

Submission on proposed changes to the National Code of Practice for Providers of Education and Training to Overseas Students 2007

Overview

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none">• Parts A, B and C of the 2007 National Code have been streamlined to:<ul style="list-style-type: none">○ provide an overview of the ESOS framework○ summarise the role of the National Code and its purpose○ outline the quality assurance arrangements and roles of other relevant Commonwealth agencies	Do Not Support	<p>St John is disappointed that the words “Only courses which can be undertaken on a full-time basis can be registered on CRICOS” have been removed in this version. As the ESOS Act does not provide a definition of a course, the previous national code made it clear that overseas student provisions only covered overseas students enrolled in full-time courses. By removing this sentence, then the national code applies to all studies undertaken by overseas students.</p> <p>We believe that this significantly restricts the options for overseas students to undertake studies in Australia incidental to their main study program. We cannot comment on the revised code in relation to full-time overseas students as we do not provide studies to such students. However, our comments in this response relate to the impact of the revised national code on overseas students who engage in incidental studies.</p>

- continued

St John is aware of two groups of overseas students who will be impacted by the revised national code. The first group is overseas students who need to complete a first aid course as part of the requirements of the course but where it is not part of the formal study program. For example, all students undertaking university level medical, nursing and paramedic qualifications must have a current first aid certificate before they can undertake a placement. The revised national code will mean that these students can only undertake a first aid course with a provider that is registered with CRICOS. Currently, there are no providers on the CRICOS register that are approved to deliver first aid units of competency as stand-alone units.

The second group of overseas students who will be impacted by the revised national code will be those who choose to volunteer with St John and other similar charities. Many of these international students volunteer with St John as it gives them practical experience related to their field of study. This adds substantially to their experience whilst in Australia, as well as contributing benefits to the Australian community. St John, as well as many other not for profit organisations, require members to complete vocational studies related to the work they are doing, in order to ensure they have the skills to undertake the volunteer role. If St John is not CRICOS registered, then overseas students could not volunteer with St John.

<ul style="list-style-type: none"> continued 		<p>We believe that the National Code should only apply to full-time study as the full-time study program will be directly linked to the visa granted to the overseas student. We do not believe that the National Code should apply to part-time courses undertaken by overseas students and incidental to their main studies. The visa is not tied to these incidental studies. Accordingly, we propose that the words “Only courses which can be undertaken on a full-time basis can be registered on CRICOS” or similar should be retained.</p> <p>Overseas students undertaking full-time studies are protected by the ESOS Act and can only study in Australia if they comply with the requirements of the full-time course of study.</p> <p>The existing national code implies that full-time study is considered as 20 contact hours per week. What is considered full-time study should be clarified in the national code and be consistent with other definitions used by other Government agencies e.g. Centrelink.</p>
<ul style="list-style-type: none"> continued 		<p>The remaining comments in this response provide further evidence of the difficulties placed on providers of incidental studies (referred to as short courses in this document) in meeting the requirements of the National Code.</p> <p>The end result of implementing the National Code as currently proposed would be to significantly restrict the options available to overseas students. This would not meet the stated goal of the revisions to the National Code: ‘and increase flexibility where appropriate and relevant for international students’.</p>

<ul style="list-style-type: none">• Some part C and D requirements in the 2007 National Code have been moved to Standard 11 as requirements for providers.• The standards are now in part B.	Support	
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Standard 1 – Marketing information and practices

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Clarifies that providers must not engage in false or misleading marketing practices, consistent with Australian Consumer Law. 	Support	
<ul style="list-style-type: none"> Marketing material must accurately identify the provider's association with any other providers, work-based or work-integrated learning opportunities, and prerequisites including English language. 	Support	St John does not market explicitly to international students. The requirement that 1.2 and 1.5 be included in all marketing materials has the potential to confuse the 99% of students who are not overseas students.
<ul style="list-style-type: none"> Specific provisions prevent a provider from undertaking to or guaranteeing that it can secure a migration or successful education assessment outcome. 	Support	

Standard 2 – Enrolment of an overseas student

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Clarifies that a provider must inform a student before they enrol about: course content, modes of study (including online and/or work related learning placements) and assessment requirements. 	Do not support	Information on 'holiday breaks' is not appropriate for short course providers as courses are typically completed in 1-2 days. 2.1.10 and 2.1.11 are also not an appropriate requirement on short course providers. This is an example where the national code has been designed for students enrolled in full-time courses.
<ul style="list-style-type: none"> Requires providers to give information about the policy and process for approving welfare and accommodation arrangements for students under 18 where relevant. 		See above
<ul style="list-style-type: none"> Requires registered providers to have and implement a documented policy and process for assessing English language proficiency, educational qualifications and work experience are sufficient to undertake the course. 	Support	
<ul style="list-style-type: none"> Incorporates the requirements relating to course credit, previously in standard 12. Adds that course credit or recognition of prior learning (RPL) must preserve the integrity of the award to which it applies. 	Support	

Standard 3 – Formalisation of enrolment and written agreements

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
Written agreements must include more detailed information about students' enrolment.	See comment	The statement in 3.3.4 "(including that the student may choose to pay more than 50 per cent of their fees before their course commences)" implies that a provider cannot collect 100% of fees before the course commences. A provider of short courses will always collect fees (e.g. \$100 - \$200 for a first aid course) before courses start. Requiring providers to collect this level of fees in 2 instalments increases the administrative workload attached to managing overseas students.
Providers must require students must keep their personal and contact information up to date.	Support	
<ul style="list-style-type: none"> The provider must retain records of the written agreement and receipts of payments by the student for at least 2 years after the person ceases to be an accepted student. 	See comment	This requirement increases the administrative workload for providers of short courses to overseas students.

Standard 4 – Education agents

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Clarifies that providers must ensure the agent has up to date and accurate information, does not engage in false or misleading conduct, declares in writing and takes reasonable steps to avoid conflicts of interest, observes appropriate levels of confidentiality and transparency in dealing with students, and acts honestly and in good faith. 	NA	Providers of short courses do not use education agents. Hence, standard 4 is not applicable. However, 4.3 requires such providers to have implemented a policy and procedure for monitoring the activities of agents even if they don't have any.
<ul style="list-style-type: none"> Clarifies the provider must ensure the agent has appropriate knowledge and understanding of the international education system in Australia, including the code of ethics. 	NA	

Standard 5 – Younger students

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Providers enrolling students under 18 must meet any Australian, state or territory legislation or other regulatory requirements relating to child welfare and protection. 	Support	
<ul style="list-style-type: none"> Requires providers to give information to students under 18 about who to contact in emergency situations. 	Support	

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Requires providers to give information on how a student under 18 can seek assistance and report any incident or allegation involving abuse. 	Support	
<ul style="list-style-type: none"> Providers with responsibility for a student's welfare must check initially and least every six months thereafter that the student's accommodation is appropriate to the student's age and needs. 	NA	<p>A provider of short courses would never be responsible for accommodation and the other items in 5.3.</p> <p>Clarify that 5.4, 5.5 and 5.7 only applies in relation to 5.3 by adding the words "Where standard 5.3 applies,..." or similar words.</p> <p>Currently, it could be interpreted to imply that a provider has to take on the work identified in these points even if they are not responsible for the items identified in 5.3.</p>
<ul style="list-style-type: none"> Adults involved in or providing accommodation must have any Working with Children clearances (or equivalent) as required in a state or territory. 	NA	
<ul style="list-style-type: none"> Requires a policy and process for managing critical incidents, including in emergency situations and when welfare arrangements are disrupted. 	NA	
<ul style="list-style-type: none"> Where a provider is no longer able to approve welfare arrangements, all reasonable steps must be taken to notify the student's parent or legal guardian immediately. 	NA	
<ul style="list-style-type: none"> Providers must have documented processes for selecting, screening and monitoring any third parties engaged by the provider to organise and assess welfare and accommodation arrangements. 	NA	

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> If a provider enrolls a student under 18 who has welfare arrangements approved by another provider, the receiving provider must negotiate the transfer date for welfare arrangements to ensure there is no gap. 	NA	
<ul style="list-style-type: none"> The provider must advise the student of their visa obligation to maintain their current welfare arrangements until the transfer date or have alternative welfare arrangements approved or return to their home country until the new arrangements take effect. 	NA	

Standard 6 – Student support services

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Requires providers to give information to students regarding a range of support services, including relating to English language, health, legal services, complaints and appeals avenues, and employment assistance (including resolving workplace issues). 		Providers of short courses should not be required to provide students with information about: 6.1.1 (adjust to study and life in Australia), 6.1.3, 6.1.4, 6.1.9. This should be the responsibility of the provider who is delivering the full -time course on which the student visa is granted.
<ul style="list-style-type: none"> Requires the provider to facilitate access to learning support services, including for different modes of study such as online or distance. 	Support	

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Clarifies that providers must have in place a documented policy and process to manage critical incidents that could affect a student undertaking or completing the course. (Note: standard 5 requires a critical incident policy and process more specific to the needs of students under 18.) 	support	
<ul style="list-style-type: none"> Providers must take all reasonable steps to provide a safe environment on campus and give overseas students information about how to seek assistance for and report an incident that significantly impacts on their wellbeing. 	support	

Standard 7 – Student transfers

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Providers must not knowingly enrol a student wishing to transfer from another provider's course prior to the student completing six months of their principal course, or for the school sector, until after the first six months of the first registered school sector course. 	NA	It is assumed that this does not apply to providers of short courses to overseas students as it seems it is written about full-time courses.
<ul style="list-style-type: none"> Transfer requests from the student must be in writing. 	NA	

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> The provider must have and implement a documented policy and process for assessing student transfer requests, which must outline circumstances in which the provider will grant a transfer because it is in the student's best interests; and reasonable grounds for refusal of the request. 	NA	The provider of short courses must have implemented such a policy even if student transfers does not apply for providers of short courses.
<ul style="list-style-type: none"> The standard contains additional guidance for providers about circumstances in which they should grant a transfer because it is in the student's best interests. 	NA	
<ul style="list-style-type: none"> If a student requesting a transfer is under 18, written confirmation of agreement of a parent or legal guardian is required. 	NA	
<ul style="list-style-type: none"> Where a provider agrees to a student's release the date of effect and reason for release must be recorded in PRISMS and the provider must advise the student Immigration to seek advice on whether a new student visa is required. 	NA	
<ul style="list-style-type: none"> If release is not to be granted, the provider must give to the student the reasons for refusal in writing. 	NA	
<ul style="list-style-type: none"> The provider must maintain records of all requests for transfer, assessment and decision on the student's file for two years after the student ceases to be an accepted student. 	NA	

Standard 8 – Monitoring course progress and attendance

Providers must monitor student progress

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none">All providers must monitor students' progress, as satisfactory course progress is a student visa requirement. Some sectors require providers to also monitor attendance.	NA	The statement 'satisfactory course progress is a student visa requirement' only applies to full-time courses where enrolment in the full-time course is tied to a student visa.
<ul style="list-style-type: none">Providers must clearly outline and inform the student before they commence their course of the requirement to achieve satisfactory course progress in each study period.	NA	
<ul style="list-style-type: none">Providers must have documented policies and processes to identify, notify and assist a student at risk of not meeting course progress (or attendance requirements if applicable) where evidence from the student's assessment tasks, participation or other indicators of academic progress indicate the student is at risk of not meeting requirements.	NA	Providers of short courses will be required to develop a policy and process for something that does not apply to them.

Schools, ELICOS and foundation programs

<p style="text-align: center;">PROPOSED AMENDMENTS</p>	<p style="text-align: center;">SUPPORT / DO NOT SUPPORT</p>	<p style="text-align: center;">COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i></p>
<ul style="list-style-type: none"> • School, ELICOS and foundation programmes require both course progress and attendance monitoring. The requirement for attendance is 80% of the scheduled contact hours for the course, or higher if specified under state registration or approval frameworks. 		
<ul style="list-style-type: none"> • School, ELICOS and foundation program providers must have a documented policy and process for monitoring and recording students' attendance. 		
<ul style="list-style-type: none"> • Higher education providers must have and implement a documented policy and process for monitoring and recording course progress, specifying requirements for achieving satisfactory progress, the provider's processes and policies to uphold academic integrity, assessment of progress, identification of students at risk of not meeting requirements and details of the provider's intervention strategy. 		

VET programs

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> VET providers must have and implement a documented policy and process for assessing course progress, specifying requirements for achieving satisfactory process and policies to uphold academic integrity, assessment of progress, identification of students at risk of not meeting requirements and details of the provider's intervention strategy. 	Support	If it applies (see comment above about 8.1).
<ul style="list-style-type: none"> A VET provider must have and implement a documented policy and process for monitoring students' attendance if the ESOS agency requires that provider to monitor attendance as well as course progress. This requirement in the National Code replaces previous arrangements split between the National Code and Course Progress Guidelines that applied to VET. If the ESOS agency imposes attendance monitoring as a requirement for a VET provider, the minimum requirement for attendance is 80% of the scheduled contact hours for the course. If the VET provider is required to monitor attendance of students, the provider must have an intervention strategy for students at risk of not meeting attendance requirements. 		It is unclear if 8.10, 8.11 and 8.12 would apply to providers of short courses.

Course duration and allowable extensions

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> • Providers must continue to not extend the duration of a student's enrolment if the student is unable to complete the course within the expected duration, unless: <ul style="list-style-type: none"> ○ compassionate and compelling circumstances apply ○ the provider has implemented, or is implementing, an intervention strategy to assist the student to meet course progress (or attendance, if applicable) requirements ○ there is an approved deferral or suspension of the student's enrolment under standard 9. 		<p>This appears to have been written with full-time students in mind.</p> <p>Students will frequently enrol in a first aid course and then defer the course to another date for a wide variety of reasons. The wording of 8.13 could be interpreted as not allowing this situation to occur.</p>
<ul style="list-style-type: none"> • If a student's enrolment is extended, the provider must advise the student of any potential impacts on their visa. 	NA	This does not apply to overseas students enrolled in short courses.

Reporting breaches of visa requirements

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> • Providers must continue to report students who do not meet course progress (attendance requirements if applicable) and notify the student: <ul style="list-style-type: none"> ○ that the provider intends to report them ○ inform the student of the reasons ○ advise the student they can appeal ○ report the breach in PRISMS in accordance with s19(2) of the ESOS Act 	NA	It is assumed that this does not apply to short courses as this is not the full-time course tied to their visa.
<ul style="list-style-type: none"> • A provider may decide not to report a student for breaching attendance requirements if the student provides genuine evidence of compassionate or compelling circumstances, is still attending at least 70 per cent of course contact hours and appeals the decision successfully 	NA	

Online learning

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Online and distance learning are defined in the standard. 	Do not support	Thee definition is unclear, particularly sentence 2.
<ul style="list-style-type: none"> The 2007 National Code requirement that providers must not enrol a student exclusively in distance or online learning in any compulsory study period has been removed. 	?	The statement opposite does not seem to match the wording of 8.17.
<ul style="list-style-type: none"> Higher education and VET providers must not deliver more than one-third of a student's course online. 	Do Not support	<p>The most common first aid course undertaken by students is the Provide First Aid course, as this is the minimum workplace requirements identified in the First Aid in the Workplace Code of Practice. Provide First Aid normally requires 2 days of class attendance.</p> <p>However, St John, any many other providers, have developed blended learning delivery modes which allows students to complete the course in 1 day of class attendance, with 1 day completed online. Under 8.18, overseas students would not be allowed to do the blended learning option as more than a third of the course is done online.</p> <p>The effect of this standard would be to reduce options available to overseas students.</p>
<ul style="list-style-type: none"> Providers must take all reasonable steps to prevent students being disadvantaged by additional costs or requirements associated with online learning or by an inability to access the resources and community of the education institution, or opportunities to engage with other students. 	Support	

Standard 9 – Deferring, suspending or cancelling the student’s enrolment

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Standard 9 now relates to deferring, suspending or cancelling the student’s enrolment (previously standard 13). It clarifies the current requirements but makes no significant changes to policy from the 2007 version. 	Noted	

Standard 10 – Complaints and appeals

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Assessment of an internal complaint or appeal must be finalised within 20 working days. 	Support	

Standard 11 – Additional requirements

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> Standard 11 creates new provisions for additional registration requirements, many of which were previously in Part C of the 2007 version of the National Code relating to ‘registration authorities’. Registration authorities are replaced by ESOS agencies by amendments to the ESOS Act passed in December 2015. 	Noted	

PROPOSED AMENDMENTS	SUPPORT / DO NOT SUPPORT	COMMENTS <i>Please provide a comment if you do not support a proposed amendment, and suggest alternative wording if appropriate.</i>
<ul style="list-style-type: none"> • Providers must seek approval from the ESOS agency, including through the relevant designated State authority if the provider is a school, for proposed: <ul style="list-style-type: none"> ○ course content and duration ○ number of overseas students enrolled within the limit approved by the ESOS agency ○ arrangements with other education providers (partnerships). • Providers must also seek approval from their ESOS agency for any proposed changes to the above during their period of registration under the ESOS Act. 	Clarify	<p>11.1 states that it only applies to full-time courses. What is the definition of full-time?</p> <p>The current wording of 11.1 means that providers of short courses do not need to comply with this requirement. Is that the intent?</p> <p>What do providers of short courses need to provide in relation to the items identified in 11.1.</p>
<ul style="list-style-type: none"> • Providers must advise their ESOS agency, including through the relevant designated State authority if the provider is a school, in writing of: <ul style="list-style-type: none"> ○ any other affiliated organisations registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) ○ any changes to high managerial agents or ownership of their organisation. 	Support	
<ul style="list-style-type: none"> • Self-accrediting providers must undertake an independent external audit during their period of registration, at least within 18 months prior to renewal of registration, allowing the outcomes to be used for registration renewal. 	NA	

Other comments

Please list any other comments here:

It appears to St John that the National Code has not been prepared with short courses in mind. The prime focus is on providers of full-time courses that are the basis of overseas students getting a visa to study in Australia.

We argued earlier in this document that short courses should not be covered by the National Code.

If providers of short courses are to be covered by the National Code, then the points raised in this document should be addressed to ensure that the National Code covers providers of short courses to overseas students.

St John is Australia's largest provider of first aid training. St John is currently not CRICOS registered because it only delivers part-time courses and the current National Code does not permit registration of part-time courses in CRICOS. The proposed wording of the revised National Code raises some difficulties for providers of first aid courses, as identified above in this document.

In addition, the costs of being registered for CRICOS is significantly higher for providers of short courses than for full-time courses, measured as a percentage of income generated. The costs include the initial and ongoing registration, the yearly registration costs per student, contributing to the Tuition Protection Service, the administrative costs in entering student details into another computer system and the ongoing costs in monitoring and reporting on overseas students. When students only pay \$100 - \$200 for a first aid course or nothing in the case of overseas students who volunteer, these administrative costs are high compared to the income received.

If first aid providers are required to be registered with CRICOS and first aid providers decide not to be registered because of the requirements and the costs, the end result will be that overseas students will have limited opportunities to complete a first aid course. Further, they will be unable to undertake the blended learning options currently available to Australian students. The reputation of the Australian education system to overseas students will be damaged through the perceived barriers to completing their studies in Australia. As far as we are aware, none of our competitor countries (UK, USA) for overseas students have put such restrictions on overseas students undertaking short courses, incidental to their studies.