



Independent Schools
Council of Australia

Department of Education Review of the ESOS Framework

Submission by The Independent Schools Council of Australia (ISCA)

Introduction: About ISCA

The Independent Schools Council of Australia (ISCA) is the peak national body covering the independent schools sector. It comprises the eight State and Territory Associations of Independent Schools. Through these Associations, ISCA represents a sector with nearly 1,080 schools and 567,000 students, accounting for nearly 16 per cent of Australian school enrolments.

Independent schools are a diverse group of non-government schools serving a range of different communities. Many independent schools provide a religious or values-based education. Others promote a particular educational philosophy or interpretation of mainstream education. Independent schools include:

- *Schools affiliated with larger and smaller Christian denominations for example, Anglican, Catholic, Greek Orthodox, Lutheran, Uniting Church, Seventh Day Adventist and Presbyterian schools*
- *Non-denominational Christian schools*
- *Islamic schools*
- *Jewish schools*
- *Montessori schools*
- *Rudolf Steiner schools*
- *Schools constituted under specific Acts of Parliament, such as grammar schools in some states*
- *Community schools*
- *Indigenous community schools*
- *Schools that specialise in meeting the needs of students with disabilities*
- *Schools that cater for students at severe educational risk due to a range of social/emotional/behavioural and other risk factors.*

Independent schools are not-for-profit institutions founded by religious or other groups in the community and are registered with the relevant state or territory education authority. Most independent schools are set up and governed independently on an individual school basis. However, some independent schools with common aims and educational philosophies are governed and administered as systems, for example the Lutheran systems. Systemic schools account for 18 per cent of schools in the independent sector. Independent Catholic schools are a significant part of the sector, accounting for 8 per cent of the independent sector's enrolments.



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Background

ISCA welcomes the opportunity to provide this submission to the Department of Education regarding its Review of the ESOS Framework. Given the importance of this Review to non-government schools, ISCA has sought and received significant feedback from individual schools and the Associations of Independent Schools (AISs) in each state and territory.

A theme has clearly emerged from the comments received, supporting the position put forward by ISCA in our face-to-face consultations with the Department. And that is that schools are suffering because across a range of measures they are being treated as ‘high-risk’.

It is ISCA’s contention that the schools we represent are not high risk. Sometimes the argument is put forward that because schools primarily deal with under-18 year old students that they are high risk; however this ignores the reality that schools are in fact the only sector equipped to deal with under-18 year olds as this is their ‘core business’. It also ignores the fact that there are extensive legislative requirements in place to ensure the care and well-being of all students, not just domestic students. As stated by the Association of Independent Schools of South Australia (AISSA);

“Meeting the requirements of the ESOS legislative framework and the National Code places a significant and disproportional regulatory burden on schools...Schools are not high risk providers and operate within substantial legislative and duty of care frameworks.”

The suite of changes that has come into effect since the Baird Review of the ESOS Act to address issues in other sectors has had a deleterious effect on the non-government schools sector. Non-government schools now pay significantly more in fees and charges; legislation and regulation have become more complex and difficult to administer; overseas student enrolments have dropped and ISCA is concerned that the unique role of overseas students in the non-government schools sector is in danger of disappearing altogether.

Non-government schools have a significantly different overseas student enrolment profile to that of the other education sectors. We have large numbers of CRICOS registered providers with relatively small numbers of students in each school. The enrolment of overseas students is therefore not a question of financial viability. Rather it is one of choice. Our schools choose to engage in this arena for a variety of reasons, but always for the cultural and educational benefit of the school community and its members.

The independent sector and overseas students

Approximately 30% of all overseas students enrolled in the schools sector in Australia attend independent schools. In 2013 there were over 5,700 overseas students enrolled at close to 360 independent schools¹. ISCA estimates between 30-40% of all CRICOS registered providers in Australia are independent schools that are individually registered and individually responsible for

¹ Based on the 2013 Department of Education Non-government School Census

meeting compliance requirements. Some schools also have ELICOS centres attached to their institutions which may also be separately registered on CRICOS.

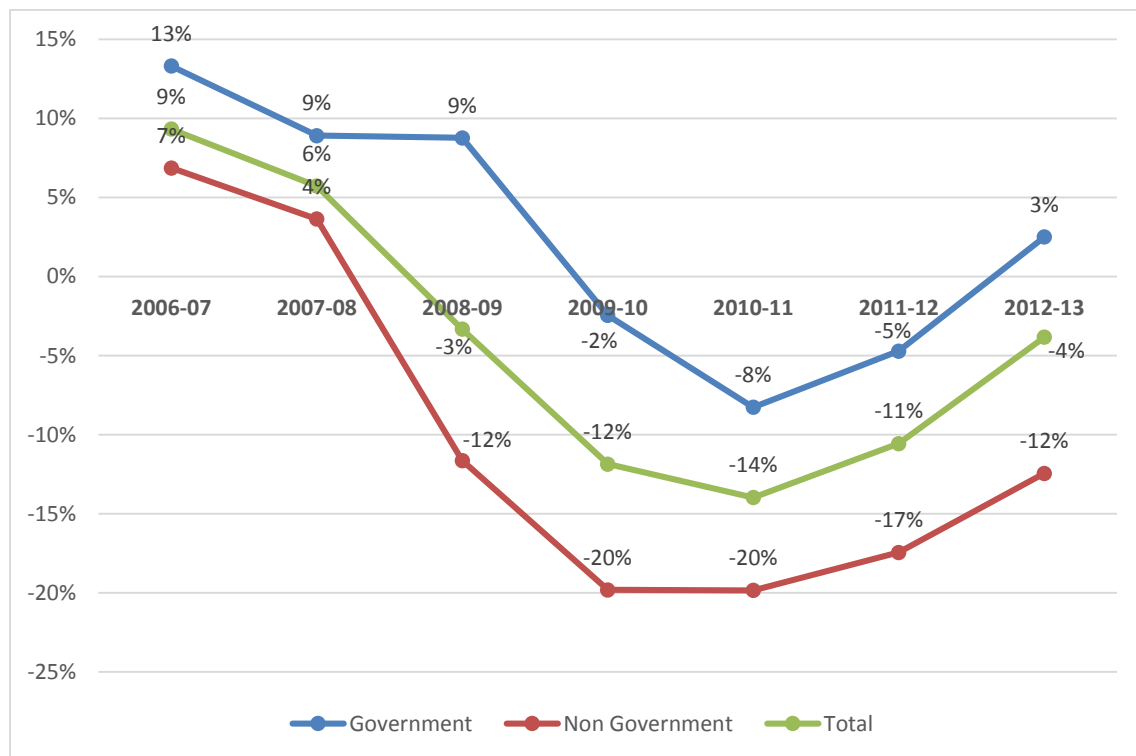
By contrast, state departments of education (enrolling approximately 60% of overseas school students overall) hold single provider registrations covering any number of state schools enrolling overseas students within a state.

Overseas student enrolments in independent schools vary from 1 to close to 200 overseas students. The median number of overseas students at an independent school is 7 students.

This profile differs quite substantially from other sectors. For the vast majority of independent schools, overseas students do not determine the school’s sustainability. Rather, overseas students provide a much valued international element and diversity to school populations.

Since 2008, declines in overseas student enrolments in the schools sector have been most significant in non-government schools. In 2013 enrolments in the government schools sector grew for the first time in 4 years however the non-government enrolments are still declining.

Change in overseas student enrolments in the schools sector 2006-07 to 2012-13



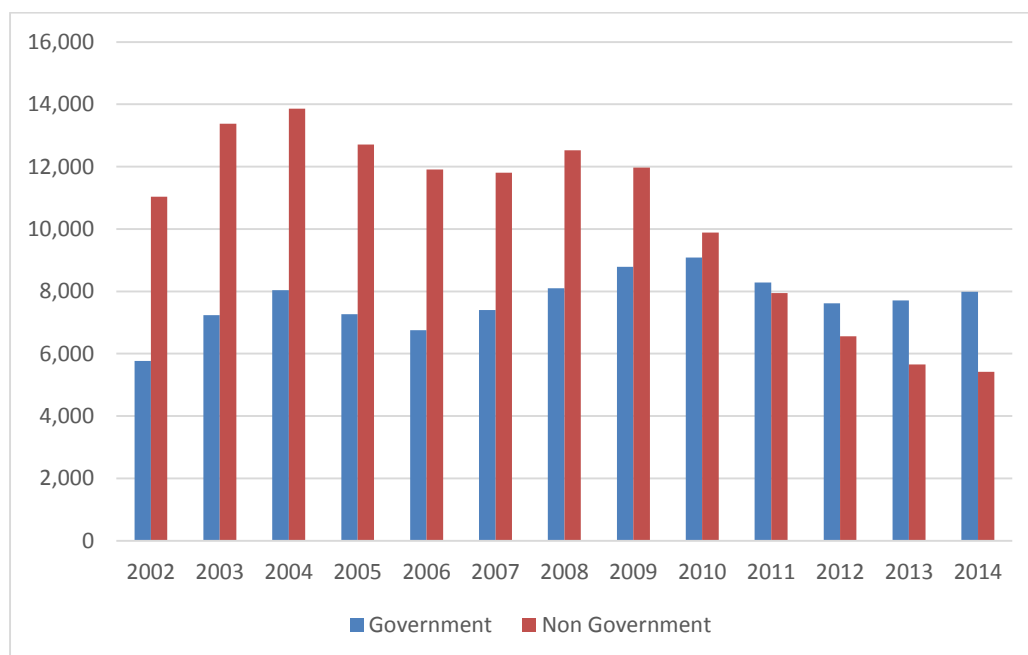
Source: AEI PRISMS data (YTD to December)

There have been a range of reasons for the decline in the schools sector. Schools were caught up in the adverse media coverage overseas which focused on the private VET sector some years ago, and other factors commonly reported as influencing the rapid decline of overseas school student enrolments have been the continuing strength of the Australian dollar, and the relative ease of being granted visas to study in competitor countries.

However it must be noted that while previously government and non-government schools sectors were essentially treated the same, the impacts of the issues raised above on the reputation of all non-public providers, the additional fees and charges which are not incurred by government schools and the increase in administrative burden and reporting which individual independent schools are not able to deal with on a systemic level as the government sector is able to do, have all impacted heavily on the profile of enrolment in the schools sector.

As can be seen in the chart below, the entire profile of the sector has changed or reversed. The majority of overseas students in the schools sector are now in the government sector. We believe this is because government schools are being treated as low risk, even though the key characteristics of the sectors remains the same.

School level overseas student enrolments by sector 2002 - 2014



Source: AEI PRISMS data (YTD March)

The ESOS Framework

ISCA is providing comments on the following areas of the ESOS Framework:

1. The National Code
2. Deregulation - reducing administrative burden and reporting
3. PRISMS
4. Other issues e.g. fees and charges

ISCA has already provided copies of previous submissions and correspondence regarding several of the issues detailed below to the ESOS Policy Unit and it is hoped that these are also being considered.

We also hope that there will be further opportunities for consultations, as well as cross sectoral fora in order to gain an industry perspective on important issues.

The National Code

In the comments ISCA received back from schools regarding the National Code of Practice, the most common theme was that ‘one size fits all’ standards do not work well for the schools sector. Particularly in regard to Standard 5, schools were seeking a more ‘tailored’ approach for the schools sector, particularly as the majority of under-18 year olds enrolled at Australian providers will be in schools.

There is a definite view in schools that the National Code, and the ESOS framework generally, is set up for Higher Education providers. One school noted that;

“Most of the examples on how to use the various Standards of the National Code throughout the Explanatory guides, located on <http://www.aei.gov.au> use adult education providers as examples which are not relevant to schools.”

Parts B & C

Parts B and C of the National Code need to be examined to see how Commonwealth and State regulators work together for schools sector, and to see where the overlap between domestic accreditation frameworks and the Commonwealth legislation is for schools. There is more discussion of these issues below.

Part D

Standard 2 – Student engagement before enrolment

There is a concern regarding a lack of clarity around 2.1.e., the requirement to provide indicative course-related fees including advice on the potential for fees to change during the student’s course and applicable refund policies. It has been raised that in one state there has been a difference of opinion between the State and Federal jurisdictions regarding what are considered to be ‘indicative course-related fees’.

Standard 3 – Formalisation of enrolment

The standard should acknowledge that even if a student is over 18 years old, schools will still enter into a contractual arrangement only with the parent or legal guardian of the student i.e. the person who is legally liable for the fees.

Standard 4 – Education Agents

It seems that this standard is working well for schools and their offshore agents. ISCA is aware of issues with agents with whom schools do not have an agreement, including on shore agents, with regard to poaching of students etc. However, it is ISCA’s view that it is not possible for providers to be held responsible for agents with whom they have no agreement; rather the problem needs to be approached from the view of taking action against unscrupulous agents.

Standard 5 – Younger overseas students

Most of the feedback from schools was that they understand and manage Standard 5 however there was also significant feedback from schools that Standard 5 should better take into account the specific circumstances of schools.

For example, schools would like more clarity around holiday accommodation which can be an issue, particularly for boarding schools, which like to be able to place students with Australian families from the schools or similarly positive experiences but are unsure what types of arrangements are able to be made under Standard 5.

Standard 7 – Transfer between registered providers

ISCA supports the current standard of no change to principal course for the first 6 months and does not support changing this requirement. It is not often considered that changes to this standard have impacts on under-18 year olds and that there are associated welfare issues for under-18 year olds changing providers once on-shore.

Standard 8 – Complaints and appeals

These processes appear to be working well in the sector however it was noted that having such a detailed complaints process, although valid, can hold up the behavioural management processes in a school environment to the point that there could be ongoing delays and limited validity in any punitive action if each possible action is held up by a parent seeking a formal complaints process.

With regard to the external review processes, ISCA believes that the establishment of the Overseas Student Ombudsman (OSO) has been very effective and is providing a good service to both students and providers. The OSO has also been happy to engage with the non-government schools sector and to assist schools to improve their processes.

Standards 10 & 11 – Monitoring course progress & Monitoring attendance

ISCA believes that these standards should be reviewed to take into account what actually happens in schools with regards to domestic students. Attendance is closely monitored in non-government schools and intervention and reporting processes can fit in with existing school processes. Similarly, course progress should be the same as for domestic students undertaking the same course of study.

Requiring separate processes for schools and requiring the differentiation between overseas and domestic students only leads to an additional administrative and record-keeping burden on schools.

Standards 14 - Staff capability, educational resources and premises

It is ISCA's view that this standard represents a case of clear overlap with domestic registration processes and should be 'ticked off' if a school has met domestic accreditation requirements.

Standard 15 – Changes to registered providers’ ownership or management

As these changes should be notified to the domestic registration body, perhaps it would be possible for information sharing between the domestic and CRICOS registration bodies within states and territories.

Deregulation - reducing administrative burden and reporting

In the comments received by ISCA, it is quite clear that it is the view of schools that there is significant overlap between domestic regulation and the ESOS framework. There is also a strong view that it is not understood that schools’ primary role is in the education of children and for this reason, they are not only subject to a range of other important legislation relating to child protection but that they, more than any other sector, have experience in caring for the well-being of under-18 year old students. Schools believe that this should be acknowledged, rather than be viewed as a ‘risk’.

As noted by the Association of Independent Schools of Western Australia (AISWA);

“Given that most schools in WA, with the exception of one college, have far fewer than 20 FFPOS, the time and costs associated with maintaining the CRICOS registration with extra policies, specific rules regarding enrolment, refunds and so forth and the extra time and possible fines associated with keeping PRISMS up to date, the administrative burden far outweighs the risks that independent schools pose to the international student industry.”

Overlap with domestic registration / regulation

In some states, there is good alignment between the requirements of the ESOS framework and the state/territory requirements. However this is not always the case.

For example in South Australia, new guidelines are being introduced at a state level to accredit schools to enrol overseas students. The requirement to write and re-write school policy in line with these guidelines is a significant undertaking. There has been talk of having to participate in a 3 to 5 day school visit to be accredited to enrol overseas students. There has been no mention of what the costs would be for this process. A more appropriate procedure for large, well established schools would be a desktop accreditation process with random, short, visits to schools which tell schools exactly what they are required to demonstrate. A general deregulation of red-tape would be much appreciated.

In NSW, it appears that the Board of Studies is requiring schools to monitor the welfare of students living with a parent/close relative i.e. arrangements they are not been required to approve. Several schools have noted that this is not only burdensome but also inappropriate.

It has been a stated aim of every review of the ESOS Framework since 2000 to better align the Commonwealth and the various state/territory legislation/requirements regarding overseas students however as yet this remains elusive. ISCA continues to support efforts in this area as streamlining the requirements on schools would be of great benefit in terms of reducing the compliance and reporting burden as well as unnecessary duplication.

Where there is concordance between Commonwealth and State requirements, the processes involved are much easier for schools. As noted by AISWA;

“Generally speaking there is considerable overlap between the State Education Service Providers (Full Fee Overseas Students) Registration Act 1991 (ESPRA), the Federal Education Services for Overseas Students Act (2000) (ESOS) and the Federal National Code of Practice for Registration Authorities and Providers of Education and Training for Overseas Students (2007) (ESOS NCP). As the overlap is considerable, this actually makes it easier for schools to show compliance and hence qualify for on-going registration. The Department of Education Services also makes use of the ISCA Handbook as a valuable tool for independent schools that may need to update or improve their FFPOS Policies and guidelines. Schools that follow the ISCA Guidelines and make use of the suggested draft policy statements and templates generally do not have compliance issues when re-registration is required.”

ISCA also believes that there are opportunities for the ESOS Framework to better take into account the state-based domestic registration and regulatory requirements and reduce the accountabilities for schools in the ESOS framework. As noted above, several standards of the National Code could be subsumed or assumed to be met by virtue of domestic school registration.

We would encourage the Commonwealth Department of Education to continue to engage with both state and territory domestic registration authorities and CRICOS registration authorities to pursue both streamlining and alignment of the requirements on schools.

Administrative burden and reporting

In the last few years, changes to the ESOS Act and associated legislation intended to strengthen the industry have in many ways merely added more complexity and difficulty for registrars and administration staff in schools. It is a very clear example of how measures introduced to address problems in one sector can have huge, and unintended, impacts in other sectors. Schools feel quite strongly that they are suffering because of measures introduced to address concerns in other sectors. One school commented that;

“...many of the regulations we feel were brought in to control the colleges that popped up all over the place, took fees and then closed without notice or went into liquidation. Most independent schools do not pose that risk and as such many of the areas covered in the legislation are either difficult to answer/comply with or seem an unnecessary work impost. For example - for registration we had to have policies and practices in place and processes for the way in which we would advise students that the campus is about to move! Unlikely for us but not unlikely for an ad hoc College.”

Further, as reporting requirements have increased, schools are spending ever increasing amounts of time on administration. Schools provided the following comments:

“I am the only person in the school who deals directly with the overseas students - we have 22. The administration time allocated for me to do this job is 15 lessons (45 minutes per lesson) in two weeks. The administration takes up 90% of this time when in fact I really believe my time needs to be spent with talking and helping students with their academic and pastoral needs. Perhaps this is a problem for the school's allocation/timetable, but in talking with other teachers in many schools this seem to be the same concern.”

“We only have one or two FFPOS enrolled at each site. This is not a money making exercise for us as we set our fees to just cover our costs. The regulatory burden placed on the provider is so arduous that if we hadn’t already had the registration we would have made no attempt to seek registration. Our Principals resent the various charges imposed upon them and indicate that it is used to create and industry of regulation.”

It is ISCA’s belief that the level of administration and reporting required is acting as a disincentive for non-government school providers to continue to enrol overseas students. This is perhaps more pronounced in the schools sector than in other sectors because the profile of overseas students in the non-government schools sector is quite different to other sectors with most schools enrolling only small numbers of overseas students. We are aware of schools that have decided to let CRCICOS registration lapse for this reason.

Two of the main issues of concern for reporting are the pre-paid fees and student default, both of which are required under the Tuition Protection Service (TPS)

Reporting requirements – pre-paid fees (TPS)

The requirement to report pre-paid fees as part of the TPS has been identified by all sectors as overly burdensome. Ideally this requirement would be abolished however we understand that the TPS believes that it requires this data, in some form. Some possible approaches are outlined below.

The first has been put forward by English Australia and involves using the existing risk profiles calculated by the TPS to determine each provider’s contribution to the TPS Fund. These provider risk profiles could also be used to establish a benchmark for creating a demarcation between low risk providers who would be exempt from the limits on pre-paid fees and designated account requirements, and providers that are identified as being high risk. High risk providers would have these requirements remain in place. This would be a simple legislative change that would have immediate benefits for industry.

Alternatively, ISCA proposes that at the very least, changing the requirement for reporting pre-paid fees from the end of each month to reporting at the end of each semester. This is a natural reporting period for schools as most would charge by the semester, and would go a long way to reducing the administrative burden on schools.

Reporting requirements – student default (TPS)

The reporting requirements for the reporting of student default are excessive and time consuming. Student default can cover a range of possible circumstances and often, reporting is not necessary. Additionally, the timelines are very short and are unreasonable. More specificity in this requirement would be of benefit to the industry.

PRISMS

PRISMS is an important part of the ESOS Framework and ease of use for providers is extremely important in order to increase efficiency and decrease time spent on administration. Further, as reporting requirements have grown more onerous, and the penalties for non-compliance have

become more 'high stakes', schools are reporting high levels of stress being experienced by the PRISMS users. As noted by AISWA;

"...the use of fines for data that is late in being entered or if there is a difference between the PRIMIS figures and those published on-line re fees, places a very large level of stress on the person responsible for keeping PRISMS up to date. This is compounded if they are not the person who set up the CRICOS courses and entered the other data re the school online."

Schools have provided a range of feedback regarding changes they would like to see in PRISMS and these are listed below:

- Temporary CAAW – for example if a guardian visa holder has to leave the country for a period of time and the school is required to temporarily approve accommodation and welfare
- Ability to upload data from excel
- To be able to run different reports e.g. a report for an individual student, payment reports
- A way to clear refunds if student cannot be contacted and has not requested a refund
- Options for SCVs don't always reflect real reasons for doing a new Confirmation of Enrolment (CoE) and should be expanded in consultation with schools
- Ability to directly input fee changes each year
- Ability to print screen shots, not just Excel spreadsheets
- More clarity around the tuition fees section
- To presume that a student has "commenced studies" instead of having to manually update this leading to exception reporting only of students who have not commenced

Many schools commented on the need to make it easier for providers to amend a CoE, such as a change of start date, or even to fix a spelling error, instead of having to almost cancel the original CoE and enter data again.

Also for schools where often they have to create multiple CoEs for a student, e.g. one for Year 10 and then one for Year 11-12, it would be extremely helpful if the standard information in the first CoE was able to be transferred to the second CoE, e.g. student parent details, agent details as well as any other information related to the student. Currently only some student information is copied across.

Similarly, as in the schools sector often students will require more than one CoE for the entire course of their studies, this also requires multiple Confirmation of Appropriate Accommodation and Welfare (CAAW) letters. Schools would like to know if there is any possibility of having one CAAW for the entire period.

Additionally, from a useability perspective, many schools have noted that the on-line tutorials provided, while helpful, are insufficient. There were differing opinions regarding the helpfulness of the helpline but one school did suggest the possible usefulness of on-line chat help in real time rather than relying on call-backs or emails.

ISCA would like to reiterate the proposal that there be a workshop, or series of workshops, for PRISMS stakeholders to meet and discuss possible ‘upgrades’ to PRISMS and ways to increase useability.

Other Issues

Fees and Charges

One major area of feedback from schools and Associations of Independent Schools on the ESOS Framework was the noticeable increase in fees and charges being levied on the non-government schools sector. AISWA provided the following analysis;

“There are fees associated with ongoing CRICOS registration, fees for the Department of Education Services to check on the school’s compliance with both the State and Federal Acts and a massive fee if a school fails to maintain its CRICOS Registration and then chooses to re-new. Schools that have fewer than 4-5 FFPOS find that these fees and the associated compliance issues often negate the financial and the educational advantage that international students can bring to a school. AISWA is aware that several schools have failed to renew their CRICOS number and, due to this high re-establishment fee, are not renewing to take on FFPOS.

As mentioned above, this charge is now in excess of \$15,000. Small schools simply cannot afford this if they are only looking at 1-2 FFPOS for the first year or two. If there is a plan and an appetite for overseas enrolment, it can be argued that schools could recoup these charges over a fairly short turnaround of 1-2 years. However, if they are only enrolling 1-2 FFPOS each year, this turnaround could be up to 5 or 6 years in duration. Schools do not deem it financially viable if their total FFPOS entry is only 1-2 students per annum. Generally, they are now simply not looking at applying to take on FFPOS. It is a shame because most schools would note that FFPOS bring a world view to their schools and provide linguistic, cultural and social interactions and exchanges that do not necessarily take place between cohorts of domestic students.”

Entry to Market Charge (EMC)

As has been noted earlier in this submission, the profile of non-government schools in the international education industry makes it clear that if schools were only engaged in the industry for commercial benefit then hardly any schools would be CRICOS registered. The cost of the EMC is prohibitive for schools that might wish to become CRICOS registered and those that have let CRICOS lapse but might wish to re-engage.

Being a flat fee of \$15,000 means that there is no attempt to differentiate between either newly CRICOS registered but established providers and newly operating providers, and also providers which rely on overseas students for their viability and ones which only enrol a very small percentage of overseas students i.e. the profile of most non-government schools. It should be recognised that the degree and cost of scrutiny for these types of providers should be proportionate to the risk posed. Therefore the EMC needs to differentiate between the circumstances of different types of providers, as well as have a lower fee for providers wishing to re-enter the market.

Additionally there have been concerns with schools being told they have to pay the EMC due to a change of legal entity even though there has been no material change in the school. This issue needs to be addressed.

Annual Registration Charge (ARC)

It is ISCA's view that the ARC disproportionately places a financial impost on non-government schools due to the profile of the sector i.e. many providers with small numbers of students, and this view has been put to the Australian Government in previous submissions.

In a letter to AEI in October 2011, ISCA stated;

“ISCA is aware that for other sectors, the new fee structure represents significant savings. For the non-government schools sector this is not generally the case. ISCA calculations show that in every scenario, schools with small numbers of overseas students will be financially disadvantaged. Schools with 13 or fewer overseas students will pay at least double what they were paying previously in annual registration charges. A non-government school with only one course registered would have to have at least 50 overseas students enrolled in a year to benefit from a reduction in the annual registration charge. Schools with fewer than 50 overseas students make up 87% of the total number of CRICOS registered independent schools. Mostly this is attributable to the introduction of the much higher ‘flat fee’ of \$1,300.

ISCA believes that most non-government schools would fall into the class of low-risk providers and as such varying the fees or exempting schools from aspects of the fee schedule is in line with the risk-based provisions for exemptions in the Act for both the general ARC costs, particularly the \$1,300 ‘flat fee’, and the ‘Entry to Market’ Charge. We would argue that no independent school should be financially disadvantaged by the new arrangements given the large saving to the rest of the international education sector.”

ISCA still believes this to be the case and that the charges being imposed on the non-government schools sector should be reduced in line with the proposal above. The letter referred to is attached to this submission at **Attachment A**.

Tuition Protection Service (TPS)

While many schools have expressed support for the aims of the TPS, they are unclear as to why they are subject to the risk rated component of the TPS levy. Historically, non-government schools in receipt of Australian Government recurrent funding have been exempt from the financial provisions of the ESOS Act. This was based on the low risk nature of the sector. ISCA would argue that this has not changed. There is a very clear view amongst schools that *“the TPS was set up because of some of the less scrupulous behaviours of non-school providers- yet the whole industry has had to pay for this behaviour.”*

At the end of 2013 following discussions with the TPS Board Chair, ISCA was invited to make a submission to the TPS Board putting forward ISCA's case that non-government schools should be exempt from the risk rated component of the TPS levy. The response from the TPS Board was that they did not believe it was within their purview to make such a decision but that the matter should be taken up with the Australian Government.

The ISCA submission to the TPS Board is attached in **Attachment B** for consideration as part of this review of the ESOS Framework. It is ISCA's very strong view that the non-government schools sector should be exempted from the risk rated component of the TPS due to the low risk nature of the sector and the fact that the decision not to build in sectoral differences to the risk ratings unfairly disadvantages non-government schools.

ESOS Legislation

The ESOS legislation has become increasingly complex. Attempts at consolidation, such as the recent move to consolidate some of the legislative instruments are a positive step. ISCA supports such efforts by the Department of Education.

Also any efforts to reduce reporting requirements, and introduce exception reporting rather than blanket reporting of student course changes would be supported.

One particular area of confusion is related to all the various terminology and meanings attached to the various ways to describe course fees, tuition fees, and pre-paid fees etc. This is an area that could be better thought through so that consistent definitions can be applied.

Ways to assist providers

ISCA also surveyed schools on ways the Department of Education could assist providers. Because of their size relative to other providers and limited administration staff, schools are often concerned at their ability to stay current and to access appropriate professional development.

- Several AISs noted that they hold 'networking' events for member schools and ESOS auditors have attended these meetings which has been useful.
- Some schools asked for webinars that could show future changes and assist by walking through processes etc. Many schools are unable to attend information sessions only held in capital cities as one-off events and more web based assistance would be helpful in helping schools maintain compliance.
- More help for PRISMS users (see above)
- An introductory session that would provide information on the range of legislative requirements would be useful for schools, particularly for new staff members. Training for school staff when core staff members leave is a big issue for schools.

Attachment A

LT088: 301/3/4/1-12

21 October 2011

Ms Saloni Varma
Acting Branch Manager, International Quality
Department of Education, Employment and Workplace Relations
GPO Box 9880
CANBERRA ACT 2601

Dear Ms Varma,

Submission to the Department of Education, Employment and Workplace Relations regarding parameters for adjustments to and / or exemptions from the new Annual Registration Charge (ARC)

In early September ISCA met with Tulip Chaudhury and other DEEWR officers to discuss our concerns regarding the recent changes to the Annual Registration Charge (ARC) for CRICOS registered schools. In short, ISCA is concerned that non-government schools will be disproportionately disadvantaged by the new ARC charges, given that ours is the only sector with large numbers of providers enrolling relatively low numbers of overseas students.

At this meeting Ms Chaudhury invited ISCA to provide DEEWR with proposed parameters for possible exemptions or adjustments for the non-government schools sector in relation to the new ARC charges which are included below. ISCA is now even more concerned at the potential overall financial impost on schools with the release of the ESOS Tuition Protection Service Bills which will add further costs to schools that wish to enrol overseas students.

Non-government School Census data shows that in 2010 there were nearly 8,400 overseas students enrolled at nearly 400 independent schools. This represents a significant proportion of the total number of schools in the sector. Overseas enrolments in independent schools vary from 1 overseas student to just over 300 overseas students. However, the median number of overseas students at an independent school is just 9 students. This profile differs quite substantially from other sectors.

While we are currently unable to disaggregate students on student visas from other full-fee paying students in the census data, AEI PRISMS data would support the majority of these students being students on student visas. According to AEI PRISMS data, non-government schools account for almost half of the overseas school student enrolments in Australia

ISCA is aware that for other sectors, the new fee structure represents significant savings. For the non-government schools sector this is not generally the case. ISCA calculations show that in every scenario, schools with small numbers of overseas students will be financially disadvantaged. Schools with 13 or fewer overseas students will pay at least double what they were paying previously in annual registration charges. A non-government school with only one course registered would have to have at least 50 overseas students enrolled in a year to benefit from a reduction in the annual registration charge. Schools with fewer than 50 overseas students make up 87% of the total number of CRICOS registered independent schools. Mostly this is attributable to the introduction of the much higher 'flat fee' of \$1,300.

We also note that the new 'Entry to Market' charge is designed more for other sectors where newly formed institutions might be set up primarily to enrol overseas students rather than for the schools sector where generally an existing provider will decide become CRICOS registered only after some years providing education to domestic students.

ISCA believes that most non-government schools would fall into the class of low-risk providers and as such varying the fees or exempting schools from aspects of the fee schedule is in line with the risk-based provisions for exemptions in the Act for both the general ARC costs, particularly the \$1,300 'flat fee', and the 'Entry to Market' Charge. We would argue that no independent school should be financially disadvantaged by the new arrangements given the large saving to the rest of the international education sector.

While our previous discussion indicated that DEEWR was intending to look at applications for exemptions on a case-by-case basis only, ISCA believes that this approach is inefficient in use of regulatory resources, and that it is possible to set up valid parameters for the assessment of the majority of non-government schools as low risk. Only schools which do not meet the usual risk profile of non-government schools should receive extra regulatory attention, and this should be on the basis of posing demonstrably higher risk.

ISCA is concerned that a case-by-case approach to the non-government schools sector fails to take the nature of the non-government schools sector into account, and may result in unnecessarily over-burdening regulators and over-charging schools for minimal returns on compliance effort.

ISCA would suggest that exemptions or sector specific variations to CRICOS charges be based on the following three main criteria in determining the risk profile of a provider in the non-government schools sector.

1. Overseas students as a proportion of the entire school cohort

As noted above, 87% of CRICOS registered independent schools have less than 50 full-fee paying overseas students (FFPOS) enrolled. On average, FFPOS make up less than 4% of the overall student population. It would be reasonable to assume that schools enrolling 50 or fewer overseas students, or with domestic students comprising 75 % or more of the overall student population, would be at low risk of requiring supervision or enforcement activity as a result of defaulting on their compliance obligations.

2. Receipt of Australian Government General Recurrent Grants

Since the introduction of the first ESOS Act in 1991, non-government schools in receipt of General Recurrent Grants have been exempt from the financial provision of the Act. This is due to the stringent regulatory and financial accountability framework that is in place for these schools. These requirements are in addition to the already substantial accountability requirements that come with state and territory school registration.

3. Years of operation

The 'Entry to Market' charge appears to be specifically aimed at providers for newly formed institutions offering services primarily to full-fee paying overseas students. Generally speaking this is not how a decision to engage in international education is made in the non-government school sector.

Schools will generally be set up in the first instance to provide education to domestic students only. In order to do this they comply with state and territory registration requirements as well as funding and other accountability requirements from the Australian Government. The decision to become CRCIOS registered and to enrol overseas students is usually made some years down the track as a school seeks to provide diversity and an international experience within the school.

These are not 'new schools'. They are schools with years of, not only operational experience, but also years of experience with pastoral care and other important aspects of student welfare. To impose a significant 'Entry to Market' charge on these schools is likely to result in a serious reduction in the number of non-schools interested in becoming involved in international education. And while in the context of other sectors, the charge may not seem so problematic, the profile of the non-government schools sector is such that many schools would view it as a serious disincentive.

ISCA would propose that 5 years operation as a registered school should be a significant factor in reducing the risk profile of a non-government school.

4. Overseas ownership

Finally, ISCA would also propose that overseas ownership be considered as a risk factor for schools for the purposes of calculating the ARC. It is our understanding that some instances of school/RTO closure have been associated with providers with overseas ownership.

ISCA risk assessment proposal summary

That based on the factors noted above, that non-government schools which

- have less than 50 overseas students or have overseas students as less than 25% of the total school population ,
- are in receipt of Australian Government recurrent Grants,
- have been in operation as a registered school for 5 years, and
- do not have overseas ownership

be exempt or have fees varied to previous levels, particularly with regard to the 'flat-fee' of \$1,300 and the 'Entry to Market' charge.

We look forward to your response.

Yours sincerely,

Bill Daniels
Executive Director



Independent Schools
Council of Australia

Attachment B

Submission by The Independent Schools Council of Australia (ISCA) to the Tuition Protection Service (TPS) Board

Introduction: About ISCA

The Independent Schools Council of Australia (ISCA) is the peak national body covering the independent schools sector. It comprises the eight State and Territory Associations of Independent Schools. Through these Associations, ISCA represents a sector with 1,080 schools and 560,000 students, accounting for nearly 16 per cent of Australian school enrolments.

Independent schools are a diverse group of non-government schools serving a range of different communities. Many independent schools provide a religious or values-based education. Others promote a particular educational philosophy or interpretation of mainstream education. Independent schools include:

- Schools affiliated with larger and smaller Christian denominations for example, Anglican, Catholic, Greek Orthodox, Lutheran, Uniting Church, Seventh Day Adventist and Presbyterian schools
- Non-denominational Christian schools
- Islamic schools
- Jewish schools
- Montessori schools
- Rudolf Steiner schools
- Schools constituted under specific Acts of Parliament, such as grammar schools in some states
- Community schools
- Indigenous community schools
- Schools that specialise in meeting the needs of students with disabilities
- Schools that cater for students at severe educational risk due to a range of social/emotional/behavioural and other risk factors.

Independent schools are not-for-profit institutions founded by religious or other groups in the community and are registered with the relevant state or territory education authority. Most independent schools are set up and governed independently on an individual school basis. However, some independent schools with common aims and educational philosophies are governed and administered as systems, for example the Lutheran systems. Systemic schools



account for 16 per cent of schools in the independent sector. Independent Catholic schools are a significant part of the sector, accounting for 10 per cent of the independent sector’s enrolments.

On matters relating to international education, ISCA also represents the interests of the National Catholic Education Commission thus encompassing the entire non-government schools sector.

Overseas students enrolled in independent and non-government schools

Approximately 40% of all overseas students enrolled in the school sector in Australia attend non-government schools. In the independent sector in 2012 there were over 6,000 full-fee paying overseas students enrolled at nearly 360 independent schools² ISCA estimates between 30-40% of all CRICOS registered providers in Australia are independent schools that are individually registered and individually responsible for meeting compliance requirements.

Independent schools provide both primary and secondary level education to overseas students, which for some schools which are also Registered Training Organisations, includes VET. By contrast, state departments of education hold single provider registrations covering any number of state schools enrolling overseas students within a state.

Overseas student enrolments in independent schools vary from 1 to close to 200 overseas students. The median number of overseas students at an independent school is 7 students. This profile differs quite substantially from other sectors. For the vast majority of independent schools, overseas students do not determine the school’s sustainability. Rather, overseas students provide a much valued international element and diversity to school populations.

While there are only a small number of overseas students seeking to enrol in school VET courses, schools prefer to provide the same curriculum offerings, where possible, to all students, without differentiation.

Current Challenges

Since 2008, declines in overseas student enrolments in the school sector have been most significant in non-government schools in New South Wales and Victoria, the states most affected by adverse publicity about “private” education providers in the media overseas in 2009. Declines in other states have also been experienced between 2009 and 2012.

Overseas Students in Government and Non-government schools³

	2007	2008	2009	2010	2011	2012	2013
Government	10,036	10,924	11,954	11,675	10,570	10,006	10,208
Non Government	14,975	15,921	14,213	11,465	9,195	7,599	6,705
	25,011	26,845	26,167	23,140	19,765	17,605	16,913

	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
Government	9%	9%	-2%	-9%	-5%	2%
Non Government	6%	-11%	-19%	-20%	-17%	-12%
Total	7%	-3%	-12%	-15%	-11%	-4%

² Based on DEEWR 2012 Non-government School Census Data

³ AEI PRISMS data

Apart from the impact of adverse media coverage overseas on the non-government schools sector, other factors commonly reported as influencing the rapid decline of overseas school student enrolments have been the continuing strength of the Australian dollar, and the relative ease of being granted visas to study in competitor countries.

However, ISCA has consistently identified increases in compliance burden and costs associated with gaining and maintaining CRICOS registration as significant disincentives for the large number of CRICOS registered non-government schools. Generally, these schools only wish to enrol comparatively small numbers of overseas students as part of an international engagement strategy aimed at enhancing and diversifying school programs and student cohorts.

It is ISCA's view that from a risk perspective, non-government schools are more similar in nature to the currently exempt providers. As ISCA stated in its submission to the Senate Education, Employment and Workplace Relations Legislation Committee's Inquiry into Bills referred on 22nd September 2011;

“It is very important for regulators involved in implementation of changes under new legislation and transition arrangements to keep in mind the nature of the non-government schools sector, which differs substantially from other sectors, viz.,

- There are a large numbers of small providers which are individually registered on CRICOS;
- The majority of these providers:
 - are not-for-profit,
 - have education as their primary purpose,
 - are in receipt of government funding and therefore are already highly regulated and accountable to governments,
 - demonstrate financial viability as an accreditation attribute under existing regulatory arrangements, and
 - generally enrol a small percentage of international students compared with their overall student cohort.

There are thus compelling reasons why non-government schools deserve special recognition in the regulatory environment as opposed to being swept up into systems that are designed for institutions (universities and training providers) which enrol thousands of international students, and a compelling argument for considering the majority of non-government schools to be highly stable and low risk in terms of enrolment of international students.

Further, schools differ significantly from tertiary and training sector providers in that the international students enrolled are generally under the age of 18. Schools therefore already have duty of care obligations, including a focus on the welfare of international students.”

The risk rated premium component of the TPS Levy

In the recent consultation process undertaken in late 2013 prior to the setting of the levy for 2014, ISCA raised the following issues in relation to the risk rated premium component of the levy. These are all areas where the unique nature of the non-government schools sector makes the one-size-fits all approach of the TPS unsuitable as a means of assessing sectoral risk.

Payment in arrears – it would be highly unlikely for any school to get full payment in arrears for any student, particularly given that the average length of a school course undertaken by an

overseas student is several years. To make this part of the risk matrix ignores common practice in schools for domestic or international students. This is one area where one size fits all penalises providers that offer longer courses.

Length of operation as a registered provider – ISCA believes long established schools in sound financial condition, with the intention of enrolling a small number of overseas students in proportion to domestic cohorts, do not pose any greater risk through becoming CRICOS registered, and should not be rated in the same manner as institutions with the aim of enrolling proportionally higher numbers of overseas students.

Enrolment Growth - The total number of overseas students in proportion to the domestic cohort of students should always be a consideration for non-government schools. For a school with 1500-2000 students, an increase from 20 to 30 overseas students, or even from 100 to 150 students (i.e., a 50% increase) is not a significant increase of students overall.

Maximum overseas students source country concentration – many schools will choose to focus on country or geographical area due to reasons to do with the school community and its links, sister school relationships and curriculum priorities, e.g. the school might have a particular language focus, and Asia and Australia's engagement with Asia is a cross-curriculum priority of the Australian Curriculum. The concentration of overseas students should be considered as a proportion of the total school population.

Non-government school census data shows that for schools with full-fee paying overseas students, on average those students made up 3% of the entire school cohort. It is ISCA's view that this is a calculation that would be relatively simple for the TPS secretariat to undertake as total school enrolment data for non-government schools is publically available data on the My School website.

Non-compliance history - ISCA's concerns that non-government schools may accrue a non-compliance history simply through administrative lapses such late payment of fees or failure to meet myriad reporting requirements within prescribed time limits is well documented. The interests of non-government schools and the students they enrol will be far better served if typically low risk schools are exempt from the risk component of the levy.

Conclusion

While ISCA understands why a single set of criteria for calculating the risk rated premium component of the TPS levy is a preferred option of the TPS, it is by its very nature unable to take into account the specific difference that exists between sectors.

Under previous iterations of the ESOS Act, the low risk nature of the non-government schools sector was recognised with exemptions from all the financial aspects of the ESOS Act. It is ISCA's view that the sector still retains those characteristics and that for the reasons outlined above, non-government schools should be exempt from the risk rated premium component of the TPS and that this should be a recommendation of the TPS Board to the Minister of Education.