

Making Australian University Access Inclusive: Muslim Student Perspectives on HECS/HELP Financing

Submission to the Interim Report by the Australian Universities Accord Panel Team

Wholesum & ICFAL

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Executive Summary

Dear Professor Mary O’Kane and the Australian Universities Accord Panel team,

HECS/HELP and its incompatibility with Muslim community’s faith

In this submission, we would like to shed light on the challenges that the current HECS/HELP indexation poses for students of diverse backgrounds. We were unaware of the prior consultations and wanted to still contribute at this point. There has been commentary elsewhere on the financing cost and the varied impact on different demographic segments (such as women during child-rearing years). Here, we highlight the lack of compatibility of HECS/HELP with the tenets of the Islamic faith (also referred to as “*Shari’ah*-compliant”) and how it negatively impacts on the educational experiences and long-term outcomes for Muslim students.

Islamic teachings forbid several features of financial transactions that are common in conventional financial systems. Interest-bearing debts are prohibited, and no form of interest or financial gain can be charged on debt. Furthermore, transactions characterized by excessive risk and uncertainty, particularly in terms of pricing and quality of exchanged items, are not considered acceptable. This includes contracts related to goods and services where the price is ambiguous and not pre-determined. The HECS/HELP indexation methodology falls foul of these two principles as the financing cost is uncertain and involves a unilateral “increase” in the exchanged financed value from the Australian Federal Government.

Negative impacts on student learning

While there are some disagreements between different sections of the Muslim community, the far wider view among scholars, community leaders and students themselves is that the current HECS/HELP indexation does not comply with Islamic financial principles. It is this contention that demands consideration of alternative financing mechanisms for Muslim students. More importantly, an inclusive Australia should allow for a wide spectrum of the community to accept the same educational services through alternative financing arrangements.

Beyond the academic discourse surrounding the compatibility of HECS/HELP indexation, as detailed in Part A of our submission, in Part B, we have sought to obtain the perspectives from students and Muslim community stakeholders. Overwhelmingly, there are several clear findings from our survey (n= 96) and in-depth interviews:¹

- Muslim students perceive that the HECS/HELP indexation to be incompatible with their faith. 76% of student respondents were either not confident or not very confident that HECS/HELP adheres to *Shari’ah* principles.
- The lack of compatibility creates, at the minimum, a deep-seated conflict in their educational experience with immense spiritual guilt.
- Moreover, there are material negative impacts on their approach to education. For example, 45% of students reported that the lack of *Shari’ah*-compliant course financing options negatively affected their course selection and amount of study.

¹ All charts in this submission are based on a sample of 96 respondents unless otherwise specified.

Some reported delaying their degree qualifications through part-time study to pay off the fees. Others did not pursue postgraduate studies to avoid further engagement with a spiritually forbidden practice.

Recommendations for a more inclusive university financing system

Based on an evaluation of models from around the world and literature, there are several financing mechanisms that are compatible with the Islamic community's faith. We elaborate on a specific model, the "Service Rent" ("Service *Ijaarah*") model that is both operationally feasible as a licensed credit product and compatible with Islamic legal principles. While we would welcome an opportunity to provide further elaboration on the specifics of rolling this solution out, it suffices for present purposes to highlight that alternative financing mechanisms do exist. Moreover, as a society, we can achieve the twin objectives of a sustainable education financing system and more inclusive educational outcomes for all.

Additionally, in the final part of this submission, we suggest a few administrative models that the Federal Government can roll out to achieve a more inclusive HECS/HELP financing mechanism. These include:

- **Shari'ah Certification of HECS/HELP Financing** – working with the Australian Muslim community to modify the current HECS/HELP financing mechanism to ensure compatibility with Islamic legal principles while maintaining its salient commercial and operational elements.
- **Independent financing administration** – appoint a financing administrator (through a tender process), like state and territory-based solar and battery financing schemes, to enable students to gain information about alternative financing mechanisms and apply through the administrator's (tech-enabled) portal. Through this option, the Federal Government partners with a licensed Islamic financial institution to provide compatible financing solutions for Muslims should they seek this over the current HECS/HELP financing option.
- **Financing panel** – provide all students access to a range of financing options in addition to the current HECS/HELP financing default option.

Introduction

On behalf of the team at Wholesum and ICFAL, we welcome the opportunity to participate in a response to the Panel's Interim Report. Our submission focuses on an important matter that affects thousands of present and past Australian Muslim university students – the HECS (Higher Education Contribution Scheme)/HELP (Higher Education Loan Program) loan. As the Interim Report didn't cover this issue specifically, we would like to present our analysis and research.

Our submission targets the following submission theme as noted on the submission website: ***Three most significant reflections on the Interim Report (this could include an area you feel the Interim Report has not addressed).***

Our submission is structured as follows:

- **Part A** will articulate the challenges with the current HECS/HELP financing structure for Australian students who identify as Muslim and wish to adhere to Islamic financing principles.
- **Part B** presents insights from current and past students, in addition to community leaders and education stakeholders regarding the impact of the current financing structure.
- **Part C** provides a recommended financing structure (among other models) that will satisfy Muslim student needs and proposes a model for government administration in partnership with private sector partners.
- **Part D** recommends administration solutions to enable more inclusive HECS/HELP financing options and concludes.

Part A: The HECS/HELP Challenge for Muslim Students

It is our submission that the current HECS/HELP loan financing structure can be significantly improved to be more compatible with Islamic financial principles. If we keep the current HECS/HELP loan structure, our submission is that this limits access to quality education outcomes for Australian Muslims and negatively impacts their educational journey.

Islamic Perspectives on HECS/HELP Financing

HECS creates a debt for students who use it to defer their higher education tuition fees. When students take advantage of HECS, they are borrowing money from the Australian government to cover their tuition costs. This borrowed amount becomes a debt that students are required to repay once their income reaches a certain threshold. There is currently an indexation applied to this debt on the first of June every year. It is argued that indexation maintains the real value of the loan by adjusting it in line with changes in the cost of living as measured by the consumer price index (CPI).²

In Islamic jurisprudence, a debt is not inherently prohibited; rather, it is recognised as a contractual obligation. However, Islamic financial principles distinguish it from conventional practices by viewing debt as a benevolent agreement meant to foster mutual assistance. This contrasts with the conventional perception of debt as a financial instrument designed for profit generation. Under Islamic law, the imposition of an additional charge on a debt, commonly referred to as “riba”, is unequivocally deemed as usurious and unjust. In conventional finance, this is akin to an interest rate. Riba holds grave significance in Islam, representing a major transgression with potentially adverse consequences for both individuals and a nation's long-term economic stability and prosperity.

Additionally, the unknown indexation rate, completely unknowable at the time a student commences their course, contravenes the principle of excessive uncertainty and contractual risk (or “gharar”). A trade or debt contract must stipulate the measure and nature of the consideration and exchanged goods and services. However, as the HECS/HELP indexation is set unilaterally by the Federal Government and this amount can vary every year without a clear public benchmark, there remains gharar in the HECS/HELP financing contract.

Modern Islamic scholars and religious legal bodies engage in continuous discourse about whether indexation can be deemed a legitimate augmentation of debt or is simply a means of upholding the real value of money. Some Islamic scholars argue that any indexation applied to a debt amounts to an increase in a debt (riba) that is not acceptable under Islamic law.

For example, the International Islamic Fiqh Academy mentions:

² Australian Taxation Office, Study and Training Loan Indexation Rates, accessed August 18, 2023, <https://www.ato.gov.au/Rates/Study-and-training-loan-indexation-rates/>

*"It is not permissible in Shari'ah, at the time of concluding the debt contract, to link the repayable amount to any of the following cases ... cost of living index or any other index."*³

Another highly popular Islamic scholar amongst the Muslim youth, Mufti Faraz Adam, mentions in his analysis of indexation on debt:

*"Time value of money (TVM), inflation or the loss of purchasing power is a reality and a recognised concept in Shari'ah. As such, scholars have permitted the indexation of wages and rental. However, the indexation of cash loans is not permissible due to the prohibition of Riba and explicit statements in the Prophetic narrations."*⁴

Some international Islamic legal organisations such as the Assembly of American Jurists of America adopt a general perspective that deems student loans as impermissible.

*"The default is the forbiddance of interest-based loans regardless of whether these loans are for students or otherwise due to it falling under the clear interest that the scholars unanimously agreed, past and present"*⁵

Meanwhile, there are some opposing views within the Muslim community that is worth noting. The Assembly of Muslim Jurists of America (AMJA) provide a concession for interest-bearing student loans under necessity. They explain:

*"If all of these are inexistent, and the interest-based loans are the only way to facilitate the beginning or continuation of a university education, or the only way to secure the Muslim communities need for what cannot be done without of professions and expertise, then this is considered an urgent necessity that removes the sin even though the ruling of impermissibility remains."*⁶

Whilst other Islamic legal organisations, like the British Fatwa Council, suggest that their student loan scheme, which has many similar characteristics to the HECS system, is in fact Shari'ah-compliant:

"The student loan under consideration, in contrast, is a performance-based or income-contingent financing operation. Upon the student successfully graduating and securing employment with an earned income upon or above a set threshold, the "borrower" must "repay" the tuition and maintenance funds received, which is done via the PAYE tax system at a fixed percentage of an individual's income. In the event of remaining unemployed or employment with a salary below the set threshold, the "borrower" is not required to "repay", even if he or she is in possession of adequate funds through alternative

³ IIFA-AIFI. "Riba and Its Types in Contemporary Transactions." The International Islamic Fiqh Academy. Retrieved from <https://iifa-aifi.org/en/32605.html>

⁴ "Is Lending and Pegging Repayment to the Rate of Inflation Permitted?" Amanah Advisors. Retrieved from <https://amanahadvisors.com/is-lending-and-pegging-repayment-to-the-rate-of-inflation-permitted/#:~:text=Answer%3A,will%20be%20paid%20with%20inflation.>

⁵ Assembly of Muslim Jurists of America (AMJA). "Can We Take Student Loan for Study If You Can't Afford It?" AMJA Online. Retrieved from <https://www.amjaonline.org/fatwa/en/81740/can-we-take-student-loan-for-study-if-you-cant-afford-it.>

⁶ Ibid.

means. Performance-based contracts, by construction, are not debt contracts from a Shari'ah point of view.”⁷

This is consistent with the view of the Australian National Imams Council's (ANIC) permissibility of HECS where they have mentioned in a religious verdict:

“After extensive research into the Higher Education Contribution Scheme known as HECS, and comprehensive consultation with the experts in the field, the Australian Fatwa Council has concluded to the permissibility of applying for HECS loan to pay for higher education studies.”⁸

Spiritual confusion among Muslim students

These conflicting messages offer no comfort for the Muslim student who increasingly gains much of their religious guidance through online sources and social media. Student financing is a contemporary phenomenon that many countries are grappling with considering rising education costs and the proliferation of private-sector education worldwide. Within Islamic scholarship, there remain limited rigorous academic inquiry and research into student financing for tertiary education. Our attempt in this submission is to escalate the issues, call for more attention by the Federal Government and consultation with the Muslim community.

Part B elaborates further on community perspectives on HECS/HELP, its impact on Muslim students and provides commentary on the lack of spiritual clarity on the matter.

Nonetheless, the lack of available *Shari'ah*-compliant options and the problematic nature of the indexation mechanism serves no favours to the Muslim community. As Part C and Part D argue, our submission is that greater options, including a more widely accepted solution that originates from the Muslim community, will allow for greater inclusion and the avoidance of confusion.

⁷ British Fatwa Council. "Are Student Loans Permissible?" Retrieved from https://www.britishfatwacouncil.org/are-student-loans-permissible/#_ftnref2.

⁸ Australian National Imams Council (ANIC). "FATWA ON HECS." Retrieved from <https://www.anic.org.au/wp-content/uploads/2021/11/FATWA-ON-HECS.pdf>.

Part B: Muslim Community Insights

To canvas a wide array of opinions and research community perspectives, the submission team conducted, to the best of our knowledge, an Australian first Muslim student survey on HECS/HELP. The survey comprised 14 questions including four demographic questions. The survey received 96 responses from Australian Muslims (designated by birth or naturalisation).⁹ The anonymous survey was openly sent to anyone who wanted to respond from Muslim Student Associations (MSAs) in Australian universities, social media posts and WhatsApp groups. To complement the survey, we also conducted six in-depth interviews with students, including the President of Sydney University Muslim Student Association, from diverse ethnic and socio-economic backgrounds.

The collated quantitative and qualitative insights are presented in this part of our submission. The community insights established the conclusion that Australia needs a more inclusive student financing system as the status quo has a detrimental impact on Australian Muslims students' educational experience. There is evidence that the HECS/HELP financing system is hindering educational access and exacerbating financial, emotional and spiritual hardship for students who wish to avoid a financing mechanism that is incompatible with Islamic principles.

Survey Findings

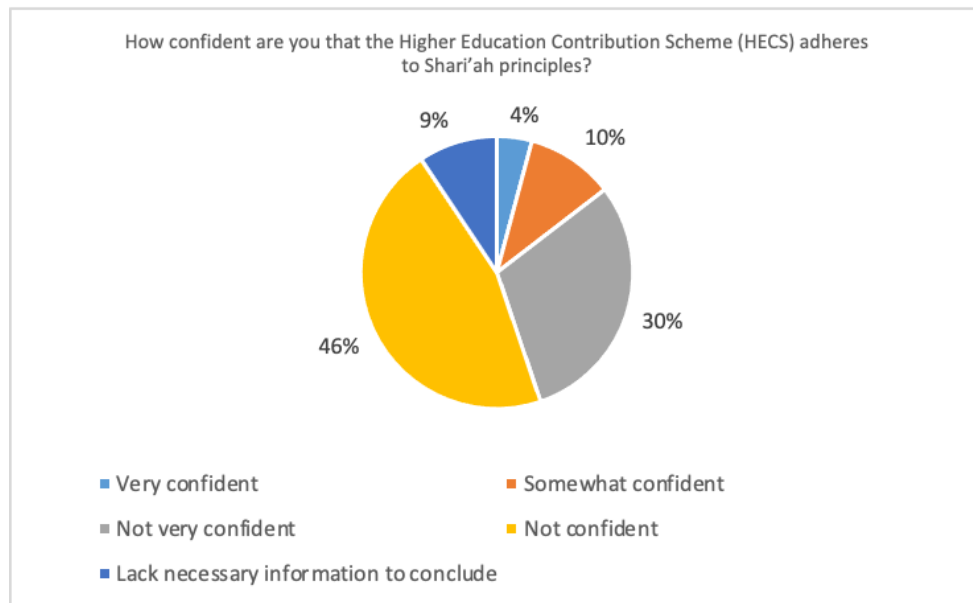
We present the findings below through a few thematic perspectives.

HECS/HELP compatibility with Islamic principles

Most Muslims students disagree that HECS adheres to *Shari'ah* principles. As Figure 1 shows below, 76% of respondents are not confident or not very confident that HECS/HELP financing satisfies *Shari'ah* requirements.

⁹ **Appendix 4** provides the list of questions.

Figure 1: Confidence in HECS/HELP compatibility to Shari'ah

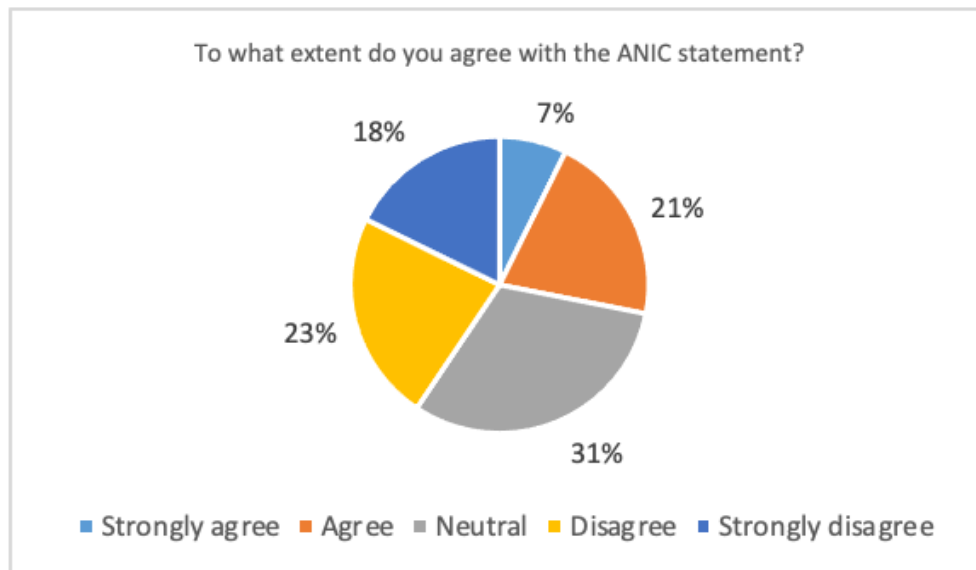


When asked if they agreed with a recent Australian National Imams Council statement¹⁰ on the matter, 41% disagreed or strongly disagreed. In comparison, only 28% agreed or strongly agreed with ANIC's position. This shows that, rather than accepting something as "potentially" or "merely" acceptable to some Islamic scholars, students would prefer a cleaner *Shari'ah*-compliant solution from inception. The ANIC statement makes no mention of what circumstances HECS is permissible. It does not mention if it must be paid before indexation, what indexation rate range is acceptable, nor if it is permissible for post graduate degrees.

One respondent highlighted the fact that the circumstances that students face today is not the same as when the ANIC statement was published. The student noted "The ANIC fatwa on HECS/HELP loan that says it is permissible was from 2021, when indexation rate was 0.6%. Now it is around 7%, so that ruling is not reliable."

¹⁰ See discussion in Part A.

Figure 2: Perspectives on ANIC's Statement on HECS



These were some additional comments from respondents:

- Current student living in Auburn - *"My main concern relates to compliance with my faith which makes me have to choose between my religion and education, a choice that no one should have to decide between in modern multicultural Australia."*
- Current Student living in Mount Druitt - *"We want to be able to study without being burdened by a system that goes against our belief systems. We believe in having equitable access to education."*
- Past Student living in Leppington - *"The current HECS structure is discouraging many of us from pursuing a university degree."*
- Current Student living in Yagoona - *"It is essentially useless or irrelevant to practising Muslims as we are not able to avail ourselves of it for the purposes of tertiary study."*

Relative importance of *Shari'ah* Compliance

The availability of *Shari'ah* loans was ranked at a score of 5 (highest importance) for selecting a course for 50% of respondents, and the average score was 3.34 out of 5 (see Figure 3). In addition, as illustrated in Figure 4, the absence of access to *Shari'ah*-compliant financing alternatives has had an adverse impact on loans, leading to negative repercussions for 45% of students in terms of their course choices and the extent of their studies.

Figure 3: Factors influencing course decisions

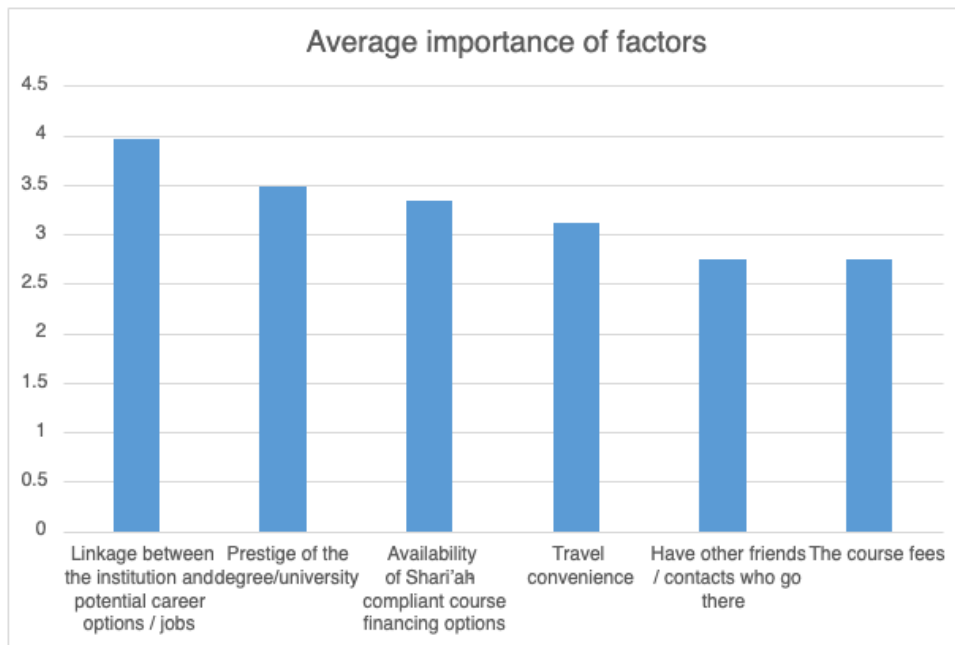
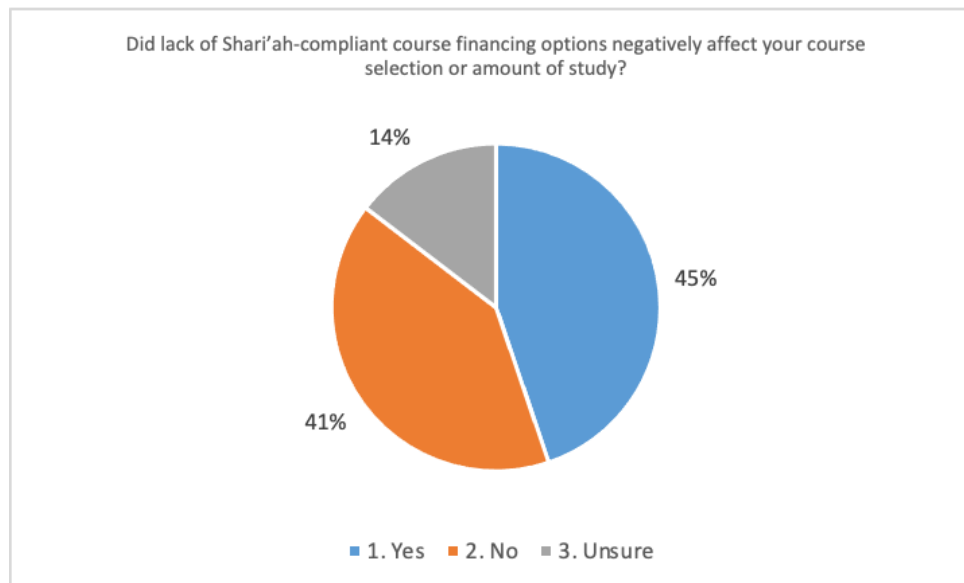
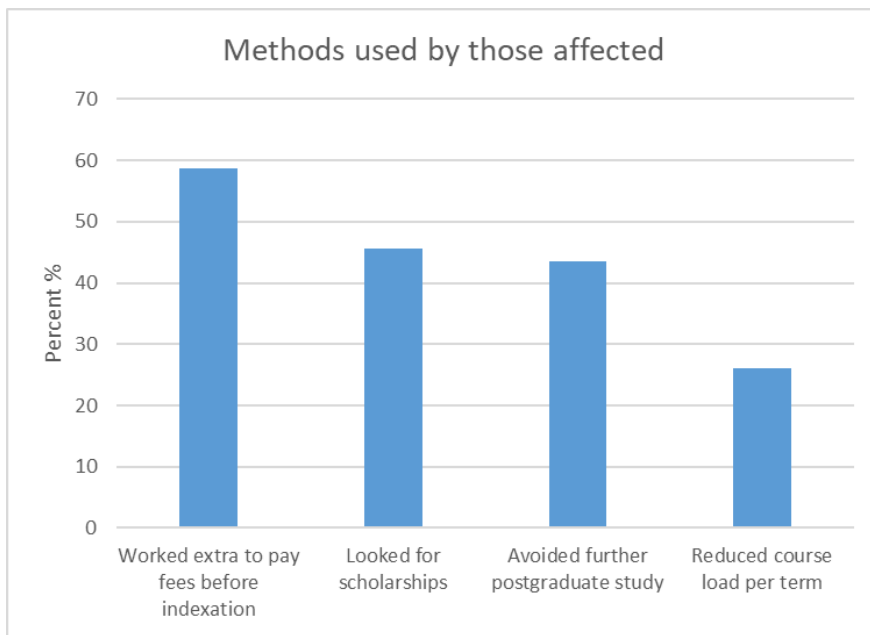


Figure 4: Impacts on course selection and amount of study



Among the 43 respondents who were negatively impacted, ~60% worked extra to pay down the loans before indexation. Almost ~45% avoided further postgraduate study altogether to avoid loans. The answers were not mutually exclusive as many respondents undertook multiple coping methods to avoid HECS/HELP financing. These activities underscore the significant adverse effects stemming from the absence of *Shari'ah*-compliant alternatives. They manifest as heightened stress levels and increased financial burdens on students, ultimately hindering their ability to invest further in human capital development by pursuing advanced studies.

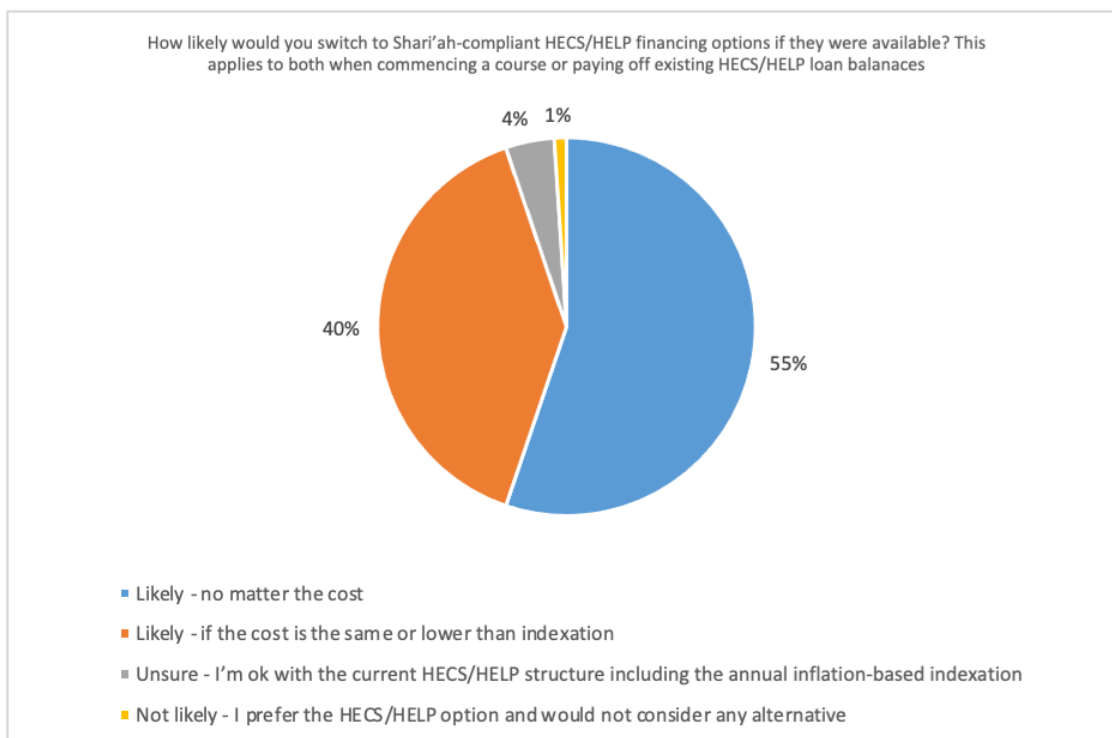
Figure 5: Effects of lack of Shari’ah-compliant alternatives (n = 43)



Financing Preferences

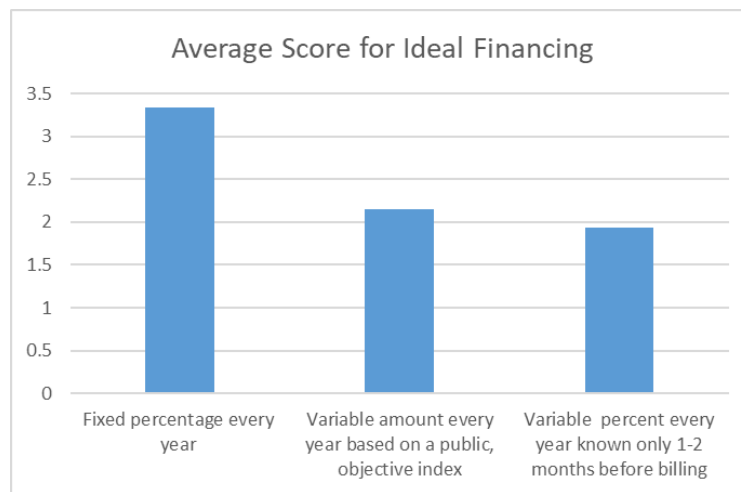
The importance of this topic for Muslims is seen in the willingness of 55% to pay higher for a *Shari’ah* compliant loan. There is near unanimous preference for some form of *Shari’ah*-compliant financing mechanism.

Figure 6: Likelihood of switching to Shari’ah-compliant alternatives



Among financing calculation methods, the preferred financing method was a fixed rate scheme that provided certainty and consistency over the loan term.

Figure 7: Pricing calculation preferences



Community insights and learnings

Additionally, we undertook in-depth interviews with six students. The responses corroborated the survey findings. The key findings from the interviews included: students heavily value *Shari'ah* compliance and many personally know friends that have had to work full time jobs or undertake part time course work, and that there is confusion regarding the permissibility of the current HECS due to the lack of detail and justification included in the ANIC statement that deemed the *Shari'ah* permissibility of the current HECS funding scheme. It was also found that the statement goes against the view of domestic Imams and scholars.

The President of Sydney University Muslim Student Association posits that the *Shari'ah*-compliance of HELP/HECS matters to the community. He says *“the answers we generally get from local Imams and scholars is that HECS constitutes riba [unlawful gain or interest] in Islam. It often bars people from education because working a job [to pay off debt] with tertiary education, whilst managing other commitments, is quite strenuous.”* Regarding any confusion about its permissibility, he says *“There is some confusion, but from my interaction it seems to be limited, as people generally tend to know that it constitutes riba. People that I deal with don't really rely on the ANIC fatwa.”*

Also, on the impact of lack of *Shari'ah*-compliant financing on course selection and the university learning experience, he commented: *“It impacts the duration and degree sector as well. Most avoid art degrees entirely because they start examining degrees strictly from a financial standpoint. In terms of duration, they keep the degree as short as possible. Needing to have a job which can offset their tertiary education payments also inhibits their extracurricular involvement and free time.”*

Additionally, we summarise thematic points that the student interviewees raised:

Shari'ah loans are highly important for Muslim students:

- Student 1: *“Shari’ah compliance is strictly important, wouldn’t accept something that isn’t Shari’ah-compliant. Shari’ah-compliant loans would help Muslims get good roles in the community.”*
- Student 2: *“Shari’ah-compliance does matter because I think it’s important we live by our Islamic values and beliefs. Many stop themselves from taking loans for education.”*
- Student 3: *“We want to make sure that we are not doing anything haram [religiously forbidden], there will be no barakah [blessing] in it otherwise, people care about compliance.”*

Student loans are necessary to afford education, yet can contribute to exacerbating the cost burden of education:

- Student 1: *“I’m not financially stable enough to pay for my fees, domestic students don’t have the income to afford studies.”*

There is a lot of confusion about the permissibility of HECS and this sets a defeatist attitude

- Student 2: *“There’s definitely confusion if HECS is permissible or not.”*
- Student 4: *“Most people know HECS loans are haram but don’t know what to do.”*
- Student 5: *“There’s a lot of difference of opinion on HECS, as a university student I find it very confusing.”*

There are non-trivial negative impacts due to the lack of access to Shari’ah-compliant student financing. These include having to work low skilled labour jobs full time to pay fees and take gap semesters:

- Student 2: *“I know people that are taking a gap semester to continue with work, just to afford uni [sic]. It’s a big disadvantage as it delays their career and creates a gap in their knowledge.”*
- Student 4: *“My friends are working full time just to pay their loans on top of studying. They are disadvantaged. Some [Muslim] brothers are doing part time study [sic], some are doing 3-year degrees over 6 years, affecting their personal lives. It prevents them from taking other loans for personal things and working towards goals like marriage and family.”*
- Student 5: *“I know someone crippling their education from having to keep repeating units, due to working over 30 hours a week for uni (sic) and other financial commitments. Muslims don’t have time to invest in themselves, they spend so much time working low skill jobs like warehousing and retailing to pay the loans. We have a common mindset as Muslims, ‘Ps get degrees,’ as it’s so difficult to do so much work.”*

Overall, the mass surveys and in-depth interviews make clear that the Muslim community value the compliance of student financing mechanisms with their religious ethos. Unfortunately, the lack of *Shari’ah*-compliant alternatives heavily disadvantages Muslim students and generate negative learning experiences. The access to *Shari’ah*-compliant loans is of utmost importance to Muslims and its greater access will precipitate tremendous positive impacts on educational and future socio-economic outcomes.

Part C: Models Review

To address any disadvantages and spiritual difficulties of the Muslim students, we would like to submit some alternative funding models to consider as part of the government re-assessment of the HECs system.

Option 1: No indexation, interest-free financing

This will be the ideal scenario. A universal non-index, no interest model providing equitable access to tertiary education to all students. The sustainability of the system can be viewed in terms of a complete economic beneficial return where low cost and high-quality education systems multiplies the economic prosperity of an entire nation for many years.

A no indexation and no interest on debt approach will clear any spiritual doubts amongst Muslim students that the HECS debt is not *Shari'ah*-compliant. Not only this, but we also firmly believe this will be the preferred solution for an entire generation of university students past and present from all backgrounds.

Option 2: 'Service Ijaarah'

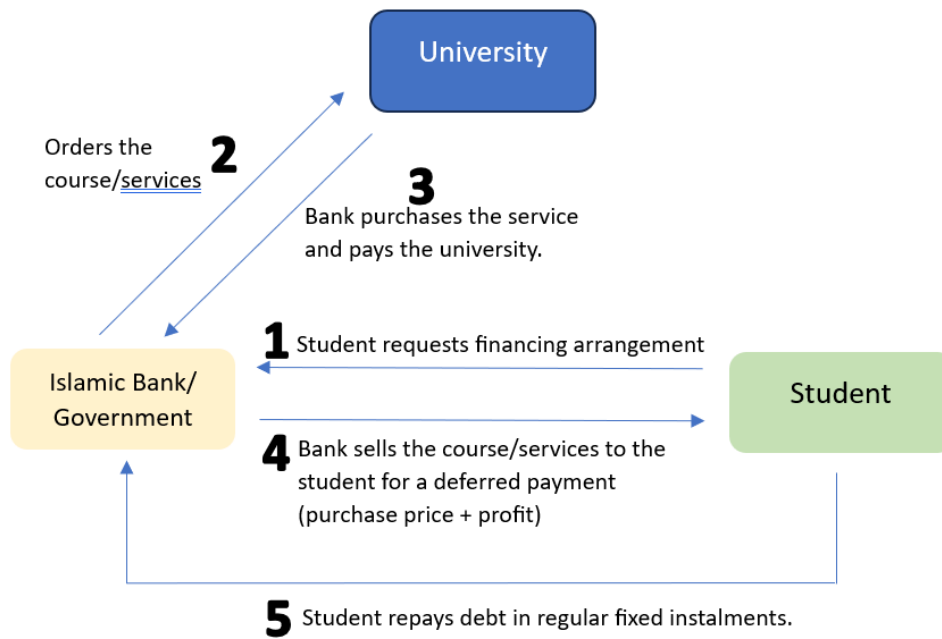
Another model that is becoming prevalent in the Islamic finance industry and could be considered when structuring *Shari'ah*-compliant student loans is the use of *Service Ijaarah*. A *Service Ijarah* can be defined as a finance contract in which the Islamic finance provider purchases a service or usufruct from its provider and sells it to a customer on credit at cost plus a markup. In the case of university education, the Islamic finance provider will acquire the course from the university and then sell it onto the student at a cost-plus profit with fixed payments spread over several years.

Such a model was discussed by Kahf & Mohamed in their work titled "Islamic Personal Financing: An Attempt to Engineer *Shari'ah*-compliant Instruments"¹¹ where they further argue the basis for such a model through the Accounting and Auditing Organisation of Islamic Finance Institutions (AAOIFI) guidelines. The *Service Ijaarah* financing model is also already in use by various Islamic banks in the Middle East to finance education with *Shari'ah* approval by their respective *Shari'ah* compliance boards.

The flow structure of such transaction will basically be constructed as a 5-step process as per Figure 8 below.

¹¹ Monzer Kahf and Amiirah Nabee Mohamed, "Islamic Personal Financing: An Attempt to Engineer *Shari'ah*-Compliant Instruments," Paper presented at the 12th Financial Conference for *Shari'ah* Scholars in Islamic Finance, 1/11/2017, Malaysia.

Figure 8: Illustration of Service Ijaarah financing model



Source: Adapted from: Kahf and Mohamed, "Islamic Personal Financing: An Attempt to Engineer Shari'ah-compliant Instruments"

The key difference in such a financial structure is that in this scenario there is an actual service being bought and sold rather than simply an offer of a debt. It must be noted that under a such a model, the income threshold for repayments, leniency and cancellation of HECS debt upon death can still be applied to continue to provide the support graduating students will generally need in the early years of their employment.

Service Murabaha (like models in other OECD countries)

A proposal to have a service *murabaha* model suggested above that will have fixed payments is not too different to what some OECD countries are adopting. In a report published by the OECD on the education sector, among the 17 countries and other participants with available data, 6 have adopted income-contingent loan systems.¹² Japan, Korea and the United States have a hybrid system, which includes both income- contingent and fixed-repayment loans. Almost all these countries have annual tuition fees for master's programmes that exceed USD 5 000, which in part explains why they have set up a system of aid to students that allows them to continue their studies while limiting the risk entailed in having a debt at the end of their studies that they can never repay. The remaining nine countries have adopted a fixed- repayment loan system. Students face greater pressure, as they must repay their loans within a fixed period, but the tuition fees in almost all countries in this group are low or non-existent.

¹² OECD (2022), Education at a Glance 2022: OECD Indicators, OECD Publishing, Paris, <https://doi.org/10.1787/3197152b-en>.

Other Model Examples

Additionally, the importance of Islamic loans is not new and has been recognised by many governments. Ogunbado, Islam, Sharrif, & Ahmed, 2017 mention that at the time of writing their paper, most Muslim nations practise Islamic banking, such as Malaysia, Egypt, Sudan, while the United Arab Emirates is aiming to be a centre aiming to be a hub for Islamic banking and finance.¹³ The significant need for Islamic Finance is seen in its continuous presence since the 1970s. "Globally, Islamic banking was introduced in the middle east, in the 1970s, when Egypt established an Islamic bank. Dubai established an Islamic bank in 1975. These banks developed banking services under Islamic law."¹⁴

Of course, countries with large Muslim diasporas have also understood the importance of Islamic finance methods. For example, the Department of Education in the UK has examined *Shari'ah*-compliant student loans in a 2019 report. It said, "The government has proposed a Takaful loan that would remove the payment of interest, making student finance accessible for Muslim students, and is now considering the detail of this structure and how best to take it forward."¹⁵

¹³ Ogunbado, A. F., Islam, U., Sharif, S., & Ahmed, U. (2017). Islamic Banking and Finance in Nigeria: Exploration of its Opportunities and. *International Journal of Innovative Knowledge Concepts*, 5(8) August, 2017.

https://www.researchgate.net/publication/319553479_Islamic_Banking_and_Finance_in_Nigeria_Exploration_of_its_Opportunities_and_Challenges

¹⁴ Belwal, R., & Al Maqbali, A. (2019). A study of customers' perception of Islamic banking in Oman. *Journal of Islamic Marketing*, 10(1), 150–167. <https://doi.org/10.1108/JIMA-02-2016-0008>.

¹⁵ Department for Education UK, E Pollard, C Huxley, A Martin, H Takala, M Green – Institute for Employment Studies J Griggs, N Ilic, E Cooper, H Piggott – NatCen Social Research (2019) *Alternative Student Finance Current and future students' perspectives Research report May 2019*.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/848145/ASF_Final_Report.pdf

Part D: Recommendations and Concluding Remarks

Our submission's intent was to highlight the challenges of the current HECS/HELP financing system through a diversity and inclusion lens. We hope that our submission identified the unique challenges that the current "single system" creates for Muslim Australians.

Our desire from here is three-fold:

1. Open a dialogue around equitable and inclusive financing mechanisms for all Australians including Muslims.
2. Suggest consideration of a potential financing model (the "Service *Ijaarah*") that is both compatible with the Muslim community's religious principles and commercially feasible.
3. Call for the need to establish a practical administrative mechanism to roll-out diverse financing options for all Australian universities students. Potential options are provided below.

Alternative HECS/HELP Financing Administration

There are three potential mechanisms to administer alternative financing options for students.

1. **Government-provisioned:** The Federal Government could design a financing mechanism that is both commercially feasible and has been certified as *Shari'ah*-compliant. This would be a "path of least resistance" and ensure 100% uptake by students of all backgrounds, without prejudicing non-Muslim students. *Shari'ah*-compliant debt financing is used widely around the world including by some of the world's largest financial institutions ranging from HSBC to Macquarie Bank. A review of the current contracting mechanism to avoid the Islamic prohibitions against interest and unfair or unreasonable risk and uncertainty would enable Muslims to also access quality education outcomes and overcome the current challenges that they face.
2. **Private sector administration:** Another model that has been used to address other market failures or to incentivise financing options is to appoint an independent finance administrator. Many government-supported financing programs (e.g., the ACT Sustainable Household Scheme) place a tender in the market to appoint a financing administrator. The administrator not only provides an easy-to-use, tech-enabled platform to directly engage with students but acts to inform them about their financing options. To support a more inclusive and accessible educational system, the Federal Government could partner with a licensed Islamic financial institution to provide compatible financing solutions for Muslims should they seek *Shari'ah*-compliant alternatives over the current HECS/HELP financing system.
3. **Financing panel:** The final model that could help close the access gap is to simply list a financing panel when students sign up to a HECS/HELP loan. Provision of alternative options (also through a tender process) will provide choice and flexibility

that is lacking currently. Students will be free to select a financing option that aligns with their values without disturbing any current arrangements.

We thank the Panel for providing an opportunity to make this submission. We hope that our humble contribution has been informative and beneficial in presenting evidence from the Australian Muslim community, particularly students. We would welcome the opportunity to elaborate further on our preliminary research findings and collaborate on designing potential solutions. We await further feedback from the panel in their discussions and would welcome the opportunity to present further evidence.

References

Amanah Advisors. "Is Lending and Pegging Repayment to the Rate of Inflation Permitted?" Retrieved from <https://amanahadvisors.com/is-lending-and-pegging-repayment-to-the-rate-of-inflation-permitted/#:~:text=It%20is%20not%20permissible%20to,indexation%20of%20wages%20and%20rental>.

Assembly of Muslim Jurists of America (AMJA). "Can We Take Student Loan for Study If You Can't Afford It?" AMJA Online. Retrieved from <https://www.amjaonline.org/fatwa/en/81740/can-we-take-student-loan-for-study-if-you-cant-afford-it>.

Australian National Imams Council (ANIC). "FATWA ON HECS." Retrieved from <https://www.anic.org.au/wp-content/uploads/2021/11/FATWA-ON-HECS.pdf>.

Australian Taxation Office, Study and Training Loan Indexation Rates, accessed August 18, 2023, <https://www.ato.gov.au/Rates/Study-and-training-loan-indexation-rates/>

Belwal, R., & Al Maqbali, A. (2019). A study of customers' perception of Islamic banking in Oman. *Journal of Islamic Marketing*, 10(1), 150–167. <https://doi.org/10.1108/JIMA-02-2016-0008>.

British Fatwa Council. "Are Student Loans Permissible?" Retrieved from https://www.britishfatwacouncil.org/are-student-loans-permissible/#_ftnref2.

Department for Education UK, E Pollard, C Huxley, A Martin, H Takala, M Green – Institute for Employment Studies J Griggs, N Ilic, E Cooper, H Piggott – NatCen Social Research (2019) Alternative Student Finance Current and future students' perspectives Research report May 2019.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/848145/ASF_Final_Report.pdf

IIFA-AIFI. "Riba and Its Types in Contemporary Transactions." The International Islamic Fiqh Academy. Retrieved from <https://iifa-aifi.org/en/32605.html>

Monzer Kahf and Amiirah Nabee Mohamed, "Islamic Personal Financing: An Attempt to Engineer Shari'ah-compliant Instruments," Paper presented at The 12th Financial Conference for *Shari'ah* Scholars in Islamic Finance, 1/11/2017, Malaysia.

OECD (2022), Education at a Glance 2022: OECD Indicators, OECD Publishing, Paris, <https://doi.org/10.1787/3197152b-en>.

Ogunbado, A. F., Islam, U., Sharif, S., & Ahmed, U. (2017). Islamic Banking and Finance in Nigeria: Exploration of its Opportunities and. *International Journal of Innovative Knowledge Concepts*, 5(8) August, 2017.

https://www.researchgate.net/publication/319553479_Islamic_Banking_and_Finance_in_Nigeria_Exploration_of_its_Opportunities_and_Challenges

Appendix

Appendix 1: Background of Authors and Institutions

Wholesum

Wholesum is Australia's first digital ethical and impact-focused investment platform that invests into *Shari'ah*-based investment assets. Still in its early stages of development, the team are building an app to enable novice and experienced investors to generate income with purpose from as little as \$100. Operating through a "fund of funds" model, Wholesum's fund enables investors to digitally access a diversified global portfolio of Islamic ETFs and unlisted impact-focused funds that support small and medium-sized enterprises and microfinancing. Wholesum's first Responsible Fund for wholesale investors will launch in Q3, 2023.

ICFAL

Islamic Co-operative Finance Australia Limited (ICFAL) is a provider of distinctive *Shari'ah* Compliant house and car finance products. It stands as the singular Islamic Finance co-operative in Australia, operating for over 25 years and proudly representing a community of 5,000 members. Entirely member owned, ICFAL's operations are dedicated to addressing the community's social, economic, and religious imperatives. At the heart of its mission lies a resolute commitment to upholding the core tenets of Islamic Finance – a just and equitable system that bridges financial assistance for the needy and support from the prosperous.

Dr Tanvir Uddin

As a serial entrepreneur, Tanvir loves innovating at the intersection of access to financial services, technology and sustainability. He is currently Founder of Wholesum, a platform to increase access to unique ethical and impact-focused investments. Tanvir additionally tutors in social entrepreneurship at the University of New South Wales. He also co-founded Vyro, a sustainable mobility platform that uses technology to accelerate transition to electric vehicles. Previously, he was Commercial Manager at Brighte, Australia's leading green consumer financier and a management consultant at McKinsey.

Tanvir holds a PhD from the University of Sydney. His thesis examined the intersection of Islamic law and sustainable development through microfinance programs. He also holds First-Class Honours degrees in Bachelor of Arts and Laws from the University of New South Wales and a Masters of Islamic Finance from IE Business School.

Yusuf Tang

As the General Manager for ICFAL, Yusuf operates at the dynamic crossroads of business and *Shari'ah* law. With a track record of overseeing the doubling of ICFAL's growth from 2,500 members to 5,000 and increasing shareholder funds from \$25 million to \$50 million, he navigates the complexities of Islamic finance while ensuring effective organisational management and sustainable expansion.

Yusuf's dual expertise as the resident *Shari'ah* Board Member further empowers him to lead ICFAL's initiatives in introducing financial products and strategies that adhere to *Shari'ah*

principles, all the while ensuring regulatory compliance within Australia's financial landscape. Holding an MBA and a Masters in Islamic Law with a specialised focus on Islamic finance contracts, his diverse background encompasses key roles in finance, sales, and marketing at globally recognised corporations including Apple, eBay, and Saudi Telecom.

Arman Shafi

As a current student in the University of Sydney, Arman is interested in working in Islamic Finance. He is currently completing a Bachelors of Commerce Degree, with a major in Finance and minor in Economics. He is interested in working in Islamic Wealth Management to help develop the Muslim community in Sydney and improve the quality of education, income, and healthcare.

Arman works part-time as a business analyst intern at Wholesum, undergoing a variety of tasks such as developing educational content, planning university events, and competitor analysis. He is a member of Sydney University Muslim Students' Association and likes to regularly volunteer at community events such as for Ramadan, orientation week and Islamic Awareness Week.

Appendix 2: Survey Questions

Part A: Screening questions

Please answer these questions to determine if this survey is right for you

1. Which of the following best describes you?
 - a) Current Muslim University Student who is an Australian citizen
 - b) Past Muslim University Student who is an Australian citizen
 - c) Current or Past Muslim University Student that is not an Australian citizen
 - d) Current or Past University Student who is an Australian citizen
 - e) None of the above

Part B: Knowledge on suitability of HECS for Muslims

2. How confident are you on whether the Higher Education Contribution Scheme (HECS) adheres to Shari'ah principles?
 - a) Very confident
 - b) Somewhat confident
 - c) Not very confident
 - d) Not confident
 - e) Lack necessary information to conclude
3. To what extent do you agree with the Australian National Imams Council (an Islamic body) statement about HECS/HELP financing structure:

"After extensive research into the Higher Education Contribution Scheme known as HECS, and comprehensive consultation with the experts in the field, the Australian Fatwa Council has concluded to the permissibility of applying for HECS loan to pay for higher education studies."

- a) Strongly agree
- b) Agree
- c) Neutral
- d) Disagree
- e) Strongly disagree

Part B: Choosing *Shari'ah* compliant options

4. Please rate how important the following elements are / were to your decision to select a course within a particular university. 5 is highly important, 1 is not very important at all.
 - a) The course fees
 - b) Prestige of the degree/university
 - c) Linkage between the institution and potential career options / jobs
 - d. Travel convenience
 - d) Availability of *Shari'ah*-compliant course financing options
 - e) Have other friends / contacts who go there

5. Does / did lack of *Shari'ah*-compliant course financing options hinder or negatively affect your course selection or amount of study you undertake / undertook?
 - a) Yes
 - b) No
 - c) Unsure

6. If you answered yes for the last question, please answer. How does / did the lack of *Shari'ah* compliant course financing options influence how you finance your chosen course? Select all that apply.
 - a) Seek scholarships
 - b) Does not affect
 - c) Reduce course load per term
 - d) Work extra to pay fees before indexation
 - e) Still with a minimum qualification only (e.g., avoid further postgraduate study)

7. How likely are you / were you to switch to *Shari'ah*-compliant HECS/HELP financing options if they were available? This applies to both when commencing a course or paying off existing HECS/HELP loan balance.
 - a) Likely - no matter the cost
 - b) Likely - if the cost is the same or lower than indexation
 - c) Unsure - I'm ok with the current HECS/HELP structure including the annual inflation-based indexation
 - d) Not likely - I prefer the HECS/HELP option and would not consider any alternative

8. Which type of financing cost mechanism would you prefer for your HECS/HELP loan. Rate each option based on the following scale (1 = not preferable, 5 is highly preferable).
 - a) No annual indexation (total absolute value of loan amount does not change)
 - b) Fixed amount (same amount every year)

- c) Variable amount as set by federal government (e.g., known only 1-2 months prior to indexation date)
- d) Variable amount based on an objective external index that is known publicly (e.g, annual inflation or other financing cost index)
- e) Other (please suggest)

9. Do you have any additional concerns or comments?

Part C: Demographic questions at the bottom (optional answers)

To help better understand the different responses and how they vary for different groups of people, please complete the following basic demographic questions.

10. Year graduated from university or year anticipating to complete degree?

11. What is your residential postcode?

12. What is your family household net annual income (after taxes or disposable income).
Please select 1 response.

- a) \$0 – \$18,200
- b) \$18,201 – \$45,000
- c) \$45,001 – \$120,000
- d) \$120,001 – \$180,000
- e) \$180,001 and over

13. What is your current outstanding HECS / HELP loan balance?

- a) Up to \$10,000
- b) \$10,000.01 to \$20,000
- c) \$21,000.01 to \$30,000
- d) \$30,000.01 to \$40,000
- e) \$40,000.01 or more

14. How aware are you of Islamic finance or Shari’ah-compliant financing solutions for different financial services in Australia (e.g., debt, investments, insurance, etc.?)

- a) Very aware
- b) Somewhat aware
- c) Neither aware or unaware
- d) Somewhat unaware
- e) Not very aware

Demographic Questions

Respondents had an option of sharing their demographic data. The results show respondents were from a wide range of suburbs ranging from southern areas like Liverpool to places with large number of Muslims such as Lakemba, Greenacre and Auburn. Approximately 70% of responses were from current university students and 30% from recent graduates. Below, Figure 9 provides the distribution of average household income for those that responded.

Figure 9: Household income distribution (n = 85)

