

NATIONAL PROTOCOLS FOR HIGHER EDUCATION APPROVAL PROCESSES

The following National Protocols for Higher Education Approval Processes were recommended by the Joint Committee on Higher Education and approved by the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA) on 31 March 2000.

These Protocols are a key element of a new national quality assurance framework for Australian higher education.

They have been designed to ensure consistent criteria and standards across Australia in such matters as the recognition of new universities, the operation of overseas higher education institutions in Australia, and the accreditation of higher education courses to be offered by non self-accrediting providers.

The Australian States and mainland Territories, which have responsibility for managing higher education accreditation and approval processes, have agreed to their adoption.

- Protocol 1 **Criteria and Processes for Recognition of Universities**
- Protocol 2 **Overseas Higher Education Institutions Seeking to Operate in Australia**
- Protocol 3 **The Accreditation of Higher Education Courses to be Offered by Non-Self-Accrediting Providers**
- Protocol 4 **Delivery Arrangements Involving Other Organisations**
- Protocol 5 **Endorsement of Courses for Overseas Students**

INTRODUCTION

Under arrangements for sharing responsibility for higher education between the Commonwealth and the States, responsibility for exercising control over the use of the term “university” and for protecting the capacity to confer higher education awards such as “bachelor’s degree” rests with the States and Territories.

Most States and Territories have legislative provision governing the recognition of non-self accrediting institutions who wish to offer courses leading to higher education awards, the approval of courses offered by non-self accrediting institutions, and mechanisms to approve the establishment and operation of institutions wishing to operate as universities within their jurisdiction. All States and Territories, excluding the external Territories, protect the use of the term “university” in legislation regulating the use of business names.

While there are many similarities in how States and Territories manage the recognition of universities and the accreditation of courses offered by non-self accrediting institutions, there is no nationally agreed protocol of common principles underpinning the management of these functions.

In 1995, MCEETYA agreed to implement a common protocol for the concurrent accreditation of higher education courses to be offered simultaneously in two or more States or Territories. This protocol was elaborated on in operational guidelines for the use of State/ Territory officials in 1999, and has been used successfully since its adoption to process a number of applications.

In 1997, the Higher Education Taskforce agreed to commission a project to explore options to develop common principles and a cooperative approach to the quality assurance of all higher education accreditation processes among relevant jurisdictions. The project examined accreditation/recognition processes for universities and for higher education courses offered by non-self accrediting institutions.

The national protocols recommended in this paper are primarily drawn from an analysis of the results of the project, and meet one of the outcomes of the project ‘to develop national protocols, where appropriate’. The introduction of nationally agreed protocols for the recognition of universities is seen as particularly desirable to protect the standing of Australian universities nationally and internationally.

Endorsement of Protocols

It is proposed that MCEETYA agree to endorse the common principles, criteria and processes for quality assurance of higher education accreditation arrangements which are outlined below. The protocols deal with the following matters:

- Criteria and processes for recognition of Australian universities
- Operation of overseas higher education institutions in Australia
- The accreditation of higher education courses to be offered by non-self accrediting institutions.
- Delivery arrangements for higher education institutions involving other organisations
- Endorsement of courses for overseas students.

Mechanisms to ensure adherence to national quality assurance arrangements

Each State and Territory should review its legislative and regulatory mechanisms to ensure that there is adequate authority to monitor, require improvements, or withdraw accreditation or approval where minimum quality standards are not met and necessary remedial action is not taken by an institution following critical audit reports. This authority should be available to the host State or Territory in the case of institutions with interstate campuses. The processes may differ significantly for self accrediting and non-self-accrediting institutions.

Timeframe for implementation

Implementation of the protocols should occur as soon as possible, but by no later than 30 June 2001.

Definitions

Jurisdictions:

All Australian States and Territories which are signatories to the protocol.

Accreditation:

A process of assessment and review which enables a higher education course or institution to be recognised or certified as meeting appropriate standards.

PART ONE: RECOGNITION OF AUSTRALIAN UNIVERSITIES

Background

- 1.1 Until recently, it was taken for granted that a university in Australia was an institution established by specific legislation. All States and mainland Territories of Australia have legislative or procedural arrangements which effectively require an institution wishing to operate as a university in the State/Territory to be established by the mechanism of a legislative instrument.
- 1.2 Recently some organisations have sought to use the title in a business name without seeking such formal authorisation.
- 1.3 To protect the standing of Australian universities nationally and internationally, it is proposed that MCEETYA agree to protect the title university in two ways:
 - by protection of the title “university” in business names/associations legislation, and in Commonwealth corporations law, and
 - by establishment in all Australian jurisdictions of a legislative framework specifying consistent criteria and procedures by which an institution/organisation may use the title “university”.
- 1.4 To establish a common standard and processes for the recognition of universities across Australia, it is proposed that MCEETYA:
 - adopt the common definition of an Australian university shown in 1.13 below
 - adopt the common criteria for the assessment of an organisation’s application for university status listed in 1.14 and 1.15, and
 - agree to core elements of the process for evaluating such claims, listed in 1.16-1.21.

PROTOCOL 1 - CRITERIA AND PROCESSES FOR RECOGNITION OF UNIVERSITIES

Business names and related legislation

- 1.5 All Australian jurisdictions should provide for the protection of the title University under the procedures established for the protection of names in business names/associations legislation; the Commonwealth should adopt appropriate measures to protect the title in Commonwealth Corporations Law.
- 1.6 Jurisdictions should provide for consultation between the authority responsible for approving business names and the relevant higher education authority (Minister or Director-General) before a decision is made to allow the use of the term University in a business and/or corporation name.
- 1.7 The relevant higher education authority should undertake an investigation of the education credentials of an applicant before providing advice on the use of the term university in a business and/or corporation name.

University recognition legislation

- 1.8 Establishment or recognition as a university in Australia should only occur by the mechanism of a legislative instrument, either by a separate act, or by a regulation or order made under an Act. The enactment should be subject to scrutiny by the relevant Australian Parliament.

1.9 There should be a legislative framework, in the form of either specific legislation or Ministerial Guidelines, to protect the title university and establish a process and criteria by which it becomes possible to use the title university in the relevant jurisdiction.

1.10 The scope of the protection of title should extend to prohibition on:

- use of the title without authorisation in Australia
- operating or purporting to operate as a university, and
- advertising as a university, offering a course as a university, or issuing an award as a university.

1.11 Prohibition of the use of the title should not extend to those bodies where the context makes it clear that there is no connection with an existing university (eg University Avenue Newsagent Pty Ltd).

1.12 Protection of title legislation should provide for the responsible Minister to exempt a body from the requirements of the legislation when it is clear that the purpose of the body could not be construed as providing higher education - as in the case of the University of the Third Age.

Definition

1.13 An Australian University is an institution which meets nationally agreed criteria and is established or recognised as a university under State, Territory or Commonwealth legislation.

Criteria

1.14 An Australian University will demonstrate the following features:

- authorisation by law to award higher education qualifications across a range of fields and to set standards for those qualifications which are equivalent to Australian and international standards
- teaching and learning that engage with advanced knowledge and inquiry
- a culture of sustained scholarship extending from that which informs inquiry and basic teaching and learning, to the creation of new knowledge through research, and original creative endeavour
- commitment of teachers, researchers, course designers and assessors to free inquiry and the systematic advancement of knowledge
- governance, procedural rules, organisation, admission policies, financial arrangements and quality assurance processes, which are underpinned by the values and goals outlined above, and which are sufficient to ensure the integrity of the institution's academic programs, and
- sufficient financial and other resources to enable the institution's program to be delivered and sustained into the future.

1.15 These broad criteria should be supported by more elaborated criteria.

Process for assessing applications

1.16 The process by which an institution is established or recognised as a university should have the following features:

- the process should be transparent and equitable. Applications to establish "public" and "private" universities should be treated equally

- a fee for assessment of an application, based on partial cost recovery, should be charged. National consistency in fee levels is desirable
- the application should be subject to review by an independent, expert panel. The panel's composition will include a majority of senior academic administrators with experience in the Australian university sector, including significant representation from outside the jurisdiction in which the application is made
- the review process should involve evaluation against agreed national criteria, on the basis of written material and discussion with proponents of the institution, including academic staff and students, and must include an inspection of facilities where they exist. An evaluation of the financial capacity of the institution to deliver its proposed programs, and to sustain them appropriately, is required
- the review process should be sufficiently open to provide opportunity for public comment on the proposal before the review report is final.

1.17 The panel should report on whether an application should be approved together with any conditions it believes should be established, to a legally authorised decision-maker (Minister, Director-General, relevant Higher Education Board).

1.18 In establishing or recognising an institutions, jurisdictions should specify

- that the responsible Minister or the authorised delegate of the Minister will have the power to require information of the institution
- that the responsible Minister may set conditions on the institution, such as willingness to participate in periodic review processes, including national quality assurance processes.

Proposed new universities

1.19 For proposed new universities where the assessment is based on a plan, rather than an existing institution, approval may be given to operate on a provisional basis for a period of up to five years from commencement of operation, where the review panel and the responsible accrediting authority believe that there is a high probability of the criteria being fully satisfied.

1.20 The responsible accrediting authority may establish conditions for operation of the university during this period. These conditions may include a period of sponsorship or mentoring by an established institution.

1.21 Continued operation after the initial five-year period should be conditional on meeting the criteria in full. Provision for the welfare of students if the institution is not approved to continue as a university at the completion of this period which is satisfactory to the review panel and the responsible accrediting authority, should be guaranteed.

1.22 Each State and Territory should establish significant financial penalties for breaching the legislation or guidelines which protect the title "university". These penalties might be administered via University recognition legislation and/or fair trading legislation. National consistency in the level of penalties is desirable.

The Register

1.23 An institution which meets agreed national criteria, and is authorised under legislation, will be listed on the AQF register of bodies which are authorised to issue qualifications.

PART TWO: OPERATION OF OVERSEAS HIGHER EDUCATION INSTITUTIONS IN AUSTRALIA

Background

- 2.1 There are currently only three States which have specific arrangements relating to this question, and the approach is different in each case, although in all cases, the accreditation status of an overseas provider in the country of origin must be established, and the accrediting authority concerned must be a recognised authority. The level of oversight of local delivery arrangements, and of actual courses, varies.
- 2.2 In the case of overseas providers, the community has an interest in being assured as to:
- the standing of the provider in its own system
 - the comparability of qualifications and learning outcomes with those offered in Australia
 - the adequacy of delivery arrangements, including arrangements for oversight of course delivery by the overseas institution
 - the bona fides of any local agent or provider delivering on behalf of the overseas institution
 - the adequacy of safeguards for students if the provider should cease to operate in Australia.

PROTOCOL 2 - OVERSEAS HIGHER EDUCATION INSTITUTIONS SEEKING TO OPERATE IN AUSTRALIA

Definition

- 2.3 An overseas higher education institution refers to a university or other recognised higher education provider whose legal origin is in a country other than Australia.

Process for assessing applications

- 2.4 The process for assessing applications should be transparent and equitable, and should be documented for the information of applicants.
- 2.5 The process should involve the independent verification of the credentials of the provider in the country of origin, and the independent verification of the relationship between the provider and any nominated local agents.
- 2.6 The application from a provider must be made to a legally authorised decision-maker, who should be bound to take advice from the relevant higher education authority in arriving at a decision about whether to give the provider permission to operate in the jurisdiction.
- 2.7 No applicant should be allowed to operate without the permission of the relevant accrediting authority. The permission to operate should be for specific courses, and should be subject to review after a maximum period of five years. The permission to operate is limited to the nominated local agents.
- 2.8 Jurisdictions should maintain a public register of courses permitted to operate in the jurisdiction and the registered providers and local agents delivering such courses.

Criteria

- 2.9 To gain approval to operate in an Australian jurisdiction, an overseas institution will need to demonstrate that:
- it is a *bona fide* institution, legally established in its country of origin
 - that the courses to be offered have been properly accredited in the provider's country of origin by an authority that, in the opinion of the Australian jurisdiction's decision-maker, is the appropriate authority
 - where the standing of the institution's accreditation status is not acceptable to the decision-maker, the decision-maker may require the proposed courses to be subject to a full accreditation process
 - the course or courses are comparable in requirements and learning outcomes to a course at the same level in a similar field in Australia
 - that the delivery arrangements, including the arrangements for academic oversight and quality assurance proposed by the overseas institution are comparable to those offered by accredited Australian providers, and
 - that appropriate financial and other arrangements exist to permit the successful delivery of the course in the Australian jurisdiction.
- 2.10 More elaborated operational guidelines should be developed.

PART THREE: ACCREDITATION OF HIGHER EDUCATION COURSES OFFERED BY NON SELF ACCREDITING INSTITUTIONS

Background

- 3.1 Six States and Territories currently have legislation governing the recognition of awards (protecting the award titles) offered by non-self accrediting institutions. Western Australia is currently developing such legislation, and the ACT has policy guidelines which have this effect.
- 3.2 All jurisdictions examine both the quality of the proposed course, and the capacity of the provider to deliver it. In some States (NSW, Qld, and NT) the provider's capacity is considered in the context of accreditation of the course. In the remaining States, the accreditation of the course, and the registration of providers, are separate requirements which are both essential to recognition of the award.
- 3.3 MCEETYA approved protocols have been in place for some time to enable accreditation across jurisdictions for courses to be offered simultaneously in two or more States or Territories.
- 3.4 The awards protected under the relevant legislation differ from jurisdiction to jurisdiction, and there is no common position on what awards should be protected. In practice, in spite of these legislative differences, all States protect bachelors, masters and doctoral degrees, and awards of graduate certificate, and graduate diploma are also accredited under higher education legislation or procedures. Some award levels including diploma, graduate certificate and graduate diploma may be accredited under both higher education and vocational education legislation. This lack of uniformity in award titles protected, and agreement on what constitutes higher education, causes some difficulties in cross-jurisdictional accreditation processes.

- 3.5 In practice, there is strong common ground with respect to the criteria and processes used for accreditation of non-university courses.

PROTOCOL 3 THE ACCREDITATION OF HIGHER EDUCATION COURSES TO BE OFFERED BY NON-SELF-ACCREDITING PROVIDERS

Legislative basis for accreditation and provider registration

- 3.6 There should be a legislative framework (specific legislation or Ministerial policy or Guidelines) to protect the titles of specific higher education awards, which establishes a process and criteria for the accreditation process.
- 3.7 Operation as a non-self-accrediting provider of protected awards should only be authorised under such a framework.
- 3.8 Where legislative provisions relating to higher education are located in legislation which also deals with vocational or school education, it is desirable that provisions relating to higher education should be located together, in a separate part of the relevant Act.

Definitions

- 3.9 The awards covered by higher education legislation and processes should be those defined as higher education in the AQF.
- 3.10 The term 'course accreditation' includes the assessment, approval, accreditation or authorisation of courses of study that lead to higher education awards, and must include consideration of a provider's capacity to deliver the course, where provider registration or approval to operate is not a separate requirement.
- 3.11 The term 'provider registration' includes the registration, authorisation or approval of a provider to deliver one or more courses of study leading to a higher education award.

Process for assessing applications

- 3.12 The process for assessing applications should be transparent and equitable, and should be documented for the information of applicants.
- 3.13 The process should involve the appointment of an expert panel, with extensive knowledge of higher education courses in the same or similar fields, which is independent of the provider. The provider should have the right to comment on the panel's composition.
- 3.14 The panel must report to a legally authorised decision-maker, who should be bound to take advice from the panel in arriving at a decision.
- 3.15 The review process must involve consideration of the applicants' capacity to deliver the course, including financial capacity, and must include verification of claims made by the institution through interaction with the institution and its representatives.
- 3.16 Jurisdictions should use appropriate investigatory mechanisms to ensure financial probity and ensure that an applicant is a fit and proper person to establish and operate an institution offering higher education programs.
- 3.17 Courses should be subject to re-accreditation after a maximum of five years.
- 3.18 Applicants should be required to disclose their prior history of applications for

accreditation in all jurisdictions, including the outcomes of such processes, as a condition of making an application.

3.19 Jurisdictions should maintain a public register of accredited courses and the registered providers of such courses.

3.20 Applicants must be willing to report confidentially to jurisdictions, as a condition of accreditation, statistical information on its higher education offerings covering student load and enrolments, fields of study and some staff statistics. Jurisdictions are to report this information annually on a 'whole of jurisdiction' basis, in a format compatible with Commonwealth statistics collection.

3.21 A fee for processing an application based on partial cost recovery should be charged. National consistency in the fee levels is desirable.

Criteria

3.22 The following broad criteria should be common to all jurisdictions:

- the course design and content should satisfy the requirements set in the Australian Qualifications Framework for the award level
- the course should be comparable in requirements and learning outcomes to a course at the same level in a similar field at an Australian university
- the delivery arrangements, including matters of institutional governance, facilities, staffing, and student services are appropriate to higher education and enable successful delivery of the course at the level proposed
- the provider has appropriate financial and other arrangements to permit the successful delivery of the course, and is a fit and proper person to accept responsibility for the course.

3.23 Detailed review criteria should be developed to assist assessment panels and providers in their work.

3.24 Authorities responsible for recommending accreditation and approval of courses offered by non-university private providers should publish annually reports on their procedures and criteria used, summaries of approvals given and processes to be followed to ensure consistency.

3.25 The processes for quality assurance followed by state and territory jurisdictions should be subject to audit by the Australian Universities Quality Agency.

PART FOUR: DELIVERY ARRANGEMENTS FOR HIGHER EDUCATION INSTITUTIONS INVOLVING OTHER ORGANISATIONS

Background

- 4.1 A number of higher education institutions have established campuses in distant locations where conventional relationships based on physical proximity are not feasible. In some cases they have established companies, entered joint ventures or contracted with other organisations to assist in the delivery of programs in locations a substantial distance from their major campuses. These delivery points may be in other countries or other States, and the organisation delivering programs may be operating under the name of the delivery agency, or the institution offering the award.

PROTOCOL 4 DELIVERY ARRANGEMENTS INVOLVING OTHER ORGANISATIONS

University operating its own name

- 4.2 Where an Australian university or other self accrediting institution operates in a distant location and issues an award under its own name the Council or governing body of the university or other institution is responsible for quality assurance and will be subject to audit by the AUQA. For overseas campuses the institution will be expected to maintain standards at least equivalent to those provided in Australia regardless of any specific requirements of overseas governments.

University operating through another organisation

- 4.3 Where a university or other self accrediting institution enters into an arrangement with another organisation, and the university or other self accrediting institution is to grant the academic award, the relationship will be construed as one of principal and agent. The principal in this relationship must carry full responsibility for all aspects of delivery, including:
- (i) quality and standards comparable to those on other campus(es) of the institution
 - (ii) teaching by staff qualified at a level comparable to those on other campuses of the institution
 - (iii) resources and facilities adequate for the delivery of the course
 - (iv) adequate measures to protect the welfare of students.
- 4.4 Measures taken by the institution to ensure standards comparable to those of other campuses will be subject to audit by the AUQA.
- 4.5 The Council or governing body of a university or other self-accrediting institution has primary responsibility for quality assurance under these arrangements, and the direct line of accountability for that council or governing body is to the Minister and Government of the State or Territory in which it is established. However, there must be some capacity for action in the case of seriously deficient quality standards and failure to take remedial action in relation to a campus in another jurisdiction. Consequently where the Minister in a State or Territory in which a campus is operating has serious concerns about quality of delivery whether resulting from reports of the AUQA or otherwise, the Minister may, following consultation with the Minister in the State or Territory where the institution is established and an independent review:
- (i) establish conditions for the continuation of activities within the State of

Territory

- (ii) require that the operations of the institution within the State or Territory occur under the academic supervision of another institution
- (iii) close the campus and cease providing programs in that State or Territory.

4.6 Universities and other self-accrediting institutions do not have the power to accredit the courses of other institutions. Where an institution makes curriculum and materials available to another institution, and the award issued following completion of the program will be issued in the name of another institution, the other institution will be subject to the accreditation requirements of the State or Territory in which it proposes to operate as if it was operating as an independent organisation. The institution in whose name the award will be issued will have full responsibility for the academic welfare of students who are enrolled in programs leading to the award.

PART FIVE: ENDORSEMENT OF COURSES FOR OVERSEAS STUDENTS – FOR THE PURPOSES OF LISTING ON THE CRICOS REGISTER

Background

- 5.1 It is the responsibility of State and Territory Governments under the Commonwealth ESOS Act, to endorse courses of study as suitable for overseas students. This endorsement is accepted by the Commonwealth for the purpose of issuing visas to students.
- 5.2 For the protection of students and the international reputation of Australian awards, this endorsement should only be given where the endorsing authority has confidence that the courses concerned are offered at a standard equivalent to other programs of similar kind, that facilities and services are of adequate standard, and that the organisation providing the program has the financial and other resources to ensure full and effective delivery of the program.

PROTOCOL 5 ENDORSEMENT OF COURSES FOR OVERSEAS STUDENTS

- 5.3 Endorsement of courses for overseas students should be given by the State or Territory where the course is to be delivered.
- 5.4 Endorsement of higher education courses for overseas students should only be given by or following advice from State or Territory officers responsible for accreditation and approval of higher education awards.
- 5.5 Where a course is to be offered by a university or other self accrediting institution, accreditation of the course may be assumed. However, if the course is to be offered in special circumstances such as at a distant location or through an agent, the endorsing authority must be satisfied that:
- the special circumstances will be made clear to students before enrolment
 - the facilities and services are of adequate standard for the courses offered
 - in the case of delivery through an agent, the teaching staff are adequately qualified, and effective quality assurance measures are in place, and appropriate guarantees by the principal institution given for the protection of students
 - the endorsement of the course is not transferable to another provider.
- 5.6 Where a course is to be offered by an institution other than a university or other self accrediting institution
- the course is accredited according to the criteria specified in 3.22 and 3.23 and the institution has approval to offer the course in that jurisdiction
 - the endorsement of the course is not transferable to another provider.