Australian Government

Department of Education and Training

ESOS Agency for Schools
Regulator Performance Framework
Annual Report 2015-16

Contents

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	*Education Services for Overseas Students Act 2000*
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	*Education Services for Overseas Students Regulations 2001*
ESOS Charges Act	*Education Services for Overseas Students (Registration Charges) Act 1997*
GETI	Tasmanian Government Education and Training International
Immigration	Australian Government Department of Immigration and Border Protection
ISQ	Independent Schools Queensland
KPI	Key Performance Indicator
National Code	*National Code of Practice for Providers of Education and Training to Overseas Students 2007*
PRISMS	Provider Registration and International Student Management System
Refund Specification	*Education Services for Overseas Students (Calculation of Refund) Specification 2014*
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
The Department	Australian Government Department of Education and Training
The Secretary	Secretary of the Department
TPS	Tuition Protection Services
VET	Vocational Education and Training

# Regulator Performance Framework Annual Report 2015-16

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 2016, 413 school providers across Australia were registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) to provide courses to around 40,000 overseas students studying in Australia. Out of these 413 providers, 15 also provided courses in higher education and/or VET sectors. These 15 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 and/or the Australian Skills Quality Authority. These 413 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 2016**[*]
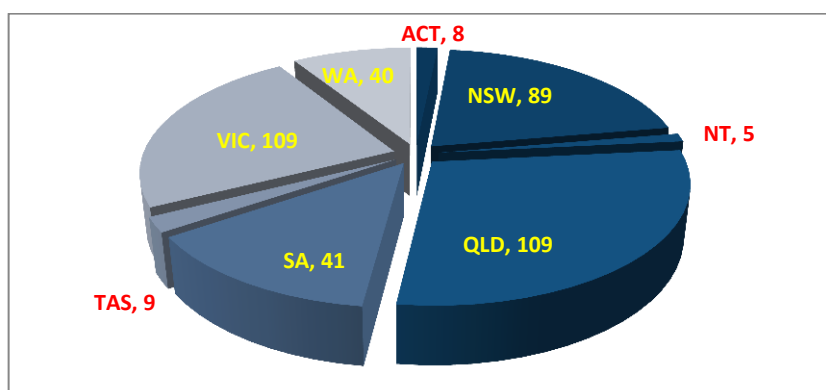
[*]Excluding 3 nationally registered dual or multi sector providers.

This report is a formal self-assessment report by the agency against the *ESOS Regulator (Schools) RPF Metrics 2015,* which is at *Appendix 2* and also available at www.internationaleducation.gov.au.

Summary of Performance

In 2015-16, 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:

- 17 monitoring visits
- 8 information sessions
- 1 face-to-face meeting of the national Dual/Multi Sector Working Group
- 7 face-to-face meetings with Designated State Authorities (DSAs)
- 174 CRICOS registration renewals and one initial registration.

The agency also:

- 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 when developing the *ESOS Regulator (Schools) RPF Metrics 2015*.

As a result of the agency's education and monitoring activities, and PRISMS' enhancements, the overall level of compliance with ESOS by school sector providers has improved. From May 2015 to May 2016, the average numbers 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 except one which remained constant (see *Chart 2*).

Chart 2 **Average numbers of possible breaches of section 19(1) per provider**
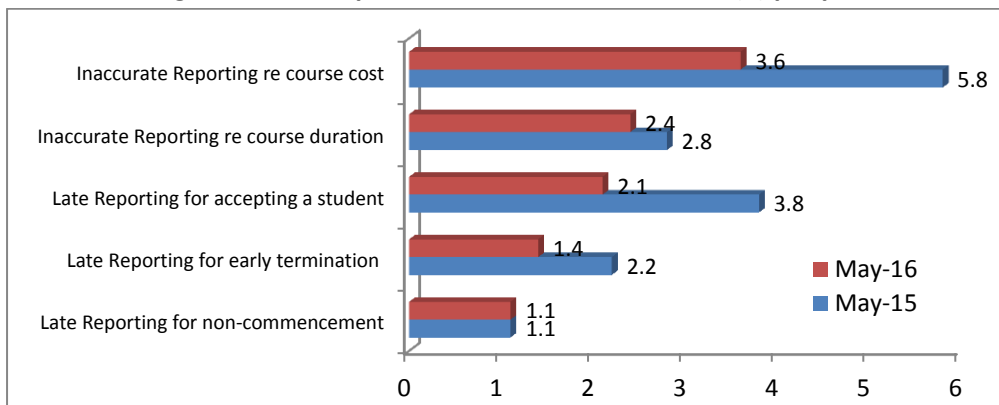
Table 1 **Compliance education, stakeholder engagement and monitoring activities**

Date	Activities	State
24-Jun-16	Information Session	ACT
27-May-16	Information Session	VIC
19-May-16	Information Session	SA
22-Apr-16	Information Session	QLD
10-Mar-16	Information Session	WA
26-Oct-15	Information Session	QLD
16-Oct-15	Information Session	TAS
24-Jul-15	Information Session	NSW
18-May-16	Meeting with DSA	SA
23-Mar-16	Meeting with DSA	VIC
9-Mar-16	Meeting with DSA	WA
24-Feb-16	Meeting with DSA	QLD
24-Nov-15	Meeting with DSA	NT
27-Oct-15	Meeting with DSA	QLD
22-Sep-15	Meeting with DSA	WA
18-May-16	Monitoring Visits	SA
22-Mar-16	Monitoring Visits	VIC
11-Mar-16	Monitoring Visits	WA
10-Mar-16	Monitoring Visits	WA
26-Feb-16	Monitoring Visits	QLD
25-Feb-16	Monitoring Visits	QLD
24-Feb-16	Monitoring Visits	QLD
25-Nov-15	Monitoring Visits	NT
24-Nov-15	Monitoring Visits	NT
24-Nov-15	Monitoring Visits	NT
27-Oct-15	Monitoring Visits	QLD
26-Oct-15	Monitoring Visits	QLD
15-Oct-15	Monitoring Visits	TAS
15-Oct-15	Monitoring Visits	TAS
24-Sep-15	Monitoring Visits	WA
23-Sep-15	Monitoring Visits	WA
23-Sep-15	Monitoring Visits	WA
21-Mar-16	Meeting with all DSAs, ASQA and TEQSA (including Dual/Multi Sector Working Group)	ALL

Table 2 **Number of New Registrations and Renewals of School Providers**

State	New Registrations	Renewals
ACT	0	1
NSW	0	9
QLD	0	91
SA	0	39
TAS	0	5
VIC	1	20
WA	0	9
ALL	**1**	**174**

Detailed Report

Deliverables of the agency are self-assessed according to evidence collected against the *ESOS Regulator (Schools) RPF Metrics 2015* (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* (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 informative emails targeted to those issues.

The agency based monitoring and inspection approaches on risk 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 certain thresholds determined by the agency. Where possible the agency organised joint monitoring visits with DSAs and other ESOS agencies.

The agency ensured that all the 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 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 (roughly two to four pending the size of enrolments). 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 2015-16, the agency:

- reviewed and simplified its risk assessment and communication processes for CRICOS registration renewals (as a result, it shortened the renewal turn-around time to three weeks following final submission of all documents and information required.)
- delivered workshop presentations via on-line teleconference to remote/regional participants in Tasmania and Queensland (the agency is reviewing the effectiveness of these methods and may organise webinars in the new financial year).
- enhanced the Provider Registration and International Students Management System (PRISMS) by having enabled providers to bulk-upload some student data (such as course locations) via PRISMS

- implemented the streamlined registration processes, application forms and reporting requirements introduced by the recent 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 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.

In 2015-16, 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 enhanced its communication with CRICOS registered school providers in 2015-16 by having increased the number of opportunities to provide face-to-face explanations of legislative changes and regulatory requirements. In 2015-16, the agency delivered eight information sessions, which were three more than the year before (see *Table 3* and *Table 4*).

Table 3 Information sessions delivered in 2014-15

	Date	State	Audience (no.)	Host
1	25 May 15	QLD	50+	EQI
2	17 Apr 15	VIC	80+	VIC DSA
3	26 Feb 15	SA	60+	SA DSA
4	12 Feb 15	QLD	80+	QLD DSA
5	27 Nov 14	WA	40+	WA DSA

Table 4 Information sessions delivered in 2015-16

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

The agency consulted the hosts before each information session on presentation topics and the level of detail required, and then tailored the presentation to ensure audiences' needs were met. The presentations were well received, according to feedback received from those present, and achieved the expected outcomes.

The agency used feedback to identify areas for improvement to ensure the guidance and information provided was up to date, clear, accessible and concise 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.

As a result of the agency's promotional, educational and monitoring activities, as well as PRISMS' enhancements, 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 2015 to May 2016 in all aspects except one, which remained at the same level over May 2015 (see *Table 5)*.

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

Type of Breaches	May 2015	May 2016
Late Reporting for non-commencement	1.1	1.1
Late Reporting for early termination	2.2	1.4
Late Reporting for accepting a student	3.8	2.1
Inaccurate Reporting re course duration	2.8	2.4
Inaccurate Reporting re course cost	5.8	3.6

[*]Including 388 school providers; excluding 10 school providers that did not have any enrolment, and also dual or multi sector providers (15 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 applied a risk-based, proportionate approach to compliance monitoring engagement and regulatory enforcement actions. It implemented internal procedures for selecting providers for desktop audits and visits based on risk assessments using PRISMS data, historical and other relevant information.

It is the agency's policy to only take enforcement actions 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; and
- have systematic and on-going non-compliance issues.

In 2015-16 no enforcement action was taken. There was no evidence showing that any school providers required enforcement action, such as imposing conditions on, suspending or cancelling CRICOS registration.

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
- referrals from the Overseas Students Ombudsman
- media coverage
- serious complaints/allegations received by the agency.

The agency regularly reviewed and updated the above approaches, as well as the PRISMS Risk Matrix.

Recent ESOS compliance monitoring exercises through desktop analyses and monitoring visits 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' responsibility under Standard 5 of the National Code for students under 18 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. 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 relevant procedures.

KPI 4 - Compliance and monitoring approaches are streamlined and coordinated

The agency engaged relevant DSAs and other ESOS agencies, i.e. TEQSA and ASQA, where possible, to conduct monitoring visits to ensure its compliance and monitoring approaches were streamlined and coordinated.

In 2015-16, 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 over 400 CRICOS registered school providers. This also 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 2015-16 compared to the previous financial year.

Table 6 **Number of visits and joint visits in 2014-15 and 2015-16**

State	2014-15		2015-16	
	No. of Visits	*No. of Joint Visits*	*No. of Visits*	*No. of Joint Visits*
ACT	0	0	0	0
NSW	8	8	0	0
NT	0	0	3	3
QLD	4	4	5	5
SA	2	2	1	1
TAS	4	0	2	0
VIC	3	3	1	0
WA	2	2	5	5
ALL	**23**	**19**	**17**	**14**

Although the number of joint visits did not increase as originally expected, the proportion of joint visits remained constant over the last two years, i.e. 82.6% and 82.4% respectively.

The agency engaged 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 the agency's processes
- minimising the frequency of information collection, as it is shared between agencies.

In 2015-16, the agency visited two dual-sector providers and invited other relevant regulators. The agency kept relevant DSAs and ESOS agencies informed of the progress of the visits and shared with them the findings and outcomes of the visits.

To ensure coordinated approaches, the agency made efforts to meet 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 2015-16, the agency had seven meetings with DSAs, shown in *Table 7* below.

Table 7 **Meetings with DSAs 2015-16**

Date	Activities	State
18-May-16	Meeting with DSA	SA
23-Mar-16	Meeting with DSA	VIC
9-Mar-16	Meeting with DSA	WA
24-Feb-16	Meeting with DSA	QLD
24-Nov-15	Meeting with DSA	NT
27-Oct-15	Meeting with DSA	QLD
22-Sep-15	Meeting with DSA	WA

On 21 March 2016, the agency chaired a meeting of the Dual/Multi Sector Working Group (the Group) consisting of representatives from all states and territories and all ESOS agencies including ASQA and TEQSA. The Group discussed the issues around the latest changes to the ESOS Act and agreed to develop a regulatory agency contacts list and a communication protocol between relevant government agencies for dual or multi sector providers.

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 provider's representatives to ensure both the authorised officers and providers could determine on the spot whether or not the alleged breaches were true, and if not, why. To date, the feedback from providers visited about the approach taken has been very positive.

In the four information sessions delivered in 2016, the agency provided detailed information about its risk-based framework, including the factors being used to identify risks and how to manage them. The agency ensured the information provided was current, clear and accessible.

Before each Annual Registration Charge collection is due, the agency sends at least two reminders by email to the principal executive officers and administrative contacts of all providers. This is necessary to remind providers of their obligations of ARC payment, and most importantly, explaining how the ARC is calculated. To make the process of ARC collection transparent, the relevant information is published on the www.internationaleducation.gov.au website and PRISMS. Further, a hotline service on the ARC is provided between January and April each year to answer any query about the processes or requirements. In 2015-16, the agency did the same.

Table 8 **Number of reduction in terms of possible breaches of section 19(1) by provider visited in 2015-16**

Provider Visited	Late Reporting for non-commencement (No.)	Late Reporting for early termination (No.)	Late Reporting for accepting a student (No.)	Inaccurate reporting for course duration (No.)	Inaccurate reporting for course cost (No.)
A	3	8	0	-18	-4
B	-15	-7	-12	2	0
C	0	-2	0	2	4
D	-1	-2	-28	0	0
E	1	9	-3	4	-9
F	2	2	0	0	2

G	0	0	0	0	1
H	0	3	0	-2	0
I	0	-4	-6	-1	0
J	1	0	-1	0	0
K	-1	2	-1	-2	0
L	6	-12	-36	-13	-14
M	5	5	3	1	-1
N	27	2	14	384	0
O	0	-6	3	1	3

*For privacy considerations, the names of the individual providers visited have been removed.
Source: PRISMS Risk Matrix Report May 2015 and May 2016

Table 9 **Proportion reduction in terms of possible breaches of section 19(1) by provider visited in 2015-16**

Provider Visited	Late Reporting for non-commencement (%)	Late Reporting for early termination (%)	Late Reporting for accepting a student (%)	Inaccurate reporting re course duration (%)	Inaccurate reporting re course cost (%)
A	16.2	23.7	0.4	-16.4	-0.6
B	-25.6	-11.4	-2.8	1.1	0.0
C	0.0	-100.0	0.0	2.3	0.9
D	-12.6	-2.5	-6.5	0.0	0.0
E	33.3	100.0	-9.1	8.3	-28.9
F	66.7	-20.0	0.0	-2.2	3.2
G	0.0	0.0	0.0	0.0	20.0
H	-83.3	16.7	-0.6	-5.6	-0.3
I	0.0	-40.0	-17.9	-4.6	0.0
J	-60.0	0.0	-7.1	-2.2	0.0
K	-57.6	9.5	-2.2	-9.3	0.0
L	9.7	-11.5	-4.8	-2.9	-1.9
M	100.0	62.5	8.4	-12.6	-4.6
N	-36.3	-30.0	-0.3	-6.7	0.0
O	-9.5	-46.2	0.9	0.6	1.2

As a result of the site visits, all the schools visited by the agency in 2015-16 have predominantly improved their level of compliance with section 19(1) of the ESOS Act. *Table 8* and *Table 9* above indicate that most of the 15 schools (of which two multi-located providers were visited twice) visited by the agency, 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 2015. The effectiveness of visits conducted later in the period will be measured over the next reporting period.

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

The agency established 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.

It increased awareness among providers of the ESOS legislative framework through the eight information sessions in 2015-16.

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 2015*, with a couple of exceptions (marked as semi-ticks), such as the postponement of the *Induction Package* and, the steady (rather than increased) proportion of joint visits. Although these exceptions are minor issues, the agency has undertaken to review and address them appropriately in 2016-17.

In 2016-17, the agency will build on its success and actively contribute to the continuous improvement of regulatory frameworks.

The agency will continue:

- strengthening compliance education activities through producing quality compliance guidance or education materials such as the *Induction Package* and providing training on compliance via workshops and at www.internationaleducation.gov.au
- conducting more targeted and focused compliance activities based on thorough analyses of risk data available to the agency, to ensure that school providers of concerns are closely monitored
- enhancing intergovernmental relations to achieve a coordinated approach in compliance through stakeholder engagement
- improving regulatory processes to meet the requirements of the *Regulator Performance Framework*, and ensure that its regulatory processes are fair, transparent, effective and efficient.

The agency will take immediate action to:

- improve PRISMS Risk Matrix Data's relevance, usefulness, reliability and accessibility; and
- increase contacts with peak bodies to seek and respond to their feedback/suggestions.

ACKNOWLEDGEMENT

This report was prepared by Dr Tiemin Tim Wu, with guidance from Ms Karen Sandercock and helpful input from Mr Ben Houston, Mr Warwick Miles, Dr Jessica Haag and Ms Yanira Pino.

The agency acknowledges the feedback given by the key stakeholders*.

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 for feedback:

AUSTRALIAN CAPITAL TERRITORY
Ms Lynda Tooth, Manager, Liaison Unit, ACT Education Directorate *

NEW SOUTH WALES
Ms Anne Keenan, Director, School Registration and Accreditation Standards Directorate
Board of Studies, Teaching and Educational Standards NSW

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

QUEENSLAND
Ms Lisa Russell, A/Manager, International Quality (Schools) Registration Services (International, Non-State and Home Education), QLD Department of Education and Training

SOUTH AUSTRALIA
Ms Melinda Day, Schools Project Officer, Education and Early Childhood Services Registration and 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

THE INDEPENDENT SCHOOLS COUNCIL OF AUSTRALIA
Ms Caroline Miller, Director Policy and Research

AUSTRALIAN GOVERNMENT SCHOOLS INTERNATIONAL
Ms Elizabeth Webber, Chair

*Feedback had not been received from this organisation before the report was published.

Appendix 1 **Summary of key regulatory activities by state 2015-16**

Date	Activities	State
24-Jun-16	Information Session	ACT
24-Jul-15	Information Session	NSW
25-Nov-15	Monitoring Visits	NT
24-Nov-15	Monitoring Visits	NT
24-Nov-15	Monitoring Visits	NT
24-Nov-15	Meeting with DSA	NT
22-Apr-16	Information Session	QLD
26-Feb-16	Monitoring Visits	QLD
25-Feb-16	Monitoring Visits	QLD
24-Feb-16	Monitoring Visits	QLD
24-Feb-16	Meeting with DSA	QLD
27-Oct-15	Monitoring Visits	QLD
27-Oct-15	Meeting with DSA	QLD
26-Oct-15	Monitoring Visits	QLD
26-Oct-15	Information Session	QLD
19-May-16	Information Session	SA
18-May-16	Monitoring Visits	SA
18-May-16	Meeting with DSA	SA
16-Oct-15	Information Session	TAS
15-Oct-15	Monitoring Visits	TAS
15-Oct-15	Monitoring Visits	TAS
27-May-16	Information Session	VIC
23-Mar-16	Meeting with DSA	VIC
22-Mar-16	Monitoring Visits	VIC
11-Mar-16	Monitoring Visits	WA
10-Mar-16	Monitoring Visits	WA
10-Mar-16	Information Session	WA
9-Mar-16	Meeting with DSA	WA
24-Sep-15	Monitoring Visits	WA
23-Sep-15	Monitoring Visits	WA
23-Sep-15	Monitoring Visits	WA
22-Sep-15	Meeting with DSA	WA

Appendix 2 **ESOS Regulator (Schools) RPF Metrics 2015**

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.	1.1.1 Maintain a knowledge base of providers their environment and issues impacting them. 1.1.2 Mechanisms are in place for regular communication with CRICOS-registered schools, designated authorities (DAs) and other relevant regulators to share knowledge and understanding of current and emerging issues.	• Maintain and update providers' profiles annually. • Undertake regular environmental scanning at least annually by staff (including review of international best practice.) • Regularly meet with State/Territory DAs (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.	1.2.1 Conduct workshops with providers that give information on legislative requirements and opportunities for feedback from the sector on regulatory impacts. 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.	• 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.	1.3.1 Implement streamlined registration processes, application forms and reporting requirements. 1.3.2 Use feedback processes to identify and implement new areas for improvement.	• 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.	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. 2.1.2 Seek feedback from stakeholders on guidance and advice provided.	• Seek feedback about information, guidance and advice given to the providers via - 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.	• 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.	2.3.1 Finalise registration and renewal processes in a timely manner. 2.3.2 Provide detailed explanations for rejections.	• 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	• 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.	• Release bulk uploading functions in the past year and reduce costs as a result
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.	• 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, including using earned autonomy where this is appropriate. 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.	• Compare risk factors for a provider over a specified historical period • Exchange information with State/Territory DAs 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**.**	4.1.1 Tailor requests for information and only make requests when necessary. 4.1.2 Improve support to providers' compliance through education and discussion of identified issues	• 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. State DAs) 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 State DAs, and also invite ASQA and/or TEQSA if the regulated entity is a dual or multi sector provider.	• Have meetings/teleconferences with State DAs 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.	• Liaise with State/Territory DAs 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 on the Internet by 1 July 2015	• 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	• 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.	6.1.1 Have an open, friendly and professional relationship and liaise with all relevant regulators on a regular basis. 6.1.2 Create a growth of awareness among providers regarding compliance with the ESOS legislative framework	• 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	• Visit all States and provide workshops 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.	• Liaise with policy area on a regular basis regarding feedback from providers. • Engage the ESOS policy and

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Appendix 3 **Summary of deliverables against the *ESOS Regulator (Schools) RPF Metrics 2015***

KPI 1 – REGULATORS DO NOT UNNECESSARILY IMPEDE THE EFFICIENT OPERATION OF REGULATED ENTITIES

#	Planned	Actual
1	Maintain and update providers' profiles annually	✓
2	Undertake regular environmental scanning at least annually by staff (including review of international best practice.)	✓
3	Regularly meet with State/Territory DAs (before or after compliance monitoring visits)	✓
4	Share info with all relevant stakeholders where possible (including meetings with the multisector working group)	✓
5	Deliver workshops across all States and Territories every 2 years	✓
6	Record feedback and address all issues identified	✓
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 2 – COMMUNICATION WITH REGULATED ENTITIES IS CLEAR, TARGETED AND EFFECTIVE

#	Planned	Actual
1	Seek feedback about info, guidance & advice given to providers via helpdesks, workshops, website & educational materials	✓
2	Record consultation activities and outcomes	✓
3	Complete registration/renewal process within an average timeframe of 3 weeks	✓
4	Notify providers when State DAs' recommendations are received; and provide detailed explanations for rejections	✓
5	Review and update Call Centre scripts and templates in a timely manner	✓
6	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

#	Planned	Actual
1	Release bulk uploading functions in the past year and reduce costs as a result	✓
2	Annually review of risk data (risk matrix)	✓
3	Review internal process on a biannually	✓
4	Compare risk factors for a provider over a specified historical period	✓
5	Exchange info with State DAs regularly re providers of concern and providers with best practice	✓
6		
7		
8		
9		

KPI 4 – COMPLIANCE AND MONITORING APPROACHES ARE STREAMLINED AND COORDINATED

#	Planned	Actual
1	Only request for info in relation to high risk factors, and focus on providers with serious compliance issues	✓
2	Share quarterly PRISMS Risk Matrix info with relevant regulators (i.e. State DAs) when it becomes available	🟠✓
3	Have meetings/teleconferences with DAs or ESOS Agencies before any monitoring visits to ensure a streamlined approach	✓
4	Share relevant info with DIBP where possible	✓
5	Liaise with State DAs and peak bodies on a regular basis	🟠✓
6	Have a multi-sector working group meeting at least once a year – to review multi-sector compliance monitoring approaches	✓

KPI 5 – REGULATORS ARE OPEN AND TRANSPARENT IN THEIR DEALINGS WITH REGULATED ENTITIES

#	Planned	Actual
1	Make the info about CRICOS and ESOS available on the internationaleducation.gov.au website	✓
2	Update the info about CRICOS and ESOS in a timely manner to reflect legislative or administrative changes	✓
3	Develop a streamlined info webpage relating to CRICOS registration, renewal, fees and compliance for schools	✓
4	Publish performance results on the internationaleducation.gov.au website annually and in a timely manner	✓

KPI 6 – REGULATORS ACTIVELY CONTRIBUTE TO THE CONTINUOUS IMPROVEMENT OF REGULATORY FRAMEWORKS

#	Planned	Actual
1	Liaise with policy area on a regular basis regarding feedback from providers	✓
2	Have joint workshops on ESOS compliance as planned	✓
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	✓