Transnational education (TNE) licensing pilot
2018 TNE licensing approach [1.8.2018]

Introduction

Creating a student experience for students studying overseas which is equivalent to that delivered by the home institution is a critical element of transnational education (TNE). The expectation of TNE students is that access to key resources to support course requirements, such as journals, databases and e-books, is readily available. The TNE licensing pilot, funded by Jisc, started in August 2017 and aims to develop a simple and agreed licensing approach and process, tried and tested with participating pilot organisations and publishers, which keeps pace with the delivery of international education. Further details about the pilot on the Jisc website can be found here. An outcome of the pilot research to date has been to identify solutions to process and infrastructure-side inefficiencies in order to work towards a more centralised and consistent TNE licensing approach for users based overseas, to be adopted by institutions and publishers.

Background

Jisc has provided a TNE licensing framework and “Decision Tool” for many years in support of libraries and publishers for licensing additional authorised users. The framework has been adopted by a number of libraries and publishers; however, it has been interpreted in different ways, generating local inconsistencies and meaning there is no common understanding or transparency across the sector. As UK TNE activity grows, the current model is no longer sustainable. More libraries called for Jisc to undertake centralised TNE negotiations on their behalf.

Jisc has found that when libraries negotiate directly with publishers for access to library resources to incorporate their students and supporting staff located abroad, often on a just in time and case by case basis, the approach has resulted in differences in access and licensing terms, fees being charged, or fees being waived where a fee was charged by the same publisher in a scenario that is ostensibly the same. Some libraries have been charged for access for offshore students who are Authorised Users under the terms of the current Jisc Collections licence agreement.

Several publishers have also indicated they would welcome a more streamlined and transparent licensing process to bring efficiencies and economies of scale.
2018 TNE Licensing Approach

What we are asking from publishers and institutions:

To endorse the TNE consortium licensing approach outlined below as a common framework which:

1. Provides a process for defining the status of offshore users as either Authorised Users or Additional Authorised Users in licence agreements
2. Outlines the circumstances under which UK HEIs should not be expected to pay a Fee for extending their licence agreement to include identified Additional Authorised Users
3. Requests publishers to agree a relevant consortium pricing model with Jisc Collections in cases where UK HEIs are expected to pay a fee for extending their licence agreement to include identified Additional Authorised User access

Annex 1 provides the background research established during the Pilot Phase 1, used to develop this common licensing approach.

Further details concerning the three points mentioned above are outlined below.

1. The process to establish Authorised Users and Additional Authorised Users

One of the existing principles of the Jisc Model Licence is that users established as Authorised Users (AUs) (whether in the UK or located abroad) have parity of access to resources supporting teaching, learning and research.

We ask that publishers and institutions use the updated Jisc Decision Tool as the starting point to establish greater consistency in how overseas arrangements are articulated and subsequently licensed.

The updated Jisc Decision Tool (see the separate Excel file) utilises the HESA Aggregate Offshore Record (AOR) as a common source of TNE authority, approved by sector stakeholders, in order to support decisions about Authorised Users and Additional Authorised Users.

UK HEI administrators record their offshore students in the HESA AOR and these are categorised under 5 main definitions as shown below (also see https://www.hesa.ac.uk/collection/c16052/a/type).

NB: There is room for error of data entry into the Codes which we asked publishers to acknowledge if or when such errors are identified by institutions, in good faith.
Transnational education (TNE) licensing pilot

- 'Registered at Reporting Provider’ (see under Codes 1, 2 and 3) has a specific meaning within the HESA OAR definitions. Overseas users that are ‘registered at reporting provider’ for a UK HEP (*UK higher education provider) award are registered with the UK HEI in the same way that home students are registered, or students who come to the UK to study are registered. For agreements licensed via Jisc Collections, we have updated the definition of Authorised User in the Jisc Model Licence, to include a reference to ‘registered’.
  - Code 1 entries tend to be campuses abroad
  - Code 2 entries tend to be collaborative initiatives
  - Code 3 entries are distance learners

- ‘Registered’ is a definition that should mean the same thing by all UK HEIs. Jisc proposes the use of ‘Registered’ as used in the HESA AOR, which is a term defined by the English, Scottish and Welsh funding councils. Although each funding body uses a different definition of meaning currently, these funding bodies have agreed to adopt a common definition in future, from the HESA Data Futures Project:
  - 'A student registration is a binding agreement between a student and an organisation for the delivery of educational services, within the meaning of “Stage 3: enrolment stage” in the Competition and Markets Authority’s advice for UK HE providers on consumer protection law.'

- Therefore, offshore users can be identified and should be treated as Authorised Users when learners are reported in the HESA AOR Codes 1, 2 and 3 as ‘registered at the reporting provider’ ie registered with the UK HEI.

- We ask publishers to vary current agreements to incorporate ‘registered’ in the Definition of an Authorised user, thereby ensuring clarity that a ‘Registered’ offshore student in the agreement is an Authorised User registered with the UK HEI (the Reporting Provider).

- Offshore users are identified as Additional Authorised Users (AAUs) when learners are reported in Codes 4 and 5 of the HESA AOR.

- A separate licence addendum is used to license for identified AAUs (see Annex 2 for proposed format).

- The authentication set-up should be shown to be robust with access limited and/or enabled as appropriate.

- Jisc is developing a tool kit concerning access, authentication and security, to provide support to publishers and libraries. This will form Annex 3 of this document. It is anticipated this will address how UK AMF attributes can be utilised by publishers and libraries.
[2] Outlining the circumstances under which UK HEIs should not be expected to pay a Fee for extending their licence agreement to include identified Additional Authorised Users (AAUs)

- An additional AAU Fee and licence extension may or may not be relevant for students reported in Codes 4 and 5 of the HESA AOR, where the UK HEI wishes to provide access to resources to those students. UK HEIs may want to license for AAUs either on a country, site or scenario basis, or for all their Code 4 users.

- Code 4 has various types of partnership arrangement recorded under this code and an AAU fee is not appropriate in the following circumstances identified as ‘Code 4 exceptions’:
  - Established student cohorts under 1000 full person equivalent (FPE), or an agreed higher level, at any single site, unless the publisher can show a risk in terms of current subscription loss from the partner organisation concerned. Our research analysing the HESA AOR data shows that TNE arrangements are typically small, with almost 90% of HESA AOR scenarios reporting less than 250 offshore students and ~ 95% of them involving less than 1000 students. When larger in scale than this, they are anomalous within the wider population. Larger scale scenarios are often a sign of maturity, and/or a branch campus type of provision scenario.
  - Where users are reported in relation to a campus arrangement/joint campus, with over 1000 students and the UK HEI has at least 50% ownership, with students receiving a UK award.
  - New partnerships being established or planned for implementation in the following year when student numbers are anticipated as very low and full details of the arrangement are not known.
  - If a Jisc Collections agreement has a Jisc banded price, ie with the price band based on revenues received by the institution, then the price covers all learners reported in the HESA AOR where the HEI can evidence that at least 50% of full student fee revenues have been incorporated into the HESA finance record FRS102.

- In cases identified as Code 4 exceptions, the ‘AAU Fee’ would be agreed as zero.

Publisher are asked to confirm agreement with the proposal and the Code 4 exceptions, or provide further details.

[3] A relevant pricing model for AAUs

- The AAU Fee/ pricing agreed for those established as AAUs, where a fee should apply, should reflect a fair and comparative model.

Publisher are asked to provide their proposed pricing model, explaining how the model is fair and comparative to the main HEI licence fee.
Annex 1: Developing the approach: background information

In addition to previous activity in this area developing its approach on behalf of the 42 participating UK HEIs, Jisc’s sectoral research and engagement to date, includes:

- publisher discussions in November and April at UKSG events
- discussions with HESA, UUKi, QAA and the British Council
- advice/expertise from the Pilot Steering Group (UK HEIs and representation from UUKi, SCONUL, RLUK & Eduserv)
- 45 anonymous institutional surveys
- 19 1-2hour structured institutional skype interviews
- a one-day workshop attended by ~60 institutions
- sectoral data analysis of the HESA Aggregate Offshore Record

Further background, including steering group membership and a list of participating institutions, can be found here: https://www.jisc.ac.uk/rd/projects/tne-licensing-pilot

The above outlined engagement with the sector highlighted a number of needs to address in the pilot:

- A need for shared meanings and definitions across the sector and various stakeholders and advocacy to disseminate these
- A need for accessible authoritative data sources to support a common framework, with guidance and support on how to interpret the data
- A need to have further clarity on how Authorised Users and Additional Authorised Users are determined concerning offshore users.
- A need to amend some of the language in the Jisc Model licence to support shared meaning and understanding and simplifying the process of extending the UK HE licence agreement to include identified Additional Authorised Users
- A need for support and guidance in the area of access management for librarians and publishers
- Consensus on the list of priority resources / publisher content
- Publisher engagement

Jisc has established that, across the sector, UK HEI TNE provision scenarios are:

- Reported annually via the HESA Aggregate Offshore Record (HESA AOR), alongside UK HEI FTE reporting via the HESA Student Record. The HESA AOR data set was almost entirely unfamiliar to libraries and publishers alike and breaks the reported population up into 5 coded categories. The HESA AOR is the only centrally reported data source for UK HEI TNE activity in the UK.
- Typically, small, with almost 90% of HESA AOR scenarios reporting less than 250 offshore students and ~95% of them involving less than 1000 students. When larger in scale than this, they are anomalous within the wider population. Larger scale scenarios are often a sign of maturity, and/or a branch campus type of provision scenario.
• Business as usual, with ~110 UK HEIs engaged in HESA-reported TNE provision scenarios that are either independent or collaborative in nature, with a further ~20 reporting provision that is exclusively in the well understood ‘distance learning’ mode.

• Delivered in almost every country in the world.

• Time-consuming

• Somewhat volatile and unpredictable. TNE provision scenarios involve a lot of labour before they launch and there are no guarantees that they will come to fruition, or, continue, once established.

• Not all overseas arrangements require content or might be limited to a subset of users. Often dependent on licensed content provision from the UK HEI, as part of the agreement underpinning the scenario, but not always. Some agreements explicitly exclude content provision.
  
  o Beyond campus scenarios, its commonplace that those scenarios that do require content are defined in terms of user numbers linked with specific programs of study and not the entire population of another education provider.

  o Furthermore, it's also commonplace that if content is required in support of a provision scenario, that it's typically reported by libraries that the collaborative provider is not expected to- or, even be able to afford to - license content.

• Affected negatively, where supporting staff (ie those teaching on the programs, or, supporting students studying on them e.g. Librarians) cannot access the same content as the students.

• Not always best understood in simple economic, fee-based, or, revenue terms. Student fees charged by the UK or host institutions can vary dramatically, and the drivers for UK HEIs partnering with overseas providers may be exploratory and strategic e.g. to position itself in a borderless, global context, to forge future relationships and research pathways back to the home institution.

• For agreements with pricing using Jisc bands these users are accounted for, in overall revenue terms, in the total revenue calculations which make up that HEI’s Jisc Band.

• Complex to manage and administrate from both a content licensing and a technical point of view, requiring pragmatism and collaboration across the supply chain to achieve mutually beneficial, agreed, secure and scalable access arrangements with the minimum of administrative burden.

• Although scenarios are varied the majority arrangements involve students are registered with the UK HEI (as per UK funding council definitions) and enrolled on programmes that lead to UK HEI awards.

• Often more difficult to understand, in terms of how potential users relate to licensed Authorised Users, where formal registration is less clear-cut.

• Often difficult for libraries to discuss with precision due to lack of data, or details, and to manage with parity, due to there being no currently adopted centralised nomenclature and there being a current tendency toward institutionally local, and at times specific, language.

• Potentially better understood via the recently developed TNE classification framework, funded in part by the British Council. The 6 types of TNE scenario are unpacked in the full report and summarised in Table 2.3, p16: https://www.britishcouncil.org/sites/default/files/tne_classification_framework-final.pdf but has not been adopted by the community at this point.
Annex 2  CHANGES TO JISC MODEL LICENCE 2018 CONCERNING TRANSNATIONAL EDUCATION (TNE) LICENSING

Jisc Collections uses the Jisc Model Licence (JML) as the basis for licensing content with publishers. The JML currently incorporates a framework to accommodate licensing for Additional Authorised Users (AAUs). Our work in support of the TNE Licensing Pilot has identified a need to update the JML to reflect the planned licensing approach we will develop with publishers during the remainder of the pilot period and predict implementing fully from August 2018. The proposed changes outlined below, which include the use of the HESA Aggregate Offshore Record (AOR) in support of licensing negotiations for offshore students, was supported by the TNE Licensing Pilot Steering Group at its last meeting held at Sheffield University on Tuesday 24 April 2018. The changes we intend making and the rationale are outlined below.

(1) Identifying Authorised Users: using the HESA AOR in support of our negotiations

We intend using the HESA Aggregate Offshore Record (AOR) to support our licence negotiations with publishers to assist in identifying which offshore users are Authorised Users (AUs), included in the main licence agreement, and those who would be Additional Authorised Users (AAUs), where an additional fee may apply. The HESA AOR is completed by staff at HEIs and is a common source of authority across the sector. These code headings are not immediately obvious when accessing/entering data in the HESA AOR, as the presentation of the report is arranged in a different way. Hence Jisc is aiming to help HEIs (and publishers) understand the relevance of the codes and show their relevance. The use of this report is licensed to Jisc by HESA and the main headings of the report are shown below.

HESA AOR headings and code descriptors

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<td>Registered at reporting provider - studying overseas for UK HEP* award at overseas campus of reporting provider</td>
<td>Registered at reporting provider - studying overseas for UK HEP award other than at an overseas campus of reporting provider</td>
<td>Registered at reporting provider - distance, flexible and distributed learning for UK HEP award where the location of the student is known to be overseas</td>
<td>Registered at overseas partner organisation - studying overseas for an award of the reporting provider</td>
<td>Any other student studying overseas for an award of the reporting provider</td>
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‘Registered at reporting provider’ used in the HESA AOR for Codes 1, 2 and 3, is a term defined by the English, Scottish and Welsh funding councils. Although each funding body uses a different definition of meaning currently, these funding bodies have agreed to adopt a common definition in future, from the HESA Data Futures Project:

‘A student registration is a binding agreement between a student and an organisation for the delivery of educational services, within the meaning of “Stage 3: enrolment stage” in the Competition and Markets Authority’s advice for HE providers on consumer protection law.’
We have identified that users reported as ‘Registered at reporting provider’ in codes 1, 2 and 3, are aligned to the definition of Authorised Users in Jisc Collections’ licence agreements. We have identified that users reported in codes 4 and 5 are almost certainly Additional Authorised Users, not included in the licence agreement accepted by the HEI as Licensee because the registration is at the overseas partner or does not apply at all.

Jisc Collections therefore recommends that the Definition of an Authorised User in the Model Licence should incorporate reference to ‘Registered by the Institution’, with a commentary in the Guide to the Model Licence to explain how being ‘Registered’ also maps to the HESA AOR (as outlined above) and the funders’ definition.

(2) Additional Authorised Users

When libraries license Additional Authorised Users into agreements, an additional fee may or may not apply, depending on particular local scenarios (e.g. number of students, location). Jisc Collections’ current Additional Authorised User (AAU) licensing framework incorporates an AAU Definition that utilises the wording ‘Partner Organisation’ and ‘Partner Fee’ as a means of identifying a Fee that might apply, in addition to the main agreement fee. In the knowledge that an additional fee is often not applicable, or that the fee often only relates to particular additional users associated with the UK HEI, it is proposed that the licence wording is changed in the following way to show that the fee relates to AAUs and not to the Partner organisation as such:

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<th>‘Partner Fee’ becomes</th>
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<td>‘Partner Fee Quotation’ becomes</td>
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(3) Amendments to Model Licence

Considering the above points (1) and (2), the Authorised User, AAU Definition and associated AAU clauses in the Jisc Model Licence therefore become (edits in red):

“Authorised User” means an individual who is authorised by the Institution to have access to its information services (whether on-site or off-site) via Secure Authentication and who is:

- a current registered student of the Institution (including undergraduates and postgraduates);
- an alumnus of the Institution;
- a contractor of the Institution; or
- a member of staff of the Institution (whether permanent or temporary, including retired members of staff and any teacher who teaches registered Authorised Users); or
- without prejudice to Clause 4.2, a Walk-In User

and, unless the context otherwise requires, all references to “Authorised Users” in this Licence include “Additional Authorised Users”.

Transnational education (TNE) licensing pilot
“Additional Authorised Users” means individuals who qualify as authorised users and can perform the same activities as Authorised Users under this Licence (subject to the payment of the AAU Fee) but for monetary purposes are not included in the Licence Fee. Additional Authorised Users are users at a Partner Organisation for which the Institution has agreed with the Publisher to pay the AAU Fee.

"AAU Fee" means the fee for access and use of the Licensed Material by Additional Authorised Users at a Partner Organisation calculated in accordance with Licence Schedule 3. For the avoidance of doubt, the AAU Fee could be set at zero.

"AAU Fee Quotation" means the quotation of the AAU Fee provided by the Publisher to the Institution at the request of the Institution to include Additional Authorised Users from Partner Organisations.

"Partner Organisation" means the organisation(s) for which the Institution has agreed with the Publisher to pay the AAU Fee(s) or that there is no AAU Fee.

We would develop a separate AAU addendum that can be accepted online via the Jisc Collections website in cases where the library is licensing for AAU access (and paying an optional, quoted for, fee). The wording could be along the lines of:

“In consideration of the AAU Fee listed herein as of the above specified date, the Original Agreement shall be amended as follows:

- The following definitions shall be added to Clause 1.1:

  [Definition of Additional Authorised Users, AAU Fee, AAU Fee Quotation and Partner Organisation]

  For the avoidance of doubt Additional Authorised Users shall be entitled to receive the same benefits and be bound by the same obligations under the Licence as Authorised Users”

The changes outlined above have been incorporated into the final version of the updated Jisc Model Licence which is now available on the Jisc Collections website:

https://www.jisc-collections.ac.uk/Support/How-Model-Licences-work/

If you have any questions, please contact Ben Taplin, Licensing Specialist, Jisc Collections.
Annex 3: Access, Security and Authentication

Providing details concerning:

- How the Jisc model licence supports this
- How UK AMF can be used to support both libraries and publishers in TNE access provision.

The Jisc model licence

In order to maintain the security of the Publisher’s content, the Jisc model licence makes it clear to the subscribing Institution that any access to Licensed Material must be via a Secure Network only; that is to say a network which is only accessible to Authorised Users by Secure Authentication.

Secure Authentication is defined as access by UK Access Management Federation compliant technology, Internet Protocol (“IP“) ranges or by username and password provided by the Institution or by other authentication means reasonably agreed between the Publisher and the Institution.

The licence also imposes specific responsibilities on the Institution, in section 8, regarding the security of the Licensed Material and the behaviour of its Authorised Users (who will include, by definition, any Additional Authorised Users*):

8 RESPONSIBILITIES OF INSTITUTION

8.1 The Institution shall:

8.1.1 provide passwords and other confidential Authentication Information only to Authorised Users and take reasonable steps to prevent Authorised Users from providing such Authentication Information to anyone else;

8.1.2 provide to the Publisher lists of valid IP addresses for the purpose of managing access to the Licensed Material and update those lists regularly as agreed by the parties from time to time;

8.1.3 use reasonable efforts to ensure that only Authorised Users are permitted access to the Licensed Material;

8.1.4 inform the Authorised Users about the conditions of use of the Licensed Material provided for in this Licence and to the extent that such terms apply to them, use reasonable efforts to ensure that all Authorised Users are made aware of and undertake to abide by the terms of this Licence; and

8.1.5 configure the computer system through which the Licensed Material used by the Institution and Authorised Users, and put in place procedures, in accordance with reasonably appropriate accepted standards, for the purpose of preventing access to the Licensed Material by any person other than an Authorised User.
8.2 The Institution shall use reasonable efforts to monitor compliance with the terms of this Licence and shall promptly notify the Publisher, providing full particulars (to the extent that it is not prohibited by law or contractual obligation from doing so), on becoming aware of any of the following:

8.2.1 Any unauthorised access to or use of the Licensed Material or unauthorised use of Authentication Information; or

8.2.2 Any act by an Authorised User which gives rise to a breach of this Licence.

8.3 As soon as the Institution is aware of any breach of the terms of this Licence, the Institution shall:

8.3.1 Take reasonable steps to investigate such breach for the purpose of ensuring that the relevant activity ceases and preventing any recurrence; and

8.3.2 If the Institution considers this appropriate, take steps against the individual concerned in accordance with the Institution’s disciplinary procedure

Jisc makes it clear to our members that in accepting the terms and conditions of our licences they are taking responsibility for maintaining the security of the Publisher’s content, preventing its misuse, and policing their users, wherever they are based.

*The Definition of Additional Authorised Users:

“Additional Authorised Users” means individuals who qualify as authorised users and can perform the same activities as Authorised Users under this Licence (subject to the payment of the AAU Fee) but for monetary purposes are not included in the Licence Fee. Additional Authorised Users are users at a Partner Organisation for which the Institution has agreed with the Publisher to pay the AAU Fee.

How UK AMF can be used to support both libraries and publishers in TNE access provision

To be developed