

## Standard 15 – Changes to registered providers’ ownership or management

### Legislation

#### National Code of Practice

#### Standard 15 – Changes to registered providers’ ownership or management

Outcome of Standard 15

**Registered providers proactively inform the designated authority of prospective ownership and/or management changes.**

15.1 The registered provider must advise the designated authority in writing of:

a. any prospective changes to the ownership of the registered provider as soon as practicable prior to the change taking effect, and

b. any prospective or actual change to the high managerial agents (as defined in section 5 of the ESOS Act) of the registered provider as soon as practicable prior to the change taking effect or within 10 working days of the change taking effect where the change cannot be determined until it takes effect.

15.2 The registered provider must provide the designated authority with information on the new owner or high managerial agent for the purpose of making an assessment under section 9(6) of the ESOS Act.

### Compliance requirements

Monash must have procedures in place for notifying the designated authority - Victorian Regulation and Qualifications Authority ([VRQA](#)) – in writing in the event of ownership, or management changes (high managerial agents<sup>1</sup>) as soon as practicable prior to a change taking place or within 10 days of the change occurring.

#### 1. Standard 15.1 (a) Advise designated authority of ownership changes

For Monash University an ownership change is not possible as the University is created by an Act of the Victorian Parliament and may not be sold. For Monash College however, as a private provider, while an ownership change is unlikely (it is fully owned by the University) it is not inconceivable.

#### 2. Standard 15.1 (b) Advise designated authority of changes to high managerial agents

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<sup>1</sup> S.5 ESOS Act, **high managerial agent** of a provider means an employee, agent or officer of the provider with duties of such responsibility that his or her conduct may fairly be assumed to represent the provider in relation to the business of providing courses.

Also, as stated in the [industry briefing](#) ‘high managerial agent’ as defined in new section 5 ‘means an employee, agent or officer of the provider with duties of such responsibility that his or her conduct may fairly be assumed to represent the provider in relation to the business of providing courses.’ The Explanatory Memorandum gives examples as officers with management responsibility, teachers, consultants and principals of the provider. According to the Minister, extending the ‘fit and proper test’ to high managerial agents will ‘prevent former providers with an adverse history in the industry from taking up positions of influence with other providers’.<sup>(5)</sup> The Minister states that ‘in introducing these amendments, my Department has been mindful of the need to avoid unnecessary regulation’.<sup>(6)</sup> However although the extension of the ‘fit and proper test’ may provide further guarantee of the credentials of registered providers it may prove onerous for large providers such as those in the higher education sector with high staff numbers.

This standard requires Monash to notify the designated authority of changes to high managerial agents. The Office of the Deputy Vice Chancellor (International) has this responsibility. High Managerial Agents refer to senior management staff and include deputy principals or departmental heads but not teachers<sup>2</sup>. The following officers are regarded by Monash University as the High Managerial Agents: VC, VP's, DVC's and Deans<sup>3</sup>. For Monash College Group the High Managerial Agents are the CEO of Monash College Group and Principal and Deputy Principal of Monash College and MUELCL.

### 3. Evidence of compliance

- Copies of the written notification to the designated authorities about changes to ownership or high managerial agents.
- Process for obtaining information to assist the designated authority in assessing whether a high managerial agent of the provider passes the 'fit and proper' test
- Where a student has been offered a refund because there has been a change to a provider's legal entity, there must be evidence that an offer of refund has been made and of the student's response to the offer.

## **Compliance Obligations**

### **Office of the Deputy Vice Chancellor (International)**

- Have [procedures](#) in place for informing VRQA in the event of management changes to 'high managerial agents'

### **Monash College Group Pty Ltd**

- Have procedures in place for informing VRQA in the event of ownership or management changes (ie changes to 'high managerial agents').

## **Monash documentation**

### Policies and Procedures

- [DVCI Business practice](#)

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<sup>2</sup> "The intention of this amendment is to cover persons with managerial responsibilities who are not 'associates' of the provider. For example teachers who simply teach courses would not come within the scope of the definition. However, a deputy principal or department head may be considered a high managerial agent of the provider'. <http://www.dest.gov.au/NR/rdonlyres/4561A25D-B231-434D-B59D-2241A233F16F/15279/FactsheetFitandProperprovisionsfinal.pdf>

<sup>3</sup> This definition of High Managerial Agents has been confirmed by Education Policy and Programs Committee