



Australian Government
Department of Education and Training

**ESOS Agency for Schools
Regulator Performance Framework
Annual Report 2016-17**



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The document must be attributed as *ESOS Agency for Schools RPF Annual Report 2016-17*

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Abbreviations

AISWA	Association of Independent Schools of Western Australia
ARC	Annual Registration Charge
ASQA	Australian Skills Quality Authority
CoE	Confirmation of Enrolment
CRICOS	Commonwealth Register of Institutions and Courses for Overseas Students
DE International	Part of the NSW Government Department of Education
DSA	Designated State Authority (for schools, including territory agencies)
ELICOS	English Language Intensive Courses for Overseas Students
EMC	Entry to Market Charge
EQI	Education Queensland International
ESOS Act	<i>Education Services for Overseas Students Act 2000</i>
ESOS Agencies	Secretary of the Department (for school providers); ASQA (for VET and ELICOS providers); and TEQSA (for higher education and foundation program providers)
ESOS Regulations	<i>Education Services for Overseas Students Regulations 2001</i>
ESOS Charges Act	<i>Education Services for Overseas Students (Registration Charges) Act 1997</i>
GETI	Tasmanian Government Education and Training International
Immigration	Australian Government Department of Immigration and Border Protection
ISCA	Independent Schools Council of Australia
ISQ	Independent Schools Queensland
KPI	Key Performance Indicator
National Code	<i>National Code of Practice for Providers of Education and Training to Overseas Students 2007 and National Code of Practice for Providers of Education and Training to Overseas Students 2017</i>
NCEC	National Catholic Education Commission
PRISMS	Provider Registration and International Student Management System
Refund Specification	<i>Education Services for Overseas Students (Calculation of Refund) Specification 2014</i>
RPF	Regulator Performance Framework

SCV	Student Course Variation
State	State and Territory
TEQSA	Tertiary Education Quality and Standards Agency
The agency	The ESOS agency for approved school providers under the ESOS legislation, i.e. the Secretary, through the Policy and Systems Branch, International Group
The Department	Australian Government Department of Education and Training
The new National Code	<i>National Code of Practice for Providers of Education and Training to Overseas Students 2018</i>
The Secretary	Secretary of the Department
TPS	Tuition Protection Services
VET	Vocational Education and Training

Regulator Performance Framework Annual Report 2016-17

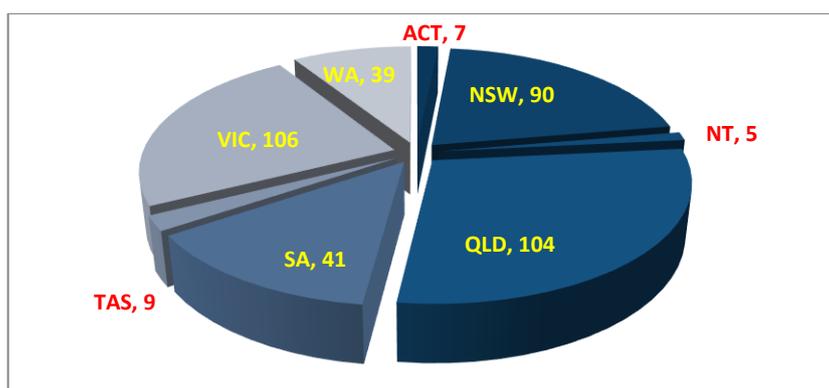
Introduction

The Education Services for Overseas Students Act 2000 (ESOS Act) sets out the legal framework governing delivery of education to international students in Australia on a student visa. The Australian Government, through the Department of Education and Training (the Department), administers the ESOS Act and its associated instruments. The ESOS Act governs the registration process and obligations of registered international education providers; the Tuition Protection Service; and enforcement and compliance arrangements.

Under the ESOS Act, the Secretary of the Department is the ESOS agency for approved school providers that offer courses to international students (the agency). The agency’s responsibilities and powers under the ESOS Act are undertaken and exercised by the Department’s Policy and Systems Branch of the International Group.

As at 30 June 2017, 401 school providers (compared to 413 in 2015-16) across Australia were registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) to provide courses to around 46,000 overseas students studying in Australia. These 401 school providers had in total around 1,200 locations and 1,100 courses with an overall approved capacity of 85,000 students. Their distributions by state are given in *Chart 1*.

Chart 1 Distribution of school providers by state, as at 30 June 2017



Of the total 401 providers, 13 also delivered courses in higher education and/or VET sectors. These 13 providers, referred to as dual or multi sector providers, were also regulated by other ESOS agencies, i.e. the Tertiary Education Quality and Standards Agency (TEQSA) and/or the Australian Skills Quality Authority (ASQA).

This report is a formal self-assessment report by the agency against the *ESOS Regulator (Schools) RPF Metrics*, which is found at *Appendix 2* and also available at <https://internationaleducation.gov.au/regulatory-information/pages/regulatoryinformation.aspx>.

Summary of Performance

In 2016-17, the agency achieved all the objectives against the following *Regulator Performance Framework* key performance indicators:

1. Regulators do not unnecessarily impede the efficient operation of regulated entities
2. Communication with regulated entities is clear, targeted and effective
3. Actions undertaken by regulators are proportionate to the regulatory risk being managed
4. Compliance and monitoring approaches are streamlined and coordinated
5. Regulators are open and transparent in their dealings with regulated entities
6. Regulators actively contribute to the continuous improvement of regulatory frameworks.

Key activities performed by the agency (also see *Table 1* and *Table 2*) include:

- 11 monitoring visits
- one information session
- four face-to-face meetings with Designated State Authorities (DSAs)
- 56 CRICOS registration renewals
- 16 desk audits for renewal purposes
- three new registrations.

The agency also:

- prepared and published its first annual RPF report
- provided hotline services about ESOS compliance and CRICOS registration
- drafted an inaugural *Induction Package* for newly registered school providers or newly started compliance officers, and updated quick reference guides and call centre scripts
- consulted peak bodies and state regulators regarding the *ESOS Agency for Schools 2015-16 RPF Report*.

The agency also performed the following duties in relation to CRICOS registered providers across all sectors:

- collected approximately \$1.24 million Entry to Market Charges (from 186 providers) and initial TPS levies (from 103 newly registered)
- managed debt collection processes for 27 institutions who failed to pay the second or third EMCs by the due date
- provided hotline services for EMC-related enquiries
- maintained and updated CRICOS and relevant pages on www.internationaleducation.gov.au.

As a result of the agency's education and monitoring activities, the overall level of compliance with ESOS by school sector providers has improved. From May 2015 to May 2017, the average number of

possible (i.e. detected by the Provider Registration and International Student Management System but not verified) breaches of reporting obligations prescribed under section 19(1) of the ESOS Act decreased in all aspects. Between May 2016 and May 2017, the average number of possible section 19(1) breaches decreased in all aspects except one which remained slightly higher than May 2016 but lower than May 2015 (see *Chart 2*).

Chart 2 Average numbers of possible breaches of section 19(1) per provider

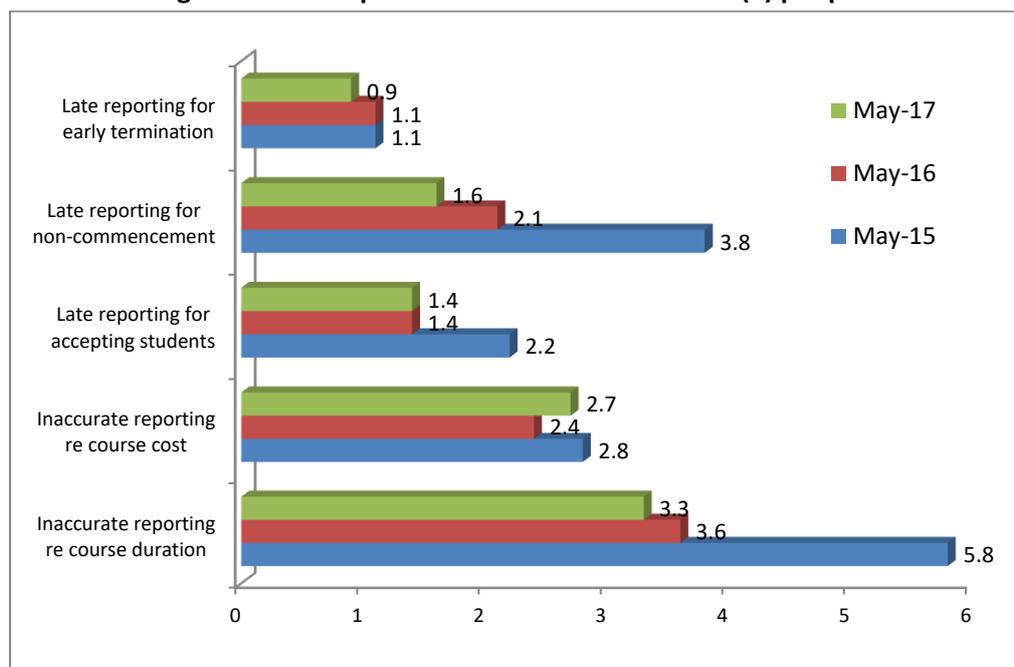


Table 1 Compliance education, stakeholder engagement and monitoring activities

Date	Activity	State
24-Jul-16	Information Session	NSW
20-Jun-17	Meeting with DSA	QLD
4-May-17	Meeting with DSA	TAS
6-Apr-17	Meeting with DSA	ACT
24-Oct-16	Meeting with DSA	NSW
20-Jun-17	Monitoring Visits	QLD
21-Jun-17	Monitoring Visits	QLD
21-Jun-17	Monitoring Visits	QLD
3-May-17	Monitoring Visits	TAS
3-May-17	Monitoring Visits	TAS
4-May-17	Monitoring Visits	TAS
30-May-17	Monitoring Visits	ACT
31-May-17	Monitoring Visits	ACT
25-Oct-16	Monitoring Visits	NSW
25-Oct-16	Monitoring Visits	NSW
26-Oct-16	Monitoring Visits	NSW

Table 2 Number of New Registrations and Renewals of School Providers

<i>State</i>	<i>New Registrations</i>	<i>Renewals</i>	<i>Desk Audits*</i>
ACT	0	1	0
NSW	1	38	16
NT	0	3	0
QLD	0	3	0
SA	1	0	0
TAS	0	1	0
VIC	0	4	0
WA	1	6	0
ALL	3	56	16

* For renewal purposes

Detailed Report

Deliverables of the agency are self-assessed according to evidence collected against the *ESOS Regulator (Schools) RPF Metrics* (see Appendix 2) and described as follows.

KPI 1 - Regulators do not unnecessarily impede the efficient operation of regulated entities

The agency's mandate is to ensure all CRICOS registered school providers meet the standards as prescribed by Part D of the *National Code of Practice for Registered Providers of Education and Training to Overseas Students 2007* and the *National Code of Practice for Registered Providers of Education and Training to Overseas Students 2017* (the National Code) and fully comply with the requirements of the ESOS Act.

The agency's information requests were tailored to minimise impact on providers, and only made when necessary to secure regulatory objectives. For instance, when processing registration renewal requests, the agency only required further information or action from providers where both the number and proportion of possible breaches identified were significant (i.e. above the thresholds determined by the agency). For the cases where there were a small number of minor issues identified, the agency sent detailed and informative emails targeted to those issues.

The agency employed a number of proactive and responsive strategies to detect potential non-compliance by providers. Monitoring and inspection approaches were centred on a rigorous risk-based approach and took into account the circumstance and operational needs of the regulated entity. Desktop audits were only carried out on providers whose number and proportion of issues identified were above specific thresholds determined by the agency. Where possible the agency organised joint monitoring visits with DSAs and other ESOS agencies.

The agency ensured that all visits conducted by its authorised officers were justified, and at a time agreed with the providers. The agency's authorised officers were required to explain the purpose, nature and scope of the proposed visit to providers and seek their consent prior to the visit.

In order to minimise unnecessary regulatory burden, the agency set a limit for visit duration (two hours maximum) and for the number of student files examined (approximately two to four

depending on overall enrolment numbers). The authorised officers followed these procedures consistently.

Additionally, the agency implemented continuous improvement strategies to reduce the costs of compliance for CRICOS registered school providers. In 2016-17, the agency:

- reviewed and simplified its risk assessment and communication processes for CRICOS registration renewals (as a result, it reduced the number of requests for additional information from providers, which shortened the renewal assessment turn-around time).
- enhanced PRISMS by having enabled providers to bulk-upload some student data via PRISMS.
- refined the streamlined registration processes, application forms and reporting requirements introduced by the July 2016 legislative changes.

The agency continued to regularly communicate with providers via PRISMS news items and feedback processes to identify new areas for improvement. Stakeholders were able to provide feedback on the ESOS web page, through the hotline service, as well as in person during workshops and visits.

KPI 2 – Communication with regulated entities is clear, targeted and effective

The agency considers quality targeted communication with providers and other stakeholders as a significant risk mitigation control. In 2016-17, the agency communicated with school providers on a daily basis on topics, such as CRICOS registration, renewal, fees, charges, PRISMS, ESOS compliance and legislative changes. Due to the complexity of the amendments to the ESOS legislation, the agency considered clear, targeted and effective communication vital to the success of school providers in achieving full compliance with their obligations under the ESOS legislation.

The agency took the following action to ensure effective communication with school providers:

- reviewed and re-edited the scripts used by the Call-Centre (1300 615 262) operators regarding ESOS compliance and regulation
- improved accessibility of the agency's website material
- updated contacts of DSAs on the CRICOS website
- reviewed all relevant templates for case managers to ensure consistency, accuracy and effectiveness in their dealings with school providers.

The agency had a reduced number of information sessions in 2016-17 than the year before, due to the uncertainty and delay in the release of the revised National Code. In 2016-17, the agency delivered only one information session, compared to eight the year before (see *Table 3* and *Table 4*). It is expected that the agency will provide more education materials and opportunities in the new financial year following the release of the new National Code 2018 in late 2017.

The agency consulted the hosts before the information session to gain a better understanding of the audience profile and needs. Presentation topics and the level of detail required, were then tailored to ensure audiences' needs were met.

Table 3 Information sessions delivered in 2015-16

	<i>Date</i>	<i>State</i>	<i>Audience (no.)</i>	<i>Host</i>
1	24 June 16	ACT	20+	ACT DSA
2	19 May 16	SA	50+	SA DSA
3	27 May 16	VIC	50+	VIC DSA
4	22 Apr 16	QLD	60+	ISQ
5	10 Mar 16	WA	40+	AISWA
6	16 Oct 15	TAS	20+	GETI
7	26 Oct 15	QLD	40+	ISQ
8	24 July 15	NSW	80+	DE International

Table 4 Information sessions delivered in 2016-17

	<i>Date</i>	<i>State</i>	<i>Audience (no.)</i>	<i>Host</i>
1	26 Aug 16	NSW	50+	NSW DSA

The agency used quality assurance mechanisms, such as feedback to identify areas for improvement and ensured up to date, clear, accessible and concise information provision through media appropriate to the target audience. Guidance material and information were made accessible to providers through a number of mechanisms including: website, mailbox, and National Code compliance FAQs.

The agency processed 56 CRICOS registration renewal requests (compared to 174 last year) from school providers, and finalised the processes within the three week turn-around.

As a result of the agency's promotional, educational and monitoring activities, the level of compliance of the school providers, overall, improved considerably, compared to the year before. The average number of possible breaches of reporting obligations prescribed under section 19(1) of the ESOS Act decreased from May 2016 to May 2017 in all aspects with the exception of two: one, which remained at the same level over May 2016; and one, which was 0.3 percent (a very slight change) over the year before (see *Table 5*).

Table 5 Average number of possible breaches of section 19(1) per provider*

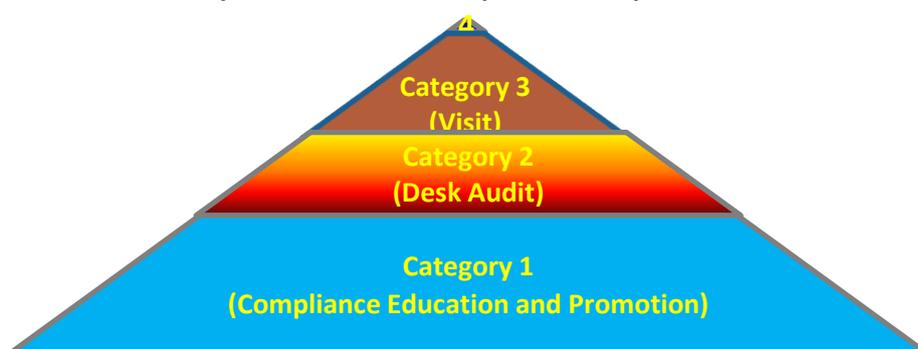
<i>Type of Breaches</i>	<i>May 2016</i>	<i>May 2017</i>
Late Reporting for non-commencement	1.1	0.9
Late Reporting for early termination	1.4	1.4
Late Reporting for accepting a student	2.1	1.6
Inaccurate Reporting re course duration	2.4	2.7
Inaccurate Reporting re course cost	3.6	3.3

*Including 337 school providers; excluding 60 school providers that did not have any enrolment, and also dual or multi sector providers (13 in total), which were predominantly VET and/or higher education providers.

KPI 3 – Actions undertaken by regulators are proportionate to the regulatory risk being managed

The agency took a risk-based and proportionate approach to regulation to ensure that it could direct limited resources to areas of higher risk and appropriately prioritise its regulatory focus, and in turn achieved the objects of the ESOS legislation. *Chart 3* below is an illustration of this approach – termed as risk-based framework, consisting of a hierarchy of interests and respective compliance activities.

Chart 3: Hierarchy of Interests and Respective Compliance Activities



The pyramid above shows a hierarchy of interests and respective activities of the agency when dealing with providers that were classified in four categories:

Category 1: providers that have no enrolment, including newly registered providers; providers of constant compliance; and providers that have effectively addressed non-compliance issues proportionately and by absolute numbers as a result of the agency’s intervention

Category 2: providers that request to renew their registrations but have relatively high risk scores revealed by the latest risk matrix report of PRISMS; and newly registered providers in their first or second year of registration

Category 3: providers with big enrolments but appear to have repeatedly and seriously failed to comply with their reporting obligations under section 19 of the ESOS Act; providers that are nominated by their DSAs to visit; and newly registered providers that have already enrolled students

Category 4: providers of serious concern that require enforcement actions; or unscrupulous providers that seem to have been involved in suspected fraud which requires investigations by the Fraud Control and Investigations Branch of the Department.

To assess the level of risks and determine targets of visits, the agency carefully conducted thorough analyses of the following:

- Risk Matrix data available from PRISMS, including:
 - reporting volumes, timeliness and accuracy against section 19(1) of the ESOS Act
 - ARC or TPS levy payment details
 - composition and proportion of overseas students
 - number of approved welfare arrangements for students under 18
- records of previous monitoring visit and desktop analysis findings
- referrals from DSAs or other ESOS agencies (concerning dual or multi sector providers)
- referrals from the Overseas Students Ombudsman
- media coverage
- serious complaints/allegations received by the agency.

The agency reviewed the PRISMS Risk Matrix information/data on a quarterly basis and has improved its accuracy and reliability.

ESOS compliance monitoring exercises through desk audits (for renewals) and monitoring visits over the last twelve months suggest that most of the schools visited have the following common issues:

- delays in reporting student course variations as required by section 19(1) of the ESOS Act
- inaccurate course cost or duration information reported to the Secretary
- lack of knowledge of refund obligations for visa refusals, or delays in providing a refund
- lack of knowledge about providers' responsibilities under Standard 5 of the National Code for students under 18 years of age and living in Australia without a parent or guardian accompanying them.

As a result of the visits, all the identified issues were either fully rectified (e.g. compliant refund policies were developed and implemented and all outstanding refunds were provided soon after the visits) or satisfactorily addressed by the relevant providers through voluntary undertakings and appropriate actions, including staff training or reviewing and revising their procedures.

It is the agency's policy to only take enforcement action when providers are found to:

- have seriously breached the provisions of the ESOS Act that are regarded as offences;
- have breached in a large scale (e.g. in breach of many of the 15 Standards of the National Code); and
- have systematic and on-going non-compliance issues (i.e. repeatedly and constantly failed to meet the relevant obligations under the ESOS legislation and repeatedly and constantly failed to rectify breaches).

In 2016-17 no enforcement action was taken. There was no evidence showing any school provider required enforcement action, such as imposing conditions on, suspending or cancelling CRICOS registration.

KPI 4 - Compliance and monitoring approaches are streamlined and coordinated

The agency is engaged in a collaborative approach during compliance monitoring to validate and support continuation of stakeholder compliance. The agency engaged relevant DSAs and other ESOS agencies, i.e. TEQSA and ASQA, where possible, to conduct monitoring visits to ensure compliance and monitoring approaches were streamlined and coordinated.

In 2016-17, authorised officers of the agency exercised their powers under the ESOS Act to monitor, through site visits or desk audits, the level of compliance with legislative requirements by CRICOS registered school providers. This included a small number of providers that also provided higher education or VET sector courses. *Table 6* shows the number of joint visits completed by the agency and relevant DSAs in 2016-17 compared to the previous financial year.

Table 6 Number of visits and joint visits in 2015-2016 and 2016-2017

State	2015-16		2016-17	
	No. of Visits	No. of Joint Visits	No. of Visits	No. of Joint Visits
ACT	0	0	2	2
NT	3	3	0	0
NSW	0	0	3	2
QLD	5	5	3	3
SA	1	1	0	0
TAS	2	0	3	3
VIC	1	0	0	0
WA	5	5	0	0
ALL	17	14	11	10
% of ALL		82.4		90.9

Although the number of joint visits did not increase as originally expected, the proportion of joint visits increased from 82.4% to 90.9% over the last two years.

The agency collaborated with its counterparts in relevant DSAs and other ESOS agencies to realise the benefits of joint visits, such as:

- providing an invaluable opportunity for providers to ask questions, to learn about ESOS compliance, and to get practical problems solved immediately (e.g. issues relating to PRISMS reporting, adding new courses to their registration, updating course costs or duration)
- enabling DSA and other ESOS agency representatives to understand each other's processes
- minimising the frequency of information collection, as it is shared between agencies.

In 2016-17, the agency did not visit any dual or multi sector providers. However, it kept sharing information with other relevant regulators regarding possible enforcement action to be taken by either party.

To ensure coordinated approaches, the agency made efforts to meet with relevant DSAs before or after visits to routinely share information about providers of concern, legislative changes, organisational or staff changes and to schedule subsequent visits where possible. In 2016-17, the agency had four meetings with DSAs, shown in *Table 7* below.

Table 7 Meetings with DSAs 2016-17

<i>Date</i>	<i>Activities</i>	<i>State</i>
20-Jun-17	Meeting with DSA	QLD
4-May-17	Meeting with DSA	TAS
6-Apr-17	Meeting with DSA	ACT
24-Oct-16	Meeting with DSA	NSW

In 2016-17, due to a delayed release of the new National Code in late 2017, the agency had to postpone its planned Dual/Multi Sector Working Group meeting. The meeting has been rescheduled in the 2017-18 financial year, the timing of which will allow discussion of issues relating to the implementation of the revised National Code that will come into effect on 1 January 2018.

KPI 5 – Regulators are open and transparent in their dealings with regulated entities

The agency made on-going efforts to ensure its processes in dealing with school providers were open and transparent.

Prior to or during each visit, the agency's authorised officers explained the purpose, scope and approach of the visit to the relevant principal executive officer (as registered on CRICOS) or their representatives.

Once any possible non-compliance issues were identified on site, the authorised officers highlighted them and sought explanations from providers' representatives to ensure both the authorised officers and providers could determine on the spot whether or not the alleged breaches took place, and if not, why. To date, the feedback from providers about the approach taken has been very positive.

As a result of the site visits, all the schools visited by the agency in 2016-17 have largely improved their level of compliance with section 19(1) of the ESOS Act. Table 8 and Table 9 below indicate that most of the 10 schools visited by the agency (of which one multi-located provider was visited twice), especially those visited in the beginning of the financial year, have considerably reduced their number and proportion of breaches of the reporting obligations specified under section 19(1) of the ESOS Act, compared to May 2016. The effectiveness of visits conducted later in the period (e.g. Provider D was visited in June 2017 and Provider H was visited in late May 2017) will be measured over the next reporting period.

Table 8 Reduction in terms of possible breaches of section 19(1) by providers visited in 2016-17

<i>Provider Visited</i>	<i>Late Reporting for non-commencement (No.)</i>	<i>Late Reporting for early termination (No.)</i>	<i>Late Reporting for accepting a student (No.)</i>	<i>Inaccurate reporting for course duration (No.)</i>	<i>Inaccurate reporting for course cost (No.)</i>
A	-1	0	0	0	-1
B	-5	-2	-1	2	-18
C	-2	0	0	4	-3
D	2	0	0	0	1
E	0	1	-3	0	3
F	3	2	-8	-1	0
G	-2	-2	-2	-4	1
H	0	2	7	0	1
I	-5	0	-7	-1	0
J	-2	-1	-2	2	-2

*For privacy considerations, the names of the individual providers visited have been removed.
Source: PRISMS Risk Matrix Report May 2016 and May 2017

KPI 6 – Regulators actively contribute to the continuous improvement of regulatory frameworks

The agency maintained cooperative and collaborative relationships with stakeholders to promote trust and improve the efficiency and effectiveness of the regulatory framework. It maintained an open, friendly and professional relationship with all relevant regulators on a regular basis.

The agency engaged stakeholders in the development of options to reduce compliance costs including changes to the overarching regulatory framework, or other strategies to streamline monitoring and compliance approaches. It liaised with stakeholders to avoid duplication of requests for information and coordinated joint visits/workshops.

It regularly shared feedback from stakeholders about consultations, legislative requirements and regulators' performance with relevant colleagues within the department to improve the operation of the regulatory framework and administrative processes.

CONCLUSION

As illustrated in *Appendix 3*, the agency delivered and achieved all stated objectives against the *ESOS Regulator (Schools) RPF Metrics*, with a couple of exceptions in relation to the *Induction Package*, the planned workshops and the planned multi-sector working group meeting – which were postponed according to the schedule of the release of the new National Code.

In 2017-18, the agency will build on its success and actively contribute to the continuous improvement of regulatory frameworks through:

- further strengthening compliance education activities through producing quality compliance guidance or education materials such as the *Induction Package* and providing training on compliance and at <https://internationaleducation.gov.au/regulatory-information/pages/regulatoryinformation.aspx>
- conducting more targeted and focused compliance activities based on thorough analyses of risk data available to the agency, to ensure that school providers of concern are closely monitored
- enhancing intergovernmental relations to achieve a more coordinated approach in compliance
- improving regulatory processes to meet the requirements of the *Regulator Performance Framework*, and ensure that its regulatory processes are fair, transparent, effective and efficient as per the *ESOS Regulator (Schools) RPF Metrics*.

The agency will take immediate action to:

- further improve PRISMS Risk Matrix Data's relevance, usefulness, reliability and accessibility; and
- prepare relevant educational materials for school providers to facilitate their compliance with all the requirements of the new National Code that will come into effect on 1 January 2018.

ACKNOWLEDGEMENT

This report was prepared by Dr Tiemin Tim Wu, with guidance from Mr Brett Galt-Smith and helpful input from Mr Ben Houston and Ms Leanne Abdo; as well as assistance given by Mr Amir Malik and Mr Eric Luc.

The agency acknowledges the endorsements given by the key stakeholders (see below).

Enquiries about this report can be forwarded to Dr Wu by phone on (02) 6240 99493 or by email to tim.wu@education.gov.au.

SOURCE OF DATA

Data used in this report came from PRISMS. The average data excludes providers that have no enrolment.

KEY STAKEHOLDERS

Before its release, this report has been forwarded to the following representatives:

AUSTRALIAN CAPITAL TERRITORY

Ms Lynda Tooth, Manager, Liaison Unit, ACT Education Directorate

NEW SOUTH WALES

Ms Anne Keenan, Director, School Registration and Accreditation
NSW Education Standards Authority

NORTHERN TERRITORY

Ms Debra Liddiard-Taruminggi, Director, Education Services, NT Department of Education

QUEENSLAND

Ms Vanessa Fensom, Manager, International Quality (Schools) Registration Services (International, Non-State and Home Education), QLD Department of Education and Training

SOUTH AUSTRALIA

Lynette Bellwood, Senior Advisor Schools Regulation | Education Standards Board

TASMANIA

Ms Katrina Beams, Executive Officer, Tasmanian Assessment, Standards and Certification

VICTORIA

Mr Gary Bourton, Manager School Projects, Victorian Registration and Qualifications Authority

WESTERN AUSTRALIA

Mr Gavin Agacy, A/g Assistant Director (Education Regulation), Department of Education Services

AUSTRALIAN GOVERNMENT SCHOOLS INTERNATIONAL

Ms Elizabeth Webber, Chair

NATIONAL CATHOLIC EDUCATION COMMISSION

Mr Andrew Mellas, Policy Advisor

THE INDEPENDENT SCHOOLS COUNCIL OF AUSTRALIA

Ms Caroline Miller, Director, Policy and Research

Appendix 1 Summary of key regulatory activities by state 2016-17

<i>Date</i>	<i>Activities</i>	<i>State</i>
24-Jul-16	Information Session	NSW
20-Jun-17	Meeting with DSA	QLD
20-Jun-17	Monitoring Visits	QLD
21-Jun-17	Monitoring Visits	QLD
21-Jun-17	Monitoring Visits	QLD
3-May-17	Monitoring Visits	TAS
3-May-17	Monitoring Visits	TAS
4-May-17	Monitoring Visits	TAS
4-May-17	Meeting with DSA	TAS
6-Apr-17	Meeting with DSA	ACT
4-May-17	Monitoring Visits	ACT
30-May-17	Monitoring Visits	ACT
24 Oct-16	Meeting with DSA	NSW
25-Oct-16	Monitoring Visits	NSW
25-Oct-16	Monitoring Visits	NSW
26-Oct-16	Monitoring Visits	NSW

Appendix 2 ESOS Regulator (Schools) RPF Metrics

KPI 1 – REGULATORS DO NOT UNNECESSARILY IMPEDE THE EFFICIENT OPERATION OF REGULATED ENTITIES		
Measure	Output/activity-based evidence	Self-assessment methodology (evidence to be collected)
1.1 ESOS Regulator (for Schools) demonstrates an understanding of the operating environment of the industry or organisation, or the circumstances of individuals and the current and emerging issues that affect the sector.	<p>1.1.1 Maintain a knowledge base of providers their environment and issues impacting them.</p> <p>1.1.2 Mechanisms are in place for regular communication with CRICOS-registered schools, designated State authorities (DSAs) and other relevant regulators to share knowledge and understanding of current and emerging issues.</p>	<ul style="list-style-type: none"> • Maintain and update providers’ profiles annually. • Undertake regular environmental scanning at least annually by staff (including review of international best practice.) • Regularly meet with DSAs (before or after compliance monitoring visits) • Share information with all relevant stakeholders where possible (including meetings with the multi-sector working group)
1.2 ESOS Regulator (for Schools) takes actions to minimise the potential for unintended negative impacts of regulatory activities on regulated entities or affected supplier industries and supply chains.	<p>1.2.1 Conduct workshops with providers that give information on legislative requirements and opportunities for feedback from the sector on regulatory impacts.</p> <p>1.2.2 Apply a risk based scaled approach to non-compliance issues as appropriate to minimise potential for unintended negative impacts of regulatory activities.</p>	<ul style="list-style-type: none"> • Deliver workshops across all States and Territories every 2 years • Record feedback and address all issues identified • Look at providing workshop component online for providers in regional areas to access • Regularly examine approaches taken to identify and ensure rectification of non-compliance issues
1.3 ESOS Regulator (for Schools) implements continuous improvement strategies to reduce the costs of compliance for those they regulate.	<p>1.3.1 Implement streamlined registration processes, application forms and reporting requirements.</p> <p>1.3.2 Use feedback processes to identify and implement new areas for improvement.</p>	<ul style="list-style-type: none"> • Report on system/process improvements and reductions in time and costs for providers

KPI 2 – COMMUNICATION WITH REGULATED ENTITIES IS CLEAR, TARGETED AND EFFECTIVE		
Measure	Output/activity-based evidence	Self-assessment methodology (evidence to be collected)
2.1 ESOS Regulator (for Schools) provides guidance and information that is up to date, clear, accessible and concise through media appropriate to the target audience	<p>2.1.1 Guidance material and information is accessible to providers through a number of mechanisms including: website, mailbox, induction manual, national code compliance FAQs.</p> <p>2.1.2 Seek feedback from stakeholders on guidance and advice provided.</p>	<ul style="list-style-type: none"> • Seek feedback about information, guidance and advice given to the providers via <ul style="list-style-type: none"> - help desks (and Call Centre), - workshops, - internationaleducation.gov.au website, and - other educational materials on ESOS or CRICOS prepared by the ESOS Regulator (for Schools)
2.2 ESOS Regulator (for Schools) considers the impact on regulated entities and engages with industry groups and representatives of the affected stakeholders before changing policies, practices or service standards.	2.2.1 Consult peak bodies / providers about proposed changes to legislation, the National Code and reporting processes.	<ul style="list-style-type: none"> • Record consultation activities and outcomes
2.3 ESOS Regulator (for Schools)'s decisions and advice are provided in a timely manner, clearly articulating expectations and the underlying reasons for decisions.	<p>2.3.1 Finalise registration and renewal processes in a timely manner.</p> <p>2.3.2 Provide detailed explanations for rejections.</p>	<ul style="list-style-type: none"> • Complete registration/renewal process within an average timeframe of 3 weeks • Notify providers when a recommendation from a DA is received by the department and provide detailed explanations for rejections
2.4 ESOS Regulators' (for Schools) advice is consistent and supports predictable outcomes.	2.4.1 Staff interacting with providers only use approved procedures.	<ul style="list-style-type: none"> • Review and update Call Centre scripts and templates in a timely manner • All compliance case managers apply relevant procedures and templates consistently and correctly

KPI 3 – ACTIONS UNDERTAKEN BY REGULATORS ARE PROPORTIONATE TO THE REGULATORY RISK BEING MANAGED		
Measure	Output/activity-based evidence	Self-assessment methodology (evidence to be collected)
3.1 ESOS Regulator (for Schools) applies a risk-based, proportionate approach to compliance obligations, engagement and regulatory enforcement actions.	3.1.1 Implement internal procedures for selecting providers for desktop audits and visits based on risk assessments.	<ul style="list-style-type: none"> Continually improve the processes and systems
3.2 ESOS Regulator (for Schools)'s preferred approach to regulatory risk is regularly reassessed. Strategies, activities and enforcement actions are amended to reflect changing priorities that result from new and evolving regulatory threats, without diminishing regulatory certainty or impact.	3.2.1 Regularly review and update the PRISMS Risk Matrix.	<ul style="list-style-type: none"> Annually review of risk data (risk matrix). Review internal process on a biannually
3.3 ESOS Regulator (for Schools) recognises the compliance record of CRICOS-registered schools. All available and relevant data on compliance, including evidence of relevant external verification is considered.	3.3.1 Recognise the compliance record of providers and consider all available data/evidence when assessing risks.	<ul style="list-style-type: none"> Compare risk factors for a provider over a specified historical period Exchange information with State/Territory DSAs regularly re providers of concern and providers with best practice

KPI 4 – COMPLIANCE AND MONITORING APPROACHES ARE STREAMLINED AND COORDINATED		
Measure	Output/activity-based evidence	Self-assessment methodology (evidence to be collected)
4.1 ESOS Regulator (for Schools)'s information requests are tailored, and only made when necessary to secure regulatory objectives, and only in a way that minimises impact.	<p>4.1.1 Tailor requests for information and only make requests when necessary.</p> <p>4.1.2 Improve support to providers' compliance through education and discussion of identified issues.</p>	<ul style="list-style-type: none"> • Only request for information in relation to high risk factors, and focus on providers with serious compliance issues • Share quarterly PRISMS Risk Matrix information with relevant regulators (i.e. DSAs) when it becomes available
4.2 ESOS Regulator (for Schools)'s frequency of information collection is minimised and coordinated with similar processes including those of other regulators so that, as far as possible, similar information is only requested once.	4.2.1 Conduct its compliance monitoring visits in conjunction with DSAs, and also invite ASQA and/or TEQSA if the regulated entity is a dual or multi sector provider.	<ul style="list-style-type: none"> • Have meetings/teleconferences with DSAs and ASQA (and/or TEQSA for multi-sector providers) before any monitoring visits to ensure a streamlined approach • Share relevant information with DIBP where possible
4.3 ESOS Regulator (for Schools) base monitoring and inspection approaches on risk and, where possible, take into account the circumstance and operational needs of the regulated entity.	4.4.1 Only visit or desk top audit providers identified as having serious (or large number or proportion of) non-compliance issues; or in response to referrals received from other relevant regulators.	<ul style="list-style-type: none"> • Liaise with DSAs and peak bodies on a regular basis • Have a multi-sector working group meeting at least once a year – to review multi-sector providers' compliance and monitoring approaches

KPI 5 – REGULATORS ARE OPEN AND TRANSPARENT IN THEIR DEALINGS WITH REGULATED ENTITIES		
Measure	Output/activity-based evidence	Self-assessment methodology (evidence to be collected)
5.1 ESOS Regulator (for Schools)'s risk-based framework is publicly available in a format which is current, clear and accessible.	5.1.1 Publish the risk-based framework (to be incorporated in the RPF report) on the Internet annually.	<ul style="list-style-type: none"> • Make the information available on the internationaleducation.gov.au website • Update the information in a timely manner to reflect legislative or administrative changes • Develop a streamlined information webpage relating to CRICOS registration, renewal, fees and compliance for schools
5.2 ESOS Regulators' (for Schools) performance measurement results are published in a timely manner to ensure accountability to the public.	5.2.1 Relevant measurement results against the KPIs for each financial year would be made publicly available as soon as practicable after each financial year.	<ul style="list-style-type: none"> • Publish the performance results on the internationaleducation.gov.au website annually and in a timely manner

PI 6 – REGULATORS ACTIVELY CONTRIBUTE TO THE CONTINUOUS IMPROVEMENT OF REGULATORY FRAMEWORKS		
Measure	Output/activity-based evidence	Self-assessment methodology (evidence to be collected)
6.1 ESOS Regulator (for Schools) establishes cooperative and collaborative relationships with stakeholders to promote trust and improve the efficiency and effectiveness of the regulatory framework.	<p>6.1.1 Have an open, friendly and professional relationship and liaise with all relevant regulators on a regular basis.</p> <p>6.1.2 Create a growth of awareness among providers regarding compliance with the ESOS legislative framework.</p>	<ul style="list-style-type: none"> • Have meetings/teleconferences with all relevant regulators prior to any visits • Increase the number of joint visits • The majority of schools have decreased risk scores compared to the previous year • Release relevant information on the Internet • Have joint workshops on ESOS compliance as planned
6.2 ESOS Regulator (for Schools) engages stakeholders in the development of options to reduce compliance costs (which could include industry self-regulation, changes to the overarching regulatory framework, or other strategies to streamline monitoring and compliance approaches).	6.2.1 Liaise with stakeholders to avoid duplication of RFIs (requests for information) and coordinate joint visits/workshops.	<ul style="list-style-type: none"> • Visit all States and/or provide workshop presentations in all States within 2 years • Receive positive feedback from providers about the consultations and the compliance approaches • Aim to have a multi-sector regulators working group face-to-face meeting at least once a year
6.3 ESOS Regulator (for Schools) regularly shares feedback from stakeholders about consultations, legislative requirements and regulators’ performance with policy departments to improve the operation of the regulatory framework and administrative processes.	6.3.1 Liaise regularly with the ESOS policy and legislation section of the department and provide feedback.	<ul style="list-style-type: none"> • Liaise with policy area on a regular basis regarding feedback from providers

Appendix 3 Summary of deliverables against the ESOS Regulator (Schools) RPF Metrics

	<i>Planned</i>	<i>Actual</i>		<i>Planned</i>	<i>Actual</i>		
KPI 1 – REGULATORS DO NOT UNNECESSARILY IMPEDE THE EFFICIENT OPERATION OF REGULATED ENTITIES	1	Maintain and update providers’ profiles annually	✓	1	Seek feedback about info, guidance & advice given to providers via helpdesks, workshops, website & educational materials	✓	
	2	Undertake regular environmental scanning at least annually by staff (including review of international best practice.)	✓	2	Record consultation activities and outcomes	✓	
	3	Regularly meet with DSAs (before or after compliance monitoring visits)	✓	3	Complete registration/renewal process within an average timeframe of 3 weeks	✓	
	4	Share info with all relevant stakeholders where possible (including meetings with the multi-sector working group)	🟡	4	Notify providers when DSAs’ recommendations are received; and provide detailed explanations for rejections	✓	
	5	Deliver workshops across all States and Territories every 2 years	🟡	5	Review and update Call Centre scripts and templates in a timely manner	✓	
	6	Record feedback and address all issues identified	✓	6	All compliance case managers apply relevant procedures and templates consistently and correctly	✓	
	7	Look at providing workshop component online for providers in regional areas to access	✓				
	8	Regularly examine approaches taken to identify and ensure rectification of non-compliance issues	✓				
	9	Report on system/process improvements and reductions in time and costs for providers	✓				
KPI 3 – ACTIONS UNDERTAKEN BY REGULATORS ARE PROPORTIONATE TO THE REGULATORY RISK BEING MANAGED	<i>Planned</i>	<i>Actual</i>	KPI 4 – COMPLIANCE AND MONITORING APPROACHES ARE STREAMLINED AND COORDINATED	<i>Planned</i>	<i>Actual</i>		
	1	Release bulk uploading functions in the past year and reduce costs as a result		✓	1	Only request for info in relation to high risk factors, and focus on providers with serious compliance issues	✓
	2	Annually review of risk data (risk matrix)		✓	2	Share quarterly PRISMS Risk Matrix info with relevant regulators (i.e. DSAs) when it becomes available	✓
	3	Review internal process biannually		✓	3	Have meetings/teleconferences with DSAs or ESOS Agencies before any monitoring visits to ensure a streamlined approach	✓
	4	Compare risk factors for a provider over a specified historical period		✓	4	Share relevant info with DIBP where possible	✓
	5	Exchange info with DSAs regularly re providers of concern and providers with best practice		✓	5	Liaise with DSAs and peak bodies on a regular basis	🟡
			6	Have a multi-sector working group meeting at least once a year	🟡		
KPI 5 – REGULATORS ARE OPEN AND TRANSPARENT IN THEIR DEALINGS WITH REGULATED ENTITIES	<i>Planned</i>	<i>Actual</i>	KPI 6 – REGULATORS ACTIVELY CONTRIBUTE TO THE CONTINUOUS IMPROVEMENT OF REGULATORY FRAMEWORKS	<i>Planned</i>	<i>Actual</i>		
	1	Make the info about CRICOS and ESOS including the risk-based framework available on the internationaleducation.gov.au website		✓	1	Liaise with policy area on a regular basis regarding feedback from providers	✓
	2	Update the info about CRICOS and ESOS in a timely manner to reflect legislative or administrative changes		✓	2	Release the <i>Induction Package</i> and have joint workshops on ESOS compliance as planned	🟡
	3	Develop a streamlined info webpage relating to CRICOS registration, renewal, fees and compliance for schools		✓	3	Visit all States within 2 years	✓
			4	Receive positive feedback from providers about the consultations and the compliance approaches	✓		
			5	Increase the number of joint visits	✓		
			6	The majority of schools have decreased risk scores compared to the previous year	✓		