

## **PART 8: Overseas Universities**

### **8.1 Approval to register an overseas university in New South Wales**

The *Higher Education Act 2001* requires overseas universities to be registered before they can operate in New South Wales. Before an overseas university can be registered, it must first be approved by the Minister for Education and Training, and the courses it proposes to offer must be accredited by the Director-General of Education and Training.

This Part of the guidelines applies to an overseas institution that is, or claims to be, a university and that proposes to provide higher education courses or qualifications in New South Wales either directly or through a local education institution or other agent.

This Part sets out the processes to be followed and the criteria to be applied in deciding whether to recommend to the Minister that he or she approve an overseas higher education institution being registered as an overseas university.

### **8.2 Step 1, Submitting an application**

An overseas higher education institution seeking to operate in New South Wales as an overseas university must submit to the Department of Education and Training an application that demonstrates the institution's capacity to meet the pre-requisite and operating criteria set out in this Part. As section 5(2) of the Act and the operating criteria require an overseas university to operate at a standard equivalent to that of an Australian university, applicants are advised to also address the criteria for assessment of an Australian institution set out in Part 9 of these guidelines. The application must also indicate whether the institution is seeking to operate in any other Australian jurisdiction.

The application must be accompanied by the payment of the prescribed \$5,000 fee, payable to the Department of Education and Training, for the initial assessment of an overseas institution seeking registration as an overseas university.

### **8.3 Step 2, Pre-requisite criteria**

The Department of Education and Training will contact the institution or its nominated representative for an initial interview and, following the interview, will conduct an initial verification of the institution to ensure that it meets the pre-requisite criteria for an overseas university required by section 5 of the *Higher Education Act 2001* and Protocol 2 of the *National Protocols for Higher Education Approval Processes*.

Unless these pre-requisite criteria are met (see below), further formal assessment of the institution with reference to the criteria for determining its standing and quality will not proceed. The Department will inform the institution in writing of any decision not to proceed.

**Pre-requisite criteria for an overseas university**

The pre-requisite criteria are that:

- the institution is bona fide and legally established in its country of origin
- the institution operates as a university in its country of origin
- the Department of Education and Training is able to independently verify the university credentials and accreditation status of the institution in its country of origin, through the competent higher education authority for that country, and
- the academic programs of the institution are recognised by relevant professions in Australia and qualify students to enter those professions.

**8.4 Step 3, External assessment and operating criteria**

If the Minister is satisfied that an overseas institution meets these pre-requisite criteria, an external assessment of the institution will be undertaken to determine whether it meets the required operating standard; that is, a standard equivalent to that of an Australian university.

Prior to or during this external assessment, the Department of Education and Training, acting on the Minister's behalf, may undertake consultation with relevant public and private bodies in relation to the proposed overseas university to provide opportunity for broader consideration of the institution's application and its potential benefits to the community.

The assessment will be conducted by an independent reviewer or assessment panel as the Minister considers appropriate. The Department will inform the applicant institution that a full assessment of the overseas institution is to be undertaken. The applicant institution must pay to the Department of Education and Training the prescribed \$20,000 fee for a full assessment.

**Operating criteria for an overseas university**

The criteria to be taken into account in determining whether an overseas institution seeking university status can meet the required operating standard are that:

- the institution has in place course delivery arrangements, including arrangements for academic oversight and quality assurance, that are comparable to those offered by Australian universities
- the institution has in place appropriate financial and other arrangements to permit the successful delivery of the course in New South Wales
- the relationship between the institution and any New South Wales agent proposed to deliver its courses is able to be scrutinised and judged bona fide and appropriate
- the institution or any New South Wales agent proposed to deliver the higher education courses of the institution has the capacity to deliver them at a standard equivalent to that of Australian universities delivering similar courses
- the institution has adequate safeguards in place for students in the event that it were to cease operating in Australia.

In determining whether an overseas institution seeking registration as an overseas university meets the Australian standards referred to in the operating criteria, the independent reviewer or assessment panel will be guided by the quality standards for assessing Australian universities set out in Part 9 of these guidelines.

In determining whether an overseas institution meets either the pre-requisite criteria or the operating criteria, the reviewer or assessment panel may obtain information from any of the following sources.

**Information sources for assessing overseas universities:**

- a formal application, submission or self-assessment prepared by an applicant institution addressing the operating criteria set out in this Part and Part 9 of these guidelines
- documents or other advice verifying that qualifications and credentials claimed by a member of staff of an applicant institution are genuine
- accountancy and/or legal advice to review the financial status of an institution
- the legislation, if any, establishing an overseas institution
- the report of any previous assessment of the institution by an overseas government or accrediting authority
- the advice of higher education recognition, registration or accreditation authorities in relevant overseas jurisdictions
- the committee of higher education officials of Australian jurisdictions that reports to the national Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA)
- the Commonwealth Department of Education, Science and Training
- the registers of the Australian Qualifications Framework (AQF) and officers of the AQF Advisory Board
- the New South Wales Treasury and other State agencies
- officers of interstate departments with responsibility for higher education recognition, registration and accreditation
- public submissions
- websites, handbooks and other published information concerning applicant institutions, and
- other Australian and overseas sources.

## **8.5 Step 4, Minister's decision**

Following assessment of an overseas institution, the Department will ensure the Minister receives a report of the assessment recommending either that the Minister approve or not approve the institution being added to the register of overseas universities able to operate in New South Wales.

In cases where the Minister decides not to approve the registration of an institution, the Minister will inform the institution in writing that it is not to be approved for registration. The institution concerned then may seek a copy of the report of the assessment and it may apply for a review by the Minister of the decision. It may submit further documentation in support of its application. Following further consideration, taking account of all of the available information, the Minister will inform the institution in writing of his or her final decision.

If an institution is to be approved for registration, the Minister will inform the institution in writing that it has been approved for registration as an overseas university. An institution approved for registration as an overseas university must take steps, if it has not already done so, to have at least one higher education course accredited by the Director-General in order to be eligible for registration. Information concerning applications for course accreditation is provided in Parts 3 and 5 of these guidelines.

Copies of the report of an overseas institution's assessment, whether or not the institution was approved for registration as an overseas university, together with the Minister's letter informing the institution whether or not the institution was approved, will be provided to the Director-General. In determining whether to accredit a higher education course or courses of an overseas institution, or whether to conduct a streamlined accreditation assessment, the Director-General may take into account the report of the institution's assessment conducted for the purposes of this Part.

If the Minister approves an institution as an overseas university and the Director-General registers the institution as an overseas university and accredits its courses, it then may operate as an overseas university in New South Wales.

Under section 5 of the Act, the Director-General may impose conditions on an overseas university's registration.

An overseas university's registration will be reviewed by the Director-General at intervals of not more than five years. The processes to be followed and the criteria to be applied by the Director-General in determining whether to renew an overseas university's registration are set out in Parts 3 and 4 of these guidelines.

## **PART 9: Australian Universities**

### **9.1 Recognition of interstate universities in New South Wales**

Australian universities that are established or recognised through the legislation of another State or Territory or the Commonwealth Government and that the New South Wales Government is confident meet the nationally agreed criteria for an Australian university are included in Schedule 1 to the New South Wales *Higher Education Act 2001*. Schedule 1 is the list of Australian universities recognised in New South Wales.

This Part of the guidelines explains the process and criteria to be followed in determining an application for recognition in New South Wales by an Australian university not yet included in Schedule 1.

The Minister may recommend that such a university be recognised in New South Wales. If so, the Department of Education and Training, acting on the Minister's behalf, will make arrangements for the Parliamentary Counsel to draft a Proclamation, in accordance with section 4 (1) of the Act, stating that the university concerned is to be included in Schedule 1.

Once the Proclamation has been signed by the Governor and the inclusion of the institution within the Schedule of recognised Australian universities is published in the New South Wales *Government Gazette*, the institution is recognised and may operate in New South Wales as a university.

Before making such a recommendation, the Minister in certain circumstances may request the Department to assess the following characteristics of the institution:

- its legal standing
- the quality of its teaching and learning
- its proven scholarship
- its commitment to free inquiry
- its governance, administrative and organisational arrangements, and
- its financial capacity.

If conducting such an initial assessment, the Department will pay particular attention to whether the institution is listed on the Australian Qualifications Framework *Register of Bodies with Authority to Issue Qualifications* and the results of any audit of the institution by the Australian Universities Quality Agency.

If such an initial assessment is to be conducted, the university concerned is to pay to the Department the prescribed fee of \$5,000. In view of the Australian university concerned having been established or recognised already through the legislation of another State or Territory or the Commonwealth Government, the Director-General may decide to waive the payment of this fee.

In determining whether the characteristics of an interstate institution evince its quality, the Department will rely on information from any of the following sources.

**Information sources for assessing interstate universities:**

- the interstate legislation establishing or recognising the university
- the report of any previous assessment of the institution by an Australian accreditation authority
- the registers of the Australian Qualifications Framework (AQF) and officers of the AQF Advisory Board
- the Australian Universities Quality Agency
- the committee of higher education officials of Australian jurisdictions that reports to the national Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA)
- the Commonwealth Department of Education, Science and Training
- the New South Wales Treasury and other State agencies
- the advice of interstate departments with responsibility for higher education recognition, registration and accreditation
- public submissions
- websites, handbooks and other published information concerning applicant institutions, and
- other Australian and overseas sources.

If the Minister considers it necessary, the information obtained from these sources will inform an external assessment of the institution conducted with reference to the processes and standards set out in Part 9.2 of these guidelines, relating to the assessment of an institution that applies to be established or recognised as an Australian university through New South Wales legislation. If such an assessment is to be conducted, the university concerned must pay to the Department the prescribed fee of \$20,000. In view of the Australian university concerned having been established or recognised already through the legislation of another State or Territory or the Commonwealth Government, the Director-General may decide to waive the payment of this fee.

The Department will ensure the Minister receives a report of the assessment recommending either that the Minister approve or not approve the institution being recognised as a university in New South Wales. The Minister will fully consider the report and its recommendations and inform the institution in writing if the application is to be refused.

In cases where the Minister decides not to recognise an institution, the Minister or the Department on the Minister's behalf, will inform the institution in writing that it is not to be recognised.

The institution concerned then may seek a copy of the report of the assessment and it may apply for a review by the Minister of the decision. It may submit further documentation in support of its application. Following further consideration, taking account of all of the available information, the Minister will inform the institution in writing of his or her final decision.

## **9.2 Establishment of an Australian university within New South Wales**

When an Australian education institution that is not recognised as a university in any other Australian jurisdiction applies to the Minister for Education and Training for establishment or recognition as an Australian university within New South Wales, the process and criteria to be followed to determine the application are as set out in this Part.

### **Step 1**

An Australian education institution that is considering applying to become established or recognised as an Australian university in New South Wales is invited in the first instance to discuss the requirements of the *National Protocols for Higher Education Approval Processes*, the New South Wales *Higher Education Act 2001* and the requirements set out in these guidelines with representatives of the Department of Education and Training.

### **Step 2**

Following discussions with representatives of the Department of Education and Training, if an institution decides to apply, it should submit to the Minister for Education and Training an application that demonstrates its capacity to meet the requirements and standards set out in this Part. The application must also indicate whether the institution is seeking, or will seek, recognition as a university or approval to provide courses to overseas students in any other Australian jurisdiction.

The application must be accompanied by the payment of the prescribed \$5,000 fee, payable to the Department of Education and Training, for the initial assessment of an Australian education institution seeking establishment or recognition as a university in New South Wales.

The Department of Education and Training and/or an independent reviewer or reviewers, acting on the Minister's behalf, will conduct an initial assessment of the institution's application. If those who conduct the initial assessment are not satisfied that the institution potentially meets the requirements and standards set out in this Part, the Department will arrange for a report to be prepared indicating the reasons why the institution does not satisfy the requirements and standards and will submit the report to the Minister with a recommendation that the application be refused.

The Minister will fully consider the report and its recommendations and inform the institution in writing if the application is to be refused. The institution concerned then may seek a copy of the Department's report and it may apply for a review by the Minister of the decision. The institution may submit further documentation in support of its application. Following further consideration, taking account of all of the available information, the Minister will inform the institution in writing of his or her final decision.

A decision by the Minister not to establish or recognise an Australian education institution as a university does not of itself prevent the institution being registered as an Australian higher education institution and obtaining course accreditation and approval to provide higher education courses to overseas students, provided it meets the requirements set out in Parts 4, 5 and 6 of these guidelines.

### Step 3

If the Department is satisfied, based on the initial assessment of the application, that the institution may be able to meet the requirements set out in this Part, it will seek the Minister's approval for an assessment to be conducted by an independent expert panel, as provided for in Part 9.3 of these guidelines. If the Minister approves an external assessment, the institution concerned must pay to the Department of Education and Training the prescribed fee of \$20,000 for this service.

To ensure that applications are treated openly, the intention to establish an independent expert assessment panel to conduct a review of an institution seeking establishment or recognition as a university will be advertised in New South Wales and national newspapers. The notice will inform members of the public of the application and invite them to provide comment to the review.

In assessing the characteristics of an Australian institution to determine whether it should be established or recognised as a university by legislation, the assessment panel must be assured that the following quality standards, based on the *National Protocols for Higher Education Approvals Processes*, have been met:

#### **Quality standards for Australian universities**

##### **Legal standing:**

The criteria for judging an institution's legal standing are that:

- a. the company (including a foreign company) is registered under the Commonwealth *Corporations Act 2001* or is otherwise a body corporate legally constituted in Australia
- b. it has complied promptly with relevant legal requirements for the lodgement of documents and reports, has been independently audited and is otherwise bona fide
- c. it has the capacity and intention to comply with legislation of the Commonwealth and New South Wales that applies to universities; for example the *Anti-Discrimination Act 1977*
- d. the principal members of the corporation, association or other corporate entity involved are not, nor have ever been, declared bankrupt or insolvent, are not temporary or continuing treatment patients nor forensic patients within the meaning of New South Wales mental health legislation, and have never been convicted of an offence punishable in New South Wales by imprisonment for twelve months or more
- e. the legal, operational and financial structures of the institution are of sufficient integrity to enable the institution to uphold these quality standards.

## **Quality standards for Australian universities (cont'd.)**

### **Teaching and learning:**

The criteria for judging an institution's teaching and learning are that:

- a. the academic programs are of high quality and meet national and international standards and that the teaching and design of courses and course materials are informed by scholarship and research
- b. there is an Academic Board or equivalent body with a central role in the evaluation of courses and in determining academic policies in areas such as student progress and assessment, the approval of course documentation and delivery arrangements, appeals processes and course review and monitoring arrangements
- c. the qualifications of staff and their experience and capacity to deliver quality learning outcomes in relevant disciplines can be verified
- d. the staff generally possess research-based doctoral qualifications and are provided with support programs for their further professional development
- e. staff numbers are sufficient to provide for the development, delivery and monitoring of academic programs in a ratio to students that is comparable to that prevailing in existing Australian universities
- f. internal quality control checks (such as intra faculty and/or academic board-monitored assessment and examination processes) and external quality control checks (such as benchmarking of course units, teaching procedures and awards) are in place; and that collegial systems provide independent critical review of courses to ensure their continuing quality and development
- g. academic programs of sufficient breadth and depth are offered in different fields of study, generally in at least three
- h. the institution has land, buildings and facilities sufficient to support its teaching and learning; and the students and staff have regular and sustained access to a library of higher education standard and to the internet, as well as to adequately equipped laboratories and clinical facilities, where appropriate
- i. programs are in place to assist students experiencing difficulties in meeting course requirements and, in the case of 'virtual' institutions, guidance and advice are provided to assist students to access a sufficient range of learning resources to support their learning
- j. students are provided with adequate services, including academic support, such as access to the communications and information technology necessary for successful completion of their courses
- k. student progression, retention rates and award completions are monitored and students provided with relevant policy, procedural and program information, including grievance procedures and structures and processes for student feedback.

## **Quality standards for Australian universities (cont'd.)**

### **Proven scholarship:**

The criteria for judging an institution's teaching and learning are that:

- a. research and scholarship are integral to the mission statement of the institution, that research is occurring and that further research is planned; that the institution has the capacity to win, and/or a history of winning, research funding; in-house research funding is available; and that higher degree programs, including research-based study, are offered to appropriately qualified students
- b. the institution is able to contribute to the national academic research effort to a level consistent with Australian and international standards and is able to supervise, support and prepare for external assessment, research students in postgraduate work, including at doctoral standard, across a range of disciplines
- c. the institution has a documented research plan which includes the management of research training students
- d. the institution is able to marshal essential infrastructure and resources for sustained research, such as libraries, hospitals, laboratories, and has in place codes of ethics and practice to govern its research activities
- e. staff qualifications are from recognised institutions of high academic standing; staff have a publication record in peer reviewed journals and extensive advanced level practice; staff have a record of successful involvement in research and research training and are active researchers within their disciplines
- f. proof exists that staff listed as faculty members are actually working at the institution.

### **Commitment to free inquiry:**

The criteria for judging an institution's commitment to free inquiry are that:

- a. the institution is governed in a way that supports its independence and autonomy; for example, by a Council or other body comprised of a majority of members that are independent of the institution, leading the institution and acting as its trustee
- b. a commitment to free inquiry is integral to the mission statement of the institution, and where the institution receives funding from any church, corporation, political party, social organisation, charity or other incorporated body, that its governing body comprises a majority of members who are independent of that funding body
- c. there is an Academic Board or other body, reporting to the Council, leading the academic work of the institution and implementing structures and practices to support free inquiry and collegiality among staff
- d. a commitment to free inquiry is integral to the institution's mission statement and that the promotional literature, enrolment documents and mission statement of the institution clearly state that no test of religion, politics, race or sex is administered to determine admission as a student, employment as a member of staff, graduation or the enjoyment of any benefit, advantage or privilege of the proposed university.

### **Quality standards for Australian universities (cont'd.)**

#### **Appropriate governance, administrative and organisational arrangements:**

The criteria for judging an institution's governance, administrative and organisational arrangements are that:

- a. the governance structures of the institution demonstrate its capacity to ensure academic autonomy, independent inquiry and self-management, with its governing body having clearly defined legal responsibility to establish, review and implement management policies and accomplish the institution's mission
- b. the institution's governing body is sufficiently independent of the administration, ownership and funding source of the institution to ensure academic independence and public credibility
- c. evidence exists of an institutional commitment to a planning culture and to quality control and assurance processes, including strategies for achieving objectives, collection of data against performance indicators (qualitative and quantitative) and the maintenance of appropriate records, including permanent, accessible student records
- d. there are adequate safeguards for student fees and course completion in the event the institution closes, or is unable to provide tuition in the course in which a student has enrolled
- e. procedures are in place to provide for student discipline.

#### **Financial capacity:**

The criteria for judging an institution's financial capacity are that:

- a. the proposed university is commercially viable and has financial resources sufficient to continue offering courses of appropriate higher education quality for at least five years
- b. the institution has financial audit processes in place and is able to provide audited financial statements, budgets and other financial documents, such as multi-year comparative statements, long range financial plans and a detailed business plan.

In assessing whether an institution meets these quality standards, an independent expert assessment panel, or the Department of Education and Training on its behalf, may obtain information from the following sources, in addition to the information sources mentioned in Parts 8 and 9.1.

**Information sources for assessing Australian universities:**

- public submissions
- searches of the Australian Securities and Investment Commission (ASIC) databases, including the national names index (including by personal name), registers of banned and disqualified persons, fundraising disclosure documents, enforceable undertakings registers and the ASIC Gazette as well as copies of annual returns and financial statements
- searches of the Department of Fair Trading databases
- documents or other advice verifying that qualifications and credentials claimed by a member of staff of an applicant institution are genuine
- accountancy and/or legal advice to review the financial status of applicants
- a report of a self-assessment conducted by an institution immediately prior to or during a formal assessment for establishment or recognition purposes.

**Step 4**

Following its assessment of the institution, the assessment panel will prepare and provide the Minister with a report of its findings, recommending either that the Minister approve, approve provisionally subject to conditions or not approve the institution being established or recognised as a university in New South Wales.

For proposed new universities where an assessment is based on a plan rather than a pre-existing institution, the panel may recommend provisional recognition for a maximum period of five years, if there is evidence from the assessment of the plan that the institution will be able to meet the criteria in practice. However, an assessment panel may make such a recommendation only in cases where the applicant institution is able to satisfactorily demonstrate that it has the financial capacity to deliver and sustain university level programs. If not, an assessment panel is not to recommend that such an institution be established or recognised as an Australian university.

The Minister will take fully into account an assessment panel's report and recommendations but may decide to not recognise, recognise on a provisional basis, recognise subject to conditions or recognise unconditionally any proposed new university. Provisional or conditional operation will be for a period of up to five years, after which a further full assessment of the institution will be required.

In cases where the Minister decides not to approve the establishment or recognition of an institution, the Minister or the Department on the Minister's behalf, will inform the institution in writing that it is not to be established. The institution concerned then may seek a copy of the report of the assessment and a review by the Minister of the decision. It may submit further documentation in support of its application. Following a further review, taking account of all of the available information, the Minister will inform the institution in writing of his or her final decision.

If an institution is recommended for establishment as a university, the Minister will arrange for the Department, in consultation with the institution concerned, to assist in the development and submission to Parliament of appropriate legislation. Applicants need to be aware that any decision to proceed with legislation will be subject to approval by the Government as a whole, taking into account a broad range of public interest issues.

A wider range of factors than an institution's characteristics and standing may be taken into account by the Government in deciding whether to recognise or not recognise an institution, including factors such as the needs of the community, any decisions of the Commonwealth Government concerning funding and relevant decisions of the New South Wales Government in relation to the application.

### 9.3 Independent expert assessment panels

An application for establishment of an Australian university in New South Wales will be subjected to review by an independent expert assessment panel involving evaluation against the criteria set out in Part 9.2 of these guidelines and taking into account views expressed by members of the public through the advertising process also outlined in Part 9.2.

#### Structure and appointment of assessment panels

Assessment panels will be convened with the Minister's approval and will comprise three members, with supplementary expertise being added as required. Members will be eminent academics with senior administrative experience in the Australian university sector, including academics from outside New South Wales. To the extent possible, potential conflicts of interest through appointing representatives of competitor institutions will be avoided.

<b>Assessment panels — Typical membership</b>	
Convenor	The Convenor should be a Vice-Chancellor, retired or currently serving in a university that is less likely to be directly affected by the proposed institution.
Senior interstate member	To ensure the independence of the assessment panel, there should be significant senior representation from outside New South Wales. The assessment panel should include an interstate or overseas-based retired or currently serving Vice-Chancellor, other senior academic administrator such as a Deputy Vice-Chancellor or a private or public sector equivalent.
Senior academic administrator	<p>1. Where the quality of the teaching, learning and research of the proposed university is a major focus of inquiry:</p> <p>An interstate or overseas-based retired or currently serving academic board head or private sector equivalent with qualifications and experience broadly matching the range of fields in which the proposed university will be offering courses.</p> <p>2. Where the financial status and governance of the proposed university is a major focus of inquiry:</p> <p>An interstate or overseas-based retired or currently serving Deputy Vice-Chancellor or Vice-Principal with qualifications and experience in university organisation, administration, finance or management.</p>
Co-opted members	Senior personnel with qualifications and experience in specific disciplines or in specific areas of expertise relevant to an application (for example, university governance or online learning) may be co-opted from time to time as required.

## **Code of conduct**

Assessment panels will provide expert, independent and impartial advice to the Minister, undertake their responsibilities in a professional and ethical manner and be objective, independent and constructive.

The role of the Chair is to:

- lead the panel's deliberations, drawing attention to major issues and concerns requiring discussion, investigation or clarification
- ensure that the panel operates to encourage free and courteous exchange of opinions and that members are invited to identify issues and concerns
- plan and manage the panel's meetings, site visits, interviews and facilities inspection
- ensure that the panel makes a full and objective assessment, prepares an accurate and fair report and expresses the panel's recommendations clearly
- work cooperatively with the Department of Education and Training.

An assessment panel is to take all reasonable steps to verify claims made in documentation presented for its consideration.

## **Declaration of Interest**

Members of assessment panels are to be impartial.

In assessing applications, any conflicts of interest relating to past or present financial, professional or personal relationships with the applicant, employees of the applicant or its competitors are to be identified by members. Members are to disqualify themselves if they have an actual, potential or perceived conflict of interest or if they have strong opinions about a type of institution or a type of course likely to prevent impartiality.

Those accepting an invitation for appointment to an assessment panel will be requested to complete a Declaration of Conflict of Interest for Members of Assessment Panels. Any actual, potential or perceived form of conflict of interest in the assessment process and/or its outcomes must be declared.

In any instance where it appears that a conflict of interest may arise or has arisen, the Department acting on the Minister's behalf will determine whether it is appropriate for the person concerned to participate in, or continue to participate in, the assessment.

## **Confidentiality**

Information obtained by an assessment panel is to be treated confidentially by panel members. All matters dealt with in documentation or discussion are to be held in confidence. An assessment panel is not to disclose information except for reporting to the Minister, making relevant information available to the Department of Education and Training or liaising, where required, with agencies able to provide information relevant to an assessment. All documentation provided to an assessment panel is to be returned to the Department of Education and Training.

## **Intellectual Property**

An assessment panel is to take all reasonable steps to protect ownership of intellectual property and commercial-in-confidence material disclosed to it.

### **Role and procedure of assessment panels**

In conducting a review, the assessment panel is to keep in mind the principle that public and private sector applicants should be treated equally and that its role is as defined by the *Higher Education Act 2001*, the *National Protocols for Higher Education Approval Processes* and these guidelines, and its decision making concerning recommendations to government is to be within those parameters.

In addition to the processes, criteria and information sources outlined in these guidelines, an assessment panel will assess an institution's capacity to meet the national criteria through:

- evaluation of written material submitted by applicant institutions
- discussion with and interview of applicant institutions, their staff and their students, where applicable
- inspection of applicant institutions' facilities, where they exist
- evaluation of documents and data relating to applicant institutions, and
- public submissions.

Applicant institutions are required to provide any information that is requested by an assessment panel.