



**ASSOCIATION OF
AUSTRALIAN EDUCATION
REPRESENTATIVE IN INDIA**

Registered under Societies Registration Act XXI 1860
Registration No. S-31213 of 1997

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AAERI's Submission to ESOS Review - 26th April, 2022

Dear Review Committee

The Association of Australian Education Representatives in India (AAERI) is pleased to provide this submission to this important review of the ESOS Framework.

AAERI was formed in October 1996 to assure the integrity and credibility of agents who are recruiting students on behalf of Australian education and training institutions. Since then, AAERI has introduced a Code of Ethical Practices in line with the ESOS Act and the London Statement. We offer training, advice, and support for South Asian education agents.

We also provide regular strategic advice and intelligence to the Australian Government via the Australian High Commission, New Delhi and through our engagement in Australia with multiple government agencies.

We would like to highlight the following as key points for the Committee to consider in the review.

1. ESOS is an important regulation and AAERI takes this regulation extremely seriously. AAERI recommends that all Counsellors who are involved directly or indirectly recruiting international students should be 'ESOS certified'.

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2. The principal agent which receives the eCoe via PRISMS should be the only party able to lodge the visa. AAERI further recommends that PRISMS data and Visa data are linked. For this issue there are two complimentary approaches required - 1) done through ESOS and in strengthening obligations on Education providers make it mandatory to have a clause in the agreement that all the Visa applications should be lodged by the Principal agent and 2) a visa lodgement recommendation which would need to be taken forward by DHA.
3. In the case of India, the Association of Indian Universities Guidelines note that overseas qualifications obtained by distance or online mode are not recognised as equivalent qualifications to the Indian Education System and degree structure and this should be considered by the Committee with a solution built into the ESOS regulations to ensure students are not misled on this point. For India specific situation as an example, there is a push to online and increase in online and hybrid models by Australian providers and this is misleading. There is need to strengthen ESOS regulation in this area in terms of misleading marketing & misleading promotions. Online equivalence issue for India can be tackled by the Australia-India Task force on Qualifications Recognition which was recently announced.
4. Prior to the issuing of the eCoe, it should be mandatory for all Education providers to test the level of English of the applicant via an approved English language test.

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5. Stopping Course Hopping - PRISMS should not issue a fresh eCoe within the 12 months of course starting.

AAERI would welcome an opportunity to discuss these issues with the Review Committee face to face or virtually and look forward to this opportunity.

AAERI remains committed to the strengthening of the ESOS Act and Framework in coming months.

Yours sincerely

Rahul Anupam Gandhi

AAERI - Visa Committee Head

rahul@takeoffeducation.com

Attachments

- 1) ESOS Review Submission - 26th April, 2022 - Page 4
- 2) Annexure A - Advisory Subagents as lead generation - 23rd July, 2019 - Page 28
- 3) Annexure B - Advisor against use of MOI letters as evidence of English Proficiency - 22nd August, 2018, Page - 36.
- 4) Annexure C - refund of tuition fees - 7th July, 2019, Page - 43.

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Expansion and diversification

1. What are the barriers in the current ESOS framework to the sector's expansion and diversification into online and offshore delivery?

The biggest barrier in the current ESOS framework is that it does not define clear roles & responsibilities for 'recruiting agents' which are based overseas. Recruitment is an important activity directly and indirectly impacts the International Students, Australian Education providers and the Department of Home Affairs. For example, Post Covid, the number of Technology / Aggregator companies in India have increased drastically. As AAERI we are not against the rise of technology. However, AAERI has observed that in some cases, subagents (via technology companies) are not only referring clients for applications and admissions but also lodging the student visa files directly (or under the students' name) without the involvement of the principal agent. This practice is a concerning and dangerous trend where not only the interest of the student is compromised but there is also a risk to the 'Australian Education brand' in the South Asian market. While AAERI understands that the principal agent details will be entered into the PRISMS, it is our **request** that the visa process ensures that the visa is lodged only by the principal agent. If the agent differs then it is evident that the GTE checks and other compliance checks

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carried out by the principal agent (on behalf of the University or training provider) listed as the primary agent in the PRISMS is not valid. These efforts are wasted and the intent fail when the principal agent purely acts like a “master agent with a back office”. They only work with technology and software that encourages a model that breeds and promotes “un-contracted agents” to simply route applications through the master agency and the visa too is handled by the subagent / un-contracted agent with no involvement or interaction of principal agents with the client students. To understand this concern, please see attached AAERI’s advisory on this issue (July 2019, Annexure A, page 28). A significant problem is that the regulations do not stipulate who can lodge a visa application and hence this loophole is exploited and the essence of GTE is lost. For this issue there are two complimentary approaches required - 1) done through ESOS and in strengthening obligations on Education providers make it mandatory to have a clause in the agreement that all the Visa applications should be lodged by the Principal agent and the 2) is a visa lodgement recommendation which would need to be taken forward by DHA.

2. What lessons have we learnt through flexible delivery, online modes of study and other changes in response to the pandemic that could be incorporated into the ESOS framework?

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Currently, it is estimated that annually approximately 30,000 students from India opt for higher education in Australia and approximately 100,000 Indian students are studying higher education courses in Australia. As per the guidelines of the Indian Ministry of HRD, students returning to India after their studies and seeking further studies in India or seeking employment with public sector, government or with academia must seek an equivalence for their degrees from AIU (Association of Indian Universities). This is where there is an issue:

As per the AIU Guidelines, overseas qualifications obtained by distance or online mode are not recognised as equivalent qualifications to the Indian Education System and degree structure. AAERI is aware that the AIU does not appear to be granting equivalence for such degrees and requires the full degree to have been completed at the same University on campus.

For an Indian student seeking an international qualification, there is no advantage in promoting or encouraging an online education component as part of a degree structure. AAERI is intimately aware of the ten-year efforts to have Australian pathway courses recognised by the AIU and would reasonably expect that this issue would take significant lobbying by the Australian and other like-minded governments to address this. AAERI therefore has **two recommendations** 1) There is need to strengthen ESOS regulation in this area in terms of misleading marketing & misleading promotions 2) online equivalence issue for India

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be tackled by the Australia-India Taskforce on Qualifications Recognition which was recently announced.

More details are at <https://www.aiu.ac.in/documents/evaluation/AIU%20Equivalence%20Information%20Brochure%2013.07.2015.pdf>

3. What percentage of a course should the ESOS framework allow to be studied online? How could the ESOS framework support delivery models such as mixed-mode study where students may move from ESOS non-regulated to a ESOS regulated environment (for example, a student studying part of their degree offshore, and part onshore)?

As the online courses are not recognised by the Indian Government as noted in our answer to question 3, it would be inappropriate and unjust for an Indian education agent to encourage Indian students to complete studies via an online mode. However, the new ESOS Framework needs to emphasise that if education providers still proceed with online delivery modes, then the admission letter should clearly mention 'recognition status' by the Student's Home Country Government. There is a need for explicit transparency on this issue which will further help the international student before they take a decision regarding their further education.

4. What safeguards could be used to increase visibility and assure the quality of courses delivered online and offshore in the future?

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The admission / offer letter should clearly mention 'recognition status' by the Student's Home Country Government.

These is a need for explicit transparency on this issue which will further help the international student before they take a decision regarding their further education.

Meeting skills needs and graduate workplace readiness⁵. How could providers support international students to identify and undertake courses that align with Australia's priority employment fields?

Australian education providers and the Australian Government should publish an annual 'Employment report' which provides details about the jobs in demand and past employment record of its graduates. In the absence of this information, international students are not able to take an accurate decision regarding the courses that align with the Australian priority employment fields.

6. What changes could be made to the ESOS framework to support providers offering a wider range of work integrated learning opportunities?

Counseling students is an integral part of the student recruitment process. It is well known that 'subagents or referral third-parties' are part of the lead generation and to an extent, such referrals have been part of the recruitment process. However, AAERI has observed that in some

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cases, subagents are not only referring clients for applications and admissions but also lodging the student visa files directly (or under the students' name) without the involvement of the principal agent.

AAERI has also observed that there are instances where 'subagents' are involved in the GTE assessments too. This practice is a concerning and dangerous trend, which we have noted above in our response to question 1.

Australian Education Provider (AEP) Agreements have clauses that can only apply to the principal agents. Australian Universities devote significant resources in educating and training their principal agents and their counsellors who are dealing with the students. However, these efforts are wasted, and the intent fails when the principal agent purely acts like a "master agent with a back office". Again we noted this above in question 1.

AAERI recommends two strategic changes for this issue:

- 1) That principal agents who have trained counsellors should do the GTE assessment and lodge the visa file, and
- 2) Every education provider should have an active Career Services department which will guide students for further work integrated issues and future work trends.

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7. What regulatory measures could be implemented to make study choices in occupations and areas of demand more attractive for overseas students

All the courses which lead to the areas of occupation demand should have a minimum 6 months of internship or practical training so that the students can experience and integrate their skills and knowledge with work culture prior to the course completion. Canada offers the most undergraduate courses with options including study, and work or internship. For Australia to remain competitive, these options will need to be enhanced amongst education providers.

Supporting the quality of third party relationships

8. What kinds of measures to increase the transparency of third-party arrangements could be effective in improving student and provider choice?

The most fraud takes place when the principal agent who receives the eCoe via PRISMS is not involved in lodging the Visa. There is no system which links PRISMS data with the Department of Home Affairs lodgement details.

Due to this gap, there are no accountability measures as there is always a pressure to recruit a high number of students.

AAERI recommends that the principal agent which receives the eCoe should also be involved in the visa lodgement at the Department of

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Home Affairs. If a third party is trying to lodge the visa, then the system should not support this. At the same time ESOS should make it mandatory for the Education providers to have a clause in the agreement that all the Visa applications should be lodged by the Principal agent.

9. What are the effects of increasing transparency of agent commissions? Would transparency measures improve student and provider choice? Would they drive down high remuneration rates over time? What are other potential outcomes from increasing agent transparency?

AAERI believes that the commission should be remitted by the education provider directly in the country where they recruited the student from. Currently, some education providers do remit commission overseas and this may contravene various taxes applicable to the country where the student is recruited.

AAERI believes that students will continue to select education providers and agents based on many factors. Being more transparent about agent fees and interactions with education providers is something we are actively engaged in at the board level.

10. What information, such as education agent performance outcomes, can the Government make available to providers to help them decide the agents with which to engage?

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AAERI has always welcomed the idea of agent performance outcomes being available to the education providers.

If education agent data collected and reported by DESE is only based on the name of the education agent recorded in PRISMS at the COE release stage, it will be incomplete and therefore invalid, unless this data is combined with agent data generated from both PRISMS and DHA student visa systems on an ongoing basis – including additional agent data based on new onshore education agent activity for the duration of the student visa. The effect of this could be potentially damaging to the initial education agent.

As AAERI has provided before to the Australian Government DESE, poor and inadequate education provider policies and practices can also promote student touting and poaching by onshore education agents and subsequent course and institution ‘hopping’ or ‘waka jumping’

These practices are to the initial education agent’s detriment, both financially and reputationally if inaccurate agent performance data is attributed to their name, instead of in the new education agent’s name. Hence, when a student changes their education provider onshore and therefore leaves the influence and support of their initial education agent, the performance data of the new education agent should be reflected from that point on in the agent performance data. Currently there is a huge gap in terms of the number of students recruited by

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offshore education agents and those who graduate from their initial program.

AAERI believes the real problem lies here and we note that the post-COE release and student visa grant activities by onshore agents has not been addressed in the policy.

11. Should providers be required to have written agreements with all agents from whom they accept students, it could result in more information for students and improve data reporting on provider and agent activity. Are there any other positive or negative outcomes for students in this change?

AAERI recommends that principal agencies abide by the clauses in their contract with the education provider and if the contract allows use of “sub-agents”, the list of “engaged sub-agents” must be declared on the education provider’s website. If the arrangement with the third party is solely of generating leads and the third party may be an education agent or otherwise, the third party must not go beyond making a referral and the full process applications and visa must be handled by the principal agency. If the third party is handling a part of the process such as lodging the visa, it must be declared to the education provider by the principal agents and the third party should ideally should be listed on the education provider’s website.

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AAERI recommends written agreements with all the agents from whom the education provider accepts students.

12. What information should written agreements between agents and providers contain to protect providers and better inform students and government?

As it is a mandatory requirement for education providers to add the education agent's identity to PRISMS student records upon COE release, the principal agent should only lodge the visa file at the Department of Home Affairs website. Australian Education Provider (AEP) Agreements have clauses that can only apply to the principal agents. Australian education providers devote resources in educating and training their principal agents and their counsellors who are dealing with the students. We have noted the impact of this in our answer to question 1.

AAERI recommends principal agents who have trained counsellors should do the GTE assessment and lodge the visa file.

13. What is the potential impact on providers regarding increased administrative activity if they are required to monitor all agents?

This is a matter for the education providers who are deriving an economic benefit from the student. AAERI believes that all education providers should have ongoing, regular and robust frameworks in place when they are using agents.

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Course transfers

14. How can the ESOS framework enhance optimal student choice and safeguard the ability of providers to deliver a quality education experience?

This question is best answered by the below two points:

1. ESOS is an important regulation and AAERI takes this regulation extremely seriously. AAERI recommends that all Counsellors who are involved directly or indirectly recruiting international students should be 'ESOS certified'.

1. There is a need to develop ESOS certification which can be delivered online or offline for training leading to online assessment & certification. This will improve the overall quality of the student recruitment sector and both the education provider and the international student will benefit directly. AAERI is happy to run such course in the Indian subcontinent.

2. Principal agent which receives the eCoe via PRISMS should only lodge the visa. As we have noted earlier, the problem starts when subagents who are not trained counselors start counseling the students and subsequently lodges the visa.

15. **How can the framework and providers ensure course packaging requirements are transparent to students and support student choice and wellbeing?**

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The offer letter must explain the reasons for the package offer and should mention the requirements for direct entry. This is the only solution for transparent packaging requirements.

16. What are the benefits to providers and students in restricting a student from changing providers within the first six months of their primary course, and what would be alternatives to support student choice?

It is estimated that in a year, approximately 30,000 fresh student visas are issued by the Australian High Commission, New Delhi. On the face value they are genuine students who intend to study & complete their course at a specific education provider. As per the following [report](#) "The Department of Immigration and Border Protection (DIBP) has also identified around 1,000 'course-hopping' international students, who arrived using the Streamlined Visa Process (SVP), but later illegally moved to unaccredited and often cheaper colleges. It is also quoted that "in addition, the student visa cancellations have doubled from 1,978 in 2012 to 7,061 in 2013".

In a recent [article](#) explaining 'course-hopping', it was stated that: "Often with the countries they're coming from, if they had applied for the visa offshore for that vocational college, they would not have been accepted." This proves the fact that course hopping, also known as "waka jumping" is a serious problem. Not only does this affect the huge offshore

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marketing investment, subsequent financial returns of serious Australian education providers are being lost, but also serious education agents who recruited the student offshore are losing their reputations and income as a result of non-genuine student actions over which they have no control.

AAERI is of the view that such practices are attracting non-genuine students who initially opt for a reputable education provider to avail their course and institution specific visa and on arrival or within a few weeks of entering the Australian migration zone, they change to another education provider, which they would not have been issued a visa for if they applied for this institution in their home country.

Now with the Introduction of SSVF system from July 2016 wherein the assessment levels are reduced from 8 to 4, this also means that more education providers will join the pool of SSVF system. While this will provide education providers with an equal playing field, we believe that unless Visa Condition 8206 'Restriction on Change of Education Provider for 12 Months' is not formally included in this scheme, the Australian export education industry will continue to be abused by non-serious students who seek a transfer immediately on or soon after arrival in the Australian migration zone.

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Hence, we at AAERI request the Australian Government to reintroduce Visa Restriction 8206 which restricts international students from changing their education provider for 12 months after they commence the academic program from which their student visa was issued by their diplomatic post.

A Genuine International Student and a Genuine Temporary Entrant is an international student who firstly conducts serious research, takes appropriate professional advice, and ultimately selects their international study program at a specific education provider and completes the course at the same education provider.

Countries such as the USA (with more stable export education industries) also issue course and education provider specific visas to international students, but with the education provider's name mentioned in the visa so students are restricted to studying at that institution – we request that the Australian Government do the same.

The above amendment will not only continue to attract the genuine students but will also safeguard the Australian Education Export Industry – one of the largest and most prospective industries in Australia.

17. Should 'concurrent study' as an option remain within PRISMS and if so, what provisions should be made to ensure it is not abused?

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Mr. Rahul A. Gandhi Head, Visa Committee	Mr. Nishidhar Reddy Executive	Mr. Rupesh Duggal Executive	Mr. Nirmal Chawla Head, Disciplinary Committee	Mr. Prasanna Acharya Head, New Applications Committee
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No Comments

18. What restrictions, if any, should there be on the transfer of adult international students where they wish to transfer between providers?

As we note above, AAERI is of the strong view that a fresh visa application should be submitted to the Department of Home Affairs if the student wishes to transfer courses between the providers prior to 12 months. Most students take an education loan for their further studies and these education loans are granted for the specific education provider. The moment the student transfers to another education provider then this education loan becomes invalid from the Bank and hence the visa which was granted based on this education loan also become invalid. Hence, AAERI recommends that a fresh student visa application should be submitted if the student changes the Education provider prior to the 12 months of the course commencement.

We note that our views on this are captured in question 16.

Written agreements

19. How effective are written agreements in consistently setting out and protecting the rights and obligations of students and providers?

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Written agreements provides the structure for the student recruitment industry. It does define the role of the education providers and the student recruiter (agent) to a larger extent. This indirectly protects the international student and the education provider. However, the challenge is monitoring or implementing these agreements outside the Australian jurisdiction. This is where the role of AAERI comes into the picture. All the Australian Education providers should engage with agents which are part of the self regulated body such as AAERI.

20. What measures could be introduced to increase transparency of written agreements, for the benefit of students and providers?

One of the key challenges is monitoring or implementing these agreements which are outside the Australian jurisdiction. Hence, these agreements should be signed only with the companies which are part of a regulatory monitoring system outside Australia. For example, a self-regulated organisation such as 'AAERI' which is a non-profit organisation and its objective is to regulate the 'Student Recuritment Sector' in India could undertake this role. More details about AAERI are at www.aaeri.org.in

21. If model clauses or model written agreements are introduced, what would they look like and how can they best be leveraged to reduce regulatory compliance costs and promote best practice in the areas of refunds, deferrals and transfers?

No Comments

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22. How could refund regulations be revised to ensure consistency between providers and better reflect the different circumstances in which they may be requested?

Currently all education providers have a different time frame of processing the refunds once the visa is rejected. Some education providers are able to process the refund in 2 weeks and some in 8 weeks. Due to the delay in the refund process, some international students are not able to opt another options of studying as their funds are with the current education provider. Ideally the refund should be processed within 7 working days on submission of all the refund related documents. This will greatly support the international student to exercise other options for Studying overseas under these circumstances.

AAERI's Advisory on refund of tuition fees

Numerous Indian students have approached the Indian banks to disburse the tuition fees and living expenses from the education loan, however number of Indian bank managers are reluctant to disburse the funds in absence of a clear refund policy of tuition fees in the offer letter.

Where a student defaults in relation to a course because of visa refusal or withdrawal of visa file, irrespective of the reason for that refusal, the education provider must issue a refund in accordance with section 47D of the Education Services for Overseas Students Act 2000 (ESOS Act).

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All providers must include in their written agreements / offer letter with students the refund requirements that apply if the student defaults (not just because of visa refusal).

This means that Education providers **cannot** impose their own policy around how much they are going to refund where there is a visa refusal, regardless of the circumstances in which the refusal occurred. Their written agreements around visa refusal should reflect the ESOS Act.

Based on the above information, AAERI strongly recommends a provision within the ESOS Act to instruct the education provider to issue a clear offer letter with the refund of tuition fees policy so that the Indian bank managers can issue / disburse the education loan without further delays and this will also help the students in lodging the visa file in time.

English language

23. How can the ESOS framework better support students' English language skills to match their course requirements on the start of enrolment and ensure an optimal student experience for all students?

(Source - AAERI convention, AUIDF Presentation 17th August, 2018)

At the AAERI Convention 2018, Mr Oliver Fortescue, President & Chair of AUIDF (Australian Universities International Directors Forum)

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highlighted this issue to an audience of members of various Universities, their agents and also senior officers of various Australian Government Departments. In his keynote address, he shared that the standardised approach on streamlining has an issue pertaining to institutions sometimes resorting to waiving English requirements. I share the one slide from that presentation which is below. This slide says that under the Streamline Visa there is no English requirements.

Australian Simplified Student Visa Framework (SSVF)

		Country Immigration Risk		
		One	Two	Three
Education Provided Immigration Risk	One	S	S	S
	Two	S	S	R
	Three	S	R	R

S - Streamlined evidentiary requirements (Documentary evidence of English and financial capacity **not generally required**)

R - Regular evidentiary requirements (Documentary evidence of English and financial capacity generally required)



A U I D F

AUSTRALIAN UNIVERSITIES INTERNATIONAL DIRECTORS FORUM

Source - AAERI convention, AUIDF Presentation 17th August 2018)

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In the past several years, Australian education providers have accepted “Medium of English Instruction” letters from student’s colleges as adequate evidence of English proficiency and have waived the requirement for tests such as IELTS, PTE or TOEFL. Most of these providers have possibly made this waiver to assist their recruitment effort and often under persuasion of market demand.

AAERI is also alerted that there have been instances where this waiver has been exploited by students with inadequate English proficiency, on reaching an Australian institution, they were not able to cope with the study requirements.

Based on the above facts, AAERI is of the view that the ESOS Act should make it mandatory for the education providers to enrol students baed on the required English language scores from a recognised English Test. This will streamline the student recruitment process.

I am also attaching AAERI’s advisory in regards to English language requirements which was published on 22nd August, 2018 (Annexure B page 36)

24. Would it be beneficial to introduce an independent assessment of international students’ English proficiency before they commence their first AQF course?

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AAERI believes that there are number of recognised English Language Tests available in the market and hence an addition English language Test will not solve the problem. The key here is monitoring the test and the grades should reflect the true potential of the candidates.

25. How can PRISMS data entry requirements be adjusted to make it easier for providers to record evidence of a student’s English proficiency?

No comments

26. What additional guidance do providers need to ensure incoming students meet English language requirements?

No comments

27. How can providers of ELICOS and Foundation Programs ensure that students have reached the required level of English language proficiency to start their first AQF course?

English language training is available in all student’s home countries. It is the responsibility of the international student to learn and enhance their English language skills in their home country before they apply for admission to an Australian education provider.

General questions

28. How can the ESOS framework be strengthened and improved to deliver an optimal student experience?

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The ESOS framework can be strengthened and improved if the following clauses are added within the framework and AAERI notes these have been reiterated throughout this document.

1. The principal agent as per the PRISMS data should lodge the visa file at the Department of Home Affairs. PRISMS data should be linked to the Department of Home Affairs. At the same time ESOS should make it mandatory for the Education providers to have a clause in the agreement that all the Visa applications should be lodged by the Principal agent.
2. Prior to the issuing of the eCoe, it should be mandatory for all Education providers to test the level of English of the applicant via an approved English language test.
3. Stopping Course Hopping - PRISMS should not issue a fresh eCoe within the 12 months of course starting. This will stop the student poaching on arrival in Australia and other countries such as USA & NZ issues visa for a specific Education provider. AAERI is also of the view that visa condition 8206 - restriction on change of Education provider for 12 months should be reinstated.

29. How can the framework resolve any regulatory barriers that prevent sector innovation, diversification, and growth of Australian education offerings, including online and offshore?

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Online Education should only be encouraged when it is recognised by the Overseas Country Government. In India, online education is not recognised and hence without the Government recognition, online education should not be promoted.

30. How can the ESOS regulatory framework evolve to better support the sector to deliver a high-quality education experience?

As noted in question 28.

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Annexure A

AAERI's Advisory - Subagents as Third party "lead generation" only unless declared to Education Providers and listed on Education Provider's website. Principle Agency must be fully accountable for all processes including the lodgment of student visas.

Attention: AAERI Members, AAERI Associate AEPs, other Industry stakeholders. Dated: 29 July 2019

Background and the reason for this advisory:

In recent weeks, AAERI has received enquires in regards to the subagent mechanism and how far it is accepted within the Education Services for Overseas Students Framework (ESOS) & the National code. It is a known fact that 'subagents or referral third-parties' are part of the lead generation & to an extent such referrals have been part of the recruitment process. **However, AAERI has observed that in some cases, subagents are not only referring clients for applications and admissions but also lodging the student visa files directly (or under the students' name) without the involvement of the principle agent.** AAERI has also observed that there are instances where 'subagents' are involved in the GTE assessments too. **This practice is concerning / dangerous trend where not only the interest of the student is compromised but also there is a risk to the 'Australian Education**

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brand’ in South Asian market. Australian Education Provider (AEP) Agreements have clauses that can only apply to the principle agents. Australian Universities devote resources in educating and training their principle agents and their counsellors who are dealing with the students. However, these efforts are wasted and the intent fail when the principle agent purely acts like a “master agent with a back office” and who only works around technology and software that encourages a model that breeds and promotes “un-contracted agents” to simply route applications through the master agency and the visa too is handled by the subagent / un-contracted agent with no involvement or interaction of principle agents with the client students.

With advent of online platforms, an attempt is made by some online vendors to dress up subagents as B2B arrangements. **The key issue here is the use of unknown subagents well beyond lead generation and even for the critical visa processing (B2B is window dressing to make subagent use more palatable due to their noncompliant reputation).** AAERI advises that principal-agents are fully accountable and also be accountable for the visa lodgment and not merely applications. If the principal agent is using a subagent then it may only be for lead generation only and if the role of the subagent extends beyond this, then the subagents must be trained and educated by the AEPs and their details also be listed on the AEP’s website.

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AAERI is apprehensive that without suitable controls over subagent use and unchecked encouragement to the online platforms that remain unregulated, the industry will continue to endure service and compliance issues.

AAERI's Advisory to its Members and recommendation to other interested parties:

1. Principal agency (AAERI member having head & branch office - owned or franchised) is the one who has direct contractual relationship with the Australian Education providers & they are listed on the Australian Education providers website.
2. Principal agency should interact directly with the potential student, apply for admission, carry out GTE assessment and lodge appropriate student visa to the Australian Govt.
3. AAERI recommends that principal agencies abide by the clauses in their contract with the Universities and if the contract allows use of "sub-agents", the list of "engaged sub-agents" must be declared to the Universities. If the arrangement with the third party is solely of generating leads and the third party may be an education agent or otherwise, the third party must not go beyond making a referral and the full process applications and visa must be handled by the Principle agency. If the third party is handling a part of the process such as lodging the visa, it must be declared to the Universities by

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the Principle agents and the third party should ideally should be listed on the University website.

4. From the leads generated from sub agents, the Principal agency must remain responsible for admissions processing, GTE assessment and lodgement of appropriate student Visas. The Principle agents are the agents of the University and that is a responsibility that should not be outsourced.
5. While AAERI understands that the principal agent details will be entered into the PRISMS, it is our hope that the visa process ensures that the visa is lodged only by principal agent. If the agent differs then it is evident that the GTE checks and other compliance checks carried out by the principal agent (on behalf of the University) listed as the primary agent in the PRISMS is not valid.

Considering that this issue is an ongoing topic of concern for the sector, the AAERI executives have unanimously decided to issue an advisory / recommendation which will clarify AAERI's position in regards to the use of 'subagents' within the South Asian market.

Reference: ESOS Act and guidelines too are in line with AAERI belief on this issue.

ESOS National Code - Standard 4 - Education agents¹

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4.1 The registered provider must enter into a written agreement with each education agent it engages to formally represent it, and enter and maintain the education agent's details in PRISMS.

4.2.3 the registered provider's processes for monitoring the activities of the education agent in representing the provider, and ensuring the education agent is giving students accurate and up-to-date information on the registered provider's services

4.3 A registered provider must require its education agent to:

4.3.1 declare in writing and take reasonable steps to avoid conflicts of interests with its duties as an education agent of the registered provider

4.3.2 observe appropriate levels of confidentiality and transparency in their dealings with overseas students or intending overseas students²

4.3.3 act honestly and in good faith, and in the best interests of the student

4.3.4 have appropriate knowledge and understanding of the international education system in Australia, including the Australian International Education and Training Agent Code of Ethics.

21A Obligations relating to the agents of registered providers

(1) A registered provider must:

(a) maintain a list of all the provider's agents; and

(b) publish that list:

(i) on its website; and

(ii) in any other manner prescribed by the regulations; and

(c) comply with any requirements of regulations made for the purposes of subsection

(2).

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Note: If a registered provider breaches this section, the ESOS agency for the provider may act under Division 1 of Part 6 against the provider.

AUSTRALIAN INTERNATIONAL EDUCATION AND TRAINING³

Agent Code of Ethics - Discloses all relevant partnerships, affiliations and agreements are disclosed, including, disclosure of sub agent representation agreements and a clearly articulated approach to managing these relationships is in place to ensure compliance with the ACE.

The Agent code of Ethics is based on 7 principles and they are:

- 1. Agents and consultants practice responsible business ethics.*
- 2. Agents and consultants provide current, accurate and honest information in an ethical manner.*
- 3. Agents and consultants develop transparent business relationships with students and providers through the use of written agreements.*
- 4. Agents and consultants protect the interests of minors.*
- 5. Agents and consultants provide current and up-to- date information that enables international students to make informed choices when selecting which agent or consultant to employ.*

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6. *Agents and consultants act professionally.*

7. *Agents and consultants work with destination countries and providers to raise ethical standards and best practice.*

Strategic Review of the Student Visa Program 2011, Michael Knight, Page 110 states the following: 4

I support the Baird Review's position that "It is important the message is clearly given to providers that if they contract with an education agent to represent them then they must conduct sufficient due diligence to be confident the education agent will accurately represent them, their courses and living in Australia". As Baird notes, the ESOS Act already makes Australian providers responsible for all their agents. Amending the ESOS Act to include protection against unethical marketing practices and establishing financial penalties for providers whose offshore agents can be shown to have acted unethically, as recommended by Baird, would reinforce this responsibility. I note that, following Baird, the government has already introduced a new requirement for providers to list on their websites the education agents with whom they have agreements. The government has also enabled the introduction of specific regulations concerning providers' use of agents.

I support the promotion of agent professionalism and self-regulation by requiring providers to only use education agents who:

- *belong to a professional association where one exists;*

- *have completed an appropriate training course; and*

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- *comply with their home country requirements.*
 - 1 *ESOS act - <https://www.legislation.gov.au/Details/C2017C00263>*
 - 2 *National code of Practise - https://www.legislation.gov.au/Details/F2017L01182/Html/Text#_Toc487026948*
 - 3 *Australian International Education & Training - <https://internationaleducation.gov.au/News/Latest-News/Documents/Australian%20International%20Education%20and%20Training%20-%20Agent%20Code%20of%20Ethics.pdf>*
 - 4 *Knight review - <https://drive.google.com/file/d/1opiFmeI5br6NjY1t81NG7tOnsazQC48i/view?usp=sharing>*

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Annexure B

AAERI Advisory on use of MOI letters as evidence of English Proficiency

Dear Australian Education Providers,

I am doing this communication on behalf of AAERI in my capacity as Head of the Visa Committee.

In recent months, several Australian Education Providers have accepted “Medium of English Instruction” letters from student’s colleges as adequate evidence of English proficiency and have waived the requirement for tests such as IELTS, PTE or TOEFL. Most of such providers have possibly made this waiver to assist their recruitment effort and often under persuasion of market demand.

AAERI is also alerted that there have been instances where this waiver has been exploited by students and those with inadequate English proficiency but from such institutions that have had this privilege have managed to make it to courses and institutions in Australia where they are not able to cope with the study requirements.

Institutions must be aware that Indian Universities are structured differently to Australian Universities. In India there are often large number of colleges under each University and even if the University follows a certain set curriculum, it is impossible to assure on the level of

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English proficiency for all students studying in one particular University. The entry into these Universities don't have rigid requirements to ensure the level of English proficiency too and it is possible that they will admit students from non-English background.

- This has been a talking point across the globe and UK NARIC has launched a process of allocated a quality mark. I quote below from a recent communication from NARIC while launching EMI Quality Mark:

UK NARIC launches the EMI Quality Mark: The world's first quality rating scheme for Higher Education providers offering English Medium Instruction (EMI) degree programmes.

Recent years have seen rapid growth in EMI, or English Medium Instruction; 'the use of English language to teach academic subjects (other than English itself) in countries or jurisdictions where the first language of the majority of the population is not English' (Dearden, 2015).

EMI is seen by many higher education institutions as a means to internationalise and to attract further students in an increasingly competitive environment. Yet the use of EMI within an institution, faculty, department or centre is not a guarantee of quality: there are no agreed guidelines for internationalisation nor a framework for implementing EMI programmes. EMI academics are teaching progressively more multilingual and multicultural groups of students through what is a

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Mr. Rahul A. Gandhi Head, Visa Committee	Mr. Nishidhar Reddy Executive	Mr. Rupesh Duggal Executive	Mr. Nirmal Chawla Head, Disciplinary Committee	Mr. Prasanna Acharya Head, New Applications Committee
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second language for most. Moreover whilst studying a degree through the medium of English may be seen to bring a double benefit (subject knowledge and English language skills); the outcomes for students are not always clear since “there is little research into the impact of EMI on how much English students learn...” (Galloway, 2017).

This can make it difficult for prospective students and academic partners to make an informed decision when choosing an institution. It is equally difficult for institutions and faculties delivering EMI to accurately assess their performance and strive for continual improvement without a clear benchmark.

The EMI Quality Mark is designed to address these issues, identifying quality teaching and learning, positive academic and linguistic outcomes for students, as well as good practice in institutional management of EMI, admissions and student support.

Under the scheme, higher education faculties or institutions anywhere in the world offering EMI programmes can apply to UK NARIC for independent evaluation of their EMI provision in four main areas: context and management; teaching and learning; admissions and student support; and assessment and student outcomes.

Providers will be rated as Gold, Silver, Bronze or Developing, based on independent and rigorous evaluation with clear, evidenced-based scoring. The findings of the evaluation can be used to support providers

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in promoting their EMI provision to prospective students and to inform further development if needed.

Those achieving the Gold, Silver or Bronze EMI Quality Mark will receive a comprehensive evaluation report across all the quality areas, highlighting key points of strength and opportunities for improvement, as appropriate. Additionally they will receive a Quality EMI Provider Certificate, Executive Summary report and use of the EMI Quality Mark logo[1][1]; there will also be an entry included on UK NARIC's published list of quality EMI providers.

For institutions or faculties rated as 'Developing', a detailed development report will be presented. This will show clearly any areas for improvement and specific guidance on any work that needs to be done to achieve a Bronze level award or above.

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UK NARIC is delighted to partner with Oxford EMI to bring this important new quality evaluation scheme to the sector. Oxford EMI is a training

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and consultancy organisation headed by Julie Dearden, former senior research fellow in EMI at the Department of Education, University of Oxford and author of a key report on the growth of EMI for the British Council, English as a Medium of Instruction: a Growing Global Phenomenon (2015) which is an overview of EMI in 55 countries. Oxford EMI has experience of working with hundreds of academics, managers and staff at universities in Asia, Africa, Europe and South America, enabling them to face the pedagogical and managerial challenges of internationalisation.

Detailed information, a scheme handbook and the opportunity to make enquiries or begin an application for the scheme, can be found at www.naric.org.uk/EMI

• At the recently held AAERI Convention 2018, Mr Oliver Fortescue, President & Chair of AUIDF (Australian Universities International Directors Forum) too highlighted to an audience of members of various Universities, their agents and also senior officers of various Australian Government Departments. In his keynote address, he shared that the standardised approach on streamlining has an issue pertaining to institutions sometimes resorting to waiving English requirements. I share the one slide from that presentation here:

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Australian Simplified Student Visa Framework (SSVF)

		Country Immigration Risk		
		One	Two	Three
Education Provider Immigration Risk	One	S	S	S
	Two	S	S	R
	Three	S	R	R

S - Streamlined evidentiary requirements (Documentary evidence of English and financial capacity **not generally required**)

R - Regular evidentiary requirements (Documentary evidence of English and financial capacity generally required)



A U I D F

AUSTRALIAN UNIVERSITIES INTERNATIONAL DIRECTORS FORUM

- During the event, I raised the issue with Department of Home Affairs too and they will be taking a closer look into the regulations in place.

As AAERI, we recommend that Australian Education Providers despite their country immigration risk level must ensure that the waiver to English Tests is only applied in exceptional circumstances. AAERI recommends that the Universities review

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**their current requirements and if they have been according
waivers, they may consider withdrawing the same.**

Issued by Mr. Ravi Lochan Singh, Head of Visa Committee, AAERI.
Email: ravi@globalreachonline.com

Released on 22nd August 2018

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Annexure C

7th November, 2017

This advisory is in regards to the refund of tuition fees in case of visa rejections or withdrawal of the visa file. Recently, number of Indian students have approached the Indian banks to disburse the tuition fees and living expenses from the Education loan, however number of Indian bank managers are reluctant to disburse the funds in absence of clear refund of tuition fees policy on the offer letter. Hence, as AAERI we did approach the Department of Education & Training for a clear understanding of refund of tuition fees policy in case of visa rejection or withdrawal of visa file & AAERI had a detailed discussion with the Department of Education & Training & based on the discussion & the details on the DET website (<http://www.education.gov.au>) AAERI advises the following:

Refund of Tuition fees

Where a student defaults in relation to a course as a result of visa refusal or withdrawal of visa file, irrespective of the reason for that refusal, the Education provider must issue a refund in accordance with section 47D of the Education Services for Overseas Students Act 2000 (ESOS Act). All providers must include in their written agreements / offer letter with students the refund requirements that apply if the student defaults (not just as a result of visa refusal).

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The legislative instrument, Education Services for Overseas Students (Calculation of Refund) Specification 2014, requires that the refund is the course fees minus the lesser of the following amounts under the circumstances student fails to start a course due to visa refusal

- 5% of the amount of course fees received by the provider in respect of the student before the default day
- \$500

For the students whose visa has been refused, has withdrawn from the course after it commenced. Further details as per the section 10 of the ESOS Refund Specification includes:

Method for working out amount of refund in event of other student default

(1) This section applies if:

(a) a registered provider is required to provide a refund under section 47E of

the Act because of a default by a student; and

(b) section 8 and section 9 do not apply.

, or has failed to pay an amount he or she was liable to pay the provider in order to undertake the course.

(2) For subsection 47E(2) of the Act, the amount of a refund is

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calculated as follows:

refund amount = weekly tuition fee × weeks in default period

This means that Education providers cannot impose their own policy around how much they are going to refund where there is a visa refusal, regardless of the circumstances in which the refusal occurred. Their written agreements around visa refusal should reflect the ESOS Act.

Based on the above information, AAERI strongly recommends and advises the Education providers to issue a clear offer letter with the refund of tuition fees policy so that the Indian bank managers can issue / disburse the Education loan without further delays & it will help the students in lodging the visa file in time.

Regards,

Rahul Gandhi

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