



# Advice on international students offshore and visa refusals

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This factsheet provides advice to providers in circumstances when a student commenced study offshore with a Confirmation of Enrolment (CoE) for a Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) course and subsequently has had their student visa refused.

For information on student consent for, and maintaining quality of, online learning, and regulatory flexibility being applied, see the [COVID-19 – information for VET, ELICOS and higher education providers](#) and [COVID-19 – Information for designated state authorities and school providers](#) factsheets.

Allowing flexibility of online delivery does not remove students' protections or remove providers' obligations to their students under the *Education Services for Overseas Students Act 2000* (ESOS Act) when students hold, or have applied and are awaiting an outcome for, a student visa to study in Australia.

## Visa refusal for an offshore student

There are options for providers and students if a student is refused a visa after they have commenced studying online offshore with a CoE. **Providers should work with students to identify the option that best suits the needs of each student.**

## Student continues studying a CRICOS course

Student continues online study as an ESOS student and intends to reapply for a student visa

If the student wants to continue studying their course online and offshore providers should:

1. Recommend the student reapply for a student visa. The student should carefully consider the reasons for the refusal and address them in their new visa application.
  - a. It could be prejudicial to cancel the student's CoE before a final decision is made in regard to the student's application for a visa in the event that the student reapplied for a student visa and was successful.
  - b. As the student intends to become, and is taking steps towards becoming, an overseas student, they are an 'intending overseas student' for the purposes of the ESOS Act.

Therefore, all protections provided by the ESOS framework continue to apply and a Student Course Variation (SCV) in the Provider Registration and International Student Management System (PRISMS) is not required at this time.

### Student continues online study as a non-ESOS student and does not intend to reapply for a student visa

A student whose visa is refused may continue studying their course offshore. Providers should:

1. Advise the student that in choosing to complete their study offshore as a non-ESOS student they will not:
  - a. have the legislative protections of the ESOS Framework such as coverage by the Tuition Protection Service (TPS)
  - b. be able to transition to onshore study in Australia when it is possible (without first obtaining a student visa)
  - c. have the option to count the offshore study towards eligibility for the Australian Study Requirement for future visa applications such as post study work visas.
2. Cancel the student's CoE in PRISMS:
  - a. If the student's CoE is on a Studying status, then the following SCV can be reported:
    - i. **Did the student undertake any study in this enrolment?** Y
    - ii. **Reason for Course Variation:** *Termination of student studies prior to completing the course*
    - iii. **Termination Reason:** *Student Notifies Cessation of Studies*
  - b. If the student's CoE is on Approved status, then the following SCV can be reported:
    - i. **Reason for cancellation of CoE:** *Provider unable to deliver course*
    - ii. **Do you want to create a new CoE for this student:** N
    - iii. **Comments:** *Visa refused*
3. Agree in writing with the student arrangements for tuition fees including the refund of any unspent tuition fees and payment of tuition fees for the remainder of the course, that takes account of:
  - a. tuition fees refunds calculations should follow Section 7 of the [Education Services for Overseas Students \(Calculation of Refund\) Specification 2014](#) (Specification Instrument). The default day for the calculation of a refund is the visa refusal date.  
$$\text{refund amount} = \text{weekly tuition fee} \times \text{weeks in default period}$$
  - b. tuition fees for the remaining delivery of the course as a non-ESOS student.
    - i. The provider should consider the price of the tuition fees so that it reflects the nature of the course they are able to deliver in the circumstances, while the student considers what they are willing to pay.
4. Adhere to the same requirements and processes for other offshore online studies offered to non-ESOS students such as agreeing to tuition fees and requirements for mandatory reporting and record keeping.

### Student does not continue studying a CRICOS course

If the student does not want to continue studying the remainder of their course online and offshore and withdraws from the course completely, providers should:

1. Cancel the student's CoE in PRISMS:
  - a. If the student's CoE is on a Studying status, then the following SCV can be reported:
    - i. **Did the student undertake any study in this enrolment?** Y
    - ii. **Reason for Course Variation:** *Termination of student studies prior to completing the course*
    - iii. **Termination Reason:** *Student Notifies Cessation of Studies*
  - b. If the student's CoE is on Approved status, then the following SCV can be reported:
    - i. **Reason for cancellation of CoE:** *Provider unable to deliver course*
    - ii. **Do you want to create a new CoE for this student:** N
    - iii. **Comments:** *Visa refused*
2. Refund the student's unspent tuition fees. When calculating refunds, providers must follow Section 7 of the Specification Instrument.

## Continue to advise new students enrolling in a CRICOS offshore to apply for a student visa

The Government is strongly encouraging students commencing their CRICOS studies online, who want to study in Australia or be afforded ESOS protections, to start their visa application process when enrolling or as soon as practically possible. This will ensure students have a valid student visa and will be able to travel to Australia when possible. Currently, there are very limited travel exemptions available to student visa holders to enter Australia. Information on international student arrival plans led by state and territory governments in consultation with the Australian Government is available at: [www.dese.gov.au/covid-19/coronavirus-covid-19-information-international-students](http://www.dese.gov.au/covid-19/coronavirus-covid-19-information-international-students). Information on travel restrictions and available exemptions is available at: <https://covid19.homeaffairs.gov.au/travel-restrictions>.

It is important that students studying a CRICOS course offshore hold or take steps to hold a student visa. The ESOS Act provides important financial and education quality protections to overseas and intending overseas students as assurance for students' substantial investment in an Australian course of education or training.

If an international student is studying a CRICOS registered course offshore, providers should be advising students of the following matters.

- While not prescribed, **providers should encourage new students to apply for a student visa prior to commencing their studies offshore** or as soon as they are able.
- Offshore and online study is an interim arrangement, and a CoE and student visa will be required if the international student wishes to undertake any study onshore in Australia once normal modes of delivery can be resumed.
- Providers should make clear to their students that when Australian borders reopen, online offshore study under ESOS may no longer be available.
- Providers should advise current students whose visas are expiring to apply for a new visa prior to their existing student visa expiring.

- International students must have studied on a student visa if they seek to have online study undertaken outside Australia as a result of COVID-19 travel restrictions counted towards the Australian Study Requirement for any future visa applications such as a [post study work visa](#). Further information is available from the Department of Home Affairs [student's COVID-19 website](#).
- Providers should also remind their students that they can check their visa status using Home Affairs' [Visa Entitlement Verification Online](#) (VEVO) system.

Additionally, if students do not already hold a CoE, in accordance with section 19 of the ESOS Act, providers should be entering enrolment information into PRISMS within 31 days (*or as otherwise specified in section 19*) of them becoming an accepted student so a CoE can be generated. The student can be an accepted student whether they are inside or outside of Australia if: they are accepted for enrolment, or enrolled, in a course provided by the provider **and** are, or will be, required to hold a student visa to undertake or continue the course.

## Frequently asked questions

### **A student has a CoE but is currently offshore and has had their visa refused. Can they continue their study without a valid visa?**

Students can continue their study without a valid visa. Providers should work with their students to identify the best option for each student, following the steps outlined above.

### **How do providers report cancellation of a CoE on PRISMS?**

PRISMS is administered by DESE. The [PRISMS website](#) provides news and information which may assist providers.

Providers should follow the relevant steps outlined above to report a cancellation of a CoE in PRISMS following a visa refusal and the student advising them they:

- want to continue online study as a non-ESOS student and do not intend to reapply for a student visa; or
- do not want to continue studying the remainder of their CRICOS course online and offshore and wants to withdraw from the course completely.

### **Can a student be enrolled online before they have been granted a student visa?**

Yes, however providers should be advising new students to apply for a student visa prior to commencing their studies offshore or as soon as they are able if there are extenuating circumstances preventing them from doing so. Students should not be waiting for borders open to apply for a visa.

## Is a CoE required to continue studying online and offshore?

A CoE is required to be issued within 31 days of the student becoming an accepted student. An accepted student of a registered providers is a student accepted for enrolment, or enrolled, in a course provided by the provider **and** are, or will be, required to hold a student visa to undertake or continue the course. A student's CoE must accompany their application for a student visa.

## What happens if there is a disagreement between the provider and student on refund arrangements?

Under Standard 10 of the National Code, all education providers should have an internal complaints and appeals process which allows decisions by education providers to be appealed by students. In this way, providers and students may find a mutually agreeable solution to their dispute.

If a student is still not satisfied after exhausting their provider's internal complaints and appeals processes, the provider must advise the student that they are able to make an external complaint or appeal about their provider's decision. Students disputing decisions made by private education providers can contact the [Commonwealth Ombudsman](#), while students disputing decisions made by public education providers can contact their [State or Territory Ombudsman](#).

## What are the border protection measures for COVID-19?

You cannot come to Australia at this time, including if you hold a valid student visa, unless you are in an exempt category or you have been granted an individual exemption to the current travel restrictions. International students should monitor the advice on the [Department of Health](#) and [Department of Home Affairs](#) websites.

## Will a visa refusal while holding a CoE and studying online offshore affect post-study work rights?

A change announced by the Government on 20 July 2020 to support international students was that eligibility requirements for a post-study work visa (Temporary Graduate visa (subclass 485) would be relaxed for applicants who are enrolled with an Australian education provider and have been impacted by COVID-19 and associated travel restrictions.

However, under these arrangements only **existing and new student visa holders** who undertake online study outside Australia because of COVID-19 will be able to count this towards the Australian Study Requirement. Eligible graduates affected by travel restrictions will also be able to apply for and be granted a Temporary Graduate (subclass 485) visa outside Australia.

## Is there a time period following a visa refusal before a student can submit a new visa application?

Any questions relating to visas should be directed to the Department of Home Affairs, either through their [website](#) or by phone, Monday – Friday 9am – 5pm (AEDT) on 131 881 in Australia, except public holidays.

## Further information

Education providers and students should also stay up to date on the latest advice on visa matters through their ImmiAccount and travel matters related to COVID-19 on the Australian Government Department of Home Affairs [COVID-19 website](#).

For information as to the current status of student visa applications, please refer to the Department of Home Affairs [student's COVID-19 website](#).

Advice for international students, education authorities and health authorities is available on the Australian Government Department of Education, Skills and Employment [website](#).

The Tuition Protection Service has published advice for students and schools regarding the [Restrictions on Travel](#).