

s. 22(1)(a)(ii)

From: s. 47F(1) <s. 47F(1)@education.gov.au>
Sent: Tuesday, 19 January 2016 3:51 PM
To: s. 22(1)(a)(ii); s. 47F(1); s. 47F(1)
Cc: s. 47F(1); Student Policy Projects; s. 47F(1); s. 47F(1)
Subject: RE: SVP Assessment Panel - Review of July 2015 deferred providers [DLM=For-Official-Use-Only]

For Official Use Only

s. 22(1)(a)(ii)

We've had a look at the list of providers and there are one 3 things we found of note from looking at CRICOS/PRISMS.

The three below have not been renewed so you should talk to ASQA as they are the regulator for all three.

CRICOS code	Organisation Name	Status	Sanctions Imposed	Studying Enrolments	Provider Expiry
s. 47G(1)(a)	s. 47G(1)(a)	Registered	None	s. 47G(1)(a)	s. 47G(1)(a)
s. 47G(1)(a)	s. 47G(1)(a)	Registered	None	s. 47G(1)(a)	s. 47G(1)(a)
s. 47G(1)(a)	s. 47G(1)(a)	Registered	None	s. 47G(1)(a)	s. 47G(1)(a)

s. 47F(1)

Director, Systems and Compliance Section
 Policy and Systems Branch
 International Group
 Australia Government Department of Education and Training
 Phone s. 47F(1) | Email s. 47F(1)@education.gov.au

Opportunity through learning

www.education.gov.au

On 23 December 2014, the Department of Education became the Department of Education and Training as a result of Machinery of Government changes.

From: s. 22(1)(a)(ii) [mailto:s. 22(1)(a)(ii)@border.gov.au]
Sent: Friday, 15 January 2016 11:08 AM
To: s. 47F(1); s. 47F(1); s. 47F(1)
Cc: s. 47F(1); Student Policy Projects
Subject: SVP Assessment Panel - Review of July 2015 deferred providers [DLM=For-Official-Use-Only]

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Dear Assessment Panel Members.

Early last year the Department undertook a streamlined Visa processing (SVP) invitation round for eligible education providers. As part of this process the Department convened a meeting of the Assessment Panel which includes all your organisations. Panel minutes are attached. The Minister has agreed that no further SVP invitation rounds would be held, given the introduction of the Simplified Student Visa Framework in July 2016.

The Department committed to a re-assessment of deferred providers in early 2016 pending resolution of outstanding regulatory issues. The attached document lists providers who were deferred because of concerns raised by the assessment panel in April 2015. Please note that this list is commercially sensitive and is not to be disclosed to any third party or discussed outside your agencies.

I am seeking your feedback and recommendations regarding these deferred providers. In particular, I am seeking your view that the providers meet the requirements of subclause 58 (a and e) of the Guidelines (attached). Paragraph 58 states that providers must satisfy the all assessment criteria including:

- (a) The Education Provider is actively registered on CRICOS and has been registered since the date the Invitation to Participate was issued. Registration status must not be 'suspended' or 'cancelled'.
- ...
- (e) The Education Provider must have a history of complying with relevant legislation and regulatory frameworks.
 - I. The Assessment Panel may consider unresolved complaints of, or investigations into, significant non-compliance with relevant legislation and regulatory framework in making its recommendation to the Minister.
 - II. This requirement in this paragraph 58(e) must be satisfied by all of the following:

- A. the Education Provider in respect of its CRICOS Provider Code and in respect of any other CRICOS Provider Code issued to the Education Provider or issued to any educational institution or business or joint venture (of whatever legal structure) of which the Education Provider is an associate;

- B. the Principal Executive Officer;
 - C. any associates of the Education Provider who have been, are or will be involved in the business of the provision of courses by the Education Provider;
 - D. any current high managerial agent of the Education Provider while they were acting as a high managerial agent of:
 - i. the Education Provider; or
 - ii. any other CRICOS Provider Code;
 - E. any former high managerial agent of the Education Provider while they were acting as a high managerial agent of:
 - iii. the Education Provider;
 - iv. any other CRICOS Provider Code issued to the Education Provider or issued to any educational institution or business or joint venture (of whatever legal structure) of which the Education Provider is an associate;

where the terms "associate" and "high managerial agent" have the meaning given in the *ESOS Act*.
- III. This includes (but is not limited to) compliance with requirements under the ESOS Act, the National Code, the Tuition Protection Service (TPS), the Education Services for Overseas Students (Registration Charges) Act 1997, the Education Services for Overseas Students (TPS Levies) Act 2012, the National Vocational Education and Training Regulation Act 2011, Tertiary Education Quality and Standards Agency Act 2011 and the Migration Act 1958.

You may indicate any cases where you have concerns on the attached sheet and return to me via email. Alternatively, please call me directly on s. 22(1)(a)(ii) to discuss in more detail or if you have more sensitive information. We are not intending to run a face-to-face meeting of the Panel unless required. Please note that the Minister determines which providers participate in SVP and he is not bound by the recommendations of the Panel.

I would appreciate your assessment by 4 February 2016. Please contact me if you have any questions or concerns.

Regards

s. 22(1)(a)(ii)

Director | Student and Graduate Visas
 Temporary Visa Programme | Visa and Citizenship Management
 Department of Immigration and Border Protection

P: s. 22(1)(a)(ii)

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s. 22(1)(a)(ii)

From: s. 22(1)(a)(ii)
Sent: Wednesday, 10 February 2016 11:01 AM
To: s. 47F(1); s. 47F(1); s. 47F(1)
Cc: s. 47F(1); Student Policy Projects; s. 47F(1)@asqa.gov.au
Subject: SVP Panel - assessment of deferred providers [DLM=For-Official-Use-Only]
Attachments: Assessment of deferred providers_February 2016.docx

For-Official-Use-Only

Dear members of the SVP Assessment Panel.

Please find attached a record of the assessment of the deferred providers based on information ASQA, TESQA, DET and the Department have provided. I intend to write to these providers on Friday to advise them that they do not meet the criteria to enter into SVP arrangements and offer them an opportunity to respond. The Minister will then consider our recommendation.

Please contact me if the attached misrepresents your views or if you have any other concerns.

Thank you for your continued involvement in the assessment panel.

s. 22(1)(a)(ii)

Director | Student and Graduate Visas
 Temporary Visa Programme | Visa and Citizenship Management
 Department of Immigration and Border Protection
 P: s. 22(1)(a)(ii)
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GUIDELINES FOR EDUCATION PROVIDER PARTICIPATION IN STREAMLINED VISA PROCESSING ARRANGEMENTS

PURPOSE OF THE GUIDELINES

These Guidelines set out arrangements for Education Providers (whether public or privately owned) offering Advanced Diploma, Bachelor, Masters or Doctoral degree level courses that meet thresholds relating to low immigration risk, noting that alternate arrangements are in place for universities. Access to the Streamlined Visa Processing (**SVP**) Arrangements is unrelated to the quality of the education offered by the Education Provider and does not represent Australian Government endorsement of particular Education Providers.

The SVP Arrangements aim to assist genuine students and temporary entrants to be assessed for an Australian student visa as though they are low immigration risk, irrespective of their country of citizenship, similar to students who are subject to Assessment Level (AL) 1. However, with access to the SVP Arrangements come responsibilities for the Education Providers, as set out in these Guidelines.

The strategies and arrangements Education Providers have in place to manage the immigration risk of their students and prospective students are crucial to ensuring that the integrity of the Student Visa Programme is maintained. All parties recognise the critical importance of the international education sector and will work to ensure these arrangements are implemented in a practical, timely and effective way.

These Guidelines are intended to work in tandem with, and be consistent with, the regulatory framework applying to institutions registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS), including the Education Services for Overseas Students (ESOS) legislative framework, neither negating the other. The ongoing conditions for participation aim to reflect the diverse nature of Education Providers that can participate under these arrangements. These Guidelines are not intended to place an undue regulatory burden on any of the parties.

WHAT IS AN EDUCATION PROVIDER

1. For the purposes of these Guidelines each CRICOS Provider Code constitutes a separate **Education Provider**. It is recommended the definition of 'Education Provider' (paragraphs 109 to 116) be read first in order to understand these Guidelines.
2. Where an Education Provider is assessed as meeting the SVP Arrangements criteria and has been specified by the Minister for Immigration and Border Protection/Assistant Minister for Immigration and Border Protection (**'the Minister'**), in his or her sole discretion, in a legislative instrument, the Education Provider will then be called an **Eligible Education Provider** (see further paragraph 56 of these Guidelines).

BACKGROUND

3. The Department of Immigration and Border Protection (**'the Department'**) has established SVP Arrangements for eligible prospective overseas students.
4. These Guidelines set out the eligibility criteria and the requirements and obligations of individual Education Providers should the Education Provider be issued with an Invitation to Participate and wish to apply to participate in the SVP Arrangements. These Guidelines also set out the Department's role in providing information to the Education Providers to assist them with their decision.
5. Invited Education Providers may choose not to apply for access to the SVP Arrangements. If this occurs, then no prospective student proposing to attend that Education Provider will be entitled to access the SVP Arrangements.

6. Only students proposing to attend Eligible Education Providers specified in a legislative instrument by the Minister will be eligible to access the SVP Arrangements. It is a pre-condition for being specified in the legislative instrument that the Education Provider be issued with an Invitation to Participate by the Department, apply for participation in the SVP Arrangements in accordance with these Guidelines and be assessed as meeting these Guidelines.
7. Eligible Education Providers that are also educational business partners of a participating university under the separate SVP Arrangements for universities will have access to streamlined visa processing for their prospective students under these Guidelines in addition to access under any arrangements with universities.
8. Access to the streamlining arrangements is not a guarantee of a positive visa outcome for a student. All prospective students must also meet additional criteria prescribed in the *Migration Regulations 1994*, including the Genuine Temporary Entrant criterion, in order to be eligible for grant of a Student visa.
9. Reduction in processing times for students of Eligible Education Providers under the SVP Arrangements depends, amongst other factors, on student visa applicants lodging complete applications. Incomplete applications can be delayed because the departmental officer must wait a certain amount of time for the applicant to provide the further information before a decision can be made.

STUDENT ACCESS TO STREAMLINED VISA PROCESSING

10. Prospective students holding a Confirmation of Enrolment(s) (**CoE**), to study an eligible course at an Eligible Education Provider will have access to streamlined visa processing. Eligible courses are set out in the *Migration Regulations 1994*.
11. Such prospective students will be exempt from the Assessment Level (AL) Framework. In practice this means they will be treated similarly to students subject to the lowest immigration risk (AL1) irrespective of their country of origin.
12. If the prospective student is seeking to undertake multiple eligible courses, in order to access the streamlined visa processing the prospective student must have CoEs for all courses, all courses must be undertaken with an Eligible Education Provider (and/or nominated educational business partners) and all courses must form part of an eligible package of courses in accordance with the *Migration Regulations 1994*.
13. A prospective student seeking to undertake studies at the Eligible Education Provider who holds a letter of offer, but no CoE for that course will not be eligible for streamlined visa processing and will be assessed according to the applicable Assessment Level.
14. A prospective student seeking to undertake courses with an Eligible Education Provider but to also undertake other courses at an Education Provider who is not an Eligible Education Provider will not be eligible for streamlined visa processing and will be assessed according to the applicable Assessment Level.
15. The Australian Government reserves the right to exclude certain high risk groups from streamlined visa processing even if they are enrolled with an Eligible Education Provider.

QUESTION AND ANSWER PROCESS

16. The Department will be happy to respond to requests for information or clarification in order for Education Providers to better understand the requirements of the Application Form and Guidelines. Questions must be submitted in writing to:
Student.Policy.Projects@immi.gov.au

PUBLICATION OF INFORMATION ON THE DEPARTMENT'S WEBSITE

17. By submitting an Application and by accessing or continuing to access the SVP Arrangements, an Education Provider acknowledges and consents (as applicable) to publication of the following information on the Department's website (which is accessible to the public):
- (a) these Guidelines;
 - (b) the Education Provider's 'for publication' Education Provider Plan (Part B of the Application Form, as amended in accordance with paragraphs 19 to 20 of these Guidelines);
 - (c) a list of Eligible Education Providers;
 - (d) a list of Education Providers that have lost their status as an Eligible Education Provider;
 - (e) updates about any changes to Eligible and non-Eligible Education Providers, including updates when an Education Provider:
 - (i) becomes an Eligible Education Provider;
 - (ii) withdraws from the SVP Arrangements; or
 - (iii) loses its status as an Eligible Education Provider under these Guidelines;
 - (f) any warnings given to an Eligible Education Provider, including the basis for that warning; and
 - (g) any conditions or restrictions (including periods of exclusion from making a further Application) applying to the Eligible Education Provider.
18. The Department will not publish the Assessment Level rating of an Education Provider.
19. In addition to the full version of the Education Provider Plan to be provided to the Department as part of the Application, Education Providers are also to supply a 'for publication' version of the Education Provider Plan to be placed on the Department's website.
- (a) The 'for publication' version of the Education Provider Plan must still address each of the Application Assessment Criteria (paragraph 58) but need not include material that the Education Provider, acting reasonably, considers commercially sensitive or information that is market sensitive and which the Education Provider does not wish to be published on the Department's website.
 - (b) The 'for publication' version must be provided in two electronic formats: "PDF" and "Word" formats to meet Australian Government Web Content Accessibility Guidelines.
 - (c) The 'for publication' version must be updated whenever the Education Provider Plan is amended.
20. It should be noted that information that is in the public domain must not be marked commercially sensitive. If the Department considers an Education Provider has marked as commercially sensitive material that is not commercially sensitive, it will require the Education Provider to re-assess that marking and to provide an explanation as to why the identified material should be treated as commercially sensitive.

ELIGIBILITY

21. To become an Eligible Education Provider, the Education Provider must:
- (a) meet the Conditions for Education Provider Participation (paragraph 27);
 - (b) have been issued with an Invitation to Participate in accordance with paragraphs 29 to 33 and have not had that Invitation to Participate withdrawn;
 - (c) express an intention to apply (paragraphs 34 to 35) and then submit an Application ("**Application**") in accordance with these Guidelines (paragraphs 36 to 45);
 - (d) be assessed as meeting the Application Assessment Criteria (paragraph 58); and
 - (e) be specified in a legislative instrument by the Minister (paragraphs 56 to 57).
22. Once an Education Provider is an Eligible Education Provider, it will remain an Eligible Education Provider until the date specified in accordance with paragraph 24 of these Guidelines so long as it:
- (a) continues to remain actively registered on CRICOS, consistent with the requirements of the *ESOS Act*;
 - (b) continues to meet any Ongoing Assessment Criteria set out in the Guidelines (as amended from time to time) (paragraphs 62 to 94); and
 - (c) does not obtain a benchmark score of AL3 (using the Assessment Level Methodology) in any Review without returning to a benchmark score of AL2 or AL1 within the 6 month period following the Review (paragraph 85).

PERIOD OF ELIGIBILITY

23. Eligible Education Providers will only be eligible to access the SVP Arrangements for the duration of the arrangements (or such later date as specified by the Department) or until the Education Provider ceases to be an Eligible Education Provider under these Guidelines (whichever is the earlier).
24. The arrangements set out in these Guidelines will conclude on 30 June 2016.
25. Prior to the conclusion of the SVP Arrangements, the Department will reassess the arrangements and may issue new Guidelines and new Invitations to Participate to all Education Providers that meet the Conditions for Education Provider Participation that would be set out in any new Guidelines. Any Guidelines for future arrangements may contain Conditions for Education Provider Participation that differ from the current Guidelines.
26. There is no guarantee that an Eligible Education Provider under these Guidelines will again be assessed as an Eligible Education Provider in any future arrangements. Without limiting the changes that may be made, any future Guidelines may alter the threshold number of active student visas linked to an Education Provider (from those set out in the Condition for Participation paragraph 27(c)) and will update the date for determining whether an Education Provider meets that threshold.

CONDITIONS FOR EDUCATION PROVIDER PARTICIPATION IN SVP ARRANGEMENTS

27. Only Education Providers that satisfy the Minister of the following conditions ('**Conditions for Education Provider Participation**') as at the date the Invitation to Participate is issued are eligible to make an Application and will be issued with an Invitation to Participate by the Department:

- (a) The Education Provider is actively registered on CRICOS. Registration status must not be 'suspended' or 'cancelled'.
- (b) The Education Provider is registered to provide Advanced Diploma, Bachelor, Masters and/or Doctoral degree level courses to overseas students.
- (c) The Education Provider is determined by the Department to have low immigration risk based on a statistical analysis of data from the Department systems for the relevant 12 month reporting period. For an Education Provider to be low immigration risk they must be assessed as being Assessment Level 1 or 2 using the Assessment Level Methodology set out at paragraph 117 and have had 100 or more active student visas linked to the Education Provider in the Department's systems for the relevant 12 month reporting period.

Note: In order for the Department to determine with sufficient confidence the Education Provider's Assessment Level and ongoing immigration risk level, the Department must have a certain minimum level of data obtained from active students at the Education Provider. This minimum level has been determined to require 100 or more active Student visas against a single CRICOS Provider Code.

This does not mean that Education Providers with fewer than 100 students are regarded as being of higher immigration risk. It means that the Department cannot make an immigration risk assessment with sufficient confidence.

- (d) The Education Provider is not excluded by a direction given under these Guidelines from making an Application.

28. There is no limit to the number of Education Providers that may be assessed as meeting the 'Conditions for Education Provider Participation' and issued with an Invitation to Participate.

INVITATION TO PARTICIPATE

29. The Department will send invitations ('Invitations to Participate') to the Education Provider's Principal Executive Officer, as recorded in the Department of Education's Provider Registration and International Students Management System (PRISMS), to Education Providers that have met the Conditions for Education Provider Participation (see paragraph 27) as at the date the Invitation to Participate is issued.

30. Invitations to Participate will be issued in November 2013. The Department may invite additional education providers at a later stage during the period of these Guidelines. Education Providers who do not meet the conditions for participation at that time will not be entitled to participate in the SVP Arrangements.

31. The Invitation to Participate will specify:

- (a) the approximate date by which the Education Provider will be entitled to access the SVP Arrangements, should the Education Provider satisfy these Guidelines;
- (b) the date by which the Education Provider is required to express an intention to submit an Application (and provide details as to how this is to be done) (see paragraph 34); and

- (c) the date by which the Education Provider is required to submit the Application (should it wish to do so).
32. At the same time as issuing the Invitation to Participate, the Department will provide to that Education Provider:
- (a) data about the immigration risk of the prospective and actual overseas students associated with the Education Provider (as held by the Department for the relevant 12 month reporting period). This information may be of use to some Education Providers in deciding whether or not to submit a formal Application;
 - (b) a copy of these Guidelines; and
 - (c) a template for the Education Provider's completion (**'Application Form'**), including a Declaration (see paragraph 38).
33. The Department may withdraw an Invitation to Participate at any time prior to the Education Provider submitting an Application if it subsequently becomes aware that an Education Provider does not or no longer meets the Conditions for Education Provider Participation (see paragraph 27) or is otherwise in breach of these Guidelines.

INTENTION TO SUBMIT AN APPLICATION

34. An Education Provider issued with an Invitation to Participate and wishing to participate in the SVP Arrangements must notify the Department of its intention to submit an Application. The Invitation to Participate will specify the method and date for this notification.
35. Education Providers that do not notify the Department of an intention to submit an Application in accordance with the Invitation to Participate may, at the Department's discretion, have the Invitation to Participate withdrawn. The Department will notify Education Providers in writing should any Invitation to Participate be withdrawn.

APPLICATION

36. An Education Provider wishing to participate in the SVP Arrangements must submit to the Department a written Application, in the form of the Application Form provided by the Department, and must provide all the information required by the Department to assess the Application against the Assessment Criteria.

Note: As set out in paragraph 111, if an educational institution or business or joint venture (of whatever legal structure) has multiple CRICOS Provider Codes then that institution or business will not be regarded as a single Education Provider but will be treated as being multiple Education Providers (that is, one Education Provider for each CRICOS Provider Code). Therefore, if an institution is invited to submit an Application in respect of more than one CRICOS Provider Code, it must submit a separate Application Form and supporting material for each applicable CRICOS Provider Code.

37. Education Providers must ensure they have answered all questions in the Application Form (and where required included attachments) prior to submission.
38. The Application must include a signed Declaration.
- (a) The Declaration must be signed by the person holding the position of Principal Executive Officer of the Education Provider at the time the Application is submitted (see definition at paragraph 120).
 - (b) The Declaration must be in accordance with the Application Form and must not be altered or varied by the Education Provider in any way.

39. After submission of an Application, Education Providers will not be permitted to amend or to attach further information or documentation to their Application prior to assessment by the Department, unless the Department, at its absolute discretion, agrees to allow the Education Provider to amend or attach further information or the Education Provider is requested by the Department to provide additional material in accordance with paragraph 49.
40. An Application must be lodged with the Department by mail to:
- Director
Student Policy Projects
Department of Immigration and Border Protection
PO Box 25
Belconnen, ACT, 2616
- An electronic copy of the Application should be sent by email to
Student.Policy.Projects@immi.gov.au
41. Education Providers will be sent an email to confirm receipt of their Application within five working days of receipt.
42. By submitting an Application the Education Provider acknowledges that they are responsible for the actions and outcomes of their nominated educational business partners as an integral part of participating in the SVP arrangements.
43. By submitting an Application the Education Provider is acknowledging that the Department has used all reasonable endeavours to ensure the information it has provided to the Education Provider is based on data that was accurate when collected. The Department has no liability to any Education Provider should any information or material provided be inaccurate or incomplete. The Department will work with the Education Provider to assist with their understanding of the data.

Time for lodgement of Applications

44. The Application must be lodged with the Department by the date advised by the Department in the Invitation to Participate.
45. Regardless of the date an Application is lodged, Eligible Education Providers will be required to submit a further Application providing updated information by approximately April 2016.

Compliance with relevant legislation and regulatory frameworks

46. By submitting an Application under the Guidelines, Education Providers:
- (a) consent to the Department obtaining and, if the Education Provider becomes an Eligible Education Provider, continuing to obtain information about the Education Provider relevant to any criteria under the Guidelines from the relevant designated authority for regulation, including information about the Education Provider's compliance with the *ESOS Act* and associated regulatory framework, the *Tertiary Education Quality and Standards Agency Act 2011* and the *National Vocational Education and Training Regulation Act 2011*, *Education Services for Overseas Students (Registration Charges) Act 1997*, the *Education Services for Overseas Students (TPS Levies) Act 2012*, and consent to the designated authority for regulation providing this information to the Department (note: these consents are in the Declaration required to be signed and submitted as part of the Application);

- (b) acknowledge and agree to the Department using information obtained from the relevant designated authority for regulation in the Department's assessment of the Education Provider's Application against the Application Assessment Criteria and, if applicable, the Education Provider's compliance against the On-going Assessment Criteria; and
- (c) declare that the Education Provider does not have any pending regulatory action against them. If the Education Provider declares or the regulator informs the department that the Education Provider is subject to a pending investigation or regulatory action, a decision on the Education Provider's Application may be delayed until such time as the investigation is finalised.

RECEIPT AND REGISTRATION OF APPLICATIONS, INITIAL SCREENING FOR COMPLIANCE

- 47. Applications will initially be screened by the Department to ensure that:
 - (a) all Conditions for Education Provider Participation have been met by the Education Provider; and
 - (b) sufficient information has been provided in the Application Form to enable a fully informed assessment to be made, including but not limited to provision of a properly signed Declaration.
- 48. Only fully completed Applications addressing all relevant criteria, and including all required supporting documentation and attachments, will be accepted. If not fully completed, Applications will not progress to the Assessment Panel for consideration.
- 49. The Department will contact the Education Provider about any incomplete Applications within five working days of receipt of the Application. The Education Provider will be provided with the opportunity to provide the additional information required.

THE ASSESSMENT PANEL AND ASSESSMENT OF APPLICATIONS AGAINST APPLICATION ASSESSMENT CRITERIA

- 50. Applications assessed as compliant at initial screening will be forwarded to the Assessment Panel for assessment against the Application Assessment Criteria (see paragraph 58).
- 51. The Assessment Panel will be chaired by a representative of the Department, and may also comprise representatives from other Commonwealth agencies.
- 52. Each Application will be assessed based on the information held by the Department, provided in the Application Form or obtained by the Department from the relevant designated authority for regulation or otherwise. The Application will be assessed according to the extent to which the responses provided by the applicant meets the Application Assessment Criteria and taking into account any perceived risks of the response.
- 53. The Assessment Panel will determine either that:
 - (a) the Assessment Panel is satisfied the Education Provider satisfies the Application Assessment Criteria, including that the Education Provider has provided the necessary information; or
 - (b) the Assessment Panel is not satisfied the Education Provider satisfies the Application Assessment Criteria.
- 54. A decision of the Assessment Panel that an Education Provider meets the Application Assessment Criteria does not entitle the Education Provider or its prospective students to participate in the SVP Arrangements.

55. Based on the determination of the Assessment Panel, and any other information or policy considered relevant by the Department in its discretion, the Department will advise the Minister either that:
- (a) the Education Provider meets the Application Assessment Criteria for participation in the SVP Arrangements; or
 - (b) the Education Provider does not meet the Application Assessment Criteria for participation in the SVP Arrangements.
56. The Minister, in his or her sole discretion, may then determine that the Education Provider is specified in the relevant legislative instrument. The Minister is not bound to follow the advice of the Department.
57. The Education Provider, and its prospective students, will not be eligible to participate in the SVP Arrangements until the Education Provider has been specified in the relevant legislative instrument.

APPLICATION ASSESSMENT CRITERIA

58. Applications will be assessed against the following Application Assessment Criteria, based on the information contained in the Application Form. An Education Provider must satisfy all of the following Application Assessment Criteria as at the date of assessment:
- (a) The Education Provider is actively registered on CRICOS and has been registered since the date the Invitation to Participate was issued. Registration status must not be 'suspended' or 'cancelled'.
 - (b) The Declaration at Part A of the Application Form must be properly signed and witnessed.
 - (c) All information required for each question of the Education Provider Plan at Part B of the Application Form must be provided. This includes clearly differentiating between existing and future strategies/arrangements, ensuring the information provided is applicable to the CRICOS Provider Code covered by the Education Provider Plan, and responding to any other requirement specific to each question.
 - (d) Arrangements/strategies must be consistent with the *ESOS Act* and associated regulatory framework, including the *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007* (National Code).
 - (e) The Education Provider must have a history of complying with relevant legislation and regulatory frameworks.
 - (i) The Assessment Panel may consider unresolved complaints of, or investigations into, significant non-compliance with relevant legislation and regulatory framework in making its recommendation to the Minister.
 - (ii) This requirement in this paragraph 58(e) must be satisfied by all of the following:
 - A. the Education Provider in respect of its CRICOS Provider Code and in respect of any other CRICOS Provider Code issued to the Education Provider or issued to any educational institution or business or joint venture (of whatever legal structure) of which the Education Provider is an associate;

- B. the Principal Executive Officer;
- C. any associates of the Education Provider who have been, are or will be involved in the business of the provision of courses by the Education Provider;
- D. any current high managerial agent of the Education Provider while they were acting as a high managerial agent of:
 - 1) the Education Provider; or
 - 2) any other CRICOS Provider Code;
- E. any former high managerial agent of the Education Provider while they were acting as a high managerial agent of:
 - 1) the Education Provider;
 - 2) any other CRICOS Provider Code issued to the Education Provider or issued to any educational institution or business or joint venture (of whatever legal structure) of which the Education Provider is an associate;

where the terms "associate" and "high managerial agent" have the meaning given in the *ESOS Act*.

- (iii) This includes (but is not limited to) compliance with requirements under the *ESOS Act*, the National Code, the Tuition Protection Service (TPS), the *Education Services for Overseas Students (Registration Charges) Act 1997*, the *Education Services for Overseas Students (TPS Levies) Act 2012*, the *National Vocational Education and Training Regulation Act 2011*, *Tertiary Education Quality and Standards Agency Act 2011* and the *Migration Act 1958*.
- (f) The Education Provider must specify additional CRICOS Provider Codes belonging to the organisation
- (g) The Education Provider must specify the number of overseas students the Education Provider intends to recruit in the time period covered by the Education Provider Plan, and the countries in which it intends to focus its recruitment.
 - (i) The Education Provider Plan must include information about how the Education Provider works overseas and strategies to identify suitable markets of genuine students and genuine temporary entrants.
- (h) The Education Provider must specify the percentage of overseas students to domestic students at their Education Provider in the past five years and expected over the period of the Education Provider Plan, and in the higher education courses most popular with overseas students.
- (i) The Education Provider must satisfy the Assessment Panel that it has in place strategies aimed at ensuring education agents recruit quality students rather than just volumes of students.

- (j) The Education Provider must satisfy the Assessment Panel that it has in place processes and policies to evaluate enrolment applications from prospective students.
- (k) The Education Provider must satisfy the Assessment Panel that it has arrangements in place to minimise incentives for students to deliberately arrive under AL1 type arrangements and then purposefully transfer out of their course or otherwise change their provider to take advantage of the SVP Arrangements.
 - (i) Strategies should include arrangements with nominated educational business partners, agents and other third parties, if relevant.
 - (ii) Strategies should include how the Education Provider minimises the risk of students purposefully transferring out of courses or otherwise changing education providers once assessed against the reduced Student visa requirements (similar to AL1) to achieve an immigration outcome rather than an educational outcome, including mechanisms to identify and respond to any emerging trends.
- (l) The Education Provider must satisfy the Assessment Panel that it has strategies to ensure that students have appropriate levels of English language proficiency at the commencement of their courses.
 - (i) Where English language test results have been provided to the Education Providers to support a prospective student's evidence of English language proficiency, the Education Provider should record the English language test results in the CoE.
 - (ii) Where English language test results are used as the basis for determining English language proficiency, Education Providers guarantee that they have verified those test results using the relevant verification mechanisms.
- (m) The Education Provider must satisfy the Assessment Panel that it has strategies in place to ensure that students continue to develop their English language proficiency during their studies.
- (n) The Education Provider must satisfy the Assessment Panel that it has in place strategies to ensure prospective students have sufficient funds to support themselves and any dependants during their studies in Australia.
- (o) The Education Provider must satisfy the Assessment Panel that it has in place arrangements to manage cases where students do not have sufficient funds to support themselves and their dependants during their studies.
 - (i) The Education Provider must satisfy the Assessment Panel that it has in place arrangements to take responsibility for assisting the student – ie Education Provider should not just be referring student to others.
- (p) The Education Provider must satisfy the Assessment Panel that it has in place strategies to assist students to comply with their visa requirements.
- (q) The Education Provider is invited to include any other matter the Education Provider considers relevant.
- (r) Part C of the Application Form is completed with details of nominated educational business partner(s) (with which visa applicants may package courses and still be eligible for streamlined arrangements), if required.

Amendment to Application Assessment Criteria

59. The Application Assessment Criteria may be amended at any time at the Department's discretion, including deletion of existing Application Assessment Criteria and inclusion of new Application Assessment Criteria. The Department will notify Education Providers within a reasonable time should this occur and issue updated Guidelines within a reasonable time.
60. Education Providers who are Eligible Education Providers as at the time of any amendment will not be required to submit a new Application to meet any amended Application Assessment Criteria (until they are required to submit a new Application in approximately April 2016 for any future arrangements after 30 June 2016).
61. Education Providers that have already submitted an Application as at the time of any amendment, but where that Application has not yet been assessed, will not be required to submit a new Application and will be assessed against the Application Assessment Criteria as at the date the Application was received by the Department.

ONGOING ASSESSMENT CRITERIA TO BE MET BY THE ELIGIBLE EDUCATION PROVIDERS

Obligation to meet Ongoing Assessment Criteria

62. The following paragraphs 63 to 102 apply to Education Providers that have been specified in the legislative instrument as eligible to access the SVP Arrangements (**Eligible Education Providers**).
63. Eligible Education Providers must meet and continue to meet all Ongoing Assessment Criteria. Failure to meet any Ongoing Assessment Criteria may result in the Department taking action in accordance with paragraph 95.

Ongoing Assessment Criteria – Compliance with relevant legislation and regulatory frameworks.

64. The Minister must remain satisfied that the Eligible Education Provider and/or any of the people set out in paragraph 65:
 - (a) do not have a history of significant non-compliance with legislation and regulatory frameworks;
 - (b) have not, at any time, become significantly non-compliant with relevant legislation and regulatory frameworks;
 - (c) have not had its registration under the *ESOS Act* suspended or cancelled; and
 - (d) are not subject to unresolved complaints of, or investigations into, significant non-compliance with relevant legislation and regulatory framework.
65. The criteria in paragraph 64 must be satisfied by all of the following (as applicable):
 - (a) the Eligible Education Provider in respect of its CRICOS Provider Code and in respect of any other CRICOS Provider Code issued to the Eligible Education Provider or issued to any educational institution or business or joint venture (of whatever legal structure) of which the Eligible Education Provider is an associate;
 - (b) the Principal Executive Officer;
 - (c) any associates of the Eligible Education Provider who have been, are or will be involved in the business of the provision of courses by the Eligible Education Provider;

- (d) any current high managerial agent of the Eligible Education Provider while they were acting as a high managerial agent of:
 - (i) the Eligible Education Provider; or
 - (ii) any other CRICOS Provider Code;
- (e) any former high managerial agent of the Eligible Education Provider while they were acting as a high managerial agent of:
 - (i) the Eligible Education Provider;
 - (ii) any other CRICOS Provider Code issued to the Eligible Education Provider or issued to any educational institution or business or joint venture (of whatever legal structure) of which the Eligible Education Provider is an associate.

where the terms "associate" and "high managerial agent" have the meaning given in the *ESOS Act*.

- 66. This includes but is not limited to the Eligible Education Provider's compliance with requirements under the *ESOS Act*, the National Code, the Tuition Protection Service (TPS), the *Education Services for Overseas Students (Registration Charges) Act 1997*, the *Education Services for Overseas Students (TPS Levies) Act 2012*, the *National Vocational Education and Training Regulation Act 2011*, *Tertiary Education Quality and Standards Agency Act 2011*, and the *Migration Act 1958*.
- 67. In determining compliance with this criteria, the Department may obtain and have regard to any information held by the Department or obtained from the relevant designated authority for regulation or otherwise.

Ongoing Assessment Criteria – Changes to Eligible Education Provider's CRICOS registration.

- 68. The Eligible Education Provider must remain actively registered on CRICOS. Registration status may not be 'suspended', or 'cancelled'. An Eligible Education Provider that has its CRICOS registration suspended or cancelled for non-payment of the Annual Registration Charge and/or TPS levies would fail to meet the Ongoing Assessment Criteria, even if their registration is reinstated at a later time and may result in the Department taking action in accordance with paragraph 95.
- 69. The Eligible Education Provider must notify the Department of any changes to its CRICOS provider registration or status, including:
 - (a) renewal of a CRICOS registration,
 - (b) change to the legal entity of the CRICOS registration,
 - (c) suspension or cancellation of a CRICOS Provider Code,
 - (d) change of scope, and
 - (e) amalgamation of CRICOS codes, including National Registration (in which Education Providers operating in more than one location, state and/or territory can apply to amalgamate their CRICOS registrations).
- 70. Paragraph 69 may be satisfied by providing to the Department a copy of relevant correspondence or material sent to or received from the applicable designated authority for regulation.

71. In the event that a change of ownership of the Eligible Education Provider results in the cancellation of the Eligible Education Provider's CRICOS Provider Code, the Eligible Education Provider would be assessed as failing to meet the Ongoing Assessment Criteria.

Example 1: Education institution XYZ Learning has CRICOS Provider Code 1000A with 180 active student visas and AL2 immigration risk rating. Education institution UVW Institute has CRICOS Provider Code 2000A with 2000 active student visas and AL3. UVW Institute is not an Eligible Education Provider as it does not meet the low immigration thresholds for participation in the arrangements. XYZ Learning is sold to UVW Institute. Once the CRICOS Provider Code 1000A is cancelled, students of "XYZ Learning" would not be eligible for streamlined visa processing.

Ongoing Assessment Criteria – Sustainable expansion of international student numbers.

72. While the SVP Arrangements are intended to promote the competitiveness of Australian education providers in the international education sector, Eligible Education Providers must ensure that increases in enrolments occur in a manner that is both sustainable and maintains integrity. Eligible Education Providers' strategies in relation to issuing CoEs to genuine students only are critical to ensuring sustainable growth.
73. The Department will monitor various indicators relating to the sustainable expansion of Eligible Education Providers, including monitoring any changes to the Eligible Education Provider arising out of amalgamation of CRICOS registrations (such as National Registration). The indicators may include the extent of increases in visa application lodgements, and trends in Student Course Variations and non-enrolled students.
74. In response to potential or actual integrity risks identified through the reporting or data analysis, or where such reporting identifies significant variation to the projected enrolments set out in the Education Provider Plan, the Department may request updates from an Eligible Education Provider in accordance with paragraphs 91 to 94.

Ongoing Assessment Criteria – Requirement for prospective students of Eligible Education Providers to hold a CoE

75. Eligible Education Providers must have in place arrangements to ensure that prospective students do not apply for a Student visa until the Eligible Education Provider issues the student with a CoE. Students applying with a letter of offer rather than a CoE will not be eligible for streamlined visa processing and will be assessed according to the student's applicable Assessment Level. An Eligible Education Provider with an ongoing trend of significant numbers of prospective students applying for a Student visa prior to obtaining a CoE from the Education Provider will be assessed as failing to meet the Ongoing Assessment Criteria and may result in the Department taking action in accordance with paragraph 95.

Ongoing Assessment Criteria - Educational business partners

76. In approximately January, April and August each year, Eligible Education Providers must confirm their educational business partner arrangements by advising the Department in writing of any changes to their educational business partners since the previous report or confirming no changes. This allows sufficient time for the legislative instrument to be amended and the Department's systems to be updated (the Department's systems are expected to be updated in approximately March, July and November each year).
77. Eligible Education Providers are responsible for advising the Department of any material changes to the CRICOS registration of their nominated educational business partners, including changes due to National Registration and change of ownership. Where the changes will result in a change to the CRICOS provider code, Eligible Education Providers are encouraged to contact the Department as early as possible (including outside of the timeframes in paragraph 76) to address potential impacts of such changes.

78. In exceptional circumstances, such as if the Eligible Education Provider becomes aware of serious misconduct by an educational business partner, the Eligible Education Provider must advise the Department of the dissolution of arrangements immediately.
79. Without limiting paragraph 95, failure to provide at least two month's notice may result in an educational business partner not being eligible to access the SVP Arrangements for a period of time until the legislative instrument and departmental systems can be next updated, meaning that prospective students intending to study courses with that educational business partner will also not be eligible for streamlined visa processing for that period.

Ongoing Assessment Criteria – Unregistered campuses.

80. Eligible Education Providers must not operate unregistered campuses.

Ongoing Assessment Criteria – Advertising the SVP Arrangements.

81. Eligible Education Providers and their agents/sub-agents must not market the Eligible Education Provider's participation in the SVP Arrangements as being an endorsement by the Australian Government of the Eligible Education Provider or an indicator of the quality of the Eligible Education Provider.

Ongoing Assessment Criteria - Benchmarks

82. Eligible Education Providers are required to meet and continue to meet the benchmarks set out in these Guidelines.

Benchmark

83. The benchmark is that an Eligible Education Provider must receive an Assessment Level of AL2 or AL1 at each Review (using the Assessment Level Methodology set out at paragraph 117). If an Eligible Education Provider receives an Assessment Level of AL3 then paragraphs 85, 89 and 90 apply.

Review

84. A Review of each Eligible Education Provider against the benchmarks, using the Assessment Level Methodology set out at paragraph 117 will occur on an approximately annual basis. The Review will consider student risk data for the most recent 12 month period, as held by the Department, against the benchmark. Providers that commence the arrangements in approximately March or July of any year will be formally reviewed in April of the following year and providers that commence in approximately November of any year will be formally reviewed in October of the following year.
85. If an Eligible Education Provider receives an Assessment Level of AL3 then a further Review will be conducted six months later (see paragraph 90 of these Guidelines).
86. The Department will provide each Eligible Education Provider with an updated Assessment Level and an assessment against benchmarks, based on data covering the most recent 12-month period prior to those dates (as held by the Department) and using the Assessment Level Methodology set out at paragraph 117. This information will only be provided to the Principal Executive Officer of the Education Provider.

Interim Data

87. The Department will also provide Eligible Education Providers with interim data and an assessment against benchmarks each year, covering the most recent 12-month period as held by the Department. Providers that commence the arrangements in approximately March or July will receive interim data in October while education providers that commence in approximately November will receive interim data in April. Subject to paragraph 85, this

interim data is provided for the Eligible Education Provider's information only and to assist Eligible Education Providers to monitor their performance against the benchmarks set out in these Guidelines and to identify whether the strategies the Eligible Education Providers have implemented to reduce their Assessment Level (if applicable) are succeeding.

88. Where there is a concern with the performance shown by the interim data, the Department will notify the Eligible Education Provider in order to assist the Eligible Education Provider to address any concerns prior to the next Review. The Department intends to work in partnership with Eligible Education Providers to assist them to understand and address any concerns arising out of the data. The intention is to ensure risks to an Eligible Education Provider's continued access to the streamlining arrangements are identified early and discussed early and the Eligible Education Provider is given every reasonable opportunity to take remedial action before any action is taken under these Guidelines.

Receipt of Assessment Level of AL3

89. An Eligible Education Provider that, at any Review, receives an Assessment Level of AL3 will be put on notice. The Eligible Education Provider will be required to put in place strategies that aim to reduce its Assessment Level to AL2 or AL1 within 6 months from the date of the Review. Those strategies are to be advised to the Department, who will work closely and in partnership with the Eligible Education Provider to address any concerns.
90. An Eligible Education Provider that is on notice at the time of Review and receives an Assessment Level of AL3 will be assessed as failing to meet the benchmark Ongoing Assessment Criteria.

Ongoing Assessment Criteria - Update Reports

91. If requested by the Department, the Eligible Education Provider must provide updates to the Department with such further information as required by the Department. The Department will notify the Eligible Education Provider as to the further information to be provided and the Eligible Education Provider must deliver that further information within one month of the date of that notification. This may include any of the items set out in paragraph 92.
92. Without limiting paragraphs 91 or 95, if the Department considers there has been:
- (a) a material change in the ability of the Eligible Education Provider to meet the Conditions for Education Provider Participation or to meet any of the Ongoing Assessment Criteria; or
 - (b) the Eligible Education Provider has notified of a change to the CRICOS provider registration or status as required by paragraph 69.

then the Department may:

- (c) require an Eligible Education Provider to do any one or more of the following:
 - (i) provide updated or additional information about the Eligible Education Provider, which may include information or material in respect of the Eligible Education Provider's ability to meet the Conditions for Education Provider Participation or comply with the Ongoing Assessment Criteria;
 - (ii) provide a new Declaration signed after the date there was a change of circumstances; or
 - (iii) provide details as to whether the Eligible Education Provider intends to act in a manner that is different to the existing Education Provider Plan and, if so, require the Eligible Education Provider to the

Department an updated Education Provider Plan within a time to be specified;

and/or the Department may do any one or more of the following:

- (d) re-assess the Eligible Education Provider against any or all of the:
 - (i) Conditions for Education Provider Participation;
 - (ii) Application Assessment Criteria;
 - (iii) Ongoing Assessment Criteria; or
 - (e) take such further action as considered necessary by the Department arising from the change of circumstance.
93. Any revised Education Provider Plan required to be submitted will be assessed by the Assessment Panel (or a sub-committee authorised by the Assessment Panel) that will make a recommendation to the Minister about the Eligible Education Provider's ongoing access to the arrangements.
94. The Department may notify the Minister if an Eligible Education Provider does not lodge a revised Education Provider Plan or provide the required information within the required timeframe and recommend that the Eligible Education Provider be removed from the SVP Arrangements.

FAILURE TO MEET ONGOING ASSESSMENT CRITERIA

95. Unless otherwise specified in these Guidelines, if an Eligible Education Provider does not meet, or the Department reasonably considers the Eligible Education Provider is not likely to meet, any Ongoing Assessment Criteria, then the Department may, at its discretion and (if thought appropriate) in consultation with the Assessment Panel, do any or all of the following:
- (a) subject to paragraph 96, require the Eligible Education Provider to provide further information to the Department, within a reasonable timeframe specified by the Department, about the failure or suspected failure to meet the Ongoing Assessment Criteria and steps the Eligible Education Provider has or proposes to put in place to remedy the failure;
 - (b) subject to paragraph 96, put the Eligible Education Provider on notice (which may include a public notice on the Department's website) that the Eligible Education Provider may not be meeting the Ongoing Assessment Criteria and directing the Eligible Education Provider to remedy that failure within a stated timeframe; or
 - (c) subject to paragraph 98, advise the Minister that the Eligible Education Provider is not meeting the Ongoing Assessment Criteria and that the Minister may therefore wish, in his/her discretion, to impose conditions on the Eligible Education Provider or remove the Eligible Education Provider from the legislative instrument and the Education Provider will cease being an Eligible Education Provider.

Steps before the Department takes any action in relation to an Eligible Education Provider under paragraph 95

96. If the Department considers that a failure to meet the Ongoing Assessment Criteria is serious or will or may compromise the integrity of the SVP Arrangements, then the Department is not required to comply with paragraphs 90 or 98 before taking action under paragraph 95.

97. Before taking action under paragraphs 95(a) or 95(b) the Department will consider whether there are any exceptional circumstances not within the control of the Eligible Education Provider that may have adversely impacted an Eligible Education Provider's performance (for example, world events that are beyond the scope of control of the Eligible Education Provider). It is expected that these events would impact or potentially impact on most or all Eligible Education Providers. Where exceptional circumstances exist the Department may, at its sole discretion, take no action against an Eligible Education Provider for its failure to meet one or more Ongoing Assessment Criteria for a stated period of time.
98. Before notifying the Minister pursuant to paragraph 95(c), the Department will write to the Principal Executive Officer of the Eligible Education Provider to notify that the Eligible Education Provider has failed to meet or appears unlikely to meet the applicable Ongoing Assessment Criteria and setting out the Department's proposed advice to the Minister. The Eligible Education Provider will be invited to respond within a specified timeframe to the proposed advice and inform the Department of any actions taken, or proposed to be taken, by the Eligible Education Provider to rectify any failure to meet the applicable Ongoing Assessment Criteria.
99. In determining whether to proceed to notify the Minister or any advice to be made to the Minister, the Department may take into account the Eligible Education Provider's response (if any) and any actions taken, or proposed to be taken, by the Eligible Education Provider, including (without limitation) whether the Department considers that such actions are likely to be successful in rectifying the failure and the likely timeframe involved, and the Eligible Education Providers ongoing level of immigration risk.
100. At its sole discretion, the Department may then:
- (a) take no further action; or
 - (b) take action under paragraphs 95(a) or 95(b); or
 - (c) advise the Minister that he or she do one or more of the following:
 - (i) allow an Eligible Education Provider to remain as an Eligible Education Provider (and continue to access the SVP Arrangements) but impose conditions (including additional Ongoing Assessment Criteria) on the Eligible Education Provider in order for it to continue to access the SVP Arrangements; or
 - (ii) remove the Eligible Education Provider from the legislative instrument so that the Education Provider will cease being an Eligible Education Provider.
101. The Minister is not bound to follow any advice made by the Department.
102. If the Minister removes the Eligible Education Provider from the legislative instrument, the Education Provider will cease being an Eligible Education Provider and the Education Provider will generally not be entitled to be issued with a new Invitation to Participate in the SVP Arrangements for a minimum of two years from the date of removal from the legislative instrument. This includes (if applicable) an Invitation to Participate under any future Guidelines. The Minister may at his or her discretion reduce this exclusion period.

TERMINATION, AMENDMENT OR WITHDRAWAL FROM SVP ARRANGEMENTS

Education Providers

103. Eligible Education Providers may withdraw from the SVP Arrangements by providing the Department with written notice of its decision to withdraw in January, April or August of each year. The date of effect of the withdrawal would be subject to timeframes for legislative instrument and systems changes. (It is expected that this would be

approximately two to three months after the Department receives written notice of an Eligible Education Provider's decision to withdraw.)

Minister

104. The Minister may withdraw or amend the SVP Arrangements, or any part of them, at any time.

The Department

105. Subject to any express limitations set out in these Guidelines, the Department may amend these Guidelines at any time, including by the addition or deletion of Assessment Criteria, nevertheless the Department will use all reasonable endeavours to consult with Eligible Education Providers before amending these Guidelines. However, should these Guidelines be inconsistent with legislation then the legislation takes precedence, notwithstanding anything in these Guidelines. Nothing in these Guidelines limits the operation of any legislation.

LIMITATION OF LIABILITY

106. Neither the Minister nor the Department is liable in any way to an Education Provider in relation to implementation or management of the SVP Arrangements, or any action taken under these Guidelines including, without limitation, the assessment process, benchmarking or when and if the Department:
- (a) varies or terminates all or any part of the assessment process;
 - (b) varies or amends any part of these Guidelines; or
 - (c) exercises or fails to exercise any of its other rights under, or in relation to the Guidelines.

COMMERCIALLY SENSITIVE INFORMATION

107. If, in connection with the Guidelines, commercially sensitive information is provided or produced by any person, the person receiving the information must protect the confidential nature of the information, except when disclosure of the information is required by law or statutory or portfolio duties.
108. If it is necessary to disclose commercially sensitive information, provided or produced by or on behalf of the other party, to a third party, other than a legal adviser or for a purpose within an exception listed in clause 107, the party wishing to make the disclosure shall obtain the written consent of the other party.

DEFINITIONS

Education Provider

109. To be an **Education Provider**, the educational institution must be a 'registered provider' under the *ESOS Act* and have been issued a CRICOS Provider Code under that Act. Registration status must not be 'suspended' or 'cancelled'.
110. For the purposes of these Guidelines each CRICOS Provider Code constitutes a separate Education Provider.
111. If an educational institution or business or joint venture (of whatever legal structure) has multiple CRICOS Provider Codes (whether due to geographic differences, course differences or otherwise) then that institution or business will not be regarded as a single Education Provider but will be treated as being multiple Education Providers (that is, one Education Provider for each CRICOS Provider Code).

112. For the purposes of determining eligibility under these Guidelines, Education Providers will not be entitled to aggregate or form partnerships or joint arrangements (of whatever legal structure) with any other Education Provider(s), even if the other Education Providers are part of the same entity, are otherwise related or are jointly marketed or jointly located.
113. An educational institution or business or joint venture (of whatever legal structure) with multiple CRICOS Provider Codes will be assessed individually on the basis of each CRICOS Provider Code and not against all of the CRICOS Provider Codes held by that educational institution or business or joint venture.
114. Therefore, each Education Provider (that is, each CRICOS Provider Code) will be assessed for eligibility individually and without reference to any other Education Provider (that is, without reference to any other CRICOS Provider Code).
115. Where an educational institution is run by more than one person or entity (of whatever legal structure) who act jointly to provide the education service under one CRICOS Provider Code, then those people or entities will be treated as being one Education Provider.
116. For the purposes of these guidelines an Education Provider cannot be a university (being a Table A provider, Table B provider or Table C provider as set out in the *Higher Education Support Act 2003*), even if the university has been issued with a CRICOS Provider Code. Universities are subject to a different set of guidelines.

Other Definitions

117. **Assessment Level Methodology:** The Department will determine an Eligible Education Provider's 'Assessment Level' (AL), based on the Assessment Level Methodology which has been developed to take into account the specific risks within this cohort of potential visa applicants and to better address the potential for risk in the Student Visa Programme.
- (a) Weighting are applied to risk indicators to produce a risk index based on statistical data alone:
- (i) rate at which visas have been cancelled (30% weighting);
 - (ii) rate at which visas lodged by offshore students have been refused due to fraud (40% weighting);
 - (iii) rate at which visas lodged by offshore students have been refused for reasons other than fraud (10% weighting);
 - (iv) rate of student unlawful non-citizens (20% weighting).
- (b) An Assessment Level for that Eligible Education Provider is then applied. These will be set as per the allocation of Assessment Levels to sectors and nationalities as follows:
- (i) AL1 - Risk index less than 1.0
 - (ii) AL2 – Risk index between 1 and 2.7
 - (iii) AL3 – Risk index more than 2.7
- (c) The statistical basis for calculating the risk index and/or the Assessment Level may change over time.
118. "**ESOS Act**" means the *Education Services for Overseas Students Act 2000*.

119. **"Designated authority for regulation"** may include (but is not limited to) the Australian Skills Quality Authority (ASQA) and the Tertiary Education Quality and Standards Agency (TEQSA).
120. **Principal Executive Officer** of an Education Provider means the person nominated under the *ESOS Act* as the person with executive responsibility for the operation of the Education Provider.

Minutes – Streamlined visa processing (SVP) Assessment Panel meeting

Time: Thursday, 9 April 2015, 2:00 – 4:00pm

Assessment Panel participants:

Judith O'Neill, Assistant Secretary, Department of Immigration and Border Protection (DIBP, Chair)

s. 22(1)(a)(ii) [redacted], Director, DIBP

s. 22(1)(a)(ii) [redacted], A/g Director, DIBP

s. 22(1)(a)(ii) [redacted], Assistant Director, DIBP

s. 47F(1) [redacted], Director, Department of Education and Training (DET)

s. 47F(1) [redacted], Assistant Director, DET

s. 47F(1) [redacted], National Manager, Australian Skills Quality Authority (ASQA)

s. 47F(1) [redacted], Director, Tertiary Education Quality and Standards Agency (TEQSA)

1. Welcome and overview

- Chair welcomed participants and thanked them for their involvement in the Assessment Panel. Chair provided an overview of the Assessment Panel's role, indicating that the meeting would work on an exception basis.

2. TEQSA feedback

- TEQSA confirmed that it had no significant regulatory concerns about the following higher education providers that would preclude them from participating in SVP arrangements: s. 47G(1)(a) [redacted], s. 47G(1)(a) [redacted], s. 47G(1)(a) [redacted], s. 47G(1)(a) [redacted], and s. 47G(1)(a) [redacted].
- TEQSA provided an update on the three providers that had previously been deferred based on unresolved regulatory issues.

No.	CRICOS code	Organisation name	Comments and recommendation
1	s. 47G(1)(a) [redacted]	s. 47G(1)(a) [redacted]	s. 47E(d) [redacted] Recommendation: s. 47E(d) [redacted]
2	s. 47G(1)(a) [redacted]	s. 47G(1)(a) [redacted]	s. 47E(d) [redacted] Recommendation: s. 47E(d) [redacted]
3	s. 47G(1)(a) [redacted]	s. 47G(1)(a) [redacted]	s. 47E(d) [redacted] Recommendation: s. 47E(d) [redacted]

3. DET feedback

- DET confirmed it had no concerns that would preclude any of the education providers that had submitted SVP applications from participating in the arrangements. DET noted that the registration of a number of education providers had expired or was due to expire. The Panel agreed that ASQA would investigate the registration status of the providers identified by DET.

4. ASQA feedback

- ASQA confirmed that it had no significant regulatory concerns that would preclude the following VET providers from participating in SVP arrangements: s. 47G(1)(a) s. 47G(1)(a) s. 47G(1)(a) , s. 47G(1)(a) , s. 47G(1)(a) , and s. 47G(1)(a) s. 47G(1)(a) .
- ASQA discussed the regulatory history of a number of other education providers that had submitted SVP applications; and whether those education providers with applications deferred in November 2014 had since resolved their regulatory issues.

No.	CRICOS code	Organisation name	Comments and recommendation
1	s. 47G(1)(a)	s. 47G(1)(a)	s. 47E(d) Recommendation: s. 47E(d)
2	s. 47G(1)(a)	s. 47G(1)(a)	s. 47E(d) Recommendation: s. 47E(d)
3	s. 47G(1)(a)	s. 47G(1)(a)	s. 47E(d) Recommendation: s. 47E(d)
4	s. 47G(1)(a)	s. 47G(1)(a)	s. 47E(d) Recommendation: s. 47E(d)

VET education providers deferred in the November 2014 SVP invitation round			
No.	CRICOS code	Organisation name	Comments and recommendation
1	s. 47G(1)(a)	s. 47G(1)(a)	s. 47E(d) Recommendation: s. 47E(d)
2	s. 47G(1)(a)	s. 47G(1)(a)	s. 47E(d) Recommendation: s. 47E(d)
3	s. 47G(1)(a)	s. 47G(1)(a)	s. 47E(d) Recommendation: s. 47E(d)
4	s. 47G(1)(a)	s. 47G(1)(a)	s. 47E(d) Recommendation: s. 47E(d)
5	s. 47G(1)(a)	s. 47G(1)(a)	s. 47E(d) Recommendation: s. 47E(d)
6	s. 47G(1)(a)	s. 47G(1)(a)	s. 47E(d) Recommendation: s. 47E(d)
7	s. 47G(1)(a)	s. 47G(1)(a)	s. 47E(d) Recommendation: s. 47E(d)
8	s. 47G(1)(a)	s. 47G(1)(a)	s. 47E(d) Recommendation: s. 47E(d)

DIBP feedback

- DIBP is obtaining final course hopping data to see whether any additional providers that have submitted SVP applications are identified as a destination provider for course hopping students.
- DIBP provided an update on education providers deferred for course hopping reasons in November 2014.

No.	CRICOS Code	Organisation name	Comments and recommendation
1	s. 47G(1)(a)	s. 47G(1)(a)	s. 47E(d) Recommendation: s. 47E(d)
2	s. 47G(1)(a)	s. 47G(1)(a)	s. 47E(d) Recommendation: s. 47E(d)
3	s. 47G(1)(a)	s. 47G(1)(a)	s. 47E(d)

5. Consolidated recommendations and next steps – All

- Of the 44 invitations to submit opt in applications sent to providers, 37 applications were received. Of these applications, the Panel agreed to recommend to the Minister that four providers have their applications deferred pending the outcome of regulatory issues.
- Subject to final course hopping data to be obtained by DIBP, the Panel agreed that the remaining 33 providers would be recommended to participate in SVP.
- Of the 14 education providers with applications deferred previously (three deferred based on TEQSA regulatory issues, eight on ASQA regulatory issues and three on course hopping issues), the Panel agreed that six of these applications remain deferred, seven providers would be recommended for SVP, and DIBP would obtain final course hopping data regarding the final provider.
- The Chair agreed to circulate the draft minutes of the Panel meeting as soon as possible.

Action item – ASQA to provide an update on the registration status of those education providers identified by DET with registration either expired or due to expire shortly.

Status update – ASQA has confirmed that the re-registration applications of all of these providers have been received.

Department of Immigration and Border Protection minutes

13 April 2015

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JULY 2015 SVP INVITATION ROUND – LIST OF DEFERRED EDUCATION PROVIDERS

ORGANISATION NAME	CRICOS Code	REASONS FOR DEFERRAL	STATUS / COMMENTS
s. 47G(1)(a) *Deferred since Nov 2014 SVP round	s. 47G(1)(a)	Paragraph s. 47E(d) of the Guidelines not met. s. 47E(d) [REDACTED] [REDACTED]	
s. 47G(1)(a) *Deferred since Nov 2014 SVP round	s. 47G(1)(a)	Paragraph s. 47E(d) of the Guidelines not met. s. 47E(d) [REDACTED] [REDACTED]	
s. 47G(1)(a) *Deferred since Nov 2014 SVP round	s. 47G(1)(a)	Paragraph s. 47E(d) of the Guidelines not met. s. 47E(d) [REDACTED]	
s. 47G(1)(a)	s. 47G(1)(a)	Paragraph s. 47E(d) of the Guidelines not met. s. 47E(d) [REDACTED]	

s. 47G(1)(a)	s. 47G(1)(a)	<p>Paragraph s. 47E(d) of the Guidelines not met.</p> <p>s. 47E(d)</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	
<p>s. 47G(1)(a)</p> <p>*Deferred since Nov 2014 SVP round</p>	s. 47G(1)(a)	<p>Paragraph s. 47E(d) of the Guidelines not met.</p> <p>s. 47E(d)</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	
s. 47G(1)(a)	s. 47G(1)(a)	<p>Paragraph s. 47E(d) of the Guidelines not met.</p> <p>s. 47E(d)</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	
s. 47G(1)(a)	s. 47G(1)(a)	<p>Paragraph s. 47E(d) of the Guidelines not met.</p> <p>s. 47E(d)</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	

<p>s. 47G(1)(a) [REDACTED]</p> <p>*Deferred since Mar 2014 SVP round</p>	<p>s. 47G(1)(a) [REDACTED]</p>	<p>Paragraph s. 47E(d) [REDACTED] of the Guidelines not met.</p> <p>s. 47E(d) [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	
<p>s. 47G(1)(a) [REDACTED]</p> <p>[REDACTED]</p>	<p>s. 47G(1)(a) [REDACTED]</p>	<p>Paragraphs s. 47E(d) [REDACTED] of the Guidelines not met.</p> <p>s. 47E(d) [REDACTED]</p> <p>[REDACTED]</p>	
<p>s. 47G(1)(a) [REDACTED]</p> <p>*Deferred since Nov 14 SVP round</p>	<p>s. 47G(1)(a) [REDACTED]</p>	<p>Paragraph s. 47E(d) [REDACTED] of the Guidelines not met.</p> <p>s. 47E(d) [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	
<p>s. 47G(1)(a) [REDACTED]</p> <p>[REDACTED]</p>	<p>s. 47G(1)(a) [REDACTED]</p>	<p>Paragraphs s. 47E(d) [REDACTED] of the Guidelines not met.</p> <p>s. 47E(d) [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	

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JULY 2015 SVP INVITATION ROUND – ASSESSMENT OF DEFERRED EDUCATION PROVIDERS

The Department has completed an assessment of 12 education providers who were deferred from previous SVP invitation rounds for not meeting the Application Assessment Criteria under the SVP Guidelines. The department committed to review the providers' application against SVP assessment criteria (using all current and relevant data) in early 2016.

ORGANISATION NAME	CRICOS Code	REASONS FOR DEFERRAL	RE-ASSESSMENT + RECOMMENDATION FEBRUARY 2016
<p>s. 47G(1)(a)</p> <p>*Deferred since Nov 2014 SVP round</p>	<p>s. 47G(1)(a)</p>	<p>Paragraph s. 47E(d) of the Guidelines not met.</p> <p>s. 47E(d)</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>Paragraph s. 47E(d) of the Guidelines not met.</p> <p>s. 47E(d)</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>Recommendation: s. 47E(d).</p>

<p>s. 47G(1)(a) [REDACTED]</p> <p>*Deferred since Nov 2014 SVP round</p>	<p>s. 47G(1)(a) [REDACTED]</p>	<p>Paragraph s. 47E(d) [REDACTED] of the Guidelines not met.</p> <p>s. 47E(d) [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>Paragraph s. 47E(d) [REDACTED] of the Guidelines not met.</p> <p>s. 47E(d) [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>Recommendation: s. 47E(d) [REDACTED].</p>
<p>s. 47G(1)(a) [REDACTED]</p> <p>*Deferred since Nov 2014 SVP round</p>	<p>s. 47G(1)(a) [REDACTED]</p>	<p>Paragraph s. 47E(d) [REDACTED] of the Guidelines not met.</p> <p>s. 47E(d) [REDACTED]</p> <p>[REDACTED]</p>	<p>Paragraph s. 47E(d) [REDACTED] of the Guidelines not met.</p> <p>s. 47E(d) [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>Recommendation: s. 47E(d) [REDACTED].</p>
<p>s. 47G(1)(a) [REDACTED]</p>	<p>s. 47G(1)(a) [REDACTED]</p>	<p>Paragraph s. 47E(d) [REDACTED] of the Guidelines not met.</p> <p>s. 47E(d) [REDACTED]</p> <p>[REDACTED]</p>	<p>Paragraph s. 47E(d) [REDACTED] of the Guidelines not met.</p> <p>s. 47E(d) [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>Recommendation: s. 47E(d) [REDACTED].</p>

<p>s. 47G(1)(a)</p>	<p>s. 47G(1)(a)</p>	<p>Paragraph 58(e) of the Guidelines not met.</p> <p>s. 47E(d)</p> <p>[Redacted]</p> <p>[Redacted]</p>	<p>Paragraph s. 47E(d) of the Guidelines not met.</p> <p>s. 47E(d)</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>Recommendation: s. 47E(d) .</p>
<p>s. 47G(1)(a)</p> <p>*Deferred since Nov 2014 SVP round</p>	<p>s. 47G(1)(a)</p>	<p>Paragraph s. 47E(d) of the Guidelines not met.</p> <p>s. 47E(d)</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	<p>Paragraph s. 47E(d) of the Guidelines not met.</p> <p>s. 47E(d)</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>Recommendation: s. 47E(d) .</p>

s. 47G(1)(a)	s. 47G(1)(a)	<p>Paragraph s. 47E(d) of the Guidelines not met.</p> <p>s. 47E(d)</p> <p>s. 47E(d)</p>	<p>Paragraph s. 47E(d) of the Guidelines not met.</p> <p>s. 47E(d)</p> <p>Recommendation: s. 47E(d).</p>
s. 47G(1)(a)	s. 47G(1)(a)	<p>Paragraph s. 47E(d) of the Guidelines not met.</p> <p>s. 47E(d)</p> <p>Recommendation: s. 47E(d).</p>	<p>Paragraph s. 47E(d) of the Guidelines not met.</p> <p>s. 47E(d)</p> <p>Recommendation: s. 47E(d).</p>

<p>s. 47G(1)(a) [redacted]</p> <p>*Deferred since Mar 2014 SVP round</p>	<p>s. 47G(1)(a) [redacted]</p>	<p>Paragraph s. 47E(d) [redacted] of the Guidelines not met.</p> <p>s. 47E(d) [redacted]</p>	<p>Paragraph s. 47E(d) [redacted] of the Guidelines not met.</p> <p>s. 47E(d) [redacted]</p> <p>[redacted]</p> <p>[redacted]</p> <p>[redacted]</p> <p>[redacted]</p> <p>[redacted]</p> <p>[redacted]</p> <p>[redacted]</p> <p>[redacted]</p> <p>Recommendation: s. 47E(d) [redacted]</p>
<p>s. 47G(1)(a) [redacted]</p>	<p>s. 47G(1)(a) [redacted]</p>	<p>Paragraphs s. 47E(d) [redacted] of the Guidelines not met.</p> <p>s. 47E(d) [redacted]</p>	<p>Paragraph s. 47E(d) [redacted] of the Guidelines not met.</p> <p>s. 47E(d) [redacted]</p> <p>[redacted]</p> <p>Recommendation: s. 47E(d) [redacted]</p>

<p>s. 47G(1)(a) [redacted]</p> <p>*Deferred since Nov 14 SVP round</p>	<p>s. 47G(1)(a) [redacted]</p>	<p>Paragraph s. 47E(d) [redacted] of the Guidelines not met.</p> <p>s. 47E(d) [redacted]</p> <p>[redacted]</p>	<p>Paragraph s. 47E(d) [redacted] of the Guidelines not met.</p> <p>s. 47E(d) [redacted]</p> <p>[redacted]</p> <p>Recommendation: s. 47E(d) [redacted].</p>
<p>s. 47G(1)(a) [redacted]</p>	<p>s. 47G(1)(a) [redacted]</p>	<p>Paragraphs s. 47E(d) [redacted] of the Guidelines not met.</p> <p>s. 47E(d) [redacted]</p> <p>[redacted]</p>	<p>Paragraphs s. 47E(d) [redacted] of the Guidelines not met.</p> <p>s. 47E(d) [redacted]</p> <p>[redacted]</p> <p>[redacted]</p> <p>[redacted]</p> <p>Recommendation: s. 47E(d) [redacted].</p>