Education Services for Overseas Students (ESOS) Review 2022

Submission form

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Sector of delivery (e.g., VET, higher education)	Schools
Are you a member of an industry body? If yes, please specify	ISA and NCEC are school sector peak bodies

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Questions are the same as those contained in the Discussion Paper.

QUESTIONS	COMMENTS
Expansion and diversification	
1. What are the barriers in the current ESOS framework to the sector's expansion and diversification into online and offshore delivery?	The ESOS framework regulates the activity of CRICOS registered providers in relation to students on student visa onshore and as such has no relationship with online and offshore delivery of education. By online we assume that the discussion paper is referring to online study by students who are offshore and who do not hold student visas. For this reason, there do not appear to be any barriers in the current ESOS framework to the expansion and diversification into online and offshore delivery. The barriers that exist for the non-government school sector in expansion into online and offshore delivery are generally more to do with issues of investment and the licensing of curricula.
2. What lessons have we learnt through flexible delivery, online modes of study and other changes in response to the pandemic that could be incorporated into the ESOS framework?	In the non-government school sector, overseas students are predominantly under 18 years old. By far the preferred approach for students in this age group is in-person instruction. Unlike other sectors which often teach students by course, schools embed English language acquisition and Australian cultural experiences in the school culture and across the school curriculum. Independent schools and their overseas students value the experience of learning which comes from being physically immersed in the context and culture of the school. Feedback from the non-government school sector has been that schools are very much focused on the provision of in-person education now that students are able to return to Australia. During the pandemic, schools made significant efforts to ensure that enrolled students, onshore and offshore, continued to receive quality education and care. And while many schools moved to online provision for enrolled students who were offshore, this was challenging for schools, particularly in relation to year 11 and 12 students undertaking their senior secondary certificates who naturally required significant support. Providing dual modes of delivery is also burdensome for non-government schools where online is only being delivered to a small number of students. Generally overseas students make up a relatively small proportion of total enrolments in non-government schools.

	The key factor in the success of the ongoing provision of education during the pandemic was the regulatory flexibility that was shown by all the CRICOS regulators. Added flexibility and responsiveness to industry needs and concerns was extremely helpful to the ongoing capability of all providers to continue to provide education both on and offshore and it demonstrates that additional flexibility can be built into the ESOS framework.
3. What percentage of a course should the ESOS framework allow to be studied online? How could the ESOS framework support delivery models such as mixed-mode study where students may move from ESOS non-regulated to a ESOS regulated environment (for example, a student studying part of their degree offshore, and part onshore)?	As noted above, the non-government school sector is not seeking changes to the ESOS framework in relation to the proportion of allowable online delivery for students with student visas onshore. It is the preference of the non-government school sector to deliver schools courses in-person.
4. What safeguards could be used to increase visibility and assure the quality of courses delivered online and offshore in the future?	It should be clarified that the delivery of entirely online courses by Australian providers would fall under the purview of providers' domestic registration. The extent to which domestic registration authorities have oversight of these activities should also be clarified. Delivery of courses offshore would fall under the legal jurisdiction of the country in which the course was being delivered so it is unclear to what degree safeguards can be developed onshore to assure the quality of these courses. It is worth noting however that in the mid -2000s, the Australian Government developed a Transnational Quality Strategy which included a website where tertiary courses being provided offshore were listed. This strategy could be revisited to see if there are any elements that may be of use now to assure offshore students of the quality of Australian courses being delivered offshore.
Meeting skills needs and graduate workplace readiness	

5. How could providers support international students to identify and undertake courses that align with Australia's priority employment fields?	Overseas students who go through the Australian school system are uniquely ready for the Australian skills market. They have excellent English, understand what it means to work in an Australian multicultural context, and have workplace readiness skills. By virtue of being in Australia to study at a school, overseas students studying in non-government schools already have many of the attributes that would make them suitable for the Australian workplace.

Completion of the Senior Secondary Certificate provides a pathway to tertiary or vocational study in a wide range of fields, including courses that align with Australia's priority employment fields. VET in Schools is also a significant part of job readiness in the non-government school sector.

However, we would note that there is an inherent contradiction between trying to address Australia's skills shortages through encouraging overseas students to study in specific fields while requiring overseas students to be genuine temporary entrants under the student visa program. |
| 6. What changes could be made to the ESOS framework to support providers offering a wider range of work integrated learning opportunities? | As noted above, the development of employability skills is a key feature of the school sector. VET in Schools is highly valued in the school sector and some courses provide opportunities for workplace learning. School students also have other opportunities to experience 'work' through careers guidance and work experience opportunities.

However, these are generally seen as part of a student's senior secondary studies and as contributing to their Senior Secondary Certificate so that they can go on to further education, rather than as an introduction to specific employment fields. |
| 7. What regulatory measures could be implemented to make study choices in occupations and areas of demand more attractive for overseas students? | School sector overseas students generally go on to further study both off and onshore. Prior to choosing their courses, students could potentially be directed to information in relation to Australia's skills shortages however schools would have to be convinced that this was in the best interests of the student and aligned with the student's future career plans. |

	As noted above, introducing regulatory measures to influence the courses being undertaken by students seems somewhat in conflict with the aims of the student visa program i.e., genuine temporary entry.
Supporting the quality of third-party relationships	
8. What kinds of measures to increase the transparency of third-party arrangements could be effective in improving student and provider choice?	Most non-government schools engage with agents and have written agreements with their agents as required by the National Code. Ideally, there would be transparency and disclosure of the relationships between students, agents, and sub-agents however the reality is far more complex and difficult to address as it is not always clear that a sub-agent is being used. Some schools specify in their agent agreements that they will only engage with the primary agent, and not sub-agents, as a means of managing the issue of the use of sub-agents. If a provider is aware that an agent that they have a written agreement with uses sub-agents, then preferably that information, including commissions, should be included in the written agreement with the agent. Another possible way to manage sub-agents that has been suggested is adding a tab on PRISMS where their involvement could be listed, if known.
9. What are the effects of increasing transparency of agent commissions? Would transparency measures improve student and provider choice? Would they drive down high remuneration rates over time? What are other potential outcomes from increasing agent transparency?	While transparency of agent commissions would provide a clearer understanding of the competitive market, particularly for the student, there are concerns that it could also prove counter-productive for the industry. Requiring agents to declare commissions publicly could be problematic for a range of reasons including that many agents are in countries where it may not be culturally acceptable to do so. The non-government school sector is also concerned that creating requirements around the declaration of commissions now could negatively impact the industry's recovery from the impacts of the COVID pandemic. It would be unhelpful if agents instead chose to change markets rather than declare their commissions.

	One alternative could be for there to be published benchmarks around what is a "fair" commission for the information of providers and students, rather than asking the agents to disclose their fees. This could also drive change in remuneration rates.
10. What information, such as education agent performance outcomes, can the Government make available to providers to help them decide the agents with which to engage?	While there may be benefits from increased transparency around agent performance, it is our understanding that there are privacy concerns in making agent data more widely available i.e., to all providers not just to those they work with. The feasibility of making this information more widely available should be examined.
11. Should providers be required to have written agreements with all agents from whom they accept students, it could result in more information for students and improve data reporting on provider and agent activity. Are there any other positive or negative outcomes for students in this change?	While not frequent, from time-to-time non-government schools are approached by agents acting on behalf of students' families. As students in the school sector are generally under the age of 18, it is normal that families would engage agents to ensure the desired educational outcome for their children. It is important that any changes to requirements relating to the use of third parties should not impose the additional requirements on schools to have a written agreement with an agent acting on behalf of a family seeking enrolment at the school. If schools were required to have agreements with, and therefore be responsible for monitoring agents who have approached the school, this could result in schools not accepting enrolments due to the additional administrative and regulatory burden.
12. What information should written agreements between agents and providers contain to protect providers and better inform students and government?	Written agreements with agents are already substantial documents containing a range of information and requirements. As noted above, it is preferable if written agreements disclose any sub-agents and their commissions. Guidelines for written agreements could be a useful tool for education providers to ensure that their written agreements are best suited to protect providers and students and their families.

13. What is the potential impact on providers regarding increased administrative activity if they are required to monitor all agents?	As noted above, for the non-government sector, increased administrative activities to monitor all agents, including those engaged by families, would be burdensome and could also potentially lead to decreased enrolments.

Course transfers

14. How can the ESOS framework enhance optimal student choice and safeguard the ability of providers to deliver a quality education experience?	It is important that the ESOS framework continue to acknowledge both the rights of students to change courses and the significant investment that providers make in recruiting students.
	It is also important to note that the school sector generally deals with students under the age of 18, who are not adults and can be influenced for example by onshore agents, to make educational decisions that may not be in their best interest.
	Despite what is noted in the Discussion Paper, there is an ongoing concern in the non-government school sector about the poaching of school students into foundation courses, and the role of onshore agents in influencing these decisions.
	This is particularly a concern for year 11 students who may not understand that while a foundation course may appear to provide guaranteed entry into a tertiary course, this is dependent on their successful completion of the course and that moving away from a year 12 qualification will impact their future choices.
15. How can the framework and providers ensure course packaging requirements are transparent to students and support student choice and wellbeing?	Any course packaging should be clear to students upfront, including the restricted period for transfers.
16. What are the benefits to providers and students in restricting a student from changing providers within the first six months of their primary course, and what would be alternatives to support student choice?	Schools have reported that generally the current transfer requirements are working well in the school sector and would not advocate a change to the current settings.

For younger students, it is important that students have a 'settling' in period. The six months rule provides sufficient time for students to become acclimatised to the school |

	environment, to be become culturally acclimatised, to adjust to new living arrangements, and to assess if a course is suitable for them. If a school is not the right fit for a student, generally the school will work with the student and the student's family, to ascertain the best educational option for the student.
17. Should 'concurrent study' as an option remain within PRISMS and if so, what provisions should be made to ensure it is not abused?	The non-government sector supports the ability of overseas students to undertake relevant short courses in addition to their main course of study. One way to amend the 'concurrent study' option in PRISMS to ensure that it is not being misused without adding significant administrative burden to either providers or regulators, would be to have strict controls on what is an acceptable concurrent study course. Another way to manage the issue could be to ascertain if there are any barriers to listing complementary ELICOS and any other genuine 'concurrent study' as ESOS exempt and to remove 'concurrent study' from PRISMS.
18. What restrictions, if any, should there be on the transfer of adult international students where they wish to transfer between providers?	As schools primarily cater for under 18-year-old students this question is not applicable. The non-government sector supports the continuation of the six-month restriction on transfers in the primary course.
Written agreements	
19. How effective are written agreements in consistently setting out and protecting the rights and obligations of students and providers?	In the school sector, there is a great deal of oversight of written agreements. Under the ESOS framework, regulation of the school sector is delegated to the Designated State Authorities (DSAs) who manage CRICOS registration on behalf of the Department of Education, Skills, and Employment. The DSAs in each state and territory have stringent registration and re-registration processes that involve examining all school materials, including written agreements, to ensure compliance with the ESOS framework.

20. What measures could be introduced to increase transparency of written agreements, for the benefit of students and providers?	The non-government school sector notes that there is currently no obligation to publish written agreements however most of what is included in written agreements, such as refund policies and all other school policies, are available on school websites. This provides a high degree of transparency and there would need to be a sound argument as to why there should be the additional administrative burden placed on schools to publish written agreements.
21. If model clauses or model written agreements are introduced, what would they look like and how can they best be leveraged to reduce regulatory compliance costs and promote best practice in the areas of refunds, deferrals and transfers?	The non-government school sector supports the development of model clauses or written agreements. A template would be timesaving and reduce the administrative burden on schools to develop their own written agreements and would assist schools who have limited access to legal and staffing resources. However, given the differences between the various education sectors, model clauses or written agreements would need to be sector specific, and they would need to be customisable by individual education providers to consider their specific context.

Model clauses for refunds would also be of benefit as this is a common area of confusion. Under the ESOS framework, the information provided about refunds is situated in various legislation and regulation and is not easily accessible or easily translated into simple language. However, once again any examples would need to be customisable for each provider as in schools, often the refund policy for overseas students is based on the refund policy for domestic students which varies from school to school.

Providing flow charts or a table for providers to understand the different forms of refunds and when they must provide a refund under the legislation and when it is a provider-based decision could also be helpful. |
| 22. How could refund regulations be revised to ensure consistency between providers and better reflect the different circumstances in which they may be requested? | As noted above, in the non-government school sector refund policies are often based on the refund policies for domestic students so it is unrealistic to expect that consistency can be achieved. The current flexibility for non-government schools to determine their own refund provisions for student default (except in the case of a visa refusal) should be maintained.

However, the provision of sector specific exemplars could assist with interpretation of the requirements of the ESOS framework. |

English language	
23. How can the ESOS framework better support students' English language skills to match their course requirements on the start of enrolment and ensure an optimal student experience for all students?	The school sector is very different to the other sectors in that the school environment supports students with the development of their English language proficiency. It is critical that schools continue to be able to determine the most appropriate method for assessing the English language proficiency of prospective overseas student enrolments, including schools making their own assessments of students' English language proficiency using their own tools or external assessments which are suitable for use with school students.
24. Would it be beneficial to introduce an independent assessment of international students' English proficiency before they commence their first AQF course?	It is unclear what additional benefit would be gained by adding additional English language requirements prior to course commencement. Differentiated English language proficiency requirements are currently set by the Department of Home Affairs for students applying for a student visa. For most sectors of education, including AQF courses, this is an independent assessment of students' English language proficiency using an English language test that is designed for use with adult learners. Some providers also have their own English language requirements in addition to the English language levels required for a visa application. As noted above, in the school sector English language proficiency is at the discretion of the school provider to determine and that includes the use of an assessment which is appropriate for the cohort of students that they enrol. Many non-government schools enrol primary as well as secondary students, so the assessment of English language proficiency is appropriately determined by schools for the different year level requirements. If an overseas student in Australia has successfully completed their senior secondary studies and obtained an ATAR to continue to further study in a university or VET setting, then it is the sector's view that this is sufficient for course commencement in an AQF course.
25. How can PRISMS data entry requirements be adjusted to make it easier for providers to record evidence of a student's English proficiency?	The non-government school sector would not advocate for any changes to PRISMS to record English language proficiency.

26.	What additional guidance do providers need to ensure incoming students meet English language requirements?	Providers could engage in other activities to gauge individual students' English language proficiency in addition to English language testing, such as interviews. However, for large providers this could create significant additional administrative burden.
27.	How can providers of ELICOS and Foundation Programs ensure that students have reached the required level of English language proficiency to start their first AQF course?	Not applicable to non-government schools.

General Questions

28.	How can the ESOS framework be strengthened and improved to deliver an optimal student experience?	The last two years of the COVID-19 pandemic have been a very difficult time for providers and students alike. All sectors of education are extremely aware of the mental health impacts that the pandemic has had on students. Student wellbeing is a key concern for non-government schools, for both domestic and international students. The promotion of intercultural training and an increased awareness of the resources available for students, are all important considerations for providers.

Where schools are increasingly supporting students with mental health issues, and also behavioural issues, schools have noted that more advice is needed regarding interpreting obligations under the National Code. Previously there were a series of FAQs available regarding the National Code which were helpful to schools. |
| 29. | How can the framework resolve any regulatory barriers that prevent sector innovation, diversification, and growth of Australian education offerings, including online and offshore? | As noted above, it is not clear what role the ESOS framework can play in growing offshore and online education offerings. |
| 30. | How can the ESOS regulatory framework evolve to better support the sector to deliver a high-quality education experience? | The non-government school sector is diverse by nature and increasing prescription in the framework might result in the inability of the sector's educational offerings to maintain this diversity The broad range of schools, school environments and school cultures is often a key factor for many overseas school students who choose the non-government school sector. Non-government schools support on-going flexibility in the ESOS |

	framework which enables more participation, not less.
Any additional comments you wish to make?	The non-government school sector is concerned that any significant changes to the ESOS framework now, and which are designed to address issues that are not occurring in the school sector, could adversely impact the school sector's recovery from the impacts of the pandemic. Any changes to the ESOS framework need to be targeted to address specific concerns and not have unintended consequences on all sectors. For this reason, any recommendations arising from this review need to be worked through thoroughly with all industry representatives to identify where there may be an adverse or unintended consequence as a result of any proposed changes.