



TEQSA and regulation of ELICOS

2013

This FAQ sheet has been developed to answer questions that are commonly asked by providers of ELICOS and Foundation Programs about aspects of regulation that apply to them. They also capture questions raised during the 2013 NEAS Annual Conference.

What areas of regulation is TEQSA responsible for?

The Tertiary Education Quality and Standards Agency (TEQSA) has regulatory responsibility for the higher education sector, Foundation Programs and ELICOS courses delivered by a registered higher education provider, or by a provider that has an entry arrangement with at least one registered higher education provider.

TEQSA regulates under the TEQSA Act and ESOS Act for registered higher education providers, and the ESOS Act for Foundation Program providers and courses, and ELICOS and ELICOS providers.

Establishing the two national regulators, the Australian Skills Quality Authority (ASQA) and TEQSA was a major step in streamlining and strengthening the regulation and quality assurance of international education.

What expertise does TEQSA bring to the assessment of ELICOS applications?

TEQSA has a number of staff with specific experience in regulating ELICOS and working in the ELICOS field. When it is necessary to involve specialised expertise, TEQSA engages external experts. These experts are drawn from TEQSA's Register of Experts (Register) which was established to enable TEQSA to draw on specialist knowledge and advice as part of the assessment process. Experts are engaged to assess relevant aspects of a CRICOS application.

The most common reason for engaging an expert in the ELICOS area is to assess an ELICOS curriculum. TEQSA ensures that an expert's professional experience and qualifications match the particular task required. Experts are briefed before an assignment and given the specifications of the task. They are also required to sign a confidentiality agreement with TEQSA.

As of June 2013, there are 16 people with ELICOS experience on the Register. We expect to add to this list when the next round of invitations to join the Register opens later this year. TEQSA is also able to call on other ELICOS professionals who are not on the Register, if needed.

More information about TEQSA's Register is at www.teqsa.gov.au/experts.



Does TEQSA conduct audits?

No – TEQSA does not use the term audit. TEQSA assesses providers using the information submitted by providers during the application or notification process. In some cases TEQSA may decide to undertake site visits. Further details on site visits are below.

What is the division of responsibility between TEQSA and NEAS?

TEQSA is required by law to assess ELICOS providers against the ESOS Act, the National Code and the ELICOS National Standards. NEAS Accreditation, on the other hand, is an assessment against the NEAS Standards.

TEQSA is not able to delegate its regulatory responsibilities to third parties, such as NEAS. TEQSA's assessment of providers against the ELICOS National Standards is an important part of its role in maintaining standards.

Providers can, however, submit evidence to TEQSA that may have formed part of their NEAS accreditation application, where relevant.

If TEQSA can accept a statement to prove compliance with the National Code, why doesn't this principle apply to the ELICOS National Standards?

TEQSA's Application Guide for CRICOS Re-registration states that: "In some cases TEQSA may choose to accept from a provider a statement that it satisfies all of the requirements of the National Code without conducting a site inspection, as long as the course or courses of study are provided entirely by the provider (that is, not under any arrangement with another provider)", p.4. Some providers have asked why this principle does not apply to the ELICOS National Standards.

A site visit is normally conducted by TEQSA in the following circumstances:

- if the evidence provided in the provider's CRICOS re-registration application is insufficient
- if the evidence provided raises additional questions about possible non-compliance
- if the provider is new; or
- if a TEQSA risk assessment warrants a visit.

A site visit is not a substitute, however, for a full CRICOS re-registration application through which a provider demonstrates its compliance with the ESOS Act and the National Code. A site visit is supplementary to the re-registration process and only looks at part of a provider's operations.

While regular site visits were the practice of some former state regulators, the National Code does not require the regulator to do this. TEQSA takes a risk-based approach to regulation, which means that in each case, it considers whether a site visit is necessary.



How does TEQSA minimise the costs of regulation for providers?

TEQSA is mindful of the impact of compliance costs on small providers. TEQSA does not operate on a full cost-recovery basis which means that it does not charge the actual cost of the regulatory activity. There are also many regulatory activities for which TEQSA does not charge, for example, changes to course costs, course duration, changes to PEO, intention to relocate, and adding a course on CRICOS at a site where a course is already delivered.

Providers are required under the ESOS Act to keep the data recorded on PRISMS up-to-date. Providers can request their regulator to update their course costs on PRISMS. TEQSA does not charge a fee to providers advising of changes to course costs, and providers can advise TEQSA by sending an email to their Case Manager.

What attention does TEQSA give to the financial position of colleges?

In assessing risk within the ESOS regulatory framework, TEQSA has a clear focus on providers' financial status.

The overarching (and universally accepted) ESOS risk factor is the likelihood that a provider's behaviour will adversely affect Australia's international education reputation. The three key aspects of risk underpinning this concern are the likelihood that a provider:

- does not delivery quality/education outcomes for students
- will fail/close; and
- will not meet obligations under the ESOS legislative framework.

TEQSA's own risk framework, which encompasses ELICOS providers, focuses on financial sustainability, and has financial viability and safeguards as important risk indicators. The focus on financial sustainability is reflected in certain sections of the CRICOS re-registration application form.

More information about TEQSA's overall approach to assessing risk can be found at <http://www.tegsa.gov.au/regulatory-approach/regulatory-risk-framework>.