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## **Default Policy (Full Fee Paying Overseas Students)**

### **Source of Obligation**

Part 5, Division 2 of the ESOS Act sets out the circumstances of a default by a registered provider or an full fee paying overseas student which can lead to an full fee paying overseas student receiving a refund of tuition or non-tuition fees.

Standard 3.4.2 of the National Code requires the School to have processes in place for claiming a refund of tuition or non-tuition fees.

This policy explains the meaning of default under the ESOS Act and the obligations that the School has in the event that a default occurs.

### **Kambala's Policy**

It is the School's policy to ensure that in the event of either a default by the School, as a registered provider, or the student, we will follow all the notification and refund processes and procedures prescribed by the ESOS Act.

### **Meaning of Registered Provider Default**

The School, as a registered provider, is bound by the default requirements under section 46A of the ESOS Act.

Under section 46A, the School defaults if:

- either of the following occurs:
- the School fails to start to provide the course to the student at the location on the agreed starting day; or
- the course ceases to be provided to the student at the location at any time after it starts but before it is completed; and
- the student has not withdrawn before the default day.

The School will also default if a sanction is imposed on it under the ESOS Act which prevents it from providing a course.

Exceptions to School default circumstances exist, including where the student defaults.

### **Our Obligations if the School Defaults**

Section 46D of the ESOS Act sets out the School's obligations to an full fee paying overseas student or intending full fee paying overseas student if the School defaults on the provision of a course.

The School will discharge its obligations to the student if:

- both of the following apply:
- the School arranges for the student to be offered a place in an alternative course at the School's expense; and
- the student accepts the offer in writing; or

- the School provides a refund (see **Full Fee Paying Overseas Students Refund Policy**).

### **Provider Obligation Period**

The School must discharge its obligations to the student within 14 days after the default day (**Provider Obligation Period**).

It is an offence under the ESOS Act for the School to fail to comply with its obligations under section 46D.

### **Meaning of Student Default**

Under section 47A of the ESOS Act a student defaults if:

- the course starts on the agreed starting day, but the student does not start the course on that day (and has not previously withdrawn); or
- the student withdraws from the course (either before or after the agreed starting day); or
- the School refuses to provide, or continue providing, the course to the student because of one or more of the following events:
  - the student failed to pay an amount they were liable to pay the School, directly or indirectly, in order to undertake the course;
  - the student breached a condition of their visa;
  - misbehaviour by the student.

A student won't be classified as defaulting if the reason why a student does not start a course on the start day is because the School fails to provide the course to the student on the agreed starting day (**Registered Provider Default**).

In relation to student misbehaviour, a student won't be considered to have defaulted unless the School accords them natural justice before refusing to provide, or continue providing, the course to the student.

### **Notification of School Default**

Under section 46B of the ESOS Act the School must provide written notice to the Cth DET and the Director of the TPS of a default by the School within three business days of the default occurring.

The notice must include the following:

- the circumstances of the default
- the details of the students in relation to whom the School has defaulted
- advice as to:
  - whether the School intends to discharge its obligations to those students under section 46D; and
  - if appropriate, how the School intends to discharge those refund obligations.

The School also needs to give written notice of the default to the students affected by the default.

### **Notification of Discharge of Obligations**

Under section 46F of the ESOS Act the School must provide notice to the Cth DET and the Director of the TPS within seven days after the end of the **Provider Obligation Period**.

The notice must include the following:

- whether the School discharged its obligations towards the student under section 46D
- if the School arranged alternative courses:
- details of the students the School provided arranged alternative obligations for; and
- details of the courses arranged; and
- evidence of each student's acceptance of an offer for a place in an alternative course;
- if the School provided refunds:
- details of the students the School provided refunds to; and
- details of the amounts of the refunds provided.

#### **Refunds**

Refer to our **Full Fee Paying Overseas Students Refund Policy**.

#### **Record Keeping**

The School maintains evidence of compliance with this policy by maintaining records of default notifications received by the School and any decisions made in relation to such notifications. Records will be maintained in accordance with our **Full Fee Paying Overseas Students Records Management and Retention Policy**.