



Australian Government
**Department of Immigration
and Border Protection**

Review of the Student Visa Assessment Level Framework 2013



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Acronyms and student visa subclasses

AL	Assessment Level
ANAO	Australian National Audit Office
ASQA	Australian Skills Quality Authority
COAG	Council of Australian Governments
CoE	Confirmation of Enrolment
CRI	Country Risk Index
CRICOS	Commonwealth Register of Institutions and Courses for Overseas Students
DIBP	Department of Immigration and Border Protection
DoE	Department of Education
ELICOS	English Language Intensive Courses for Overseas Students
ERG	External Reference Group (to provide input to the Review of the Student Visa Assessment Level framework)
ESOS	Education Services for Overseas Students
EVCC	Education Visa Consultative Committee
GTE	Genuine Temporary Entrant
IELTS	International English Language Testing System
PIC	Public Interest Criteria
PV	Protection visa
TEQSA	Tertiary Education Quality and Standards Agency
VET	Vocational Education and Training

Student visa subclasses

The Student visa subclasses subject to assessment levels are:

1. English Language Intensive Course for Overseas Students (ELICOS)—(subclass 570)
2. Schools Sector—(subclass 571)
3. Vocational Education and Training (VET)—(subclass 572)
4. Higher Education Sector—(subclass 573)
5. Postgraduate Research Sector—(subclass 574)
6. Non-award Sector—(subclass 575)
7. AusAID and Defence Sector—(subclass 576)

An additional visa, the Student Guardian (subclass 580) visa, is also available for people wishing to apply to travel to Australia as the guardian of a student visa holder. Student guardian visa applicants are not subject to an assessment level, however they must meet the same financial requirements that the student visa holder they are accompanying had to meet (as prescribed by their assessment level) when they applied for their visa.

Further information about these visas and the student visa programme is available from the Department of Immigration and Border Protection website at www.immi.gov.au/students/

1 Strategic context

1.1 Overview

International education is one of Australia's largest export sectors. It is important to Australia not only for its substantial economic contribution, but also for the role it plays in promoting goodwill and understanding internationally, facilitating the development of trade and commercial links and enriching Australia culturally and socially. The student visa programme is designed to support international education through the well-managed temporary stay of international students.

One of the core elements of the student visa programme is to ensure the Australian Government has high quality immigration risk management tools to effectively manage the risks associated with temporary stay. Of particular importance is that international students are accessing a student visa for study, and not primarily for work or other purposes. The government aims to facilitate genuine students and provide stability, efficiency and integrity in the visa processing system.

Immigration risk management is about assessing the risk that a visa applicant would seek to use a visa for purposes for which it is not intended, would make false claims in support of the visa application or would not comply with the conditions of the visa. It is these concerns that guide eligibility requirements for student visa applicants and the way in which the Department of Immigration and Border Protection (the department) examines visa applications. It does not seek to judge the quality of international educational services provided in Australia.

The department currently mitigates risk in the student visa programme by employing a higher degree of scrutiny to higher risk visa applications. To facilitate this, the government currently uses Assessment Levels (ALs) to target resources to higher risk visa applicants. Applicants for each student visa subclass and from each country are assessed against requirements determined by five ALs: AL1 represents the lowest immigration risk and AL5 the highest (AL5 has never been used). Higher risk student visa applicants are required to provide more evidence to support their visa application and department officials apply a higher degree of scrutiny to these applications. Similarly, lower risk applicants are required to provide less evidence and their claims receive relatively less scrutiny.

The existing AL framework is underpinned by an assessment of factors such as an applicant's English language skills, financial capacity and previous education as indicators of their genuineness as a prospective international student in Australia.

A key finding of this review is that while the fundamental principles of the AL framework are sound and meeting the needs of the student visa programme, they could be refined. Key changes could be made to better position the programme to manage risk and support international education in Australia. The review recommends updating the framework within existing parameters to achieve maximum benefits for international education in Australia, while maintaining stability and confidence in the student visa programme's integrity.

1.2 Background and purpose of the review

In December 2010 the Hon Michael Knight AO was appointed to conduct the first independent review of the student visa programme. On 30 June 2011 Mr Knight reported to the Australian

Government, making 41 recommendations in his report, *The Strategic Review of the Student Visa Program* (the Knight Review). The intent of the Knight Review was to enhance the quality, integrity and competitiveness of Australia's international education sector and improve the integrity of the student visa programme¹.

In September 2011, the government announced its response to the Knight Review, including support for Recommendation 32:

That the department undertake a review of the AL framework, with a mind to either abolishing the system entirely or modifying the framework to make it relevant to current and future challenges facing the student visa program. This review should be managed by the department but should include reference to an external panel or reference group.

Just before Mr Knight reported to the government, in May 2011, the Australian National Audit Office (ANAO) completed and released its performance audit No. 46, *Management of Student Visas*². That audit assessed the department's management of the student visa programme, and made a recommendation relating to the management of the ALs:

To improve DIAC's management of risk in the student visa program, and to better align student visa requirements and immigration risk, the ANAO recommends that DIAC undertake a review of its process for determining country and education sector assessment levels for student visa applications.

Overall the ANAO found that the department's use of a risk-based process to guide requirements for, and assessment of, student visa applications was sound. At the same time the ANAO stressed that any such process requires a robust and up-to-date methodology that is applied consistently.

Interest in the student visa programme crosses all levels of government and on 13 April 2012 the Council of Australian Governments (COAG), released a communiqué³ stating:

COAG noted progress in implementing the strategic review of the student visa program. In relation to the review of the student visa Assessment Level framework, COAG agreed to expedite the implementation of the revised framework for low immigration risk providers so that they are able to have access to streamlined student visa assessments in the second half of 2012.

Recommendation 1 of this review is consistent with this communiqué.

1.3 Terms of reference

The terms of reference for this review were released in September 2011 and reflect both Mr Knight's recommendation (No. 32) and also the ANAO's recommendation (No. 1). The terms of reference are at Appendix A.

In line with Mr Knight's recommendation, an External Reference Group (ERG) was also announced in October 2011 to provide input to the review.

¹ <http://www.immi.gov.au/students/knight/>

² <http://www.anao.gov.au/Publications/Audit-Reports>

³ <http://www.coag.gov.au/node/>

1.4 Recent reforms to the student visa programme

On 5 November 2011, the government implemented the first suite of recommendations arising out of the Knight Review, including reducing financial requirements for higher risk AL3 and AL4 student visa applicants. This meant that from this date, students who are subject to AL3 or AL4, need up to approximately AUD 36 000 less in the bank when applying for a visa than they did previously.

The Genuine Temporary Entrant (GTE) requirement was also introduced for student visa applicants to help reduce immigration risk and maintain the integrity of the student visa programme. Similarly to how visitor visa applicants are assessed by the department on whether their circumstances indicate that they are a genuine visitor, student visa applicants are assessed on whether their individual circumstances indicate that their main aim is for a temporary stay in Australia to study. Applicants seeking to exploit the student visa programme, for example those whose main purpose is to work, will have their visa applications refused.

Separate to the Knight Review, but also on 5 November 2011, Fraud Public Interest Criteria (PIC) 4020 was introduced for student visa subclasses. This provides for the refusal of a visa application if an applicant provides false or misleading documents or information as part of their application for a student visa. Previous legislative provisions allowed limited scope for refusing the grant of a student visa in these circumstances.

An applicant refused on PIC 4020 may also be subject to a three year bar which may prevent the grant of a further visa that is subject to assessment under the Fraud PIC 4020. The Fraud PIC 4020 is an important tool to address immigration risk in the student visa programme as the penalties for committing fraud have serious short and long term consequences. This highlights the importance the government places on integrity in the visa application process.

English language study in Australia was made more accessible by removing the English language test requirements for higher risk AL4 and above stand-alone English Language Intensive Courses for Overseas Students (ELICOS) visa applicants.

From 24 March 2012 streamlined visa processing arrangements were implemented for certain prospective students of participating universities. Streamlined visa processing is also available to prospective students who package their courses with participating universities' nominated educational business partners. This enabled student visa applicants who lodge their applications with a Confirmation of Enrolment (CoE) from a participating university in Australia at Bachelor, Masters or Doctoral degree level to be assessed as though they are a lower immigration risk (similar to the current AL1), regardless of their country of origin. This means that these applicants will generally have reduced evidentiary requirements when applying for a student visa.

On the same day, the maximum period of English language study was increased for schools visa holders subject to AL3 and above to 50 weeks. This compares to previous arrangements where AL3 students were restricted to 40 weeks and AL4 students to 30 weeks. The English language test requirement for AL4 schools visa applicants was also removed on this date.

Additionally, new Student Guardian (subclass 580) visa holders are now able to undertake unlimited ELICOS (less than 20 hours per week) while in Australia as the holder of that visa.

On 23 March 2013, additional post study work arrangements for international students were introduced. These arrangements allow graduates who have completed a Bachelors or Masters by Coursework degree or completed a Masters by Research or Doctoral degree to apply for a Temporary Graduate visa for up to four years.

On 13 April 2013, automatic and mandatory cancellation provisions for student visas were abolished. This provides fairer outcomes for students by allowing the department to take into account the individual circumstances of a student when considering a breach of visa conditions. It also enables the department to more effectively target programme risk through the introduction of a discretionary cancellation framework.

These measures complement steps to strengthen International Education in Australia, including the Baird Review of the *Education Services for Overseas Students (ESOS) Act 2000*, the release of the COAG International Students Strategy for Australia and the report from the International Education Advisory Council chaired by Mr Michael Chaney AO, *Australia – Educating Globally*.

1.5 Recommendations

Section 5 – Education provider-based risk management approach

1. That selected low immigration risk providers be invited to participate in streamlined visa processing arrangements similar to those currently available to universities.

Section 6 – Factors used to determine ALs

2. Continue the current system of using a student visa applicant's passport country and the visa subclass for which they are applying as the factors used to determine an AL for student visa applicants.

Section 7 – Simplification of risk categories

3. That the AL framework be simplified to comprise AL1, AL2 and AL3.

Section 8 – Eligibility requirements for a risk management framework

4. That the financial requirement for AL3 applicants be reduced to 12 months evidence of funds with the condition that these funds be provided by a close relative of the applicant.

Section 9 - Data and methodology used to determine immigration risk

5. Remove consideration of applications for permanent residence (other than skilled) as a risk factor from the statistical analysis of data undertaken to set ALs, and instead consider it as part of qualitative analysis.
6. Change the weightings applied to the rate of the remaining risk factors:
 - Rate of refusals due to fraudulent documents: increase weighting from 28 per cent to 40 per cent;
 - Rate of refusals (due to reasons other than fraud): increase weighting from 8 per cent to 10 per cent;
 - Rate of student visas that have been cancelled: increase weighting from 28 per cent to 30 per cent; and
 - Rate of former student visa holders who have become unlawful: decrease weighting from 28 per cent to 20 per cent.
7. Maintain the existing benchmarks used to determine which AL is assigned to a country and student visa subclass.

Section 10 – Review mechanisms

8. Implement approximately annual reviews of AL settings to be informed by quantitative and qualitative factors with qualitative factors to include input from the International education sector via the Education Visa Consultative Committee and other groups as appropriate.

2. Conduct of review

2.1 External Reference Group and Internal Working Group

An External Reference Group (ERG) provided input to the review. Members of the ERG were invited to participate on the basis of their expertise in international education and immigration risk. The ERG met four times: on 28 November 2011, 27 February, 27 April and 8 June 2012. Members included:

- **Ms Sue Blundell**, Executive Director, English Australia
- **Professor Denise Bradley AC**, former Vice-Chancellor and President of the University of South Australia
- **Mr Dennis Clark**, Clark Corporate Consulting
- **Mr Peter Holden**, Director, International Engagement and Business Development TAFE Directors Australia
- **Ms Kaye Schofield**, Director, Kaye Schofield and Associates
- **Ms Denise von Wald**, Chief Executive, Education Adelaide

In April 2012, two external stakeholder workshops were held to invite comment and feedback on the impacts of proposed reforms to the AL framework on their sectors. The first workshop focused on possible broad policy reforms and the second discussed practical impacts of the proposed reforms. Feedback provided at these workshops was considered as part of the review.

An Internal Working Group within the department was established to seek advice on the proposed reforms to the AL framework. The Working Group included representatives from Risk, Fraud and Integrity Division; Client Services; Global Manager Temporary Visas; Compliance; Legal and Systems areas.

2.2 Discussion paper

A discussion paper on the review was published on the department's website on 31 January 2012⁴, with submissions closing on 16 March 2012. A total of 39 submissions were received in response to the discussion paper. Some submissions responded to specific questions raised in the discussion paper and others provided comments or recommendations beyond the scope of this review.

Unless designated confidential, submissions were published on the department's website⁵. Of the 39 submissions received, 36 were published. A list of organisations and individuals who made submissions (not marked 'confidential') to the discussion paper is at Appendix B.

2.3 Stakeholder consultations

In addition to the consideration of submissions, face-to-face consultations were held. A list of stakeholders consulted is at Appendix C. The review and its progress were also regularly discussed at Education Visa Consultative Committee⁶ (EVCC) meetings.

A stakeholder roundtable was held in Sydney in August 2012 to discuss the draft findings of the review, and in particular draft proposals in the implementation of streamlining-type arrangements for other education providers (Recommendation 1).

⁴ <http://www.immi.gov.au/media/publications/discussion-papers/>

⁵ <http://www.immi.gov.au/students/knight/>

⁶ <http://www.immi.gov.au/about/stakeholder-engagement/national/other/evcc/>

3. Overview of Student Visa Assessment Levels

3.1 Background

In 2001, the AL framework replaced a system of gazetted and non-gazetted countries which had been used to manage risk for many years, but was deemed to no longer sufficiently address the complexities of risk in the student visa programme.

The AL framework manages immigration risk in the student visa programme by aligning minimum evidentiary requirements for student visa applications to the immigration risk posed by applicants from a particular country applying for a particular student visa subclass.

3.2 The legislative framework

When someone applies for a student visa, a legislative instrument⁷ specifies which AL applies based on an applicant's passport country and their main course of study (which determines the student visa subclass for which they must apply).

The Migration Regulations⁸ then prescribe what level of English language proficiency, financial requirements and previous study the applicant must provide based on the AL. A summary of current requirements according to each AL is provided at Appendix D.

A list of current ALs for every country across student visa subclasses is available on the department's website⁹.

In general, the higher the AL, the greater the evidence required (of English language proficiency, financial capacity and previous study) to support an applicant's claims for the grant of a student visa. For example, applicants who are subject to the lower risk ALs (AL1 or AL2) must have a level of English that satisfies their education provider. Depending on the applicable student visa subclass, higher risk applicants (those subject to AL3 or AL4) must generally provide either a minimum score from a specified English language test or other evidence of their English language proficiency (for example completion of foundation courses or evidence of having studied English in a specified country for at least five years).

Similarly, the level of evidence an applicant must provide to demonstrate financial capacity in support of their student visa application currently varies according to their AL. Applicants who are subject to AL1 (or with access to streamlined visa processing arrangements because they are coming to study an eligible course at a participating university) are required to provide a declaration that they have access to sufficient funds to contribute towards their expenses for the duration of their stay in Australia. Applicants who are subject to AL2-AL4 must provide evidence of sufficient funds for them and any dependants for their first 12 months, 18 months or 24 months respectively and a declaration of access to sufficient funds for the remainder of their stay in Australia. Sufficient funds need to include funds to contribute towards tuition, living costs and travel costs, and the education of any dependants if applicable.

⁷ <http://www.comlaw.gov.au/Details/>

⁸ <http://www.comlaw.gov.au/Details/F2012C00021/>

⁹ <http://www.immi.gov.au/allforms/pdf/assessment-levels.pdf>

Required evidence of previous study undertaken also varies across the ALs and according to the relevant student visa subclass. The government considers that an applicant's ability to produce valid evidence of their previous study is also generally a good indicator of whether they are a 'genuine' student. In other words, if someone is applying for a Higher Education visa subclass, evidence that they have completed Year 12 (or Year 11 and foundation studies, or Certificate IV) is a good indicator that they are genuinely applying to study at the tertiary level in Australia.

For applicants subject to AL1, or with access to streamlined visa processing arrangements because they are coming to study an eligible course at a participating university, enrolment by an education provider is considered sufficient evidence of any previous study. However, applicants subject to AL2-AL4 must provide other documentary evidence of previous study relevant to their proposed course of study.

3.3 Reviews of assessment level settings

AL 'settings' are periodically reviewed to ensure they are responding appropriately to risk in the student visa programme. The capacity to review the AL settings is a key integrity lever to allow flexibility in the current arrangements. The methodology for reviewing AL settings involves quantitative and qualitative analysis about key integrity concerns and other issues. This methodology is provided at Appendix E and discussed further in chapters 9 and 10.

The quantitative stage involves collating and analysing data taken over a specific period of time, usually at least 12 months. A data set is established for each country and student visa subclass comprising total numbers of active student visas, finalisations (such as grants, refusals and withdrawals), and visas expiring during the specified period. Risk indicators are then applied to the data set to determine a risk rate as a percentage. To determine a preliminary AL, weightings are then applied to each risk indicator. This stage determines a Country Risk Index (CRI) by adding the risk indicator and their corresponding weightings. Benchmarks used to determine which AL is assigned to a country and student visa subclass were set in 2006.

In the qualitative stage, information from the department's onshore and offshore service delivery network (posts and visa processing centres) and other key stakeholders is collated and analysed before a recommendation is made to the Minister.

In response to the ANAO's audit report 46, the methodology used for the AL setting review in 2011 was modified by moving consideration of the number of protection visas for each country and student visa subclass to the qualitative stage of the review. This replaced the earlier methodology of adding the total number of applications for protection visas made (in Australia) by applicants from each country to the CRI, without a weighting for the rate of protection visa applications.

Since ALs were introduced in July 2001, these settings have been reviewed six times. Following completion of the 2011 review, ALs were decreased for 29 countries across one or more student visa subclass from 24 March 2012¹⁰.

¹⁰ http://www.immi.gov.au/students/whats_new.htm#10feb

4. Approaches to managing immigration risk in competitor countries' student visa programmes

4.1 Background

The student visa policies and risk management approaches used by other major competitor countries—the United States of America (USA), the United Kingdom (UK), Canada and New Zealand (NZ)—were examined to provide context to the review and to identify any possible 'best' (or better) practices that could be of use to the Australian situation.

In undertaking this analysis it was however recognised that there are challenges in making cross country comparisons, as each country has implemented policies and procedures in response to their own unique circumstances, which invariably involve complex interactions with other government programmes, migration issues, political and other attributes. For this reason, an approach which works particularly well in one country may not work well in another country.

Representatives from the immigration agencies of each of these countries were contacted directly by the department to request specific advice on their current policies and procedures. Additional information was also gathered from their respective websites. Further details are at Appendix F.

4.2 Common features and differences in managing risk across major competitors

There are some common features across Australia's student visa programme and the student visa programmes of the USA, UK, Canada and NZ. All these countries have legislative requirements which must be met before a visa is granted. Students applying to study in these countries must have been accepted for a course of study by an approved education provider before they apply for their visa, and they must satisfy the requirement that they intend to reside temporarily in the country for the purpose of studying.

The primary difference between how Australia and these competitor countries manage risk in their student visa programmes is that Australia's current AL framework identifies and assigns risk upfront across all student visa subclasses, so that applicants know their risk category before they lodge a student visa application. This approach provides a more transparent indication of the main requirements to obtain a student visa to study in Australia. In comparison:

- In April 2011, Canada implemented a Program Integrity Framework to guide decision makers on how to incorporate risk management principles into their day-to-day operations.
- In New Zealand, risk is determined and assigned to student visa applications after lodgement. Profiles based on countries and regions are used by decision makers to determine evidentiary requirements.
- The UK has arrangements for 'low risk' visa applicants. To be considered 'low risk', applicants must meet certain criteria including being sponsored by a highly trusted sponsor and being a national of a specified country. 'Low risk' applicants are generally not required to provide as much documentation in support of their visa applications, although further information may be requested if required.
- Applicants for a student visa to the USA are required as part of the visa application process, to undertake an interview at a USA consulate with limited exceptions. Based on the visa requirements specified in the *Immigration and Nationality Act 1965*, a consular officer then determines whether an applicant qualifies for a student visa at the time of interview. This contrasts to the Australian situation where interviews may be held if there are particular concerns about an applicant or further information is required, but in the main, interviews are not required.

The review considered that while Australia's approach to identifying risk in its student visa programme is more direct and upfront in comparison with other countries, which tend to address risk once an application has been lodged, there were advantages in this latter approach. The benefit of post-lodgement approaches in overseas jurisdictions is that it allows maximum control over requirements and flexibility in assessing claims.

The review noted that the Knight Review found that the Australian system lacked flexibility in managing risk, which is critical to a modern and responsive system. In response, the GTE requirement was introduced. This introduces a set of factors that are assessed as part of a visa assessment, but does not specify a set of absolute, 'set in stone' requirements-it is assessed on a case-by-case basis depending upon the holistic circumstances of the individual applicant.

Another key difference in the management of risk across the competitor countries is the method and degree to which education providers, in contrast to the relevant immigration departments, assess English language proficiency, financial requirements and educational qualifications of visa applicants.

Education providers in the USA, UK, Canada and NZ are responsible for assessing the English language proficiency and education qualifications of international students who apply to study with them. Enrolment by the education provider is used as evidence that applicants have met the required English language proficiency and any academic prerequisites. Arrangements in these countries reflect the nature of their international education sectors and operating environments. This includes the size and breadth of their international student programmes, the diversity of providers and each country's legal framework. The Australian environment is characterised by providers which vary greatly in size and focus, ranging from small specialist institutions to large providers enrolling students who access a number of visa subclasses. The legal framework operating in Australia requires transparency in decision-making, reflected in legislated requirements for procedural fairness and natural justice. This means written decisions are provided to every visa applicant. The risk management arrangements employed in Australia compared to competitor countries appear to largely result from these key variations in operating environments.

However, there is greater variation in the way competitor countries assess financial requirements. The UK Border Agency (UKBA), Citizenship and Immigration Canada (CIC) and Immigration NZ assess financial capacity directly. In the USA, education providers assess financial capacity and then pass the evidence onto the Department of State (DOS) for their consideration during visa processing.

The review noted that the streamlined visa processing arrangements in place for certain students of participating universities in Australia moved towards a model whereby education providers took more responsibility for assuring that all visa applicants, not just low risk applicants, met these criteria. The success of these arrangements largely depends on how well education providers do this.

The review did not feel it appropriate at this time to recommend the adoption of any particular practices used by competitor countries-rather, that relatively recent changes such as the GTE requirement and streamlined visa processing arrangements should continue to be monitored and assessed for effectiveness before further approaches are considered.

5. Education provider-based risk management approach

5.1 Background

A provider-based risk management approach would allow the department to consider differences in student visa applicant and student visa holder compliance associated with different education providers. Such an approach would also give education providers a strong incentive to consider the impacts of their student recruitment practices. For example, if providers can access a benefit based on their risk level as determined by student visa applicant and student visa holder compliance, then they are likely to review their practices to help ensure the genuineness of their international students.

Such an approach would ideally see education providers and the department work in partnership to ensure that the right students are recruited and visa processes streamlined. This is the approach that has been taken for the implementation of streamlined visa processing arrangements for certain prospective students of participating universities. Further information about the streamlined visa processing arrangements is available on the department's website¹¹.

There are, however, significant challenges in implementing a provider based risk approach that rates every provider according to risk and then involves a different visa treatment for associated visa applicants and visa holders. These include:

- an approach which measures, assigns and monitors risk associated with over 1200 education providers would not be administratively possible without significant investment by providers, peak bodies and the government
- a provider-based risk approach applied to all, with no discretion to 'opt out' could involve unwelcome overheads for providers for which the benefits would be limited
- providers that are rated as having a higher immigration risk could experience detrimental impacts on their reputations and businesses
- providers with very few international students, or providers that have only recently established or commenced providing services to international students, could be difficult to rate as there may be insufficient data to provide a robust risk rating.

Against this background, the discussion paper asked:

- Given the challenges and benefits associated with individually rating all international education providers, how could such an approach be introduced?
- If it is not feasible to implement such an approach in its entirety, what would be the features of an alternative and administratively feasible approach that allowed 'granularity' in identifying and manage risk? For example, could groups of providers be rated together in smaller groupings than at present and on what criteria? Or could providers with certain characteristics be 'deemed' to be of a particular risk rating?

¹¹ <http://www.immi.gov.au/students/knight/>

5.2 How could a provider-based risk management approach be implemented?

A range of suggestions regarding a provider-based risk model were put to the review. These included:

- considering the performance of education agents associated with a provider in assigning that provider a risk rating
- recognising the institutions identified as partners by universities in the streamlined visa processing arrangements as low risk
- ‘punishing’ education providers associated with high immigration risk students, rather than ‘rewarding’ education providers associated with low immigration risk students
- using processes that regulate and accredit the provision of education services to international students to inform risk ratings
- adopting an approach similar to the streamlined visa processing arrangements implemented for certain prospective students of participating universities.

The review noted the advantages and disadvantages of an approach which considered the performance of education agents in the rating of providers. It is clear that while there are some high quality education agents, there may be some that do not focus on the recruitment of quality students or provide prospective students with as accurate information as they might. Education providers that appropriately manage their education agents to provide quality services may indeed be lower immigration risk than other providers, and the review considered that this suggestion had considerable merit. However the key practical difficulty of implementing such an approach is that the involvement of an education agent may not be declared on a student visa application or recorded in any systems. Therefore data about education agents is unlikely to be available or sufficiently robust in the near future.

The recognition of institutions identified as partners by the universities in the streamlined visa processing arrangements as low risk was also considered. Such an approach would recognise that the universities involved had considered these partners to be low risk for the purpose of their own arrangements, and presumably universities had made appropriate checks to satisfy themselves of this risk. However, it was noted that the streamlined visa processing arrangements were still in a state of relative infancy, and that universities were continuing to review and refine their lists of partners. It was also noted that universities selected partner institutions on their own criteria that may not be publicly available. The review further considered that these criteria would be different between universities, and criteria would be expected to include business risk or educational provision risk and not the immigration risk of the providers. Therefore this approach may not be appropriate to recognise providers as low immigration risk.

Suggestions were also put to the review that a provider-based risk model should include measures which ‘punish’ education providers associated with high immigration risk students. How or what this ‘punishment’ might entail was not articulated. The review speculated that it could involve making the visa application process more difficult for visa applicants intending to study at these institutions. The review considered that such an approach would likely lead to a deterioration in the department’s relationship with such providers, be counter-productive to the development of good communications and collaboration, and ultimately detrimental to providers, visa applicants, students and the sector as a whole. In essence the review considered that a ‘carrot’ (that is, ‘rewarding’ providers associated with low immigration risk students) was better than a ‘stick’ (‘punishing’ providers associated with high immigration risk students). However, such an approach could be considered in the future if immigration risk became a major issue with any groups of providers.

A number of submissions called for the processes that regulate and accredit the provision of education services to international students to inform risk ratings. The review understands that:

- TEQSA regulates and assures the quality of the higher education sector. The TEQSA regulation framework, established in January 2012, considers: provider standing; financial viability and safeguards; corporate and academic governance; primacy of academic quality and integrity; management and human resources; responsibilities to students; and physical and electronic resources and infrastructure¹².
- ASQA regulates the Vocational Education and Training sector and the ASQA framework, established in July 2011, considers: performance; financials; governance and supplementary issues such as training offshore, partnerships, mode of delivery¹³.
- The Schools sector is regulated by the relevant state and territory government bodies. While these frameworks vary, they generally consider the quality of education and training, financial viability and management structures.

The review found that while these frameworks regulate education provision or education risk; they do not regulate immigration risk, which is the responsibility of the department. The review considered that education risk could be broadly characterised as the risk that a provider would not offer an international student a quality learning experience. Whereas immigration risk was the risk that a visa applicant would seek to use a visa for purposes for which it was not intended, would make false claims in support of the visa application or would not comply with the conditions of the visa.

Some submissions indicated that there should be a correlation between education and immigration risk—that is, if a provider offers a quality educational experience and robust business practices, prospective and actual students should be more likely to have a low immigration risk. The review noted that while this should be generally true, it may not have a direct correlation. For example some high education risk providers may be associated with low immigration risk students and vice versa. In particular, anecdotal situations in the past were noted where education providers set up institutions with questionable practices (high education risk) for the purposes of attracting students who are then careful to comply with the conditions of their visas (low immigration risk) so that they can progress to a permanent visa.

Despite the differing regulatory focus of education and immigration risk, and the lack of certainty of correlation between these two, the review considered that there was merit in including education risk as part of an immigration risk management approach. For example, if there were major concerns about the education risk of a provider, such a provider would not be recognised under a framework which focused on immigration risk until the concerns were resolved. From a public policy perspective it would be neither sensible, nor defensible, for one arm of government (an education regulator) to be addressing concerns with a provider, while another arm of government (the department) was recognising and rewarding the same provider under a low immigration risk framework.

Of those submissions that made suggestions on how a provider-based risk approach could be implemented (as opposed to elements of a model), the majority suggested an approach similar to that of streamlined visa processing implemented for certain students of participating universities. Under the arrangements, which commenced on 24 March 2012, university participation is contingent on their student cohorts maintaining a low immigration risk profile¹⁴. It is also contingent on them providing commitment plans outlining a range of strategies they have, or will put in place, to manage issues such as the recruitment of quality students, appropriate levels of English and sufficient funds.

¹² www.comlaw.gov.au/Details/F2012L00003/Download

¹³ www.asqa.gov.au/verve/_resources/Risk_assesment_framework.pdf

¹⁴ Further details about the streamlined visa processing arrangements, including commitment plan templates used for universities is available from www.immi.gov.au/business-services/education-providers/streamlined-visa-arrangements.htm

The review noted the advantages and disadvantages of implementing a model similar to that of streamlined visa processing arrangements. These arrangements have only been implemented relatively recently and are a new approach for providers and the department. The arrangements have involved intensive work by all parties to implement and intense on-going management to ensure that they are successful. Not all low immigration risk providers in other sectors may be prepared for this intensive work or believe it worthwhile if they only have a small number of international students.

Streamlined visa processing arrangements appear to be working well for most universities; however there are still lessons to be learnt from implementation. Evidence of on going success is still to accrue, be collated and analysed. The finer details of the arrangements have also been specific to universities and their unique circumstances. Some elements of the arrangements may need to be modified if such an approach were extended to other international education providers which have different attributes such as business structures and recruitment models.

The review noted that while the overheads and administrative issues are significant, there were real benefits to be gained from the arrangements. Institutions could potentially attract a greater number of quality students, and student visa applicants would be required to provide less evidence with their visa applications. The department could also potentially realise efficiencies in terms of processing.

The review concluded that there may be benefits in the implementation of a streamlined visa processing type model. While this model may need to be slightly modified from that implemented for universities in order to accommodate the diversity amongst other providers, the universities model appeared to be working well. There was widespread awareness and support for this type of model during consultations. The review also noted that given the existing complexity in the student visa programme, there were benefits in implementing a similar model to that already in place (refined for a more diverse group of providers) rather than adding further complexity to the programme.

5.3 If it is not feasible to implement such an approach in its entirety, what would be the features of such an approach?

A range of comments were made to the review on how immigration risk could be assigned to providers given the practical difficulties of applying an approach to over 1200 providers.

A number of submissions advocated a model that assigns immigration risk to groupings of providers that share common or similar characteristics. However, there was no consensus on what these characteristics should be. The review noted the challenges in identifying and obtaining agreement on the defining criteria and membership of each grouping. Secondly, despite sharing common characteristics, some education providers may dispute and challenge an approach that grouped them with other providers they do not consider as operating in the same way as they do.

Another option canvassed was to allow providers to choose with whom they were grouped (self-selection). The review noted that there is a possibility that after this grouping was made a serious change with a provider could occur that may adversely affect the rest of the group. This would also be an administratively and legally complex arrangement as all providers would have to agree to the grouping and develop a mechanism for monitoring and managing it. The complexities of these arrangements could outweigh the benefits to be gained.

Some submissions suggested different approaches for large and small providers. The largest providers (by international student numbers) could be invited into arrangements. Such an approach would provide the greatest benefit to the greatest number of international students, but would only benefit the largest providers. The review noted that while this approach would provide the greatest 'utility' in an economic sense, it would not benefit smaller providers. The

review further noted that while some smaller providers may not wish to be involved because of their size, and the work and the commitments involved in implementing and managing the arrangements, others may wish to be involved.

To assess small providers in a provider-based risk approach, some stakeholders suggested an approach similar to the small country rules, which are used in the setting of ALs. As there are few international students from some countries, there is insufficient data to statistically set an AL. Alternatively, students from countries with other characteristics are 'deemed' to be a particular AL. For example, if citizens of particular countries are of low immigration risk as evidenced by them having access to the Electronic Travel Authority (ETA) or eVisitor visa products for Visitor visas, they are 'deemed' AL1. If they meet other criteria, they are deemed AL2, etc. Further detail about the small country rules is provided in Appendix E.

The review noted that while such an approach had merit, the challenge would be determining the characteristics of the provider and ensuring that these characteristics related to immigration risk. As providers would be smaller, robustly measuring and analysing sparse data may limit the applicability of this approach.

5.4 Provider risk

In considering a provider-based risk model, in particular, the review noted the need to consider:

- how a model that could involve up to 1200 very diverse education providers could be feasibly implemented, and the costs and benefits of doing so
- the extent to which the model was evidence based and transparent, and the need for data on which the framework is based to be available and robust
- the need for the model to focus on immigration risk, while taking into account other risks managed by other regulators
- a model that does not place unwanted burdens on providers and gives student visa applicants real benefits in terms of processes
- the effect that the model may have upon all providers across an education sector and the overall effective operation of the student visa programme
- the value in implementing a similar model to that available to universities to avoid further confusion and complexity in the programme, and the broad support for such a model
- whether the model was likely to maintain integrity in the student visa programme and public confidence.

The review concluded that a provider-based risk management approach similar to that for universities could be implemented. However, noting the issues above, the model should involve:

- a small number of providers—not 1200 providers
- selection of providers based on robust data on immigration risk, in consultation with other regulators
- selected providers having the ability to 'opt out' if they do not believe the benefits outweigh the costs to them
- similar arrangements to those currently available to universities

Lastly, the review noted that this approach would be consistent with the COAG communiqué of 13 April 2012, that streamlining type arrangements be implemented for a small number of low immigration risk providers.

Recommendation 1

That selected low immigration risk providers be invited to participate in streamlined visa processing arrangements similar to those currently available to universities.

6. Factors used to determine assessment levels

6.1 Background

Under the current arrangements, two main factors are used to determine the applicable AL: the country listed on an applicant's passport, and the visa subclass for which they are applying (which is determined by their major course of study). This could be seen to have a number of advantages and disadvantages.

Advantages may include:

- This approach provides significant granularity with approximately 140 countries listed, and with seven visa subclasses this gives a total of over 980 combinations. This granularity may provide a fairer approach to one that grouped applicants with more variation of risk together.
- The department has posts in over 50 countries, and has good information and processes for identifying and managing risk according to country.
- The system is upfront, transparent and (relatively) straightforward.

Disadvantages may include:

- It could be seen as too granular, and thus overly complex.
- Conversely, it could be seen as not granular enough, and not providing enough scope for further variations in risk such as different risks within countries.
- It does not consider provider or other types of risk.

Under the streamlined visa processing arrangements, eligible prospective students of participating universities are treated for visa application purposes as though they are low risk (AL1) regardless of what their AL would normally be. In effect, these arrangements consider participating universities to be low risk, and thus consider provider risk. Under these arrangements, it is provider risk rather than country or visa type which determines the (notional) AL. It should be noted however that under these arrangements the specific provider risk, within the low risk bandwidth is not used to determine the evidentiary requirements of the visa application or how the visa is processed. If universities are included in the arrangements, all eligible student visa applications are assumed to represent low risk.

Against this background, the discussion paper asked:

- If an applicant's country and education sector continues to be used to determine risk, what should be put in place to manage the current limitations of this approach?
- What measures could be introduced to manage the limitations of considering risk within countries?

6.2 What should be put in place to manage the current limitations of the existing AL framework?

A range of suggestions were made to the review on how to manage the limitations of the existing AL framework. These suggestions included:

- removing visa subclass as a consideration in assigning a risk rating or AL to a student visa application
- using one AL (or risk rating) across each visa subclass, regardless of an applicant's passport country

- in addition to removing visa subclass as a consideration in assigning a risk rating or AL to a student visa application, combining country risk and provider risk
- implementing a provider-based risk approach.

Removing the student visa subclass as a consideration in assigning a risk rating to a student visa application was considered by the review. This could involve substitution of another variable or use of just one variable—the country of an applicant’s passport. If another variable was introduced, it would need to be meaningful, measurable, and appropriate. If just one variable (such as country) was used, this would simplify the AL framework, but it may lose granularity to account for differences between students from a particular country. The review noted that ALs for students from several countries currently varied considerably across visa subclasses. For example, Lebanese postgraduate research applicants are AL1, while Lebanese VET applicants are AL4. It was concluded that such an approach could represent a significant risk to the integrity of the programme.

Conversely removing consideration of passport country, and using one AL across each visa subclass was considered. This would, for example, rate all postgraduate research visa applicants according to one AL; all schools visa applicants against another AL and so on. The review acknowledged the considerable difference between AL’s currently assigned to applicants from different countries for specific visa subclasses. For example, ELICOS applicants from Korea are currently rated AL1 whereas ELICOS applicants from Jordan are rated AL4. Again, it was concluded that such an approach could represent a significant risk to the programme.

The review noted the advantages and disadvantages of using country risk and provider risk instead of visa subclass risk. Such an approach would lose the differences in risk profiles evidenced by the different ALs for students from the same country applying for different visa subclasses as above. An approach based on using country risk and provider risk would also require the risk rating of presumably all providers which, as discussed in previous sections, the review did not consider was practicable or desirable. However, the review did note that with the streamlined visa processing arrangements implemented for universities and with any extension of similar arrangements to a small number of low risk immigration providers, provider risk would be included in the framework by default.

The review further noted that an approach which uses a combination of country risk and provider risk, without a consideration of visa subclass as a basis for measuring risk, would lose the simplicity of, and the reporting capacity embedded in, the current framework. This is a key strength of the existing framework, particularly in comparison to Australia’s competitor countries.

The review concluded that the current system of using country and visa subclass provides a robust approach and evidence base to manage the student visa programme, and that the exclusion of any one of these factors would represent a significant integrity risk. The review noted that with the introduction of streamlined visa processing arrangements, provider risk was in effect part of the AL framework for certain student visa holders, and that these arrangements should be reviewed before any decisions are taken to further introduce provider risk into the factors used to set ALs.

6.3 What measures could be introduced to manage the limitations of considering risk within countries?

Several submissions advocated for an approach which includes differences in immigration risk within countries to be included in variables considered to set ALs. For example, applicants from one province or state of a particular country may be much higher immigration risk than applicants from another part of the country. However under the current arrangements based on passport country, all these applicants are rated together. No submission provided suggestions as to how the practical difficulties inherent in such an approach could be resolved.

The review considered that these difficulties included:

- including area within country as well as country to the AL framework would increase complexity
- keeping specific region risk profiles up to date would be problematic, as behaviour patterns (including fraudulent behaviours) could change even more quickly
- verifying regions of origin for some applicants would add to visa processing times
- the need to prove regions of origin may be particularly open to fraud.

The review noted that while risks associated with specific regions of particular countries were not included in the AL factors used, they were known to the department and these risks were managed by posts and processing centres. Differences in immigration risk across a country's regions are currently assessed through integrity and compliance work and analysis of data undertaken by the department to identify those applications which require closer scrutiny.

The department currently uses analytics and risk tiering to extract knowledge from data about the student visa programme. Analytics involves the application of mathematical and statistical techniques to produce information on trends and probability of risk. Risk tiering identifies visa applications based on the likelihood that granting a visa will lead to an adverse immigration outcome for the applicant.

However, noting those limitations, the review considered that there is scope for the existing AL framework to be informed by further use of analytics and risk tiering, as well as current practices including integrity and compliance analysis. The review concluded that these approaches should be fully exploited and assessed before other approaches to managing risk within countries are considered.

Recommendation 2

Continue the current system of using a student visa applicant's passport country and the visa subclass for which they are applying as the factors used to determine an AL for student visa applicants.

7. Simplification of risk categories

7.1 Background

Under the current AL framework arrangements there are five risk categories: AL1, AL2, AL3, AL4 and AL5. AL1 represents the lowest risk and AL5 an extreme risk. These categories allow for a range of risk levels to be represented. More risk levels would enable greater granularity of risk to be represented, but would add complexity to the programme. Conversely, fewer categories could potentially provide less granularity, but would reduce complexity.

It should be noted that since the introduction of the AL framework in 2001, AL5 has not been used. Visa evidentiary requirements for AL5 visa applicants (if there were any) are extremely rigorous, and are set out in Appendix D. In effect, AL5 is seen as a disincentive for any high risk cohorts to deteriorate further.

An analysis of student visa lodgements across all student visa subclasses in the 2012-13 programme year presents the following snapshot of immigration risk:

- AL1 was assigned to approximately 20% of lodgements
- AL2 was assigned to approximately 15% of lodgements
- AL3 was assigned to approximately 9% of lodgements
- AL4 was assigned to approximately 10% of lodgements
- No country or student visa subclass was assigned AL5.
- Approximately 46% of lodgements were assessed under the streamlined visa processing arrangements

The AL assigned to each country across each student visa subclass is specified in a legislative instrument. Applicants' countries not listed (generally small countries from which Australia receives very few international students), are deemed to be AL3 across all student visa subclasses with the exception of subclass 574 and subclass 576.

Given the findings and recommendation made in chapter 5 of this review, the percentage of students eligible to be processed under streamlined visa processing arrangements could be expected to increase in the coming programme years. This will leave a reduced number of students to be considered across AL1-AL5. This reduction in the number of students assessed under the AL framework supports the argument for simplification of the framework into fewer AL categories as the complexity of the process may outweigh the benefits provided by retaining them.

Against this background, the discussion paper asked:

- Should the 5 ALs be collapsed—perhaps into 'low', 'medium' and 'high' risk categories?
- Should the current AL categories be maintained with the exception of AL5 which should be removed?

7.2 Should the 5 ALs be collapsed—perhaps into 'low/medium/high' risk categories?

A range of submissions supported simplifying the current five AL structure into a model of 'low/medium/high' to respond to concerns about the complexity of the current system. Others raised concerns that such an approach would be too restrictive and not allow differences in risk levels to be appropriately reflected and managed. Some submissions specifically promoted adopting terminology such as 'low/medium/high' to describe risk as this could be easier for some stakeholders to understand.

The review noted that if AL categories were to be retained, terminology such as low, medium, and high could be used in conjunction with the applicable AL.

Overall there was support for simplifying the AL framework by reducing the number of ALs.

7.3 Should the current AL categories be maintained?

The majority of submissions supported the removal of AL5 on the grounds that it had never been used. The review noted that the stringent requirements associated with AL5 reflect its intended purpose to respond to cohorts with extremely high immigration risk and serve as a disincentive. It is likely that most applicants would have difficulty meeting AL5 criteria. Removal of AL5 would allow the government to respond to criticism that this aspect of the AL framework is redundant, without compromising the integrity of the student visa programme.

The review also considered that there are strong arguments to further simplify the AL framework beyond removing AL5, noting that since the inception of the AL framework, a range of measures have been implemented that provide additional programme integrity safeguards. The GTE requirement and the Fraud PIC 4020, both implemented on 5 November 2011, enable refusal of a visa application where an applicant cannot demonstrate the genuineness of their claims as a temporary entrant, or where they have provided false, misleading or fraudulent documentation in support of their application.

Reductions to financial requirements on 5 November 2011 have also more closely aligned the requirements for AL3 and AL4 applicants, resulting in less distinction between these two levels. Given the relatively small number of AL3 and AL4 applications (9% and 10% of total applications respectively), it could be argued that there is little value in maintaining different requirements for these cohorts and that AL4 should also be removed from the framework.

This approach would provide a more appropriate balance between the objective and more subjective student visa criteria and would bring visa requirements, particularly financial requirements, for students in this category more closely in line with competitor countries.

This would provide a benefit to international education providers and, due to the existence of the GTE requirement and Fraud PIC 4020, would not create substantial integrity risk.

The review noted that restructuring the programme into fewer categories would simplify the framework, which was an attractive proposition. The findings of the review as a whole support the simplification and standardisation of the existing AL framework.

Recommendation 3

That the AL framework be simplified to comprise AL1, AL2 and AL3.

8. Eligibility requirements for a risk management framework

8.1 Background

In order to be eligible for a student visa, amongst other requirements (which apply to applicants for most visa types), student visa applicants must provide evidence that they meet certain English language, financial capacity and educational qualification standards.

These requirements have been in place since 2001 to help determine whether an applicant is a genuine student and to manage immigration risk. The settings or standards that applicants are required to meet for each of these three elements are periodically revised in response to changes in the broader environment. For example, changes to:

- English language settings in March 2012 when test requirements for schools visa subclass subject to AL4 were removed;
- Financial capacity in November 2011 when the level of funds for applicants subject to AL3 and AL4 was reduced; and
- Educational qualifications in March 2010 when settings for the postgraduate research visa subclass were reduced to AL1 and AL2.

In relation to whether these requirements should still be considered as part of the visa application processes and the applicable settings, the discussion paper to the review asked:

- What are the merits and limitations of an approach whereby education providers certify that prospective student have appropriately robust levels of English language rather than the department assessing this as part of the visa application process. If so, how should these levels be set?
- Should the recent changes to the financial requirements and the introduction of the Fraud PIC 4020 for student visas be sufficient to address concerns about fraud in financial evidence and documentation? Should they be allowed to operate for a certain period of time before this issue is re-examined? If changes to the financial requirements should be made as a result of this review of the student visa AL framework, what changes should be made?
- What are the merits and limitations in the department continuing to request evidence of educational qualifications?

8.2 Who should assess English language, and how should levels be set?

A range of submissions argued that it should only be education providers and not the department that assesses English language standards of students. Several submissions noted that under Standard 2 of the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007, providers are required to recruit students with the appropriate level of English for the course they are undertaking.

The review noted that under the current arrangements, AL1 and AL2 student visa applicants are taken to have met English language requirements if they have been enrolled by an education provider. Similarly all visa applicants (AL1 to AL4) are deemed to meet English language standards if they are enrolled just for an ELICOS or schools course. In effect, for these applicants, it is the provider that assesses and sets the English language standards.

The applicants who have their English language skills assessed by the department are the higher risk AL3 and AL4 applicants for VET, higher education, postgraduate research, and non-award visas.

In considering whether the department should continue to assess English language for these cohorts, the review considered anecdotal evidence that some education providers do not assess English language proficiency as they believe that the department 'takes care of English levels as part of the visa application process' and do not require applicants to their institutions to meet any particular standards.

The review noted that some student visa applicants are refused visas because they are found not to meet the set English language standards. This should not happen if education providers are ensuring robust standards prior to recruiting students, and is possibly evidence that some providers are setting low standards for students or do not robustly implement the standards they do set. The review further noted that the standards for student visas appear to be lower than that which might be expected by most education providers. For example:

- AL3 and AL4 VET and non-award visa applicants are required to meet IELTS 5.5 (or equivalent), or if they will undertake an ELICOS course (which would presumably increase their English language skills), IELTS 4.5 or 5 respectively (or equivalent).
- AL3 and AL4 higher education and postgraduate research visa applicants are required to meet IELTS 6 (or equivalent), or if they will undertake an ELICOS course, IELTS 5 (or equivalent).

IELTS note on their website¹⁵ that even with an IELTS 6, students of academic courses would require English language study, and even with an IELTS of 5.5, some students of training courses would need English study. Presumably, below these English language levels, students would have significant difficulties completing their courses.

The review noted that the Australian public expects that the department will manage baseline 'safety net' English language requirements that anticipate and respond to immigration risk. Although education providers have an obligation under the National Code to ensure students have sufficient levels of English language to complete their course, the department must be able to provide assurance that high risk applicants who are granted a student visa have basic levels of English that will enable them to interact effectively with their education provider for administrative purposes and, at least at a basic level, with the community.

The review therefore concluded that continuing to require evidence of basic English language proficiency (below that which education providers would be expected to require) from student visa applicants would allow the government to retain an important tool to manage immigration risk, and maintain public confidence, in the student visa programme.

However, the review noted comments around potential for changes in the English language settings were raised by some stakeholders. Suggestions and observations around simplifying settings between English language requirements across ALs included:

- While settings for AL3 and AL4 Higher Education and postgraduate research visa applicants was the same, it varied for VET and non-award visa applicants, and thus there may be scope for standardisation.
- Under the AL framework, higher risk AL4 ELICOS visa applicants are currently limited to 20 weeks of English language study. This was implemented to mitigate immigration risk posed by these student visa applicants. It was noted that many of these students may require longer periods of English language study in Australia in order to meet their language goals and that a longer English language study period

¹⁵ www.ielts.org/institutions/global_recognition/setting_ielts_requirements.aspx

may translate to more students progressing to study in other areas, which would benefit international education in Australia more generally.

On balance the review considered that recommendation 3 (the removal of AL4 and AL5) will sufficiently address these concerns and will result in a substantial enough change to the English language requirements for applicants. For example, this will enable current AL4 applicants to be treated as AL3 and therefore, able to access a maximum period of ELICOS of 30 weeks rather than 20 weeks.

8.3 Should the recent changes to the financial requirements and associated changes be allowed to operate for a certain period of time before this issue is re-examined? If changes to the financial requirements should be made now, what changes should be made?

Half the submissions received commented on the financial requirements. About a third of these indicated that the impact of reductions to financial requirements and the implementation of the Fraud PIC 4020 in November 2011 should be reviewed before any further changes to financial requirements are made. Other submissions noted that while the financial requirements assist in the management of immigration risk, they are seen as onerous and there are concerns that they are a disincentive for students to consider Australia as a study destination.

To be eligible for a student visa, students must provide evidence that they have sufficient funds to contribute towards their support (and support of any dependants) while in Australia. This includes sufficient funds for course fees, living costs, travel, and school costs for any dependants. However, currently, the evidence required varies according to the AL of the applicant. This varies from AL1 applicants who are required to provide a declaration that they have sufficient funds, to AL4 applicants who must show evidence that they have sufficient funds for the first 24 months and a declaration they have access to sufficient funds for the remainder of their stay in Australia.

The key principle in relation to financial requirements in the student visa programme is to ensure that international students have sufficient funds to contribute towards their expenses during their time in Australia so that they are not vulnerable to exploitation, are more likely to have a successful education experience and are less likely to become an immigration risk. The financial requirements also ensure that international students do not develop a need for government services, such as health and income support, for which they are not entitled.

The financial requirements have historically been one of the most controversial aspects of the student visa requirements, with concerns raised in the past that the only way that many AL3 and AL4 applicants can appear to meet the requirements is for them to engage in fraudulent behaviour. In response to these concerns, from 5 November 2011 the financial requirements for AL3 and AL4 applicants were reduced by up to approximately AUD 36 000 for an AL4 applicant and up to approximately AUD 18 000 for an AL3 applicant. Additionally on that date the Fraud PIC 4020 was introduced for student visas as another lever to manage risk in the student visa programme.

The review noted that while there is strong support amongst some education providers for reductions in financial requirements, as this may help attract more international students and thus benefit their institutions, there were risks if these students subsequently found themselves in financial difficulty. This would have implications for both the provider and other bodies such as welfare agencies, embassies, police and health providers, which may need to help financially strained students. It may also damage the reputation of the sector.

The review considered to what extent financial requirements determine the study destination choice of students and to what extent they may be a disincentive to study in Australia. While no definitive studies have been done, it is clear that a range of factors contribute to decisions

to study in Australia, including education quality, lifestyle, opportunities, value of the Australian dollar as well as visa application requirements and conditions.

Similarly to the rationale that the department assess English language requirements to provide a 'safety net' and assurances to the Australian community, the review noted that there was public benefit in assuring that international students have sufficient funds to contribute towards their studies in Australia. As well, the review noted that by having standards in place, reputational risks to the sector could be better managed.

Lastly, the review noted that when the financial requirements benchmarks were established within the AL Framework, integrity safeguards such as the GTE requirement and Fraud PIC 4020 were not in place. As a result, the financial requirements have historically had a much more prominent role in assuring the overall 'genuineness' of a Student visa applicant and in maintaining programme integrity.

The existence of these additional integrity safeguards provides a strong argument for a more balanced alignment between the financial requirement and other student visa criteria, such as the GTE requirement. In essence, the role of the financial requirement should be focussed on ensuring that the student has sufficient funds to contribute towards their expenses in Australia whilst the GTE requirement should act as the primary safeguard to ensure the overall 'genuineness' of the applicant's intentions.

The review therefore considers that the financial requirement for AL3 applicants could be reduced from 18 months to 12 months. However, noting the higher immigration risk of AL3 applicants when compared to applicants from a lower AL there is potentially an increased risk that these funds may not be genuinely available to the applicant. This risk could be mitigated through the introduction of an additional requirement, similar to that currently in place for AL4 applicants, that the funds for AL3 applicants must be provided by a close relative of the applicant.

This approach would provide a greater degree of consistency across the AL Framework and is likely to benefit both prospective students and education providers. Importantly it would also bring the financial requirement for an Australian student visa more closely in line with key competitor countries, enabling education providers to more effectively compete internationally based on the quality of their education.

Recommendation 4

That the financial requirement for AL3 applicants be reduced to 12 months evidence of funds with the condition that these funds be provided by a close relative of the applicant.

8.4 What are the merits and limitations in the department continuing to request evidence of educational qualifications?

Around one third of submissions stated that education providers alone should be responsible for assessing whether a student has sufficient educational qualifications to undertake a course. Most of these submissions raised concerns that continuing to assess educational qualifications results in a perceived impact on visa processing times and unnecessary duplication of effort.

In addition to this feedback, submissions from the schools sector peak bodies and some state governments said that the current AL4 criteria, that requires schools visa subclass applicants to have completed Year 9, should be removed. These stakeholders argued that this would allow Australia to compete with competitor countries. This requirement impacts predominantly on the China caseload, which is of key interest to the schools sector.

Under the current framework, all student visa applicants are required to provide evidence of educational qualifications. However, AL1 and most AL2 applicants are taken to have met

these criteria if they have been enrolled by their education provider. So, as with English language requirements, in effect, the education qualifications of these student visa applicants are assessed by their education providers.

Postgraduate research visa applicants subject to AL2 or above, and applicants for all other visa subclasses who are subject to AL3 or above, are required to provide the department with evidence of their educational qualifications. For example, if someone is applying for a higher education visa, evidence that they have completed Year 12 (or Year 11 and foundation studies, or Certificate IV) is required.

The review noted that assessment of whether an applicant has the minimum level of educational qualifications to study in a particular course is used as an indicator to determine whether an applicant is applying for a student visa for the reasons it is intended—to manage immigration risk.

Again, the review noted that while providers should be able to be relied upon to appropriately and robustly assess claims about educational qualifications, in some cases this does not happen or happen to a standard that might reasonably be expected by the general community. Visa applicants are refused visas because they have no relevant qualifications or educational background to the proposed course, or their claims are found to be fraudulent. The review considered that these refusals are evidence that again, there needs to be a 'safety net' in place to ensure that these requirements are met.

While there appears to be a strong public policy rationale for this 'safety net', it was noted that there was scope for the settings to be refined where integrity issues would not be compromised. In particular, there is a disparity between the educational qualifications required for AL3 and AL4 Schools visa applicants. AL3 applicants are required to have completed Year 6 and AL4 applicants are required to have completed Year 9. This means that schools can only enrol students from key countries such as China for Years 11 and 12. This currently prevents schools from responding to the emerging trend, especially amongst Chinese families, of sending children to study abroad at a younger age. Recommendation 3 (the removal of AL4 and AL5) will address this particular issue and enable the schools sector to provide opportunities for these students, who are currently able to seek similar experiences in other countries.

While there is a degree of risk associated with reducing the academic qualification requirements for schools visa subclass applicants currently subject to AL4, this risk is likely to be mitigated by other integrity measures that have recently been introduced such as the GTE criterion and Fraud PIC 4020.

9. Data and methodology used to determine immigration risk

9.1 Background

The current data and methodology used to determine immigration risk and assign ALs is set out in detail in Attachment E. In summary it involves:

- A statistical analysis of risk indicators for each country for each student visa subclass. Each risk is given a particular weighting. Risk indicators include:
 - the number of student visa applications refused due to fraudulent documentation or for other reasons (such as failure to satisfy English language requirements, financial requirements, health and character requirements)
 - the number of student visa cancellations and the rate at which visa holders may overstay their visas
 - the number of student visa holders who have applied for certain permanent residency visas (excluding skilled migration visas).
- Assignment of an indicative AL based on the numerical outcome of the statistical analysis—that is AL1 if the risk index is below 1, AL2 if between 1 and 2.7, AL3 if between 2.7 and 4.2, AL4 if between 4.2 and lower than 50 and AL5 if over 50.
- Consultation with key stakeholders internal and external to the department (including posts and sectorial bodies).
- Analysis of any specific country or broader concerns including rates at which visa holders apply for protection visas.
- A recommendation is put to the minister for a final decision.

This approach has been in place (with modification), since the AL framework was introduced in 2001, which are made in response to policy and other changes in the broader environment. For example, in the latest AL settings review the treatment of the protection visa rate changed in response to the ANAO's audit of the management of the student visa programme.

The discussion paper sought views on the data and methodology used to determine immigration risk. In particular the discussion paper asked:

- Should the risk management methodology be different for countries depending upon if they are large or small source countries or whether they are traditionally high or low risk?
- What risk factors should be considered in the future framework and what should the ratings be?
- Should the risk index threshold at which cohorts are assessed as AL1, AL2, AL3, etcetera, be changed?

9.2 Should the methodology be different for large/small or high/low risk countries?

Stakeholders did not make significant comments on this issue. The review noted that while different methodologies could be implemented for combinations of these attributes—that is, a methodology for large or small source countries, high or low risk countries, different methodologies could also be implemented for combinations of attributes, large high risk countries, large low risk countries and so on. Such an approach would however greatly complicate a framework which is already considered by many providers to be overly complicated.

The review concluded that, in the absence of compelling public policy rationale and support for such approaches from stakeholders, such methodologies should not be considered at this time.

9.3 What factors should be considered in the future methodology?

A number of submissions to the discussion paper supported removing consideration of the rate at which student visa applicants apply for permanent residency visas (other than skilled) as a risk factor when determining ALs. Arguments included that applying for further visas while in Australia is a lawful practice and that claims for the grant of a further visa would need to be considered in full at the relevant time and should not have a bearing on how risk is determined in the student visa programme.

In the context of a possible provider-based risk model it was also claimed that such applications were out of the scope of what an education provider can control or influence.

Arriving in Australia on one visa and then applying for another is not unlawful. However, there is a risk that people will seek to enter Australia on a temporary visa simply to make it easier for them to apply for another visa type on arrival and to access review rights if that application is unsuccessful. In such cases, the person may never have intended to comply with the conditions of their temporary visa. If large numbers of students behave in this way it may indicate that they are not accessing the student visa programme for the purposes for which it was intended.

On balance, the review considered that the rate at which student visa holders apply for permanent residence remains an important risk indicator within the AL framework. However, it is not critical to apply a weighting to this risk factor as part of data analysis of the AL settings.

The review considered that an appropriate alternative is to include an assessment of this risk factor in the consultation phase of a review of AL settings instead. This way, due consideration could be given to the types of visas being applied for and any apparent trends that may impact on the migration programme as a whole.

Recommendation 5

Remove consideration of applications for permanent residence (other than skilled) as a risk factor from the statistical analysis of data undertaken to set ALs, and instead consider it as part of qualitative analysis.

The issue of the weightings applied to each risk factor only featured in four submissions. Three out of the four submissions specified that the weighting given to the rate of visa applications refused due to fraudulent documentation should be increased from 28 per cent to 40 per cent. The main rationale for this was that the provision of fraudulent documents was clearly within the control of the student or agent and increasing this weighting would provide an opportunity for weightings assigned to other risk factors to be adjusted.

Support was received in submissions for the continued focus on identifying and mitigating fraudulent activity in the student visa programme. Better mitigation of risk, including fraud, is also a strategic priority for the department and is being addressed through measures such as the introduction of the Fraud PIC 4020. The review recommended that the weighting applied to the rate of applications refused due to fraud be increased from 28 per cent to 40 per cent.

The risk factor of visa applications refused due to reasons other than fraud now captures refusals under the GTE requirement. The GTE requirement was the foundation stone recommendation of the Knight Review and implemented on 5 November 2011. If an applicant does not meet the GTE requirement, this indicates that the department was not satisfied that the principal aim of the applicant was for a temporary stay in Australia to study and then return

home. The review considered it appropriate to increase the risk weighting given to refusals due to reasons other than fraud risk factor. It proposes an increase of 8 per cent to 10 per cent.

The review also recommends an increase to the rate of student visas cancelled criterion. A number of the Knight Review recommendations focused on improved student visa integrity, including more appropriate targeting of the department's compliance resources to the areas of highest risk (Recommendation 26) and the cessation of automatic and mandatory cancellation provisions for student visas (Recommendations 24 and 25). These recommendations came into effect on 13 April 2013 and enable the department to more effectively target programme risk through the introduction of a discretionary cancellation framework. Given the increased focus on detecting non-genuine student visa holders, it is reasonable that a corresponding increased emphasis be placed on cancellations in terms of the AL methodology. Cancellations are usually made for a breach of visa conditions and represent misuse of the programme.

The review proposes to acknowledge the seriousness of student visa cancellation decisions, and the importance of programme integrity, by increasing to the weighting given to the rate of student visas cancelled from 28 per cent to 30 per cent.

The only proposed decrease to a risk weighting is to the rate at which student visa holders overstay their visas. This is not because student visa holders remaining in Australia unlawfully are considered to be less of a risk. Integrity of any temporary visa programme is compromised if large numbers of its visas holders remain in Australia beyond the validity period of their visa.

The impacts of increasing or lowering the weighting associated with students overstaying their visas were modelled in light of the above preferences to increase weightings associated with refusals and cancellations. It was found that a decrease in weighting would be balanced by the introduction of the GTE requirement which provides upfront assessment of this risk. It is therefore proposed to lower the weighting for the rate of student visa overstayers from 28 per cent to 20 per cent in order to facilitate the increase of weighting of refusals and cancellations to acknowledge the seriousness of these aspects.

The proposed changes to weightings across risk factors have been modelled to determine the impact on the distribution of ALs across all countries. Further information is at Appendix E.

It is considered that the proposed weightings would allow more of a focus on fraud while minimizing change for students and providers.

Recommendation 6

Change the weightings applied to the rate of the remaining risk factors:

- rate of refusals due to fraudulent documents: increase weighting from 28 per cent to 40 per cent
- rate of refusals (due to reasons other than fraud): increase weighting from 8 per cent to 10 per cent
- rate of student visas that have been cancelled: increase weighting from 28 per cent to 30 per cent
- rate of former student visa holders who have become unlawful: decrease weighting from 28 per cent to 20 per cent.

9.4 Should the risk index threshold at which cohorts are assessed as AL1, AL2, AL3 etcetera, be changed?

The existing benchmarks used to determine which AL is assigned to a country and student visa subclass have existed in policy since 2006. The benchmarks allow easy identification of the 'cut-off' mark between ALs.

The issue of the benchmarks used to determine which AL is assigned to a country and student visa subclass did not elicit a significant response from submissions to the discussion paper. During consultations, most stakeholders generally commented that, in the absence of any evidence demonstrating that the benchmarks were ineffective or disproportionate, retaining the current benchmarks would be appropriate.

Recommendation 7

Maintain the existing benchmarks used to determine which AL is assigned to a country and student visa type.

10. Review mechanisms

10.1 Background

AL settings have been reviewed six times since they were introduced in 2001. Reviews are undertaken to ensure that settings are appropriate in response to changes in risks in other countries and/or compliance outcomes of visa holders in Australia.

Currently, the department uses the latest 12 months data in its analysis at the quantitative stage. Once the quantitative stage is completed and indicative ALs determined, consultation occurs with stakeholders in the international education sector and with posts and processing centres. This process, including implementation of outcomes, can take 12 months from 'end-to-end', as it involves data collation and analysis, consultation, approval processes, and then implementation which involves the need to align legislative and systems changes to occur at certain times of the year.

In relation to identifying a review mechanism that is appropriately responsive to current and future immigration risks, the discussion paper asked:

- What are the factors that should determine how frequently the department reviews risk in the student visa programme?
- Should the review mechanism include input from consultative forums from the international education sector, such as the EVCC?

10.2 What are the factors that should determine how frequently the department reviews risk in the student visa programme?

The review considered the advantages and disadvantages of conducting reviews of the AL settings on an approximately annual basis or more frequently and whether mechanisms should continue to include qualitative (statistical) and quantitative (consultation) factors.

The review noted that the benefit of an approximately annual review would be to allow statistically robust data for analysis to determine if particular ALs need to be adjusted in response to changing immigration risks.

The review also considered that conducting AL reviews more frequently than annually, however, may present a number of challenges, including the ability to obtain a sufficient sample size on which to base the data analysis and more frequent changes to ALs may be criticised by stakeholders as involving an unnecessary level of change.

It was noted that the current methodology of using analysis of quantitative (statistical) information as well as qualitative feedback to review AL settings ensures the objective reporting of risk while also allowing for flexibility to respond to emerging issues and local in-country knowledge and consideration of broader sectoral issues. A qualitative look at why some trends are emerging may reveal that the issue has now passed, or that another is over the horizon. For example, in some cases, an improvement in performance may mean that settings are appropriate and working well, not that they should be lowered or revised.

In the absence of evidence to the contrary or strong views expressed by stakeholders, the review concluded that reviews should occur approximately annually and continue to include quantitative and qualitative factors.

10.3 Should the review mechanism include input from consultative forums from the international education sector, such as the EVCC?

Over half of the submissions to this review pointed to the need for broad consultation with the international education sector on the outcomes of reviews of AL settings. Comments received from submissions focused on greater consultation on AL settings with industry representatives who have in-depth knowledge of sectoral trends. This would indicate support for retaining the ability to overlay the objective, quantitative analysis of student visa outcome data with qualitative considerations.

Nearly 40 per cent of submissions expressed support for qualitative feedback including input from the international education sector via the EVCC. The review noted that the EVCC appears to provide an ideal forum to present outcomes of the quantitative stage of AL reviews and seek qualitative feedback. EVCC members are able to provide direct and immediate feedback on the proposed impacts of AL changes on their education sector.

Six submissions recommended that consultations go broader than the EVCC. Some stakeholders expressed concern that they felt excluded from the process of providing feedback on the impacts that a change to ALs can have on their prospective students.

Given the membership of the EVCC represents a diverse range of stakeholders, but not all stakeholders that might be relevant at a particular point in time, the review considered that the consultative process would be improved by identifying and seeking feedback on the findings of reviews from not only the EVCC but also other relevant organisations or individuals as appropriate.

Recommendation 8

Implement approximately annual reviews of AL settings to be informed by quantitative and qualitative factors with qualitative factors to include input from the international education sector via the Education Visa Consultative Committee and others as appropriate.

Review of the Student Visa Assessment Level Framework: Terms of reference

The assessment level (AL) framework is used to determine and manage the immigration risk posed by student visa applicants according to their country and student visa subclass. There are five risk tiers within the AL framework which impose greater visa requirements on applicants as the level of risk increases.

The AL framework was introduced on 1 July 2001. In his report of the Strategic Review of student visas, the Hon Michael Knight AO noted that, ten years on, the AL framework has not kept pace with changes in the scale and complexity of the student visa programme and recommended the government review the AL framework. In addition, the Australian National Audit Office recommended, in its audit report of the management of student visas (May 2011), that the department review the process for determining country and education sector ALs.

This review responds to those recommendations.

The review will recommend, with input from an External Reference Group, measures to reform the current student visa risk management framework to enhance the integrity of the student visa programme while facilitating the competitiveness of Australia's international sector. In particular, the review will consider:

1. The merits of applying an education provider-based risk management approach, particularly an approach that recognises and rewards high quality, low risk education providers.
2. The efficacy of the current system of distinguishing risk by country and student visa subclass, for example rather than by differences within countries and between individual education providers.
3. Simplifying the number of risk categories, for example collapsing the existing five AL levels into three risk categories of 'low', 'medium' and 'high'. Particular consideration will be given to other approaches to risk management applied within the immigration portfolio.
4. Whether eligibility requirements for a risk management framework should include current AL eligibility thresholds of English language, financial capacity and educational qualifications.
5. The data and methodology used to determine immigration risk, including consideration of the relative significance placed on each risk factor.
6. An on-going review mechanism that is appropriately responsive to current and future immigration risks.

On the completion of the review in mid-2012 the government will consider options for the interim implementation of its findings, to apply to a small number of high quality training and education providers, ahead of the full implementation of the review's findings by 2013.

Submissions to the review

Number	Submission
01	CONFIDENTIAL
02	Australian College of Agriculture and Horticulture
03	Due Dynamic (Dynamic Universe)
04	Top Education Group Pty Ltd
05	Government Education and Training International, Tasmania
06	Holmesglen Institute of TAFE
07	Think Education Group
08	Educational Testing Services
09	International Education Services
10	Department for Education and Child Development, South Australia
11	Educational Consultancy Association of Nepal
12	Learning Resource Network
13	Australian Council for Private Education and Training
14	Independent Schools Council of Australia
15	Group of Eight
16	International Education of Association of Australia
17	Navitas
18	IDP Education Pty Ltd
19	Business Council of Australia
20	Woodcroft College
21	TAFE Directors Australia
22	Education and Training International
23	University of Western Australia
24	Universities Australia
25	Rajaram Srinivasan
26	Migration Institute of Australia
27	Education Consultants Association of Australia
28	Australian Institute of Professional Education
29	English Australia
31	Council of Private Higher Education
32	Law Institute of Victoria
33	University of Newcastle Australia
34	CONFIDENTIAL
35	Department of Education and Training Queensland
36	Eltham College
37	Department of Further Education, Employment, Science and Technology, South Australian Government
38	NSW and Victorian Governments
39	CONFIDENTIAL

External stakeholders consulted

Organisation	Name
Austrade	Quentin Stevenson-Perks
Australian Council for Private Education and Training (ACPET)	Claire Field Ingeborg Loon
Australian Government Schools International (AGSI)	Elizabeth Webber Nicole King
Clarke Corporate Consulting	Dennis Clarke
Council of Private Higher Education (COPHE)	Paul O'Halloran
Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education (DIICCSRTE)	Colin Walters Dianne Weddell Stephen Trengove-Jones Greg Gallagher Kim Cleary
Education Adelaide	Denise von Wald
English Australia	Sue Blundell Chris Wallis
Former Vice Chancellor and President of the University of South Australia	Professor Denise Bradley
Independent Schools Council of Australia (ISCA)	Caroline Miller
International Education Association of Australia (IEAA)	Helen Zimmerman
Kaye Schofield and Associates	Kaye Schofield
TAFE Directors Australia	Peter Holden
Top Education Institute	Dr Minshen Zhu

Universities Australia	Pamela Kinnear Ainslie Moore Iain Lockie
ACT Education and Training Directorate	Jayne Johnston
NSW Department of Premier and Cabinet	Karl Eaves
NT Department of Education and Training	Phil Blumberg
QLD Department of Education and Training	Janelle Chapman
SA Department of Further Education, Employment, Science and Technology	Adrienne Nieuwenhuis Heidi Greaves
TAS Government Education and Training International (GETI)	Anne Ripper
VIC Department of Business and Innovation	Marion van Rooden
WA Department of Education Services	Richard Strickland Joseph Bontempo

Summary of student visa requirements by assessment level

Assessment level	Evidence of English language proficiency	Evidence of financial capacity	Academic qualifications
1	Enrolment by education provider	A declaration that they have sufficient funds to support their entire stay in Australia	Enrolment by education provider
2	Enrolment by education provider	<ul style="list-style-type: none"> Evidence of funds from an acceptable source to pay for their expenses for the first 12 months of their stay. A declaration that they have sufficient funds to support the remainder of their stay in Australia. <p>Note: Evidence of funds from an acceptable source does not include the value of an item of property.</p>	<p>Postgraduate research:</p> <p>Undergraduate degree</p> <p>All other sectors:</p> <p>enrolment by education provider</p>
3	<p>Independent English Language Intensive Courses for Overseas Students (ELICOS) and schools:</p> <p>enrolment by education provider</p> <p>Vocational Education and Training (VET) and non-award:</p> <p>5.5 International English Language Testing System (IELTS) or equivalent from a specified alternative English language test (AELT*), or 4.5 IELTS or AELT equivalent with ELICOS course**</p> <p>Higher education and postgraduate research:</p> <p>6.0 IELTS or AELT* equivalent, or 5.0 IELTS or AELT* equivalent with ELICOS course**</p>	<ul style="list-style-type: none"> Evidence of funds from an acceptable source (including a money deposit, a loan from a financial institution and a loan from home government) to pay for their expenses for the first 18 months of their stay (or duration of preliminary plus first 12 months of principal course for Postgraduate Research) A declaration that they have sufficient funds to support the remainder of their stay in Australia Funds can be provided by any individual willing to support the applicant if they can demonstrate their income stream. <p>Note: If evidence of funds is a money deposit, must show a three months savings history.</p>	<p>Schools:</p> <p>completed year six</p> <p>VET: completed year 11</p> <p>Higher education:</p> <p>completed year 12 or year 11 and foundation studies or Certificate IV</p> <p>Postgraduate research:</p> <p>Undergraduate degree</p>

Assessment level	Evidence of English language proficiency	Evidence of financial capacity	Academic qualifications
4	<p>Independent ELICOS and schools:</p> <p>enrolment by education provider</p> <p>VET and non-award:</p> <p>5.5 IELTS or AELT* equivalent, or 5.0 IELTS or AELT* equivalent with a preliminary ELICOS course**</p> <p>Higher education and postgraduate research:</p> <p>6.0 IELTS or AELT* equivalent, or 5.0 IELTS or AELT* equivalent with ELICOS course**</p>	<ul style="list-style-type: none"> Evidence of funds from an acceptable source (including a money deposit, a loan from a financial institution and a loan from home government) to pay for their expenses for the first 24 months of their stay (or duration of preliminary plus first 12 months of principal course for Postgraduate Research). A declaration that they have sufficient funds to support the remainder of their stay in Australia. For a money deposit or a loan from a financial institution, funds must be provided by close relatives only who can demonstrate their income stream. <p>Note: If evidence of funds is a money deposit, must show a three months savings history.</p>	<p>Schools: completed year nine</p> <p>VET: completed year 12</p> <p>Higher education: completed year 12 or year 11 and foundation studies or Certificate IV</p> <p>Postgraduate Research:</p> <p>Undergraduate degree</p>
5	<p>Independent ELICOS: enrolment by education provider</p> <p>All other subclasses: IELTS 7.0 or AELT* equivalent</p>	<ul style="list-style-type: none"> Evidence of funds (money deposits) to pay for their expenses for the full period of their stay Funds must be provided by the applicant Evidence of income stream <p>Note: Applicant must show a five year savings history of money deposits.</p>	<p>Postgraduate Research: Undergraduate degree</p> <p>All other sectors: Year 12.</p> <p>Evidence of relevance to current or prospective employment</p>

Note: This table is not intended as a comprehensive list of all requirements of evidence in Schedule 5A to the *Migration Regulations 1994*. Other requirements including genuine temporary entrant, health and character requirements also apply. For further information please visit the department's website.

See: www.immi.gov.au/students/

*Specified Alternative English language tests (AELT) for Student visa purposes are the Test of English as a Foreign Language (TOEFL) paper-based test and internet-based tests, the Pearson Test of English Academic, and the Cambridge English: Advanced (CAE) from Cambridge ESOL and the Occupational English Test as specified in Legislative Instrument IMMI 12/004

See: www.comlaw.gov.au/Details/F2012L00663

**among other options

Student Visa Assessment Level (AL) Settings Methodology

Overview

The Department of Immigration and Border Protection (the department) periodically reviews the AL settings for each nationality for student visa purposes.

ALs are based on the immigration compliance performance of students from a particular nationality over a specified period, across each student visa subclass. AL1 represents the lowest immigration risk and AL5 represents the highest immigration risk. No nationality/visa subclass has been specified at AL5.

The AL methodology comprises:

- a statistical analysis of risk indicators for each country in each student visa subclass
- consultation with key stakeholders
- an analysis of any specific country issues and broader regional concerns. This allows relevant environmental, security, economic or other influences to be assessed and incorporated into the process for determining ALs.

The number of applications for a protection visa (PV) made by student visa holders is considered as part of the qualitative (consultation) analysis. A PV is the onshore component of the refugee and humanitarian programme, and aims to provide options for people who are in Australia and wish to apply for protection (or asylum).

Prior to the 2011 review of AL settings, the total number of PV applications made by certain groups (applicants from each country applying for each student visa subclass) was given an 'absolute' value, instead of a weighting. In other words, the total number of PV applications was simply added to a country's Country Risk Index (CRI). The ANAO¹⁶ observed in its 2010 audit report of the student visa programme that this had a disproportionate impact on a country's risk rating. To address this issue, information about PV applications was moved from the first (quantitative) stage to the second (consultative) stage as part of the 2011 AL review. Recommendations are then put to the minister for decision.

Process

Stage One

The first 'quantitative' stage involves the department collating and analysing immigration data taken over a specific period of time, usually at least 12 months.

A data set is established for each country and student visa subclass. This data set comprises total numbers of active student visas, finalisations (including grants, refusals and withdrawals), and visas expiring during the specified period. Next, the risk indicators are applied to the data set to determine a risk indicator rate as a percentage.

To determine a preliminary AL, weightings (adding up to 100 per cent are then applied to each risk indicator rate. The weightings are as follows:

¹⁶ <http://anao.gov.au/Publications/Audit-Reports?portfolio=21>

- rate of applications refused due to fraudulent documentation—28 per cent, and due to other reasons: 8 per cent
- rate of visa cancellation—28 per cent
- rate at which visa holders overstay their visa: 28 per cent
- rate at which visa holders apply for certain other permanent visas: 8 per cent.

Although the risk indicators are prescribed in legislation, the current weightings have existed in policy since 2004. Any changes to the risk factors would involve a legislative change process, whereas any changes to the weightings could be made through policy.

The next step in the quantitative stage is to determine a CRI by adding up all these risk indicator rates and their corresponding weightings. The benchmarks used to determine which AL is assigned to a country and student visa subclass were set in 2006 and are as follows:

- AL1 – CRI below 1
- AL2 – CRI between 1 and 2.7
- AL3 – CRI over 2.7 and up to 4.2
- AL4 – CRI over 4.2 and lower than 50
- AL5 – CRI of 50 or above.

The results of this first stage produce a ‘preliminary AL’ that may show that no change to the AL is indicated, or that an increase or decrease could be indicated based on the data.

The methodology for reviewing AL settings prior to 2011 also added the total number of applications for PVs made (in Australia) by applicants from each country to the CRI. In other words, no weighting of the rate of PVs was used, and the total number of applications was instead just added to the CRI. The ANAO in its Audit Report No.46 on the Management of Student visas raised concerns about the distorting effect this had on a CRI as a small number of PV applications would lead to a higher preliminary AL (more than four PV applications equates to AL4), even if the other risk factors point to low immigration risk.¹⁷ In line with the best practice recommended by the ANAO, the 2011 review of AL settings instead considered the number of PVs for each country and student visa subclass during the qualitative stage of the review.

Specific ‘small country rules’ apply to countries with fewer than 100 overseas students in Australia with visas expiring in the review period to ensure their AL is not disproportionately assigned due to the small data sample and the effect of the weightings.

Stage Two

The second stage is ‘qualitative’, as it seeks feedback on the preliminary ALs from relevant parts of the department (onshore and offshore processing offices and policy areas) and also from key external stakeholders, including other relevant government departments and agencies and representatives of the International Education sector. This second stage allows the department’s onshore and offshore processing offices to provide additional information, such as emerging or declining risks in particular caseloads, which have occurred after the review period. The International Education sector is also able to advise the impacts of any changes to ALs on their potential pool of student visa applicants.

The department recommends any changes to ALs to the Minister for Immigration and Border Protection based on the outcomes of both stages. Only the Minister can make AL changes.

¹⁷ <http://www.anao.gov.au/~media/Uploads/>

To give effect to any AL changes, the department must amend the relevant legislative instruments (currently IMMI11/011 (F2011L00467)¹⁸ and IMMI11/012 (F2011L00466)¹⁹ and update the systems that the department uses to process visa applications.

Statistical analysis

1. Risk indicators

1. *Fraudulent documentation rate* – percentage of student visa applications refused on the basis of presenting fraudulent documents in the offshore decision-making process during a specified period
2. *Visa cancellation rate* – number of overseas student visas cancelled where the student was at fault (such as not meeting attendance or academic progress requirements) or following the department compliance action during a specified period, as a percentage of the number of student visas active
3. *Unlawful student rate* – number of students who became unlawful at a point during the specified period, as a percentage of the number of visas expiring within the same financial year. Note: For students who overstayed their visa, only those whose period of overstay was greater than 28 days are included
4. *Applicants for residence (excluding residence on the basis of skill)* – number of applications for residence visas (excluding residence on the basis of skill) during the period as a percentage of the number of students in Australia with visas expiring within the same specified period
5. *Visa application (offshore) refusal rate* – number of student visa applications refused by overseas posts (excluding on the basis of fraud) during a specified period as a percentage of the number of decisions made offshore within the same specified period
6. *Applicants for protection* – in previous AL reviews, absolute number of PV applications during a specified period is added to the weighted rates of the other five risk indicators to determine the CRI. In the 2011 AL review, the PV data was instead considered as part of the qualitative analysis

2. Calculating risk

The following weightings are used for the risk indicators:

- Rate of applications refused due to fraudulent documentation – 28 per cent
- Rate of visa cancellation – 28 per cent
- Rate at which student visa holders become unlawful (i.e. overstay their visa) – 28 per cent
- Rate at which student visa holders apply for other permanent residence visas (excluding on the basis of skill) – 8 per cent
- Rate of applications refused for reasons other than fraudulent documentation (offshore) – 8 per cent.

¹⁸ <http://www.comlaw.gov.au/Details/F2011L00467>

¹⁹ <http://www.comlaw.gov.au/Details/F2011L00466>

Once these weightings are applied to the raw data, the CRI is derived.

3. Preliminary ALs

Based on the statistical analysis, preliminary ALs are assigned according to the following benchmarks:

- AL1 – CRI below 1
- AL2 – CRI between 1 and 2.7
- AL3 – CRI over 2.7 and up to 4.2
- AL4 – CRI over 4.2 and lower than 50
- AL5 – CRI of 50 or above.

4. 'Small country rules' (for countries with small numbers of students)

The following default rules apply for countries with fewer than 100 overseas students in Australia:

- AL1 – countries which have access to an Electronic Travel Authority (ETA) for Visitor visas, and European Union countries which have access to eVisitor
- AL2 – countries not meeting AL1 criteria above and whose GDP is greater than \$4000, across every student visa subclass exhibit a rate of risk at AL1, and do not receive a negative indicator in the categories outlined below:
 - high rates of fraud
 - more than five onshore PV applications from students in 12 months
 - Overseas post support for change to AL2.
- AL3 – countries not meeting criteria for AL1 and AL2

Impacts of proposed changes to weightings across risk factors

Proposed changes to weightings across risk factors used in the methodology to determine Assessment Levels (ALs) have been modelled to determine the impact on the distribution of ALs across all countries.

As Figure 1 indicates, the impact of the change would be limited, with slight increases at both the low risk (AL1) and high risk (AL4) ends.

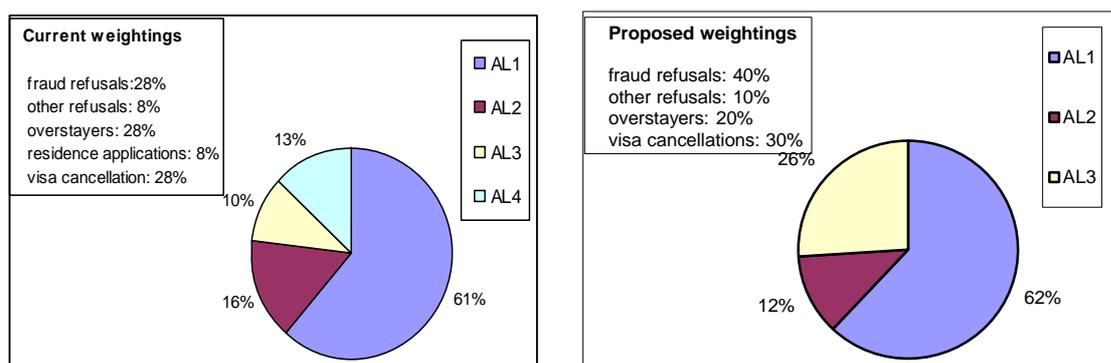


Figure 1: AL distribution using current and proposed risk factor weightings.

Student Visa Programmes of competitor countries

United States of America (USA)

Education institution requirements

To apply for a visa to study in the USA, international students must first be accepted for enrolment by an approved education provider. Only education providers certified by the Student and Exchange Visitor Program (SEVP) can accept international students. To be registered with SEVP education providers must apply, pay a fee and meet the regulatory requirements specified in the Code of Federal Regulations.

SEVP is designed to assist the Department of Homeland Security (DHS) and Department of State (DOS) to monitor international students. Student information is collected, maintained and distributed through the Student and Exchange Visitor Information System (SEVIS), which monitors and tracks students and education providers for compliance with applicable regulations. SEVIS enables education providers to transmit mandatory information and event notification to DHS and DOS for the duration of a student's stay in the USA.

English language, financial requirements, and educational qualifications

DOS is responsible for issuing student visas. Legal requirements prescribe that an applicant must provide specified forms and should also be prepared to provide:

- transcripts and diplomas from previous institutions attended;
- scores from standardised tests required by the educational institution such as the Test of English as a Foreign Language (TOEFL), Scholastic Assessment Test (SAT), Graduate Records Examination, Graduate Management Admissions Test; and
- financial evidence that shows the applicant or their parent has sufficient funds to cover tuition and living expenses during the period of intended study. Evidence of funds includes bank statements, tax documents, business registration and licenses.

Other requirements

Applicants must demonstrate that they meet other student visa requirements including; having a residence abroad, with no immediate intention of abandoning the residence and an intention to depart the USA upon completion of the course of study. As part of the visa application process, an interview at a USA consulate is required for visa applicants aged 14 -79 with limited exceptions. Based on the visa requirements specified in the *Immigration and Nationality Act 1965*, a consular officer will determine which applicants qualify for a student visa.

United Kingdom (UK)

Education institution requirements

Students seeking to apply for a visa to study in the UK must have been issued a Confirmation of Acceptance of Studies (CAS) from an approved education provider, licensed by the UKBA to teach international students. These education providers must comply with a number of record-keeping and reporting duties, and are inspected by a number of education oversight bodies.

The UKBA publishes a register of approved education providers. This register contains the education provider's name and location, and their rating.²⁰The rating indicates whether the education provider is a Highly Trusted sponsor, or is a standard sponsor with an A (Trusted) or B (Sponsor) rating. The B rating is a transitional rating, and means that the education

²⁰<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pointsbasedsystem/>

provider is working with the UKBA to improve their systems. Highly Trusted sponsors have demonstrated the highest levels of compliance with their duties. In return, they can offer a wider range of course levels and work placement opportunities.

The UKBA uses student compliance to inform a provider rating. Education providers must report on non-compliance of students to whom they have issued a CAS if:

- the student fails to enrol on a course within the enrolment period;
- the student misses 10 expected contacts without provider permission;
- there are any significant changes in the students circumstances (for example, if a course of study is shortened); or
- an education provider suspects that the student is breaking the conditions of their permission to stay.

English language, financial requirements, and educational qualifications

English language requirements vary depending on the course selected by the student. The UKBA sets minimum levels of English language proficiency and publishes a list of acceptable English language tests and minimum scores required.²¹ Education providers must ensure that students meet these requirements before issuing a CAS.

Visa applicants must show UKBA that they have sufficient funds to pay for their course fees and living costs. A student applying to start a new course must demonstrate that they have enough money for the first year of their course (or the entire course if it lasts less than a year). They must also demonstrate they have enough money to meet living costs for up to nine months. However, the living cost amounts that an applicant must show depend on where in the UK they will be studying (in or outside London), and whether they have recently studied in the UK (the amounts may be reduced if they are considered to have 'established presence')²². Evidence of funds includes bank statements, a letter from a financial institution confirming funds or a loan. These must be under the name of the applicant, the applicant's parent(s) or legal guardian.

Visa applicants are required to provide UKBA with copies of documentation used to obtain a CAS, such as English language scores and evidence of previous qualifications. Visa applicants who are considered 'low risk' will not normally need to provide all supporting documents applicable to other applicants, as a declaration is sufficient. To be considered 'low risk', applicants must meet certain criteria including being sponsored by a Highly Trusted Sponsor and being a British national (overseas) or a national of specified countries.

Other requirements

The UK also uses risk profiling to manage risk, notifying visa processing officers of in-depth profile information via a risk matrix. Visa applicants must also provide the UKBA with registered fingerprints, facial photographs (biometric information) and police clearances.

Canada

Education institution requirements

To study in Canada, international students need to have a study permit and, for nationals of designated countries, must also have a temporary resident visa. Citizenship and Immigration Canada (CIC) process study permit applications and issues visas. Before applying for a study permit, the applicant must be accepted by a registered education provider and have a letter of offer. Any registered education provider in Canada can accept international students.

²¹ <http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/new-approved-english-tests.pdf>

²² <http://www.ukba.homeoffice.gov.uk/visas-immigration/studying/adult-students/can-you-apply/money/>

English language, financial requirements, and educational qualifications

Language requirements and educational qualifications for international students are set and enforced by individual education providers when assessing students for enrolment, and vary depending on the proposed course of study. To meet the financial requirements applicants must provide CIC with evidence that they have enough money to pay tuition fees, living expenses and return transportation for themselves and any accompanying family members for 12 months.

Other requirements

Other mandatory health and character criteria apply. Applicants must also satisfy an immigration officer that they will leave Canada at the end of their authorised stay.

New Zealand (NZ)

Education institution requirements

To obtain a visa to study in NZ, a student must have an offer of place from an approved provider (if enrolling in a course for the first time) or a confirmation of enrolment (if returning to the same education provider to continue a course of study). NZ imposes a set of requirements for education providers who teach international students and screens the types of courses offered.

While providers are not rated according to risk, NZ does have a Students Online Partners Program which operates through a Memorandum of Understanding and partnership of trust between certified education providers and Immigration NZ. Certified education providers can submit batches of student visa applications online which are processed within 48 hours.

Education providers in NZ must abide by the *Immigration Act 2009* in relation to student visa holders and consequences for offences by providers is embedded in legislation. Additionally, providers must be a signatory to the Ministry of Education's Code of Practice for the Pastoral Care of International Students and be registered with New Zealand Qualifications Authority.

NZ does not assign risk to student visa applications prior to lodgement. However, they do identify high and low risk applicant profiles within specific countries and regions. These are applied after an application is lodged and specify evidentiary requirements. Each NZ Immigration office generates its own evidence requirements, which go beyond the baseline requirements for all applicants, based on local knowledge of particular student visa applicants.

English language, financial requirements, and educational qualifications

As part of the enrolment process, providers assess the English language proficiency of students and provide confirmation that requirements under the Code of Practice for Pastoral Care of International Students are met (including accommodation for under 18 year olds and course prerequisites such as English language proficiency and any academic prerequisites).

To apply for a student visa, the applicant must provide evidence that they are able to meet their living costs during their stay. The amounts are NZ 1 250 per month for courses less than nine months or NZ 15 000 per year for courses over nine months. Evidence includes:

- enough money held in NZ by the applicant or another party on their behalf;
- a financial undertaking to cover accommodation and living costs;
- sponsorship by an acceptable sponsor to cover the accommodation and living costs; and
- financial assistance available under NZ Government aid programmes.

Other requirements

Other criteria including health and character requirements as well as guardianship arrangements for minors apply to student visa applicants. Applicants must also provide proof that they plan to leave NZ after they have finished their course of study.