International Students Release Procedure

Section 1 - Executive Summary

(1) In accordance with Education Services for Overseas Students Act 2000 (ESOS) and the National Code of Practice for Providers of Education and Training to Overseas Students 2018, the University of Newcastle, Australia (University) is required to assess applications from international students on a student visa who are seeking to transfer to another Registered Provider prior to completing twelve (12) calendar months of their principal program enrolment. The application is referred to as an Application for Release (Application/s).

Section 2 - Purpose

(2) This procedure:

a. establishes the requirements for Applications;
b. provides a process for assessment of Applications, in accordance with the requirements of the Education Services for Overseas Students Act 2000 (ESOS) and the National Code of Practice for Providers of Education and Training to Overseas Students 2018; and
c. outlines the circumstances in which the University will or will not approve an Application.

Section 3 - Scope

(3) This Procedure applies to international students studying on a student visa who wish to transfer to another education provider and, at the date of their Application, have not completed twelve (12) calendar months of their principal program at the University. The twelve (12) calendar months commence on the first day of the principal program listed as the commencing date on the Confirmation of Enrolment (CoE).

(4) This Procedure does not apply to international students who have completed more than twelve (12) calendar months of their principal program as they do not require a release to transfer between Registered Education Providers. The international student may seek assistance from International Student Support for course withdrawal and/or termination of enrolment.

Section 4 - Applying for Release

(5) An international student applying for release must remain enrolled in their current program of study and remain compliant with Australian Government regulation and University policy until advice is received to confirm approval of their Application.

(6) To apply for a release, an international student must submit a complete Application for Release to International Admissions and Compliance and:

a. have a valid unconditional offer of admission from another institution; or
b. have a valid conditional offer of admission from another institution that is conditional only on the provision of

release from the University of Newcastle, Australia; and

c. submit any relevant supporting documentation.

(7) Where the international student is under 18 years of age their parent or legal guardian must provide written consent for the transfer.

(8) Where the international student is under 18 years of age and is not being cared for in Australia by a parent or suitable nominated relative, supporting documentation must also include written confirmation that the receiving registered provider accepts responsibility for approving the international student's accommodation, support and general welfare arrangements.

(9) Where the international student has a government sponsor, supporting documentation that indicates the sponsor's support for the transfer must be obtained and provided.

(10) Supporting documentation must be either certified or be coloured copies of the original document. Where original documents are in a foreign language, official translations must be provided along with the document in its original language.

Section 5 - Application Assessment

(11) The University will only assess Applications that are complete and that have all relevant supporting documentation attached.

(12) The International Admissions and Compliance team is responsible for the processing and assessment of each international student's Application.

(13) The Senior Manager, International Admissions and Compliance (or their nominee) is responsible for determining the outcome of the international student's Application for Release.

Circumstances for Approving an Application for Release

(14) The University will approve the Application and issue a release where a transfer is in the best interests of the international student, including but not limited to where the University has assessed that:

a. the University is unable to deliver, or will cease to provide the program outlined in the international students Written Agreement (Offer of Admissions);
b. the international student is not permitted to enrol in the principal program due to not meeting the conditions or progression requirements;
c. the international student has demonstrated that they are unable to achieve satisfactory academic progress, even after engaging with the University's intervention strategy and/or support services;
d. there is evidence that the international student's reasonable expectations about their University program are not being met;
e. there is evidence that the international student was misled by the University or an authorised education agent regarding the University or its program, and the program is therefore unsuitable to meet their needs and/or study objectives;
f. an appeal (internal or external) on another matter results in a decision or recommendation to release the international student;
g. the international student is enrolled in a Higher Degree by Research program and the Director, Graduate Research supports the change;
h. the international student has a government sponsor who considers the change to be in their best interests and

provides written support for the transfer; or

i. there is evidence that exceptional compassionate or compelling circumstances exist that are beyond the international student's control, and which emerged after signing the Written Agreement and these circumstances will be improved if the international student transfers to another institution.

Circumstances for Refusal of Release

(15) The University may refuse the Application and refuse to issue a release when:

a. the Application is insufficient or incomplete, as it did not contain:
    i. a valid unconditional offer from another registered provider with a proposed future program starting date;
    ii. the reasons or circumstances for which the international student is requesting a release, or the reasons were insufficient; or
    iii. relevant supporting documentation or evidence of the circumstances for why the release is being requested.
b. the international student has not complied with University policies and/or student visa conditions, for example:
    i. non-payment of tuition fees or any outstanding debt owed to the University or to one of its partner organisations;
    ii. failing to engage with the University's academic progress and/or attendance intervention strategies and support services while not making satisfactory course progress;
    iii. failing to enrol or re-enrol in any compulsory teaching period as required for the particular program; or
    iv. failing to meet the minimum study load or study mode requirements for enrolment in any teaching period;
c. the international student has changed their mind about their program, registered education provider, location, field of study, future goals, financial situation, capabilities, work and living arrangements, or any other aspect of their studies within Australia for reasons other than compassionate or compelling circumstances that were beyond their control;
d. the international student has not started studying or has only recently started studying and has not made any genuine effort to commence their studies or engage with the full range of the University's intervention strategy and/or support services;
e. the international student has been found to have submitted fraudulent information and/or documentation, and/or misleading information and/or documentation that conflicts with the statement made as part of the original application for admission;
f. the University reasonably believes that the student has been deliberately recruited by another provider/education agent;
g. the international student is under 18 and there is no written evidence that their parent or legal guardian supports the transfer, or does not have suitable approved arrangements for accommodation, support and general welfare;
h. the international student has a government sponsor who does not approve of the transfer;
i. the international student has been reported to the Australian Government for any other reason.

Notification of Decision

(16) The international student will be notified of the outcome of their Application within ten working days of lodgment of a complete Application including all supporting documentation.

(17) The notification will be emailed to the international student's University email address.

(18) If the Application is approved:

a. the international student's enrolment at the University will be cancelled. The cancellation will take effect from the date of submission noted on the Application. This includes the cancellation of any courses in current and future teaching periods;
b. the international student's Confirmation of Enrolment (CoE) will be cancelled in PRISMS and the student will be notified to contact Department of Home Affairs to understand the effect this cancellation may have on their student visa;
c. the international student will be directed to the University's International Student Fees Refund Procedure for information on any available refund of fees paid to the University.

(19) If the Application is refused:

a. the notification to the international student will advise:
    i. the reason/s for the decision; and
    ii. the international student's right to lodge an appeal within 20 working days of the date of the outcome notification.
b. the University will not amend the international student's status in PRISMS until:
    i. an appeal lodged by the international student is determined to be in favour of the University; or
    ii. the international student has chosen not to access the appeals process within the 20 working days period; or
    iii. the international student withdraws from the Application process.

(20) The University will maintain records of all Applications including the assessment and decision for 7 years after the international student ceases to be an accepted international student and in accordance with the Records Governance Policy.

Section 6 - Appealing the Decision

(21) If an Application is refused by the University the international student may lodge an internal appeal with the University.

(22) An eligible internal appeal is one that is lodged on the following evidence-based grounds:

a. failure by a staff member or any other person to execute responsibilities under the relevant published University regulation or policy; and/or
b. failure to comply with the relevant published University regulation or policy; and/or
c. new information that was not reasonably available to the international student or the decision maker at the time of the decision.

(23) Assistance in preparing an internal appeal may be provided by a Student Advocate – contact the Office of Student Advocacy at the following email address – studentadvocates@newcastle.edu.au.

(24) An appeal must be lodged in writing within 20 working days after receiving an outcome for the Application for Release.

(25) The University will commence the assessment of the eligible internal appeal within 10 working days of it being received.

(26) Applicants making an internal appeal will need to demonstrate that the original decision should not have been

made or should have been made differently. Evidence to support the internal appeal should be provided to enable the internal appeal to be considered.

(27) The appeal will be considered by the Senior Deputy Vice-Chancellor (Academic & Global) or other appropriate delegate. The outcome of the appeal will be one of the following:

a. the internal appeal is dismissed as the grounds for the appeal are unsubstantiated; or
b. the internal appeal is upheld and the release is approved to be actioned.

(28) If the internal appeal is dismissed, the international student will be provided with a written statement of the outcome of the internal appeal within 10 working days of concluding the review of the decision being appealed.

(29) If the internal appeal is upheld the University will:

a. immediately implement the decision or recommendation; and/or
b. take the preventive or corrective action required by the decision; and
c. advise the international student of the action taken.

(30) If the international student is not satisfied with the outcome of their internal appeal, they may lodge an external appeal or complaint with the National Student Ombudsman. In these circumstances, the external appeal or complaint must be lodged within 10 working days of the outcome of the internal appeal and the student must provide the University with evidence of lodgment.

(31) The University will not finalise a release refusal in PRISMS until:

a. the 20 working days internal appeal period has ended, and the international student has not accessed the University's internal appeal process; or
b. the 10 working days external appeal period has ended and/or the international student has not provided evidence of lodgment of an external appeal; or
c. the internal and external appeals processes have been completed in full, and the original decision has been upheld; or
d. the international student withdraws from the process.

Section 7 - Definitions/Dictionary

(32) In the context of this document:

a. “Authorised Education Agent” - an education agent, contracted to the University of Newcastle, Australia who recruit international students and refers them to study with the University.
b. "Compassionate and compelling circumstances” may include but is not limited to:
    i. serious illness or psychological issues or injury, evidenced by a medical certificate, that prevents the student from attending classes;
    ii. trauma impacted on the international student's studies, which may include involvement in or witnessing serious accident or crime, supported by appropriate documentation, which may include police or psychologists’ reports;
    iii. unavoidable commitments within the term, for example cultural or religious commitments in which the international studentis a direct participant, supported by appropriate documentation;
    iv. where the University or its partners were unable to offer a pre-requisite subject; or
    v. the international student has failed a prerequisite subject and therefore faces a shortage of relevant

subjects for which they are eligible to enrol.

c. “Offer of Admission” - means a document issued by the University that offers a prospective international student a place into a program, with commencement within a specified timeframe.
d. “Written Agreement” - means the contract between the University and the international student that sets out the program and related education services to be provided, fees payable, and information in relation to refunds.
e. "Packaged program" - Two or more preliminary and principal programs offered to and/or accepted by an international student. The preliminary program of study undertaken before the principal program is usually a pre-requisite to the principal program, including ELICOS, Foundation Studies, and other approved pathway programs.
f. “Official Translation” - A translation of a document that meets university and government standards, usually done by a National Accreditation Authority for Translators and Interpreters (NAATI) certified translator in Australia, or done by Notary Public or accredited/recognised translator/authorities outside Australia.

Status and Details

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Responsible Executive	Belinda Yourn Senior Deputy Vice-Chancellor (Academic & Global)
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Glossary Terms and Definitions

"University" - The University of Newcastle, a body corporate established under sections 4 and 5 of the University of Newcastle Act 1989.

"Working day" - Any day other than Saturday, Sunday, or a public holiday in Newcastle, on which business may be conducted.

"Confirmation of Enrolment (CoE)" - Means the document issued through the Australian Government's relevant department and associated systems, by authorised officers of the University that confirms that an international student is eligible to enrol in a course. The CoE is required under Commonwealth Legislation for the student visa.

"Course" - When referring to a course offered by the University, a course is a set of learning activities or learning opportunities with defined, assessed and recorded learning outcomes. A course will be identified by an alphanumeric course code and course title. Course types include core courses, compulsory courses, directed courses, capstone courses and electives. For all other uses of this term, the generic definition applies.

"Student" - A person formally enrolled in a course or active in a program offered by the University or affiliated entity.

"Principal program" - The highest qualification, usually the main program, or the last program in a packaged program.

"Program" - When referring to learning, a program is a sequence of approved learning, usually leading to an Award. For all other uses of this term, the generic definition applies.

"Staff" - Means a person who was at the relevant time employed by the University and includes professional and academic staff of the University, by contract or ongoing, as well as conjoint staff but does not include visitors to the University.

"International student" - A student (as defined by the University) who is not an Australian citizen, Australian Permanent Resident or New Zealand citizen (or dual citizenship holders of either Australia or New Zealand). This includes students who will be studying offshore and those who will be studying onshore and have a student visa, provisional residency, temporary residency, bridging visa, or any other category of non-permanent visa for Australia.

"Delegate" - (noun) refers to a person occupying a position that has been granted or sub-delegated a delegation of

authority, or a committee or body that has been granted or sub-delegated a delegation of authority.