Education Services for Overseas Students (ESOS) Review 2022

Submission form

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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 *Education Services for Overseas Students Act 2000 (Cth)* (ESOS Act) sets the legal framework that governs the delivery of education to international students who are physically in Australia on student visas. Its key objects are to: (i) provide tuition protection for these students, (ii) protect and enhance Australia's reputation for quality education and training, and (iii) complement Australia's migration laws by ensuring that Australian education providers collect and report information to the government relevant to the administration of laws relating to student visas.
	The ESOS framework provides additional protections for international students studying onshore with Australian tertiary institutions. These apply on top of those afforded to all students under the *Standards for VET Regulators 2015* and *National Vocational Education and Training Regulator Act 2011*; and the *Higher Education Standards Framework (Threshold Standards) 2021* and *Tertiary Education Quality and Standards Agency Act 2011.* These quality assurance standards and laws are administered by the Australian Skills Quality Authority (ASQA) in relation to vocational education providers, and the Tertiary Education Quality and Standards Agency (TEQSA) for registered Institutes of Higher Education. Some 'dual sector' providers operate in both the vocational and higher education sectors, and ASQA and TEQSA have collaborated since they were established to minimise regulatory duplication and streamline processes for these providers.
	The ESOS Framework was established well before Australia moved to the above national risk-based regulation of its tertiary education sector through the creation of separate national laws and regulators for vocational and higher education providers in 2011. At that time, and following a recommendation of the Bradley Review of Higher Education completed in 2008, the policy objective was for ASQA and TEQSA to eventually be merged into a single regulator covering all registered tertiary education providers. While it may now not be feasible for such a merger to occur, the resulting regulatory complexity, overlaps and compliance red-tape burdens are costly and present barriers to innovation. Ideally, Australia should move to a far simpler and more integrated national regulatory framework covering the delivery of education and training by tertiary education providers. This could be achieved, for example, by moving to a single set of threshold standards and a common risk-based approach to regulation covering all forms of onshore and offshore delivery by tertiary education providers to domestic and international students alike.
	If significant simplification and integration is out of scope from this review, the ESOS Act should not be bent to also cover the delivery of fully online and offshore courses

	by registered Australian providers. The delivery of fully online courses by registered Australian education providers to students who are permanently outside of Australia should have its own legal framework. Separate standards and regulations - similar those that have been developed for ELICOS and Foundation courses - should be developed in consultation with the sector.
	However, we stress that changing the ESOS framework to support growth and diversification cannot be considered in isolation from the many elements of the *Migration Act 1958* that govern overseas students' entry to Australia and their visa conditions while lawfully resident here as students and graduates. The Department of Home Affairs' (DHA) functions operate in tandem with the ESOS Framework's requirements and need to be reviewed concurrently, or in response to any changes proposed to the ESOS Act. For example, student visa conditions related to full-time study serve to limit opportunities for concurrent and multi-modal enrolments, as well as programs of different types delivered by registered Australian providers jointly with education partners offshore.
	Similarly, the rigidity surrounding rules for the CRICOS registration of courses needs to be reviewed to avoid over-regulation and reduction of significant institutional resources, particularly for self-accrediting Institutes of Higher Education. If innovation, expansion, diversification and meeting Australia's skills needs are the Government's policy priorities, CRICOS course registrations should be re-modelled to allow for the incorporation of joint degree programs, multi-modal learning, and to recognise potential for minor changes without overly burdensome reporting requirements to TEQSA as the ESOS regulatory authority.
	There is also a pressing need for the federal government to work in partnership with the sector, state and territory governments and employers to develop and implement policies and strategies to dramatically improve the opportunities available for international students to complete quality Work Integrated Learning (WIL) during their studies, and to enable them to secure employment in professional fields after graduation, utilising their post-study work rights.
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?**	We have experienced a combination of positive and negative learnings and feedback about online delivery. Maintaining reliable and high-speed internet connectivity has been challenging at times, and this was a particular issue when compound by firewall issues and assessments which required continuous connection. The use of pre-recorded sessions to accommodate varying time zones has not always been received well by students who have indicated a desire to engage with teachers and their peers in real time. The timing of synchronous examinations across multiple time zones led to students having very early or very late sessions which also led to student

complaints, and we adopted staggered times as a result. The University had to adapt to increase its support for online learning during COVID-19 to respond to welfare support options in new ways. For example, we very quickly learnt that psychological counselling to students enrolled but studying abroad was limited by jurisdictional conditions. We had to adapt to develop alternative support tools that did not compromise the professional registrations of our practitioners registered in Australia. The relaxation of Standard 8 in respect of online learning and approval for suspensions of studies for student visa holders was welcomed by students and the University. These measures improved the parity of treatment for domestic and international students experiencing hardship. The University would welcome a continued compassionate approach to support a better learning experience for international students. Many of these measures, including a greater use of online learning and support, will be highly beneficial for students in the long term and should be maintained even when students are back on campus.

Education providers would be assisted by clear definitions for different types of multi-modal courses. Currently, the ESOS Framework does not define these and providers are left to distinguish and debate the various forms.

For example, this review presents an opportunity to revisit allowable online components that can be undertaken while a student visa holder is offshore. Many universities allow students to bring in credit from their previous studies for up to 50 per cent of the content. The same premise could be recognised for the online offshore component to allow for innovation and flexibility in program design, for example up to 50 per cent of the CRICOS registered duration can be offered online. Under this arrangement, the provider ensures that at least half of the program is delivered in Australia, face-to-face, to protect the quality of the educational experience and institutions and to differentiate the offering from purely online offerings.

Failing wholesale simplification and integration of the quality assurance framework governing Australian tertiary education, a standalone Transnational Education (TNE) instrument and framework should be developed to provide baseline standards for offshore delivery to ensure quality and integrity of the programs. The delivery of both fully online and offshore programs should be audited to ensure visibility and quality assurance. Regulatory costs should be taken into consideration if this is the way forward, as flying auditors in for offshore site visits can be prohibitive for innovation. The Australian context for quality assurance is potentially prohibitive and

	benchmarking against the UK for TNE quality assurance is an essential step for the government to undertake.
3. **What per centage 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)?**	100 per cent online and offshore should be permissible depending on the type of course and any practical requirements, but under a separate legal framework similar to those that have been developed for ELICOS and Foundation courses. 50 per cent for mixed-mode. This would work better to foster dual/joint degree programs with overseas institutions. Australia needs to consider external government requirements for recognition of face-to-face learning (e.g. China, USA etc). We also consider that ELICOS Pathway courses should be eligible for online delivery where students opt for online degree study.
4. **What safeguards could be used to increase visibility and assure the quality of courses delivered online and offshore in the future?**	Set a prescribed amount of time for teacher/student engagement and peer-to-peer engagement (interactive). No entire pre-recorded sessions. Real time engagement is necessary. Such safeguards would assist the sector and support its credibility. In addition, mandating quality assurance audits with an explicit focus on quality assurance in online delivery by a recognised Australian agency would reinforce the unique value of an Australian education whether online or face-to-face.
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?**	Previous attempts to influence international students' study choices to align with Australia's skills needs have damaged its reputation and necessitated reactive regulatory interventions because insufficient regard was given to quality and the integrity of the migration program. The core quality assurance and student protection functions of the ESOS Act should remain, with the government consulting with education providers and employers on an ongoing basis to carefully consider how migration and other relevant policy settings relevant to international students and graduate temporary residents can be adjusted appropriately to help address Australia's workforce shortages while safeguarding quality. The National Skills Commission has an important role to play in giving providers and students access to timely and accurate information about Australia's current and predicted areas of workforce shortage. However, priority occupation lists and regional skills needs change; qualifications can take years to complete, and Australia's current student visa program is built on the principle that all international students enter the country temporarily with the genuine intention of leaving once they complete their

	studies, or after also undertaking post-study work opportunities supported by a Temporary Graduate visa (subclass 485).
	A large majority of international students studying in Australia (more than 80 per cent according to the Federal Treasury: https://research.treasury.gov.au/external-paper/shaping-a-nation) eventually leave Australia and international education is a global market in which students are free to choose where and what they study. Australia benefits at many levels when international students return home or make lives elsewhere overseas after positive experiences living in Australia. We therefore need to take care to ensure that our educational offerings remain attractive for diverse international cohorts who are seeking different outcomes from their study choices.
	For these reasons we strongly support Universities Australia's recommendation that the Government convene a cross-portfolio roundtable to identify effective and sustainable ways to streamline skilled migration pathways for international students in areas of national priority.
6. **What changes could be made to the ESOS framework to support providers offering a wider range of work integrated learning opportunities?**	This question is a further example of the need for the review's scope to be broadened, as the main barriers to providers offering a wider range of Work Integrated Learning (WIL) opportunities for students sit outside of the ESOS Act.
	For example, it is Schedule 8 of the Migration Regulations - specifically visa condition 8105 and the Department of Home Affairs' interpretation of it in relation to elective units involving WIL - that currently serve to prevent international students from pursuing all available opportunities to enhance their future employability while studying in Australia.
	To address workplace readiness, international students should be given more opportunities to obtain quality work experience as part of their courses. When WIL experiences are value-added extensions of a course (i.e. not mandatory), this time should not impact the number of hours they are able to work per fortnight as a condition of their visas. A more holistic and coordinated approach between the relevant legislation, education providers, industry sectors and certifying bodies is required to provide international students with more opportunities to gain quality WIL across the board, but especially in fields that lead to occupations on the Skilled Occupation List (SOL).
	We therefore support Universities Australia's recommendation that a cross-portfolio roundtable is convened to identify adjustments to Visa Condition 8105 in relation to

the inclusion of elective WIL placements in the (usual) 40-hour per fortnight limit on international students' working during semesters.

There is a specific aspect of the ESOS Act that in our assessment requires tightening to protect international students from predatory entities that sometimes seek to take advantage of international students' growing desire and need for WIL. Currently, the effect of Section 5AA(1)(e) of the ESOS Act is that international student visa holders generally cannot enrol in non-CRICOS registered courses when studying with registered higher education providers. However, the *Education Services for Overseas Students (Exempt Courses) Instrument 2021* exempts some courses from this requirement.

The instrument specifies that where a registered higher education provider offers a 'outcomes and placement course', including where the experience is delivered by a third-party on behalf of the provider, this falls under the ESOS Act's definition of 'course' and as such is subject to the usual registration, tuition protection and quality assurance requirements. However, if a higher education provider is not 'offering' the internship but is instead acting as a conduit for students to find out about the opportunity, then such arrangements are not considered a 'course' under the ESOS Act. This means that such courses may be offered to international students by non-registered entities and CRICOS exempt courses. In addition, the time international students spend on such non-registered WIL experiences may also count towards their 40-hours per fortnight work limits, when reinstated.

As a solution, the ESOS Act should require registered providers that use or promote any third-party providers of professional outcomes and placement courses to international students, to obtain from each third-party, satisfactory written evidence that each course is exempt from the ESOS Act but is nevertheless compliant with TEQSA's requirements and guidance for WIL.

| 7. **What regulatory measures could be implemented to make study choices in occupations and areas of demand more attractive for overseas students?** | In addition to our comments at Q.5, we note that the review discussion paper states (p.3) that matters of migration policy, including student and temporary graduate visa issues, are not within its scope. This is a missed opportunity as the Government's policy priorities regarding domestic skills shortages reflected in the paper can only be addressed through changes to migration policy, and specifically to the visa settings for international students and graduate temporary visa holders and for permanent residency visa pathways open to international students who complete qualifications in Australia. |

There is currently a disconnect between the ESOS Act, the Migration Act and how various relevant laws and guidelines are implemented to ensure quality education programs for international students and address skills shortage in Australia. For example, the National Code of Practice for Providers of Education and Training to Overseas Student 2018 (ESOS National Code 2018), Part B – Standards for Providers of Education and Training to Overseas Students, under Standard 1, Marketing Information and Practices, states the following:

1.3   The registered provider must not:

> *1.3.1   claim to commit to secure for, or on the student or intending student's behalf, a migration outcome from undertaking any course offered by the registered provider*

> *1.3.2   guarantee a successful education assessment outcome for the student or intending student.*

Moreover, student visa applications are assessed under the Streamlined Student Visa Framework (SSVF), requiring all student visa applicants to substantiate that they are genuine temporary entrants according to the Ministerial Direction 69 - Assessing the Genuine Temporary Entrant Criterion for Student Visa and Student Guardian Visa Application.

It is currently difficult for international students to identify and undertake courses that align with Australian's priority employment fields. Occupations that are listed under skill shortage are reviewed on a 6-monthly basis. An occupation that is listed on the Skilled Occupation List (SOL) today may not be part of the list when a student completes their course. To address this and provide more certainty for international students, the SOL should be grandfathered and applied retrospectively if the occupation was on the list when student commenced their studies.

For these additional reasons we strongly support Universities Australia's recommendation that the government convene a cross-portfolio roundtable to identity effective and sustainable ways to streamline skilled migration pathways for international students in areas of national priority.

	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?**	As a general principle, the government should seek to minimise the regulatory burden imposed on registered providers related to their arrangements with agents. Reputable providers engage in extraordinary measures to monitor and control agents. The higher education sector has reflected a strong degree of compliance in this space and can generally be trusted to facilitate such arrangements. Providers should make clear any conditions for entry into the principal course, credit recognition and/or assurances for entry into degree programs (e.g. pathway providers).
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?**	The University of Sydney supports proposed moves towards requiring providers to have agreements with agents that receive commission and to monitor the performance of their agents, as this is in line with our current practices. This may increase administrative activity but at the same time strengthens the quality and integrity of providers' processes. Transparency of arrangements between provider, agent and applicant is supported. However, agent remuneration rates are commercial-in-confidence and there should be no requirement for these rates to be revealed to any party.

Transparency of third-party agent arrangements could be increased by requiring a contract between all providers and any agent when a commission or fee is payable.

Agents should submit a contract between them and the applicant with the application for admission, noting that they receive a commission from the provider. Should an agent charge additional fees to an applicant, this needs to be made transparent to both the provider and the applicant.

Agents are required to declare if they work with any sub-agents. An agent is vicariously liable for the behaviour of their sub-agents and disciplinary action can be imposed on them based on the misbehaviour of their sub-agent. |
| 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?** | The Government can support providers in their efforts to manage agents by providing meaningful data. PRISMS agent performance data only captures information for Confirmations of Enrolments (COEs) that have been issued for the provider. This does not provide the global overall performance of the agent. Visa refusal data for each agent from certain markets would also be useful to gauge their performance in general. |

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?**	The University of Sydney has robust written agreements with its agents, and this works effectively for us. It could be beneficial for the sector for a standardised model template agreement to be developed as a guide for providers to adapt to their circumstances.
12. **What information should written agreements between agents and providers contain to protect providers and better inform students and government?**	Details about the transparency requirements for fees charged to students. The termination or cancellation clauses. Details of better government training on the ESOS Framework that agents are required to complete.
13. **What is the potential impact on providers regarding increased administrative activity if they are required to monitor all agents?**	We believe our agreements and monitoring of agents are already robust. This involves significant resources and accountability on the part of our agents. Care will need to be taken to ensure that the imposition of any additional regulatory requirements covering provider/agent relationships do not penalise providers that already have robust processes, transparency and performance monitoring in place. That said, we will support additional administration burdens if reasonable changes are developed in consultation with the sector, which would clearly serve to strengthen Australia's standing as a provider of high-quality education programs.
Course transfers	
14. **How can the ESOS framework enhance optimal student choice and safeguard the ability of providers to deliver a quality education experience?**	International students are protected under ESOS Act and TPS Act as consumers and have access to State and Territory Ombudsmen and the Australian Competition and Consumer Commission. Even though Standard 7 of the ESOS National Code 2018 requires providers to have and implement a documented policy and process for assessing overseas student transfer requests prior to completing six months' studies of their principal course, some providers do not implement the spirit of this standard and do not consent to transfer regardless of the reason that the student provides. ESOS audits should specifically look at the per centage of transfers facilitated by providers to ensure that the spirit of Standard 7 is being upheld. The Department of Home Affairs (DHA) processes student visa applications where the applicant submits more than one Confirmation of Enrolment (CoE) as a package.

	It is important to differentiate the practice of bundling COEs for student visa purposes by DHA from what is considered as a package offer by providers. For courses to be packaged, students must complete the requirements of the first course to be allowed to progress to the subsequent one. DHA should allow bundling of CoEs when they are presented as a package offer by a provider rather than DHA using a discretionary approach to bundling from a range of providers. The letter of offer should list all related courses and the packaging requirements and conditions should be articulated on the letter of offer. Introducing this practice would improve transparency for providers and help support student choice and wellbeing. Releasing a student to another provider does not transfer the prospective immigration risk to the new provider. In addition, the original provider loses their cost of recruitment, and the agent loses their commission. Consideration should be given to passing the financial risk of course transfer flexibility under SSVF to the secondary provider and removing the ability for agents to obtain a commission for the second. Increasing the non-release period to 12 months would help in educating students to make wise decisions in selecting their course/s and provider/s, increase the rate of genuine students, protect the provider's cost to recruit and agents for their commission. We suggest an actionable change would be to impose the need for a new visa application for transferring students in the same vein that DHA has recently applied to visas where research topics change. This could be applied at a reduced fee, but this addition would help providers in managing trailing risk and increase transparency. We support concurrent studies where the secondary course adds value to the students' educational experience (first aid, aged care, RSA etc are examples of this). However, the concurrent study option on PRISMS has been used as a loophole to allow some providers to enrol students who are not eligible for a release. This can be avoided by not allowing concurrent studies for courses of the same or higher AQF level and to enforce new visa applications for student who transfer to a new provider.
15. How can the framework and providers ensure course packaging requirements are transparent to students and support student choice and wellbeing?	If the formal Evidence Level (or risk index) is maintained with the original provider offering an eCoE to a student – then identify a strict prohibition period for transfer or 'course hopping' rather than leaving it to providers to formulate their own policies. We recommend making this a condition of the student visas. The Government should make it clear to students that if they wish to circumvent this requirement, then they must apply for a new visa attached to a new provider.

	The Department of Home Affairs should not package a student with a group of courses unless the principal course provider delivers or oversees the delivery of the full package. DHA's current approach to packaging inadvertently places all of the risk with the provider that delivers the highest qualification in the package. This undermines the efforts made by education providers at managing risks of course hopping.
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?	A benefit to providers is that they are remunerated for efforts to recruit the student. The current policy tension arises from DHA's expectation that applicants have undertaken research into their course prior to applying, which forms part of DHA's assessment of each student as a "genuine temporary entrant" (GTE). If student choice is to predominate, DHA will need to alter Ministerial Direction 69 and devise a new strategy to assess genuine students to Australia in addition to the assessments made by providers. One alternative to supporting student choice would be to remove the risk to the original provider as part of its Evidence Level Rating and allow the inheriting provider to assume risk if they wish to accept a transferring student. Another alternative to supporting student choice would be for the Government to make it clear to students that if they wish to change courses soon after arriving in Australia, then they must apply for a new visa attached to the new provider.
17. Should 'concurrent study' as an option remain within PRISMS and if so, what provisions should be made to ensure it is not abused?	There is a need to enhance PRISMS' functionality as currently the system allows for a student to study concurrently and then cancel with the principal provider. More information should be required to be entered into PRISMS for the second provider. A prompt should be given to the secondary provider to liaise with the principal provider before issuing an eCoE. As a solution, we recommend the introduction of a requirement for approval from the principal provider as most providers will have a policy surrounding concurrent study.
18. What restrictions, if any, should there be on the transfer of adult international students where they wish to transfer between providers?	Remove the risks attached to the initial provider and revert this responsibility back to the receiving provider, or the Department of Home Affairs advises the student that they will need to apply for a new visa. An alternative is to maintain Standard 7 for all (adult and under-18) students.

Written agreements	
19. **How effective are written agreements in consistently setting out and protecting the rights and obligations of students and providers?**	The ESOS framework sets too many requirements for the content of written agreements with students. Consequently, the documents are too long, legalistic and unwieldly. It is difficult to include everything required and be confident that students from different language and cultural backgrounds will understand the information and fully appreciate the implications. In legal terms, a variety of methods of communication with students constitutes the delivery of the information required by the Act (e.g. information contained on websites, information in course handbooks, the written agreement, the CRICOS register). We suggest setting out a basic framework of information on the CRICOS register instead of every written agreement issued to a student, and revert students back to those links for more details. This will improve the consistency of information provided to students.
20. **What measures could be introduced to increase transparency of written agreements, for the benefit of students and providers?**	If the Government intends to prescribe or produce best practice template written agreements for different types of education providers, these should be developed in consultation with representatives of each sub-sector. We also recommend amending the CRICOS register for providers to incorporate key course information such as pre-requisites, English language requirements, credit arrangements etc. The requirements for offer letters should be kept as simple as possible with an emphasis on ensuring the content is understandable to students who are unfamiliar with Australia, its education system and laws.
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 Government could prescribe or promote best practice refund policies and per centages following sector consultation. Deferrals prior to the granting of visas are at the discretion of individual providers and the government should stay away from that approval process.
22. **How could refund regulations be revised to ensure consistency between providers and better reflect the different circumstances in which they may be requested?**	The University is aware that complaints about refunds rate highly with both state and commonwealth ombudsman's offices and present significant confusion for students. Whilst refund specifications remain clear for student-initiated cancellations after a course of study has commenced, there is latitude for a wider range of funds to be retained in circumstances where students cancel their studies prior to a course commencing. The introduction of a specific scale or range would alleviate the uncertainty and support the legitimacy of the retention of funds. It may also support a reduction in

	complaints handling both internally for providers and externally to the various ombudsman's offices.
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 experience of providing online pathway courses to students residing in other countries (but similar time zones) during the border closure period shows that for many students this is a viable alternative to face-to-face provision. Therefore, making permanent the pandemic-related concession allowing provision of 100 per cent online and offshore delivery to student visa holders should be considered. The question around continuous English language assessment as part of the quality standard for course delivery is outside the ESOS Act's remit and should be done under Part A, Standard 1 of TEQSA's Student Participation and Attainment. Part A: Standards for Higher Education also provides a framework on admissions, qualifications, and certification. It must be acknowledged that there are quality direct entry programs from ELICOS to further studies that are governed by the ELICOS standards. Organisations like English Australia could be supported to take on a quality assurance role to better support the sector and ensure the quality of all programs, including direct entry courses. NEAS is the quality assurance agency for the English Language industry in Australia and should be engaged to provide quality assurance for all providers for offshore, onshore, online and face-to-face delivery.
24. **Would it be beneficial to introduce an independent assessment of international students' English proficiency before they commence their first AQF course?**	Independent assessment of English proficiency for students undertaking a pathway course prior to degree entry should not be required before a student commences their first AQF course. The University already has IELTS equivalency measures in place including the successful completion of pathway programs which prepare students not only in academic skills and English proficiency but also introduce students to the University's culture, expectations in areas such as academic integrity, and services prior to degree entry. Pathway providers already undertake extensive benchmarking of course outcomes against English language proficiency tests and prepare students with discipline-specific academic skills that extend proficiency beyond the high-stakes proficiency tests.

25. **How can PRISMS data entry requirements be adjusted to make it easier for providers to record evidence of a student's English proficiency?**	Prior to commencing their primary course, expand the list of possible English entry tests and allow for the recording of successful completion of English-language studies in Australia or abroad.
26. **What additional guidance do providers need to ensure incoming students meet English language requirements?**	ELICOS Pathway providers should regularly check if the current or emerging academic skills and English proficiency subskills required by Faculties, Schools and Departments are mirrored in the curriculum and assessment regime of the pathway courses. Based on this collaboration between the pathway provider and the destination Faculties, further curriculum development (where needed or advisable), including assessable tasks, should occur in the design and delivery of pathway courses. Cohort tracking of student performance through their first year of study is recommended so as to evaluate the effectiveness of pathway course in preparing students' English language and academic skills for their target degrees. It may also be helpful to the sector to provide further clarification for prior studies where the medium of instruction is mixed.
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?**	ELICOS programs can ensure this by maintaining and revising the assessment regime of pathway courses to satisfy the requirements of the AQF course as well as by continuing to benchmark pathway courses outcomes against international English language tests.
General Questions	
28. **How can the ESOS framework be strengthened and improved to deliver an optimal student experience?**	There are many factors that fall outside the scope of this review of the ESOS Act and framework that would assist the student experience. The ESOS framework needs to be considered together with the Migration Act and the Higher Education Standards Framework (HESF) rather than in isolation. The student experience is important for both student visa holders and all other categories of students, hence a more holistic approach is desirable across multiple pieces of legislation. For students also covered by the ESOS Act we recommend that the Government shifts the current migration focus and reporting obligations for providers from a position where student visa holders must 'complete on time' to a more flexible approach with a focus that supports 'successful completion' taking into account individual circumstances that may not necessarily meet the high thresholds

	imposed by 'compassionate and compelling circumstances' currently inherent within the National Code. Such an approach would improve the student experience and make Australia a more attractive study destination. We suggest that consideration be applied to mirroring the 'Special Circumstances' under the Higher Education Support Act (HESA) provisions for greater parity and equity.
29. How can the framework resolve any regulatory barriers that prevent sector innovation, diversification, and growth of Australian education offerings, including online and offshore?	Regulatory barriers currently impeding sector innovation, diversification and growth extend predominantly to the following areas: • Limits to online study: additional increases in online study limits are necessary for the sector to grow and diversify. COVID has impacted workforce/teaching changes and student movements to an extent where personal safety and well-being is encouraging individuals to teach and learn differently. Some students residing outside Australia continue to face their own government-imposed sanctions for travel internationally (e.g. on-going lock-downs and restrictions to travel in China) and we cannot ignore the tendency for students abroad who may be reconsidering their options for travel. If Australia is to compete and grow its international student numbers, we need to diversify our study options to cater to varying demands. • Flexibility with study modes is currently in tension with objectives under the Migration Act for student visa holders for full-time and predominantly face-to-face study. The Simplified Student Visa Framework (SSVF) is intended to work in concert with the ESOS framework but it does not. We recommend further examination of visa conditions and a review around minimum time frames for completion of study. • Excess regulatory burdens arise from the requirement to ensure that students complete their studies "on-time" and in accordance with eCoE time frames. Evidentiary requirements are imposed on students under the National Code in respect of "compassionate and compelling circumstances" and medical conditions leading to a highly bureaucratised regulatory environment consisting of high audit trails for education providers – particularly when considering suspensions and reduced study loads. The Government's temporary lifting the 40 hours per fortnight working cap for international students is at odds with the complete on-time requirements and may lead to more students experiencing difficulties with their studies and seeking concessions from their providers. It is important to note that domestic students are at liberty to pursue suspensions and reduced study loads and other aspects of enrolment without the heightened regulatory burden attached to ESOS students. Parity in process would be welcomed. We

	suggest moving to a model of completion within a set time frame of a CRICOS registered course. • Tight reporting obligations for providers (under-18 reporting obligations within 14 days and 31 days for over-18 students) extend the impacts to the student experience and results in more attention by providers being given to regulatory reporting than focusing on responding to student needs and requests.
30. How can the ESOS regulatory framework evolve to better support the sector to deliver a high-quality education experience?	We strongly recommend frequent interactions between DESE, DHA and the sector. Significant operational aspects of the ESOS Framework are vaguely constructed, resulting in providers having to dissect them and determine best practice. Fact sheets and guidelines have at various times taken different interpretations the wording of legislation. Responses from DESE can take time with the resulting advice continuing to be unclear. We are happy to provide examples if helpful. There is a need a sector hotline for urgent situations and emergencies rather than a generic email address delivering broad "virtual assistant" type responses.
Any additional comments you wish to make?	Under the ESOS Framework, providers are expected to educate students about studying in Australia. We see a need for DESE to provide clear information to students about minimal expectations though a central webpage. DESE has provided explicit recommendations around promoting elements such as Fair Work requirements to prospective and current students. However, in the interests of efficiency, consistency and clarity of guidance, we suggest a broad government approach to key communication messages for international students. We reiterate that the ESOS Framework, the Higher Education Standards Framework (HESF) and the Migration Act need to work better in tandem for a smoother student experience. If operational aspects relating to the ESOS Framework are to be improved, we would recommend an approach of inviting feedback to the key pieces of legislation and delegated legislation with specific details. Such a process would broadly address any inefficiencies and duplication across the ESOS Framework and the HESF.