

The Shared Responsibility Framework

Table of Contents

Preamble.....	3
1. Objectives of the Shared Responsibility Framework.....	4
Principles.....	4
2. Supporting National Consistency.....	5
Principles.....	5
3. Registration, Amendments to Registration and Re-registration	5
Principles.....	5
4. Compliance, Enforcement Activities and Complaints Investigation	6
Principles.....	6
Compliance.....	6
Enforcement	7
5. Fees, Charges, Consumer Protection and Provider Support.....	7
6. Systems and Database Support	8

Preamble

The *Education Services for Overseas Students (ESOS) Act 2000*, and associated legislation, is the legal framework governing the provision of education services to overseas students. It recognises that regulation of the international education sector involves both Commonwealth and state and territory laws.

This Shared Responsibility Framework (SRF) sets out the respective roles of the Australian Government and designated state and territory authorities in administering the ESOS legislative arrangements. It was developed by DEST, on behalf of the Australian Government, in collaboration with state and territory governments through the ESOS Implementation Group (ESOS IG) and the Australian Education Systems Officials' Committee (AESOC) National Code Action Group. The ESOS legislative framework builds on the domestic accreditation systems within the Australian education system and the work undertaken by domestic quality assurance bodies.

The Joint Committee on International Education (JCIE) will oversee the strategic direction on the SRF while ESOS IG will manage the ongoing operation and implementation of the framework.

The Shared Responsibility Framework was endorsed at the AESOC meeting on 24 August 2007, and is effective from that date. It will be formally reviewed by the end of 2008, but may be reviewed at any time at the request of AESOC.

1. Objectives of the Shared Responsibility Framework

The objectives of the Shared Responsibility Framework include:

- safeguarding Australia's international reputation as a provider of high quality education and training by:
 - ensuring that education and training for overseas students meets nationally consistent standards, and
 - ensuring the integrity of registered providers
- protecting the interests of overseas students by:
 - ensuring that the consumer protection mechanisms of the Education Services for Overseas Students (ESOS) legislative framework are effectively administered, and
 - ensuring that student welfare and support services for overseas students meet nationally consistent standards
- supporting cooperation between DEST and the designated authorities in the administration of the ESOS framework
- supporting cooperation between DEST, the designated authorities and providers to assist all providers to meet the requirements of the ESOS framework, and
- supporting students and providers by clearly identifying the roles and responsibilities of DEST and the designated authorities.

Principles

- 1.1. The designated authorities and DEST will ensure that the implementation of this Framework will be in accordance with relevant principles agreed by AESOC on 1 December 2006 for reducing regulatory burdens, by:
 - implementing the minimum degree of regulation that achieves the purpose
 - emphasising maximum efficiency in the use of public resources
 - considering where appropriate full cost recovery to encourage streamlining
 - reducing the duplication of effort between and within jurisdictions
 - taking a risk based approach.
- 1.2. The designated authorities and DEST will ensure that the decisions they make in exercising their ESOS roles and functions apply the legal framework and are consistent with agreed national approaches and procedures, including this Framework.
- 1.3. The designated authorities and DEST will ensure that where the registration, compliance or enforcement functions identified in this Framework are carried out under a delegation to a body or an individual:
 - 1.3.1. all requirements set out by the party for the exercise of the delegation are satisfied
 - 1.3.2. processes are in place to ensure that the delegated power is properly exercised by the delegate
 - 1.3.3. processes are in place to withdraw the delegation if the delegated power is not properly exercised, and
 - 1.3.4. requirements are transparent.
- 1.4. Common strategic priorities across the Australian, state and territory governments in international education will be identified at the Joint Committee on International Education (JCIE).

- 1.5. The JCIE may also identify resources to support activities outlined in this Framework, where those activities are in addition to work already undertaken by designated authorities or DEST.

2. Supporting National Consistency

This Framework recognises that the enhancement of quality, consumer protection and integrity of the student visa programme are achieved through collaboration between government agencies. Cooperation and coordination between the designated authorities and DEST is fundamental to improving national consistency to maintain and enhance Australia's international reputation as a destination for high quality education and training for overseas students.

Principles

- 2.1. DEST will develop, in consultation with ESOS IG, national approaches and procedures to support the aim of nationally consistent interpretation and implementation of the ESOS legislative arrangements and implementation of this Framework.
- 2.2. DEST is responsible for the dissemination of these national approaches and procedures.
- 2.3. The Shared Responsibility Framework will be publicly available.
- 2.4. Through ESOS IG, the designated authorities and DEST will identify, on a risk assessment basis, themes and issues of national priority upon which to focus for an agreed time period.
- 2.5. DEST will provide secretariat support to the ESOS Implementation Group (ESOS IG).

3. Registration, Amendments to Registration and Re-registration

Designated authorities are primarily responsible for assessing applications from providers for registration, amendments to registration, and re-registration in line with the ESOS Act and National Code 2007. Whenever practical, applications for registration under the ESOS legislative framework will be assessed concurrently with applications for registration under other regulatory frameworks.

In some jurisdictions there are additional local legislative requirements that an applicant must meet prior to a designated authority being able to recommend it for registration or re-registration.

DEST also assesses specific aspects of a provider's registration and re-registration applications as set out in the ESOS Act 2000.

Principles

- 3.1 Providers are given accurate, consistent and relevant information about the ESOS legislative framework and the processes for making initial applications for registration, amendments to registration and re-registration.
- 3.2 Designated authorities and DEST will assess a provider's registration, and requests for registration amendments and re-registration in accordance with ESOS legislative requirements and this Framework.

- 3.3 ESOS IG may establish areas of agreed strategic national focus to facilitate streamlined and effective processes regarding registration matters.
- 3.4 A designated authority will ensure its registration, registration amendments and re-registration processes focus on and respond to risk assessments, areas of agreed strategic national focus as established by ESOS IG; and to attest to a provider's compliance in those areas specified by the Secretary of DEST as per section 9(2)(c) of the ESOS Act 2000.
- 3.5 DEST will ensure its registration, registration amendments and re-registration processes focus on and respond to risk assessments and areas of agreed strategic national focus as established by ESOS IG.
- 3.6 DEST will notify the provider and the relevant designated authority when the provider has been registered on CRICOS.

4. Compliance, Enforcement Activities and Complaints Investigation

The designated authorities and DEST cooperate to investigate complaints and undertake compliance and enforcement activities.

Principles

- 4.1. The regulatory burden on providers will be reduced by streamlined and timely compliance monitoring, and where required, enforcement activities and complaints investigation.
- 4.2. The ESOS IG may establish areas of agreed strategic national focus to facilitate cooperative, streamlined and effective compliance monitoring and enforcement activities and complaints investigation, where appropriate.
- 4.3. A designated authority will take into account areas of agreed strategic national focus established by ESOS IG in undertaking its regulatory activities.
- 4.4. DEST will undertake compliance monitoring and enforcement activities in accordance with the agreed strategic national focus established by ESOS IG and in areas identified as having a high risk of non-compliant provider activity.
- 4.5. The designated authorities and DEST will regularly share advice and information about compliance monitoring, enforcement activities and complaints investigations.
- 4.6. Approaches to suspected ESOS breaches or complaints will be made:
 - 4.6.1. in line with the guidelines and procedures established by ESOS IG and published service standards where they exist
 - 4.6.2. in accordance with the principles of procedural fairness
 - 4.6.3. by the appropriate authority in a timely manner, and/or where relevant, passed to the appropriate authority, and
 - 4.6.4. reviewable as per each jurisdictions arrangements.

Compliance

- 4.7. DEST will monitor compliance with the ESOS legislative framework in cooperation with the designated authority, where appropriate.

Enforcement

4.8. A designated authority may undertake its own enforcement activities where a provider's conduct is a breach of its own legislation, notwithstanding that the conduct may also be a breach of the ESOS Act 2000. A designated authority may refer such conduct to DEST for enforcement action by DEST under the ESOS Act 2000.

Complaints

4.9. Designated authorities have primary responsibility for investigating complaints regarding:

- Standard 1 – Marketing information and practices
- Standard 2 – Student engagement before enrolment
- Standard 6 – Student support services
- Standard 8 – Complaints and appeals about matters other than those relating to reporting students for unsatisfactory course progress or attendance (under Standards 10 and 11)
- Standard 12 – Course credit
- Standard 14 – Staff capability, educational resources and premises, and
- Standard 15 – Changes to registered providers' ownership or management

4.10. DEST will have primary responsibility for investigating complaints regarding:

- Standard 3 – Formalisation of enrolment
- Standard 4 – Education Agents
- Standard 5 – Younger students
- Standard 7 – Transfer between registered providers
- Standard 8 – Complaints and appeals, where the complaint relates to reporting students for unsatisfactory course progress or attendance (under Standards 10 and 11)
- Standard 9 – Completion within the expected duration of study
- Standard 10 – Monitoring course progress
- Standard 11 – Monitoring attendance
- Standard 13 – Deferring, suspending or cancelling the student's enrolment, and
- The ESOS Act 2000

4.11. Where a designated authority receives a complaint that is primarily about the Standards listed in 4.10 or the application of the ESOS Act 2000 it will refer the complaint to DEST.

4.12. Where DEST receives a complaint that is primarily about the Standards listed in 4.9 or a domestic quality assurance framework, it will refer the complaint to the relevant designated authority.

5. Fees, Charges, Consumer Protection and Provider Support

Providing timely, accurate and nationally consistent advice and support is a priority for the designated authorities and DEST.

Principles

5.1. The designated authorities and DEST will have mechanisms, processes and procedures in place for providing timely information and advice to providers, students and other stakeholders to assist them to understand and comply with the ESOS framework and the related requirements of relevant authorities.

- 5.2. DEST will collect the ESOS Annual Registration Charge (ARC) and will maintain an appropriate communication strategy for this process.
- 5.3. The designated authorities will collect any applicable state/territory based fees or charges associated with CRICOS registration and will have transparent and clear information strategies for these processes.
- 5.4. DEST will support the provision of appropriate consumer protection mechanisms to overseas students by:
 - 5.4.1. developing and maintaining guidelines for Tuition Assurance Scheme (TAS) operations
 - 5.4.2. monitoring providers to ensure compliance with the TAS requirements
 - 5.4.3. working with the relevant TAS operator on activations
 - 5.4.4. updating TAS information on PRISMS
 - 5.4.5. managing the contract with the ESOS Assurance Fund manager
 - 5.4.6. supporting the Contributions Review Panel in its functions, and
 - 5.4.7. managing the enforcement process where a provider fails to pay its ESOS Assurance Fund contribution.

6. Systems and Database Support

DEST maintains CRICOS (Commonwealth Register of Institutions and Courses for Overseas Students) and PRISMS (Provider Registration and International Student Management System) in order to provide comprehensive information about courses approved for student visa holders and to support the integrity of Australia's migration programme.

Designated authorities are responsible for entering provider and course information onto CRICOS.

Principles

- 6.1. DEST will develop and maintain the PRISMS application and CRICOS databases to support the ESOS framework.
- 6.2. DEST will develop and deliver training for users of PRISMS and CRICOS. Such training will be supported by appropriate training manuals.
- 6.3. DEST will develop, in consultation with users of PRISMS and CRICOS, guidelines and manuals to support quality and consistency in the data available on CRICOS.
- 6.4. Designated authorities will enter data onto CRICOS in line with established DEST guidelines.

Glossary

ARC	Annual Registration Charge
CRICOS	The Commonwealth Register of Institutions and Courses for Overseas Students
ESOS Act 2000	<i>Education Services for Overseas Students Act 2000</i>
ESOS IG	Education Services for Overseas Students Implementation Group
Designated Authorities	Defined by the section 5 of the ESOS Act 2000 as ‘the person responsible under the law of the State for approving providers to provide courses to overseas students in the State’.
DEST	Department of Education, Science and Training
National Code 2007	National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007
JCIE	Joint Committee on International Education, a sub-committee of AESOC established to provide strategic advice across education sectors to AESOC
PRISMS	Provider Registration and International Student Management System