set to discourage the study of social work and other human welfare studies, despite degrees in this area leading to some occupations that are in demand. These student contribution amounts are in excess of those for disciplines that lead to occupations with generally higher levels of remuneration, such as medicine.

The Bill should:

- *include social work, other human welfare studies and services, and clinical psychology alongside allied health, with which they are similar in practice and pedagogy;*

and include provisions to ensure that there is a review of:

- *the rates of total funding for a place in disciplines to ensure they continue to fulfil the Government's policy to align total funding with the cost of delivery, in particular for science and engineering; and*
- *the impact of student contribution rates on student choice, to ensure they continue to fulfil the Government's policy aims regarding the supply of graduates for occupations in demand and the supply of skills of long-term strategic importance.*

Extension of eligibility for equity funding (Schedule 3)

The Bill extends eligibility for grants promoting equality of opportunity beyond Table A providers (essentially public universities) to any 'body corporate' listed in the Other Grants Guidelines (Education) 2012. This was not announced as part of the Job-ready Graduates policy. ATN notes that long-planned increases in the level of support for higher education attainment by low SES students will no longer proceed, with the planned additional funding used to promote higher education attainment by rural and remote low SES students.

Existing levels of support for higher education attainment by low SES students should be retained and additional funding should be provided if the Government wishes to support non-university providers in contributing to this objective.

Regional and enabling course loadings (Schedule 3)

The Bill removes all regional and enabling course loadings from the Commonwealth Grant Scheme (CGS). The announced policy is to initially continue these loadings as part of the Indigenous, Regional and Low SES Attainment Fund (IRLSAF) under the Other Grant Guidelines (Education) 2012, until longer term policy for that fund is set.

The Department of Education, Skills and Employment has advised that the enabling loading will not increase to compensate for the reductions in CGS amounts for student places. This policy will result in support for around 11,500 enabling places provided by public universities declining by over \$20 million.

These loadings should not be removed from the CGS. Cohorts that are currently supported through enabling programs may not meet the definitions of disadvantage under the IRLSAF, and IRLSAF may not support similar programs. Given the current social and economic circumstances and the potential demand for further education by Australians, unintended consequences may have a substantial impact on students.

New legislative guidelines for the regional and enabling course loadings will need to be made before the end of 2020.

3. Further consultation

Student progression provisions – the 50 per cent completion rate rule (Schedule 5)

The Bill provides for the removal of eligibility for all student loans and prohibits universities from enrolling a student as a Commonwealth supported student if:

- in a bachelor degree or higher qualification, the student has undertaken eight or more units and not successfully completed at least 50 per cent of them;
- in any other case, the student has undertaken four or more units and not successfully completed at least 50 per cent of them.

The *Higher Education Standards Framework (Threshold Standards) 2015* requires universities to have processes that identify students at risk of unsatisfactory progress and provide support to students to ensure they have equivalent opportunities to transition into and progress through their course, irrespective of their educational background, entry pathway or place of study.

All universities have policies concerning academic progression which seek to ensure that students who unable to complete a course do not continue to enrol. These policies take into account the particular circumstances experienced by a student. These circumstances are not restricted to the very limited circumstances in which a HELP debt to the Commonwealth may be waived.

The Bill should be amended to ensure that students who continue to meet a university's academic progression requirements remain eligible for Commonwealth support and HELP loans. If this is not agreed, there should be greater discretion in the application of this provision than the limited circumstances in which HELP debts to the Commonwealth may be waived.

As written, this measure may deny students a viable pathway to completing their studies especially in circumstances where there is no full fee paying option available.

As it currently stands, the Bill should also be amended to clarify the parameters and restrictions around the completion rate to avoid any confusion or unintended consequences.

For example:

- *there is no set time limit over which the completion rate is calculated, nor volume of learning associated with this measure which leaves it open to inconsistent application and potentially discriminatory impacts on students*
- *the special circumstances suggested in the Administration Guidelines 2012 allow for illness or bereavement, but not any cultural reasons, which would especially impact Indigenous students*
- *it may cause difficulties for continuing students*
- *the phrase “did not successfully complete” is unclear and may include legitimate outcomes other than failure*
- *it may also encourage students to change courses or institutions unnecessarily (incurring further debt).*

Other student protection provisions (Schedule 5)

The Bill extends a range of ‘additional protections for students’ to Table A providers (i.e. public universities). Most of these protections were developed and applied to non-university providers in response to the abuse of VET FEE-HELP and concern that un reputable providers may move from the VET system into higher education.

The Government indicated at the time these provisions were developed that they would not be applied to universities. This position is now being reversed. Universities were not advised that these provisions would be included as part of the Job-ready Graduates package and no consultation was undertaken with the sector on the implications of doing so.

The provisions impose a considerable number of additional requirements on universities, with associated costs, at a time when universities are seeking to manage the implications of a substantial amount of lost revenue associated with the decline in international students.

Some of the provisions do not appear feasible for implementation at a major public university. For example, the requirement that universities must assess a student as academically suited to undertake a unit of study before enrolling the student in a unit of study. Universities currently make such an assessment for admission to course, not at the unit of study level. Academic progression requirements (outlined above) ensure that students continue to be academically suited to their courses.

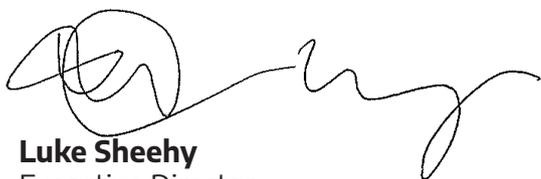
The provisions give the Minister a wide range of new powers in respect of public universities (some of which are inconsistent with the provisions of the *Tertiary Education Quality and Standards Agency Act 2011* and the *Higher Education Standards Framework (Threshold Standards) 2015*), and extend a wide range of civil penalties associated with a failure to comply with the provisions.

- The Minister is given authority to audit a university’s compliance with financial viability requirements; fairness requirements; compliance requirements; contribution and fee requirements. The Minister appoints the auditor and universities must pay any charges for the audit.
- The provisions commence at the start of 2021 meaning universities have little time to ensure compliance with them before they commence.

There should be consultation with public universities on the application of these provisions before they are legislated, and they should be subject to a regulatory impact analysis.

ATN would welcome the opportunity to provide further information on any of the points raised in our brief submission, if requested.

Yours sincerely,



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