



Monash University's Response to the Review of the ESOS Framework Discussion Paper



I. Executive Summary

Monash University welcomes the ESOS Framework review and its objective of seeking to create a more contemporary, progressive, efficient and effective system which aims to strengthen and improve the competitiveness of Australia's international education industry globally.

This submission provides Monash University's specific views towards the various proposed changes contained in the discussion paper, as well as highlighting other improvement opportunities for consideration.

Monash is pleased that this review particularly seeks to reduce red tape and administrative burdens on education providers developed over time in administering the Framework's requirements.

However, Monash wishes to strongly urge the review to consider developing differentiated administrative and reporting requirements for education providers based on the level of risk that they pose. This could be built on initiatives such as the Streamlined Visa Processing (SVP) and TEQSA changes to some of its major regulatory processes and approaches. TEQSA assesses each provider's risk profile annually and adjusts relevant regulatory processes accordingly (i.e. re-registration documentation requirements). Similar approaches may be possible in the vocational education sector should some of the proposed changes to ASQA's role proceed.

As a key player in the international education industry, Monash University is keen to contribute to the review and is readily available to participate in any subsequent discussion pertaining to any areas of the ESOS reform.

II. Response to specific proposals in the Discussion Paper

Streamlining quality assurance agency process & Review of decisions by quality assurance agencies

Proposed Changes 1-8
Support.

Suggested additional proposal

CRICOS

One area of considerable red tape not canvassed in any detail is CRICOS code application.

Under the new regulatory framework for higher education, TEQSA is now responsible for the allocation of CRICOS codes for all higher education providers. TEQSA has already significantly streamlined the process for universities and self-accrediting private providers and has more detailed requirements for other higher education providers. TEQSA's streamlined approach has reduced the time for the allocation of codes when compared to previous state government processes.

However, there remains a considerable overhead for both providers and TEQSA associated with the requirements to register every individual course. When the CRICOS Register commenced, providers would generally be listing a sub-set of their courses. Now it is increasingly the case that all courses are listed for international student enrolments. The challenges associated with the growth in course options in terms of administering both the Register and PRISMS are highlighted in the discussion paper.

The advent of the national agency and its role in registering all higher education providers (including registration as a CRICOS provider) opens an opportunity to revisit the emphasis placed on registering individual courses for higher education providers.

TEQSA undertakes an annual assessment of every higher education provider's risk position. This risk assessment process is now being used to modify TEQSA's approach to each higher education provider's re-registration. It could be used to facilitate a focus on risks identified in other areas. Consideration needs to be given to further streamlining CRICOS course approval processes for providers TEQSA has determined as low risk, and to develop alternative approaches to satisfy the CRICOS course information requirements for the issuance of visas for these low-risk providers. More comprehensive requirements should continue to apply to new higher education providers and to providers determined as higher risk in TEQSA risk assessments.

Similar approaches may also be possible in the VET sector once proposed changes to ASQA's remit are in place.

Reducing the reporting burden

Proposed Change 9

This refers to student default reporting obligation. Instead of extending the current reporting timeframe to be the proposed 14 days, Monash supports the removal of the TPS student default reporting obligation for the university sector completely.

The TPS Annual Report said:

“The TPS has also been monitoring and assisting providers to meet their reporting obligations in relation to student defaults. Approximately 40,000 student defaults have been reported since the TPS began. As at 30 June 2013, only one of these has required the activation of the TPS”.

The TPS statistics clearly reveal students are receiving the refunds they are entitled to. Given the burden of the reporting obligation and the lack of intervention required by TPS, it should be argued that public funded universities should be exempted from student default reporting.

The TPS reporting obligation, if retained, should not be an umbrella requirement, but rather a targeted one, i.e. only reporting student default if a refund has not been provided; or a reduced obligation, such as just providing an annual declaration of conformity.

Proposed Changes 10-12

Support.

Suggested additional proposal

Reporting provider default

Possible changes to reporting provider default are not canvassed in the Discussion Paper. However, Monash proposes that provider default reporting requirements also be examined.

Section 46A(1) of the Act sets out ‘*when a registered provider defaults.*’ This is when

- (a) *either of the following occurs:*
 - (i) *the provider fails to start to provide the course to the student at the location on the agreed starting day;*
 - (ii) *the course ceases to be provided to the student at the location at any time after it starts but before it is completed; and*
- (b) *the student has not withdrawn before the default day.*

Provider default for the industry has been a problem largely because of institutional closure.

The Department of Immigration and Border Protection (DIBP) also appears to interpret provider default as institutional closure. Their PAM 3, Generic Guide G says,

Education provider default occurs when an education provider ceases to offer a course to a student visa holder before the student has finished the course.

Closure of an education provider, whether for economic reasons or because the provider's registration has been cancelled following an audit by a Commonwealth/state/territory education authority, has a negative impact on international students. The ESOS Act provides for students affected by the closure of their education provider to be placed in a suitable alternative course with a new education provider or to obtain a refund of their course fees.

Noting the above, the current reporting requirements of the ESOS Act, however, require provider default to be reported even where a student is offered and accepts enrolment in an alternative course.

If provider default reporting is maintained, Monash wishes to propose that it should only be required in the situation of institution closure.

We therefore would like to propose that section 46A of the ESOS Act be amended to redefine provider default as when

- (a) *either of the following occurs:*
 - (i) *the **provider closes** and fails to start to provide the course to the student at the location on the agreed starting day;*
 - (ii) *the **provider closes** and the course ceases to be provided to the student at the location at any time after it starts but before it is completed; and*
- (b) *the student has not withdrawn before the default day.*

Minimising TPS requirements

Proposed Change 13

Monash supports the removal of the 50% limit on the collection of tuition fees prior to student course commencement for low-risk educational providers. There are many scenarios where students may prefer to pay more upfront themselves (e.g. when there is favourable exchange rate) or it is the sponsor's policy to pay upfront, for instance. The 50% limit is too rigid and places too much restriction to both the providers and the students/sponsors.

However, there may still be benefits for this requirement to be in place for high-risk providers. We look forward to seeing the details of this change including whether any differentiation will be made for Table A providers.

Proposed Change 14

Monash University is already exempted from the requirement to maintain a designated account.

Proposed Change 15

Support. The requirement to identify 'Study Periods' does not work when institutions have courses where units are offered over a number of different teaching periods. Moreover, a well-developed student agreement, such as the one Monash University uses, already provides comprehensive information to students by outlining all necessary course and fee information - required course duration, credit points required to complete the course (taking into account any credit exemptions), the course fee and a clear statement of the remaining total course cost.

Increasing flexibility in education delivery

Proposed Change 16

Monash is pleased to see the proposed change to increase flexibility and discretion on online learning to meet the changes in technology and course delivery methods.

With proposed change 16, if an extension of the permissible DE/online component is being considered, the current 25% cap could be lifted to a reasonable percentage. The Explanatory Guide could clarify however, that the provision of DE/online learning is an allowance, not a requirement, as many providers choose to deliver courses without any online component.

The existing requirements relate to satisfying attendance requirements for student visas and have also contributed to the oversight of student welfare. Monash is of the view that the definitions for DE/online learning under this provision should more clearly differentiate units of study that do not require any attendance from units of study that use a range of delivery methods such as face to face teaching sessions and technology enabled learning that may be delivered outside of traditional class sessions. The latter should not be considered part of any cap on flexible learning.

Proposed Change 17

Monash supports the proposal of broadening the work based training or work integrated learning provisions.

At present, Clause 8.1 of Part C of the National Code specifies that work based training can only be approved by the designated authority when: a) it must be undertaken to gain the qualification and b) appropriate arrangements for the supervision and assessment of the student are in place. A strict reading of clause 8.1(a) means that where a unit of study is an elective and does not need to be undertaken to gain the qualification, the course should not be registered for work based training. Although this requirement has not been rigidly interpreted by designated authorities, Monash proposes that clause 8.1 be amended, through adding after 'it must be undertaken to gain the qualification' the words 'or is available within the qualification.'

Proposed Change 18

Proposal 18 is for the National Code to be amended to allow the relevant quality assurance agency to deem course progress as sufficient for visa compliance purposes. At present, visa condition 8202 places this responsibility on education providers. It says "You **must** maintain satisfactory attendance in your course and course progress for each study period as required by your education provider". It is not clear why it would be necessary for quality assurance agencies 'to deem course progress as sufficient' or for what sectors this might be proposed for.

Transfer of students

Proposed Change 20

Monash does not consider this is necessary. Providers already have the ability to include in their refund policy reference to student discontinuation (or voluntary student cancellation).

Refund policies for Monash University and many, if not most universities, already state the eligibility for refund in a variety of circumstances including student initiated cancellation.

However, if the department deems it useful to clarify requirements in this area, an alternative to revising Standard 3 would be to put a note in the Explanatory Guide that providers may choose to include in their refund policy a clause applying to students who discontinue their course in the period when a release letter is required and that it is a matter of provider discretion to determine what, if any, that refund amount might be.

Proposed Change 21

It is not clear what exactly is proposed here. The discussion paper raised a number of issues including the cost of students transfer to the original institutions, the role of some agents in encouraging student transfer, the impact of Streamlined Visa Processing (SVP) and the possible extension of the 6 month non-transfer period to 12 months.

Monash does not believe it will be in the students' best interest to extend the non-transfer period from 6 months to 12 months, as many students do have valid academic and/or other reasons to seek institutional transfers. Equally, students, who have valid reasons to seek transfers, are entitled to enlist the services of agents for their advice and assistance with the application process and credit seeking, visa or other paperwork, and finding accommodation/relocation etc, if so needed.

Much of the student transfer and agent poaching problems, particularly after the Streamlined Visa Processing is introduced, are found in certain parts of the industry. It is more a quality and risk related issue that could be and should be addressed by the providers who lose large number of students and TEQSA/ASQA. The recent actions and campaigns taken by the Department of Immigration and Border Control (DIBP) also prove to be effective and could/should continue.

The Baird report to government contained a recommendation that said,

“If providers were required to include the end date of the first study period on a student's confirmation of enrolment, both the student and PRISMS would be aware of when a student could freely transfer providers. This would require the introduction of a unique student identifier and a PRISMS 'block' on creating a new confirmation of enrolment that overlapped with a current enrolment. “

This is an initiative worth following through. Taking it a step further, PRISMS should be configured so that students who discontinue from a provider without seeking a release letter or informing their provider of their intention to study elsewhere, who then have their CoE cancelled but seek enrolment at another provider, should and would be blocked from obtaining a CoE at a new provider.

Proposed Change 22

Monash University does not support this proposed change, which intends to amend Standard 4 'to require education institutions to enter into a written agreement with each education agent whose services it uses (as opposed to 'each education agent it engages to formally represent it'), as it could have unintended consequences for many institutions.

As customers, students have the right to choose the professional services they want to engage with, whether they are a signed formal representative of a particular university, a legal representative, careers counsellors or other third parties. Many pathway program providers who send students to universities use large numbers of agents (some in the thousands) that are not necessarily agents of the destination university. Some agents also use a referral network to help them source students in market, with the contracted principal agent bearing the ultimate responsibility for servicing the student as well as being fully accountable to the institutions they represent. It is not clear from the wording contained in the proposed change whether it means universities will have to sign up all these service providers as additional agents as “their services have been used”.

As a prestigious university, Monash maintains a relatively small but effective network of agents globally, and tightly manages any new additions. Under the circumstances described above, we do not want to be forced into signing contracts unnecessarily with hundreds if not thousands of additional third parties as it will present quality concerns as well as creating an administrative/resource burden that would detract us from servicing and supporting our existing agent network. The proposed change in the wording suggested could potentially undermine our overall student recruitment practices and the quality of our agent network.

Proposed Change 23

Monash University does not agree with proposed change 23, which intends to extend agent information on the institutional websites and PRISMS from what we currently provide. Australia is already very open, transparent in this space and requires each education provider to publicly list their engaged agents for the students to see – this is not the case at our major competitor countries. This proposed change is not in the spirit of “reducing the reporting burden” as any additional fields will require additional resources for system changes as well as maintenance of hundreds of agent office records and significant amount of data entry on an ongoing basis.

Proposed Changes 24-25

Although Monash University agrees with the reasoning behind proposed changes 24 and 25, these concerns are more than adequately covered by the current ESOS Act and the National Code provisions and is appropriately reflected in our agent agreement and agent management processes. Again, the issues tend not to reside with low-risk education providers with their agent performance and compliance. Any further tightening up or additional requirements need to be targeted at the high-risk market segment, rather than a one-size-fits-all compulsory requirement for all.

Welfare of students aged under 18

Proposed Change 26

Support.

Proposed Change 27

Monash broadly supports the principle contained in this proposal. One aspect that will need to be considered is the connection between the dates of responsibility set out in the CAAW (Confirmation of Appropriate Accommodation and Welfare) and the impact of CAAW cancellation. For example, under present arrangements, if a younger student discontinues their enrolment following acceptance by another provider, the CoE is cancelled which activates CAAW cancellation. If responsibility though will continue to be maintained by the initial provider until course commencement at the new provider, the CoE/CAAW nexus needs to be broken.

Practical and accessible National Code and explanatory guide & Registration Charges

Proposed Changes 28-31

Support.