Australian Government

Department of Education, Skills and Employment

ESOS Agency for Schools

Regulatory Performance Framework

Annual Report 2020-21

Contents

Regulator Performance Framework Annual Report 2020-21

Introduction

The Education Services for Overseas Students Act 2000 (ESOS Act) sets out the legal framework governing delivery of education to international students on a student visa in Australia. The Australian Government, through the Department of Education, Skills and Employment (the department), administers the ESOS Act and its associated instruments. The ESOS legislative framework governs:

- the registration process for education providers wishing to be approved to provide courses to international students on a student visa;
- the obligations providers are required to meet;
- regulatory enforcement and compliance arrangements; and
- the operation of the Tuition Protection Service.

Under the ESOS Act, the Secretary of the department is the ESOS agency (the agency) for approved school providers that offer courses to international students.

The agency's responsibilities and powers under the ESOS Act are undertaken and exercised by the department's Quality Frameworks Branch of the International Division.

On 29 October 2014, the Government introduced the Regulator Performance Framework (the Framework) to assess regulators' performance while carrying out their regulatory functions and in their interactions with industry and the community.

The Framework aims to improve the way regulators operate, increase accountability and transparency while reducing the costs incurred by business from the administration of regulations.

The Framework does not prescribe an approach for how self-assessments should be conducted, outside of the specific requirements that they be conducted annually, externally validated through an approved stakeholder consultation mechanism and made publicly available.

The first reporting period against the Framework was the 2015-16 financial year and the agency published its first annual self-assessment in November 2016.

This is the sixth and final annual self-assessment by the agency of its performance against the Regulator Performance Framework (RPF). This self-assessment reports on activities undertaken during the 2020-21 financial year and was informed by evidence of good regulatory behaviour collected against the *ESOS Regulator (Schools) RPF Metrics* (see *Appendix 1*). The RPF has been has been replaced by the Regulator Performance Guide as of July 2021, and the Agency will report through the Department's Annual Report from 2022 onwards.

This report is a formal self-assessment report by the agency against the *ESOS Regulator (Schools) RPF Metrics,* which is found at *Appendix 1,* it is also available at www.internationaleducation.gov.au.

Provider Profile

As at 30 June 2021, 375 school providers were registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS). These 375 school providers had in total around 1,380 locations and 983 schools courses with an overall student capacity of 92,923 across all sectors.

There were seven school sector providers whose registration was cancelled in 2020-21. All seven providers requested voluntarily cancellation. In addition, four multi-sector providers moved out of the 'Schools' sector. That is, the providers are still CRICOS registered providers, but no longer have CRICOS registered schools courses.

Please note that school systems operated by education departments in each state and territory are systems providers – as a result, they have one CRICOS registration but may include many state schools.

Summary of Performance

In 2020-21, the agency met its 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.

This report acknowledges the 2017 streamlining of compliance and monitoring approaches which identified opportunities for improvement and resulted in the better targeting of resources for greater impact. As a matter of policy, the agency no longer undertakes face-to-face monitoring visits, nor the associated DSA meetings prior to, or after compliance monitoring visits.

Key activities performed by the agency included:

- Secretariat of four teleconferences with Designated State Authorities (DSAs) and two teleconferences with National Regulators;
- Two information (webinars and virtual presentations) sessions on COVID-19 impacts and policy changes and legislative and regulatory changes and requirements and.
- 102 CRICOS registration renewals and 3 new registrations.

Table 1 breaks down new provider registrations and renewals by state in 2020-21.

State	New Registrations	Renewals	Desktop Audit
ACT	0	0	0
NSW	1	19	20
NT	0	0	0
QLD	2	24	26
SA	0	31	31
TAS	0	0	0
VIC	0	19	19
WA	0	9	9
TOTAL	3	102	105

Table 1 - Number of new registrations and renewals of school providers - 2020-21

The agency also:
- consulted on, prepared and published (Dec 2020) its fifth annual self-assessment Report; *ESOS Agency for Schools 2019-20 RPF Report*;
- worked with the department to map the agency's functions as part of the development of a new CRICOS cost recovery model. A consultation paper, titled *Updating the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) charges*, was released in May 2021;
- implemented recommendations of internal audit processes;
- provided helpdesk services about ESOS compliance, CRICOS registration and renewal requirements and processes; and
- maintained responsive Provider Registration and International Student Management System (PRISMS) and ESOS helpdesk functions, with a particular focus in the second half of the financial year on delivering responses on COVID-19 related issues impacting the Schools sector.

The agency also performed the following functions in relation to all registered CRICOS providers (not just the schools sector):
- collected 63 initial TPS levies;
- waived Entry to Market Charges for 251 providers as part of the Government's COVID-19 support package; and
- maintained and updated CRICOS and relevant pages on: www.internationaleducation.gov.au

In relation to COVID-19 developments the agency:
- coordinated and consulted with DSAs and other relevant international education stakeholders;
- worked collaboratively with DSAs and across government to implement a flexible regulatory approach

Detailed Report

Deliverables of the agency are self-assessed according to evidence collected against the *ESOS Regulator (Schools) RPF Metrics* (see *Appendix 1*) and described as follows. The key for performance is below:

Legend – KPI deliverable actions			
✔	Fully actioned	Ⓒ	Not actioned due to COVID
Ⓐ	Partially actioned	Ⓝ	Not actioned due to change in policy
✖	Not yet actioned		

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 B of the *National Code of Practice for Providers of Education and Training to Overseas Students 2018* (the National Code) and fully comply with the requirements of the ESOS Act.

The agency maintained the COVID-19 regulatory settings established in early 2020, and the agency, in conjunction with ASQA, TEQSA and the department, have maintained legislative changes to minimise unnecessary regulatory burden and provide financial relief to all sector providers through the amendment of the *Education Services for Overseas Students (Registration Charges) Regulations 2020* by:

- exempting all existing Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) registered education providers from the requirement to pay the Annual Registration Charge (ARC) under the Regulations from 1 January 2020 until 31 December 2021;
- exempting existing providers who are liable to pay an EMC between 1 January 2020 and 31 December 2021; and
- exempting all new CRICOS-registered providers from the requirement to pay the ARC and the Entry to Market Charge (EMC) under the Regulations from 1 January 2020 until 31 December 2021.
- Allow regulatory flexibility around online learning for those affected by travel restrictions.

KPI 1 deliverable performance

	Planned	Actual
1	Maintain and update provider's profiles annually	✔
2	Undertake regular environmental scanning at least annually by staff (including review of international best practice)	✔
3	Regularly meet with State/Territory DSAs (before or after compliance monitoring visits)	Ⓝ
4	Share info with all relevant stakeholders where possible (including meetings with the multi-sector 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 identity 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

The agency considers the provision of targeted communication with providers and other stakeholders as a significant risk mitigation control. In 2020-21, the agency communicated with school providers on topics, such as the COVID-19 pandemic, CRICOS registration, renewals, fees, charges, PRISMS, ESOS compliance and legislative changes.

The 2017 streamlining of compliance and monitoring activities also resulted in the cessation of activities such as state and territory visits and face-to-face workshops. That said, during the 2020-21 period COVID-19 related travel restrictions did not allow for this type of activity to take place. Additionally, the opportunity to present in person at conferences and workshops was also limited.

The agency coordinated and consulted on the COVID-19 pandemic as well as broader international education policy through the DESE DSA Stakeholder Group. Four meetings were held to ensure DSAs were regularly updated on the COVID situation and the developments in ESOS policy. (see **Table 2** for details). These meetings also provided the opportunity for the agency to receive feedback on the impact of current policy settings on the sector. Together the agency and DSAs considered the impacts on school providers before changing policies

Meeting Date	Activity
20 August 2020	Quarterly meeting with DSAs
19 November 2020	Quarterly meeting with DSAs
4 February 2021	Quarterly meeting with DSAs
27 May 2021	Quarterly meeting with DSAs

Table 2: DSA meeting schedule 2020-21

The agency supported the department's work with the state governments of New South Wales, South Australia and Victoria validating student enrolments for their international student support programs.

Since the tightening of border controls in February 2020, the agency endeavoured to provide affected international students and international education providers with authoritative and up-to-date information. Information was updated regularly and based on each subsequent decision to extend restrictions. Topics covered:

- Regulatory information for state authorities and schools;
- General advice for international students;
- FAQs aimed at international students;
- Student wellbeing information; and
- Information around the year11-12 travel exemption process.

102 providers came up for registration renewal in 2020-21 compared with 124 in 2019-20. The majority of renewal requests were processed within the three week turn-around timeframe.

KPI 2 deliverable performance

	Planned	Actual
1	Seek feedback about info, guidance & advice given to providers via helpdesk, workshops, website & educational materials	✔
2	Record consultation activities and outcomes	✔
3	Complete registration/renewal processes within an average timeframe of 3 weeks	Ⓐ
4	Notify providers when State DSAs 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

The agency took a risk-based and proportionate approach to regulation to ensure that it could direct limited resources to areas of higher risk and appropriately prioritise its regulatory focus, and in turn achieved the objects of the ESOS legislation.

To determine a targeted and proportionate level of action the agency conducted careful and 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 records
    - composition and proportion of overseas students
- number of approved welfare arrangements for students under 18 years of age
- previous desktop analyses
- referrals from DSAs
- referrals from the Tuition Protection Service
- referrals from the Commonwealth Students Ombudsman
- media coverage
- serious complaints/allegations received by the agency.

As part of the response to internal audit processes, the agency undertook an investigation of the predictive value of each both current risk factors considered in desktop audits and a number of potential new risk factors. Ultimately, as the inherent level of risk in the schools sector is low (due in large part to the regulatory rigour of the DSAs) and with the lack of international schools closures to benchmark against, no risk factor or set of risk factors were seen to have significant predictive value in relation to school closure.

Throughout the 2020-21 financial year, the agency continued to take actions proportionate to the regulatory risk being managed. Specifically, the agency considers the risk of non-compliance of the schools sector as relatively low. In addition, the agency continued its exchange of information with DSAs regarding both providers of concern and providers with best practice.

ESOS compliance monitoring through desktop analysis over the last twelve months shows that the lead compliance issues for schools are:

- delays in reporting student course variations as required by section 19(1) of the ESOS Act
- delays in reporting early termination to the Secretary.

The number of potential breaches for these two issues increased in 2019-20 and 2020-21, due in part to the large number of student course variations actioned due to COVID-19 travel restrictions. The above is currently being addressed at renewal and as part of the planned release of non-compliance data to providers to self-manage risk. As a result, all identified issues were satisfactorily

addressed by the relevant providers through voluntary undertakings and appropriate actions, including staff training or reviewing and revising relevant procedures.

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

- have seriously breached the provisions of the ESOS Act that are regarded as offences
- have breached in a large scale (e.g. in breach of most of the 11 Standards of the National Code) and
- have systematic and on-going non-compliance issues (i.e. repeated failure to meet the obligations under the ESOS legislation and repeated failure to rectify breaches).

In 2020-21 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.

KPI 3 deliverable performance

	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 processes on a biannual basis	✔
4	Compare risk factors for a provider over a specified historical period	✔
5	Exchange info with State DSAs regularly re providers of concern and providers with best practice	✔

KPI 4 - Compliance and monitoring approaches are streamlined and coordinated

The agency is engaged in a collaborative approach to monitoring and compliance. The agency engaged with DSAs and other ESOS agencies including TEQSA and ASQA to ensure compliance activities were streamlined, consistent and coordinated. In June 2020, the agency met with representatives from ESOS agencies to discuss and review the current approach to administering dual and multi-sector provider registration renewals. This resulted in minor internal changes to streamline processes and reduce processing delays.

KPI 4 deliverable performance

	Planned	Actual
1	Only request 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 DSAs) when it becomes available	✔
3	Have meetings/teleconferences with DSAs or ESOS Agencies before any monitoring visits to ensure a streamlined approach	Ⓝ
4	Share relevant info with Home Affairs where possible	✔
5	Liaise with State DSAs 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

The agency made on-going efforts to ensure its processes in dealing with school providers were open and transparent. This included the review of the schools compliance website content for accuracy and currency, with some recommendations for inclusion of additional background to broaden public understanding of the purpose of the RPF and self-assessment requirement being made.

This is the sixth annual self-assessment by the agency of its performance against the Regulator Performance Framework (RPF). This self-assessment reports on activities undertaken during the 2019-20 financial year and will be published, on the internationaleducation.gov.au website in December 2020 to ensure the agency's ongoing accountability to the public.

Regarding day-to-day compliance, possible non-compliance issues identified during desk audits at the time of renewal continue to be brought to the attention of the provider and an opportunity given to address any potential or alleged breaches. In addition, advice and guidance is widely available to stakeholders, with feedback mechanisms in place to support and inform continuous improvement.

KPI 5 deliverable performance

	Planned	Actual
1	Make 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 administrate 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

The agency's combined regulatory activity has positively contributed to the continuous improvement of the ESOS regulatory frameworks. As was previously articulated, circumstances of the COVID-19 pandemic tested the continuous improvement cycle, demonstrating a regulatory framework with a high degree of flexibility allowing adjustments during a time of changing circumstances.

Evidence of this is found in the analysis of the five risk factors historically used to calculate a school's overall risk score for the period May 2017 to May 2021. Appendix 2 details the level of compliance of school providers when compared to the broader international education sector for five individual risk factors. The performance of schools is generally better than the broader sector, and has trended towards improvement over time, excepting the extraordinary impact from COVID-19. This longitudinal study contributes to a comprehensive risk assessment process, ensuring that resources are targeted to the areas requiring most attention.

The agency strengthened communication between DSAs and the agency, particularly regarding matters relating to COVID-19 impacts on providers and DSAs alike. This led to improvements to the operation of the regulatory framework and administrative processes and resulted in timely, strong and consistent messaging to the schools sector.

The agency engaged with DSAs to draw out their views on enrolment trends and pressures affecting the school sector. In response to feedback from DSAs, the agency was able to strengthen its reporting on enrolments and provide DSAs with a more tailored and meaningful data, reporting and PRISMS improvements.

The agency engaged with the department on its international education deregulation measure, resulting in the removal of monthly reporting of student fees for certain provider types.

It increased awareness among all stakeholders of changes to The ESOS framework through webinars, presentations and PRISMS news items.

KPI 6 delivery performance

	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	✔

Conclusion

As illustrated in *Appendix 2*, the agency delivered and achieved its stated objectives against the *ESOS Regulator (Schools) RPF Metrics.*

The agency will continue:

- strengthening education activities through producing quality compliance guidance, PRISMS online training modules, education materials and written materials at www.internationaleducation.gov.au;
- conducting targeted and focused compliance activities based on thorough analyses of risk data available to the agency, to ensure that school providers of concern are closely monitored within resource constraints;
- enhancing intergovernmental relations through stakeholder engagement to achieve a coordinated approach in compliance; and
- improving regulatory processes to meet the requirements of the Regulator Performance Framework, and ensure that its regulatory processes are fair, transparent, effective and efficient as per the *ESOS Regulator (Schools) RPF Metrics.*

Acknowledgement

This report was prepared by the agency which operates out of the Quality Frameworks Branch of the International Education Division in the Australian Government Department of Education, Skills and Employment.

The agency acknowledges the endorsements and/or input given by the following key stakeholders.

Enquiries about this report may be sent to esoscomplianceandregistration@dese.gov.au

Sources of data
Data used in this report came from PRISMS.

Key stakeholders
Before its release, this report was shared with the following organisations:

- ACT Education and Training Directorate
- Education Standards Board of South Australia
- NSW Education Standards Authority
- NT Department of Education
- Queensland Department of Education and Training
- Tasmanian Assessment, Standards & Certification
- Victorian Registration and Qualifications Authority
- Western Australia Department of Education

Appendix 1: RPF Metrics

KPI 1 – REGULATORS DO NOT UNNECESSARILY IMPEDE THE EFFICIENT OPERATION OF REGULATED ENTITIES		
Measure	**Output/activity-based evidence**	**Self-assessment methodology (evidence to be collected)**
1.1 ESOS Regulator (for Schools) demonstrates an understanding of the operating environment of the industry or organisation, or the circumstances of individuals and the current and emerging issues that affect the sector.	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 state authorities (DSAs) 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 DSAs (before or after compliance monitoring visits) • Share information with all relevant stakeholders where possible (including meetings with the multi-sector working group)
1.2 ESOS Regulator (for Schools) takes actions to minimise the potential for unintended negative impacts of regulatory activities on regulated entities or affected supplier industries and supply chains.	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 DSA 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 DSAs regularly re providers of concern and providers with best practice

KPI 4 – COMPLIANCE AND MONITORING APPROACHES ARE STREAMLINED AND COORDINATED		
Measure	**Output/activity-based evidence**	**Self-assessment methodology (evidence to be collected)**
4.1 ESOS Regulator (for Schools)'s information requests are tailored, and only made when necessary to secure regulatory objectives, and only in a way that minimises impact**.**	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. DSAs) when it becomes available
4.2 ESOS Regulator (for Schools)'s frequency of information collection is minimised and coordinated with similar processes including those of other regulators so that, as far as possible, similar information is only requested once.	4.2.1 Conduct its compliance monitoring visits in conjunction with State DSAs, and also invite ASQA and/or TEQSA if the regulated entity is a dual or multi sector provider.	• Have meetings/teleconferences with DSAs and ASQA (and/or TEQSA for multi-sector providers) before any monitoring visits to ensure a streamlined approach • Share relevant information with Home Affairs 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 DSAs and peak bodies on a regular basis • Have a multi-sector working group meeting at least once a year – to review multi-sector providers' compliance and monitoring approaches.

KPI 5 – REGULATORS ARE OPEN AND TRANSPARENT IN THEIR DEALINGS WITH REGULATED ENTITIES		
Measure	**Output/activity-based evidence**	**Self-assessment methodology (evidence to be collected)**
5.1 ESOS Regulator (for Schools)'s riskbased 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

KPI 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/or provide workshop presentations in all States within 2 years • Receive positive feedback from providers about the consultations and the compliance approaches • Aim to have a multi-sector regulators working group face-to-face meeting at least once a year
6.3 ESOS Regulator (for Schools) regularly shares feedback from stakeholders about consultations, legislative requirements and regulators' performance with policy departments to improve the operation of the regulatory framework and administrative processes.	6.3.1 Liaise regularly with the ESOS policy and legislation section of the department and provide feedback.	• Liaise with policy area on a regular basis regarding feedback from providers.

Appendix 2: Risk Performance of Schools Sector 2020-21

The agency operates a joint regulatory effort with DSAs. The agency focuses on administrative risks arising from schools not complying with the Section 19(1) of the ESOS Act in line with its operation of PRISMS, while DSAs focus on the operating risk of schools in line with their greater responsibilities and powers under state education acts.

The agency focuses on five core administrative risks:

1. *Late reporting of CoEs – Non-commencement*: providers must report non-commencement within 14 days of expected commencement for students aged under 18, and 28 days for students over the age of 18.
2. *Late reporting of CoEs – Early Termination*: providers must report early termination of a Confirmation of Enrolment (CoE) on PRISMS within 14 days for students aged under 18, and 28 days for providers over the age of 18.
3. *Late Reporting for Accepting a Student*: providers that are backdating CoEs to meet student visa requirements.
4. *Inaccurate Reporting for Course Duration*: providers creating CoEs that have a different course duration than the course as registered on CRICOS.
5. *Inaccurate Reporting of Course Cost*: providers creating CoEs that have a different course cost than the course as registered on CRICOS.

Risk 1 – Late reporting of CoEs for non-commencement

Percentage of CoEs with late reporting: non-commencement
May 2017-May 2021
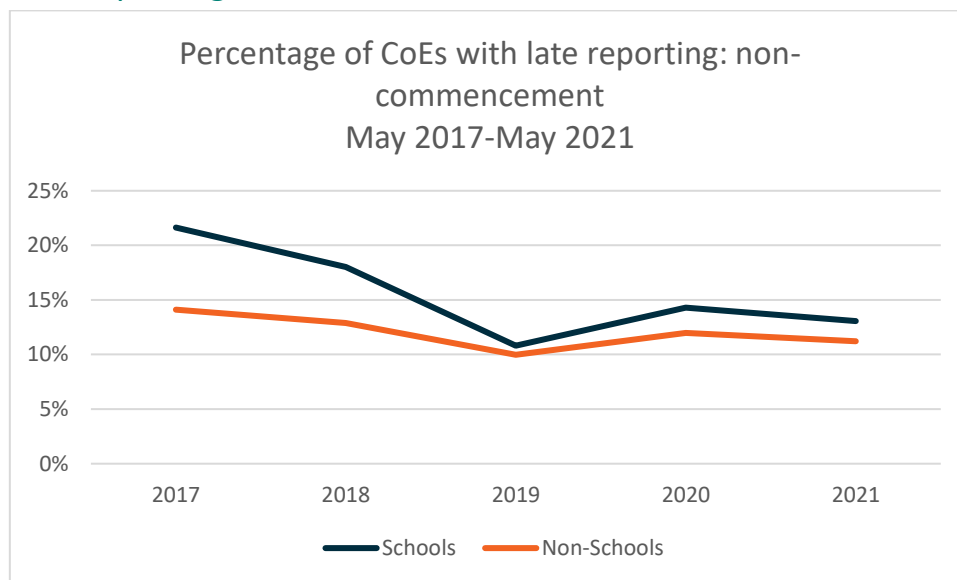
Comments: The ESOS Act imposes a stricter reporting requirement on students under the age of 18 than adult students (14 days vs 28 days). This leads to schools having increased likelihood of potential breach of this requirement. General non-compliance of this factor increased in 2020 and 2021 when compared to 2019 due to COVID-19 border closures.

Risk 2 – Late reporting of CoEs – Early Termination

Percentage of CoEs with late reporting: Early
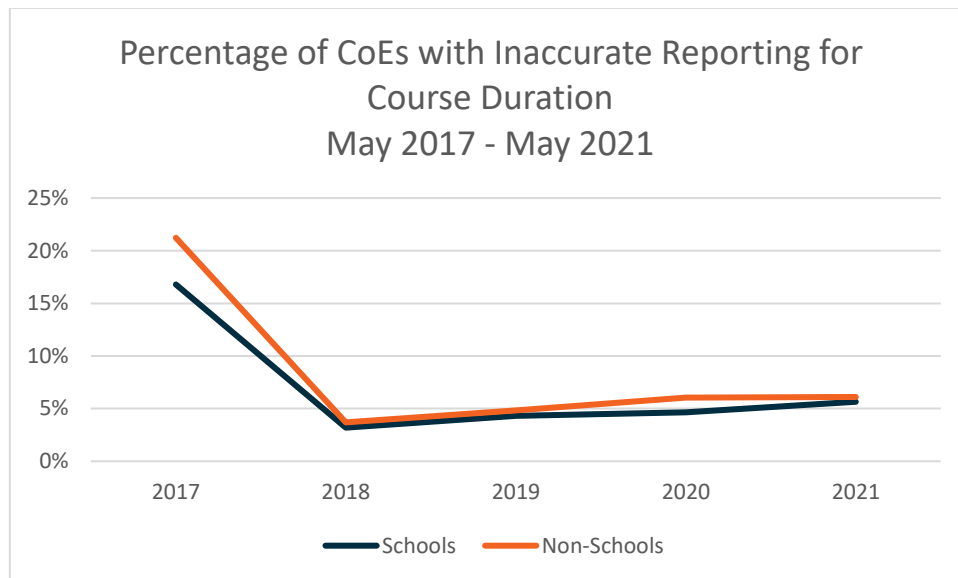Termination
May 2017-May 2021
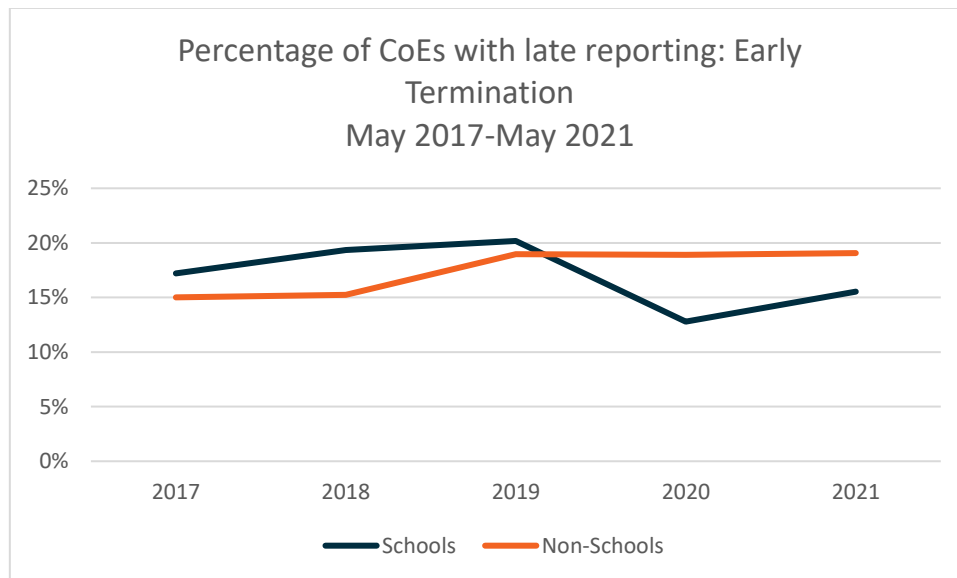
Comments: Schools showed a significant improvement in this measure in 2020 when compared to previous years. The agency believes this is due to COVID-19, where due to travel restrictions less students were terminating their studies early, and providers were very proactive in reporting these cases.

## Risk 3 - Late Reporting for Accepting a Student (backdated CoEs)
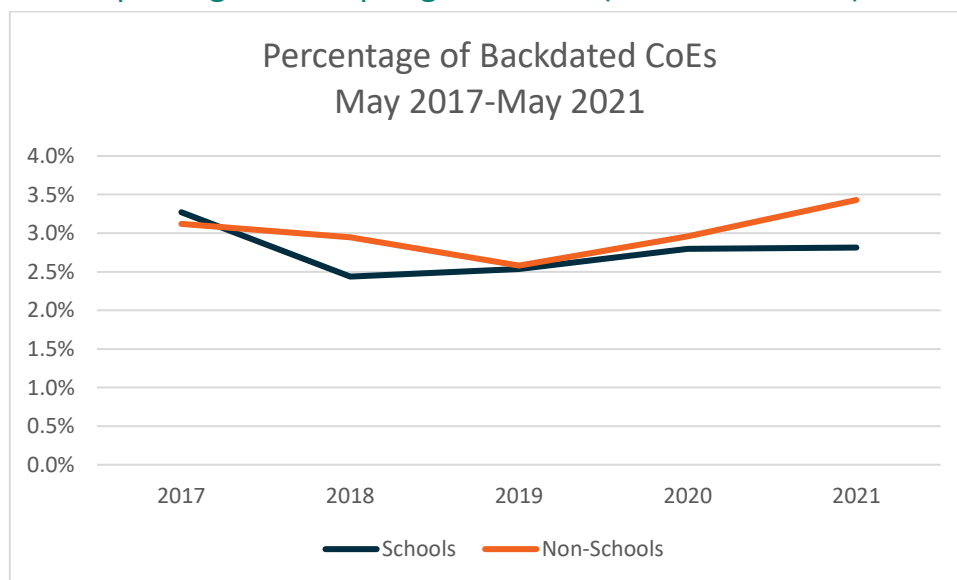
Percentage of Backdated CoEs
May 2017-May 2021

Comments: Schools maintained their strong, consistent performance in this measure in 2021.

Risk 4 - Inaccurate Reporting for Course Duration

Percentage of CoEs with Inaccurate Reporting for Course Duration
May 2017 - May 2021

Legend: Schools, Non-Schools

Comments: Schools maintained their strong, consistent performance in this measure in 2021.

Risk 5 - Inaccurate Reporting of Course Cost

Percentage of CoEs with incorrect course cost
May 2017-May 2021

Legend: Schools, Non-Schools
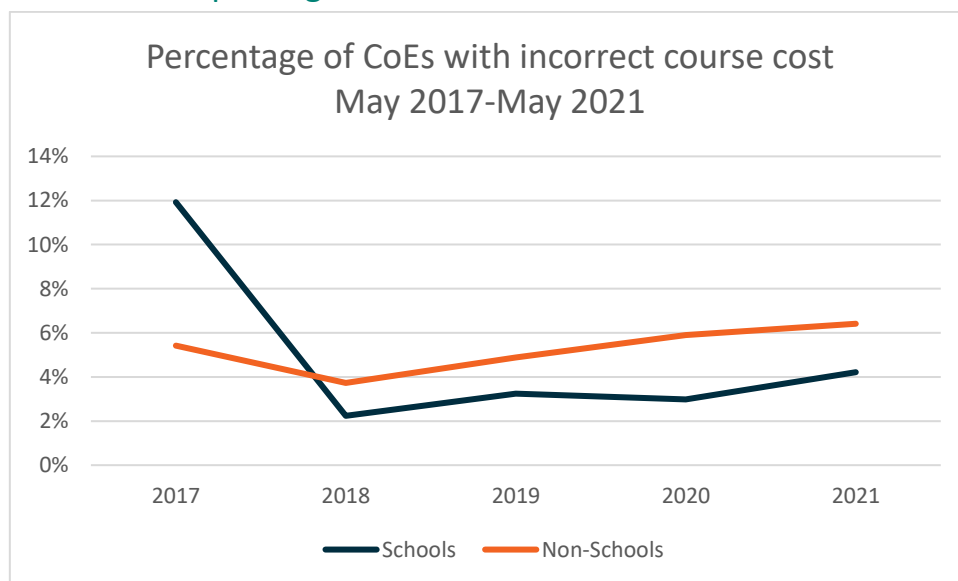
Comment: The agency has worked with DSAs to improve this measure by making system changes in PRISMS to assist in DSA course cost approval activities.

Abbreviations

ARC	Annual Registration Charge
ASQA	Australian Skills Quality Authority
CoE	Confirmation of Enrolment
COVID-19	Coronavirus Disease of 2019, also known as 2019 novel coronavirus
CRICOS	Commonwealth Register of Institutions and Courses for Overseas Students
DSA	Designated State Authority (for schools, including territory agencies)
ELICOS	English Language Intensive Courses for Overseas Students
EMC	Entry to Market Charge
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 2019*
ESOS Charges Act	*Education Services for Overseas Students (Registration Charges) Act 1997*
Home Affairs	Australian Government Department of Home Affairs
KPI	Key Performance Indicator
National Code	*National Code of Practice for Providers of Education and Training to Overseas Students 2018*
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 Quality Frameworks Branch, International Group
The department	Australian Government Department of Education, Skills and Employment
The Secretary	Secretary of the department
TPS	Tuition Protection Service
VET	Vocational Education and Training