

**GROUP
OF EIGHT
AUSTRALIA**

Essential decisions for national success

reducing the regulatory overload
on our universities



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Foreword

Dealing with unnecessary, redundant and duplicative regulation and reporting is a significant dead weight on the work of Australia's leading research-intensive universities.

Excessive and unwarranted red tape stymies productivity and limits our nation's prosperity, a fact recognised but not adequately addressed by successive governments.

The cost of compliance-based reporting by Australia's universities is estimated to be in excess of \$500 million per annum – a staggering impost that diverts resources from where they are needed in teaching and world-leading research.

The Group of Eight (Go8), Australia's leading research-intensive universities, play a pivotal role in Australia's economic, social, cultural and health outcomes.

- The Go8 makes an essential contribution to the nation's prosperity, with a total economic impact of some \$66.4 billion each year.
- Go8 research activity contributes \$24.5 billion to the economy each year.

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- Every \$1 of Go8 research income delivers \$10 in benefits to the community.

However, the capacity of Go8 universities to maximise their economic and research-led impact on our nation's prosperity is significantly curtailed by an increasing propensity by governments to introduce new legislative and regulatory regimes.

This happens without Government taking the time to review existing regimes and therefore happens without Government eliminating the countless instances of overlap in purpose and reporting. This results in a heavy additional regulatory load for the higher education sector.

Successive Australian Governments have pledged to rid the higher education sector of unnecessary red-tape and regulation.

Foreword

Our universities will be freed from restrictive, directive requirements that have diverted time and effort away from where it is needed most the delivery of quality teaching and research.¹

The Hon Julia Gillard, Education Minister, 2008

Our government is cutting red tape to make universities more productive. We want universities to work together to meet student demand while also encouraging greater flexibility within the system.²

The Hon Dan Tehan, Education Minister, 2019

The red-tape reduction was not forthcoming despite the promises.

In 2018, a Parliamentary Inquiry into funding arrangements for non-National Health and Medical Research Council (NHMRC) research made 15 recommendations designed to streamline and improve the process. Fundamental elements underpinning these recommendations included

reduction of the voluminous amount of information provided in support of funding applications and making use of existing data and information pertaining to researchers and research institutions. Important recommendations such as the introduction of a single whole-of-government online research management system are yet to be implemented.

1 <https://ministers.dese.gov.au/gillard/taking-foot-government-throat-universities?page=283>

2 <https://www.timeshighereducation.com/news/australia-cutting-red-tape-around-postgraduate-diploma-places#:~:text=%E2%80%9C%5BThis%5D%20will%20enable%20universities,greater%20flexibility%20within%20the%20system.%E2%80%9D>

In 2013, the independently conducted *Review of Reporting Requirements for Universities* was released. Key areas in need of reform included:

- Duplication and a lack of coordination of reporting requirements.
- Tendency of reporting requirements to accumulate over time.
- Issues relating to definition and documentation.
- Issues relating to scale and proportionality.
- Frequent changes of reporting requirements and inadequate planning for change.
- Concerns regarding universities' access to useful and timely information.

The Government at the time accepted all of the review's recommendations and committed to take action – so that Australia's universities could focus their resources on their core business. There was initial work undertaken to refine data collection, a move welcomed by universities.

However, momentum for what remains much-needed regulatory and reporting reform was short-lived.

In the past few years universities have faced an onslaught of new red-tape and regulation that divert resources and attention from achieving our core national priority which is to:

Educate our future leaders and innovators and produce world-class research in areas that are now critical to shape our nation's future.

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Foreword

In the past five years the Go8 has increasingly been subjected to new or significantly amplified regulatory requirements – many of which fall outside the higher education portfolio.

Universities must now assess whether a student is a 'genuine student', make judgements and develop processes in relation to a new '50% pass rate rule' and prevent students enrolled at multiple providers from exceeding their study load limit.

Implementation of the Job Ready Graduates (JRG) Package alone has imposed a raft of new administrative and reporting responsibilities that the Government's own bureaucracy is struggling to adequately support with real-time data.

Universities must now assess whether a student is a 'genuine student', make judgements and develop processes in relation to a new '50% pass rate rule' and prevent students enrolled at multiple providers from exceeding their study load limit.

Yet the Government's purpose-built IT system is still not built in 2022 which means that bureaucrats are monitoring this issue and dealing on a case-by-case basis with each university.

The JRG also introduced a new funding formula for a range of courses that have had significant administrative and cost structure repercussions for universities offering certain courses – such as engineering.

Examples of new legislation and regulation where universities are captured include:³

- *Foreign Influence Transparency Scheme Act 2018*
- *Australia's Foreign Relations (State and Territory Arrangements) Act 2020*
- *Education Services for Overseas Students Act 2000 (ESOS Act)*
- National Code of Practice for Providers of Education and Training to Overseas Students 2018
- Many changes to the *Higher Education Support Act 2003 (HESA)* – including Mission-based Compacts (2021–23)
- *Modern Slavery Act 2018 (Cth)*
- Guidelines to Counter Foreign Interference in the Australian University Sector, 2019 and 2021 versions
- The new: Australian Research Council Due Diligence Policy (Dec 2021)

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- *Data Availability and Transparency Act (DATA) 2022*
 - *Security Legislation Amendment (Critical Infrastructure) Act 2021*
 - *Security Legislation Amendment (Critical Infrastructure Protection) Act 2022*
 - Excellence of Research for Australia (ERA) reforms with increased costs for universities to implement – without providing any visibility about the value they generate for universities or the Government.

At the same time, there has been a proliferation of new, often overlapping, regulation and associated red-tape and it is difficult to find any instance where obsolete or duplicative regulation has been removed.

There is therefore an extremely pressing need for effective and efficient regulation through consultative, robustly developed and evidence-based policy.

³ Additional examples and further information about the impact of selected legislation and regulation on universities are at Attachment A

Foreword

The Go8 has repeatedly called for Governments to:

- Provide a detailed and compelling case for higher education and research to be captured by legislation where the links are tenuous at best.
- Apply a proportionate and nuanced approach where universities may be relevant to any legislation.
- Work collaboratively with the sector to ensure legislation is robust, relevant and evidenced based.
- Undertake a comprehensive review of university-impacting legislation to identify and remove overlap and duplication and determine whether regulations are fit-for-purpose.

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- Provide clarity about how the various pieces of legislation intersect and operate as a cohesive whole.
 - Require Government departments to share data and reports from universities rather than require multiple reporting of the same data by universities (while recognising confidentiality or privacy provisions).

It is of the utmost concern to the Go8 that despite political promises, these issues have not been adequately addressed.

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1 A clear lack of coordination

There has been a stark lack of coordination in the development of legislation impacting universities and of reporting requirements between departments and between Commonwealth and State Governments.

As a consequence, the regulatory landscape features an imposition of similar or related but parallel sets of requirements on universities, resulting in duplicate compliance and/or reporting of the same information and data – sometimes to different areas in the same department, sometimes to multiple departments.

For example, the recent report from the Parliamentary Joint Committee on Intelligence and Security (PJCIS) into national security risks affecting the Australian higher education and research sector made a total of 27 recommendations.⁴

If adopted by an incoming Government in full, universities could find themselves having to report on foreign affiliations, relationships and financial interests (outlined in Guideline 3.1)⁵ to the PJCIS on an annual basis (Recommendation 2) as well as on a public website (Recommendation 20) and possibly also to TEQSA (Recommendation 22, depending on how this recommendation is realised).

This lack of a coordinated approach to the development of legislation and its related reporting requirements results in wasteful duplication of university effort and, ultimately, it is the taxpayers who are penalised by this.

4 https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Intelligence_and_Security/NationalSecurityRisks/Report

5 <https://www.dese.gov.au/guidelines-counter-foreign-interference-australian-university-sector>

A clear lack of coordination

Impact on research

The legislative and regulatory web will severely compromise international research collaboration, including with our Five Eyes partners.

More than 50 per cent of published research by our world-leading universities is internationally co-authored, because the best researchers want to work with their best peers. Some Go8 members have already reported a reluctance on behalf of established academic and industrial partners to engage on further research projects that could have benefited Australia. The complexity of counter-foreign interference legislation now impacting universities, and the potential for partnerships to be cancelled at any point by a future minister without having to provide any public explanation, have led some international partners to conclude that collaboration with Australia poses increased risk and that they can find alternative partners in other countries.

Our nation cannot, and should not, bear the cost that the current lack of regulatory streamlining will inflict on Australia's research efforts.

An incoming Government must return to proportionate and risk-based regulation of higher education

We understand and accept our responsibilities as it relates to accountability and transparency.

We also recognise the legitimate interest of Governments, the public and students in information about the teaching, research and other activities we conduct. **These matters of principle are not in dispute.**

However, in addition to the already-identified lack of coordination and rampant duplication of regulation burdening the sector, there is a clear problem with the scale and proportionality of legislative intent and related reporting requirements.

Undoubtedly, hyper-regulation of the higher education sector severely holds back productivity – as universities are forced to shift focus from their core business. Yet productivity is at the heart of any national economic success.

The impact on Australia’s high-performing research-intensive universities is particularly lamentable, given that resources focussed on red-tape reporting and compliance are the very resources not directed to building prosperity and making gains for our nation.

Go8 universities need to be focussed on producing the quality graduates who will deliver major projects such as the Hells Gate dam.

The Go8 must be focussed on realising Australia’s ambitions (given it is essential we do) to boost cyber resilience and support our sovereign defence industry – including AUKUS.

We need to be enabled to focus on providing real time solutions and products through R&D, delivering life-saving medical research

and advances in the agricultural sciences that will more efficiently maximise yields. **We should not be comprehensively tied up in red-tape and countless data and information reporting exercises.**

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2 The cost of hyper-regulation

The hyper-regulation of the higher education sector has resulted in extraordinary costs for universities:

- New positions have had to be created.
- Complex systems have had to be installed or created.
- Vital resources have been diverted from core duties to ensure regulatory compliance and complete reporting requirements.
- New staff have had to be employed to manage reporting requirements.
- Senior managers have had to engage in time consuming complex dialogue and negotiation with Government.

Hyper-regulation has resulted in lost productivity and leakage of our efforts from core responsibilities. In a 2013 report, the cost of compliance-based regulatory reporting was estimated to be **\$280 million** across the sector⁶

– approximately \$16 for every \$1000 of revenue from Government financial assistance and student fees.⁷

Concerningly, as the regulatory environment has ballooned, so too have the associated costs for the

⁶ Universities Australia submission to the Coalitions Deregulation Reform Discussion Paper – March 2013

⁷ Assuming 2011 sector revenue levels

our universities. On a conservative estimate, if the increased regulatory burden has added only 15 per cent to the cost of compliance-based reporting then the current impost will have exceeded \$500 million. This is a staggering cost for our universities and for our nation's productivity.

The opportunity cost of this is enormous. If, for instance, the Government were to commit an additional \$500 million dollars a year to targeted skills needs, it could fund an estimated additional 1,000 graduating doctors a year **and** increase the production of domestic engineering bachelor graduates by two-thirds – both priorities identified by the Go8.

Government does not sufficiently or effectively discuss its aims across portfolios in designing regulation and fails to consult with its most important stakeholders – those who are most impacted by it.

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3 Recommendations

The existing legislative, regulatory and reporting burden on the higher education sector

There is an urgent need for an incoming Government to review the plethora of legislation, regulation and reporting requirements so negatively impacting the higher education sector.

The Go8 recommends an incoming Government:

- 1.** Prioritise a review of legislative, regulatory and reporting requirements impacting the higher education sector to identify:
 - a.** Duplicative and overlapping legislation, regulation and reporting requirements.
 - b.** Opportunities for streamlined reporting and data collection – ‘collect once, use many times’.
 - c.** Immediately take action to abolish or amend duplication and overlap.

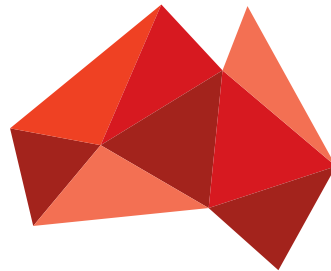
Future and amended legislation and regulation

Government must set standards and thresholds for the development of its legislation and regulations. **That is basic governance.** These standards must include that draft legislation

be examined in the light of all other related / similar legislation and act to ensure that there is alignment and no duplication. Government departments should be required to meet those standards and thresholds – as a professional matter of course – and publicly report on how these have been met as part of the drafting process.

The Go8 recommends an incoming Government:

1. Ensures that all new legislation impacting the higher education sector be subject to a full legislative and regulatory scan by the sponsoring Minister's agency to identify areas of overlap, duplication, redundancy. This could be built into the legislation drafting process.
2. Ensures that there is cross-portfolio collaboration between departments when designing regulation – with the purpose of eliminating duplication, overlap and redundancy. This could be built into the legislative drafting process.
3. Introduces a requirement that, to ensure effective and efficient regulation, new legislation brought forward must demonstrate to the Parliament that it has been developed through consultative, robustly developed and evidence-based policy.



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