Transnational education (TNE)

Licensing guidance for higher education institutions – Jisc Collections agreements

This document aims to help librarians and colleagues engaged in TNE activity in their organisations, wishing to provide students located offshore with access to journal, database and e-book content licensed by Jisc Collections, to understand their Institution’s licence benefits and obligations, when licensing for students and learners located abroad.

This licensing guidance relates to the work of Jisc’s TNE licensing pilot, which utilises the HESA Aggregate Offshore Record (AOR) as a source of truth for the sector concerning TNE student registrations, in support of a common TNE licensing approach.

This licensing approach makes apparent that students registered with the UK higher education institution (HEI), for scenarios reported under Codes 1, 2 and 3 of the HESA AOR, are Authorised Users under the terms of Jisc Collections licence agreements. Students identified as Additional Authorised Users in Codes 4 and 5 of the HESA AOR reflect more complex partnership arrangements that the pilot is also seeking to tackle and resolve through a common methodology.

Agreements licensed by Jisc Collections

Jisc Collections licenses well over 200 agreements with publishers and providers, using the Jisc Model Licence as the basis of the agreement. The Jisc Model Licence contains a clause defining which users are ‘Authorised Users’ under the terms of the agreement. The latest version of this Definition [2018] is shown below:

”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 student registered with 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 current students registered with the Institution; 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”.

One question the Pilot seeks to resolve is the question we often hear asked by librarians: ‘are these offshore students our students?’. In the context of the Jisc’s Model Licence this means are they Authorised Users (AUs) or Additional Authorised Users (AAUs)? The difference is that AAUs are not automatically covered by the Model Licence, the publisher may exclude these users or an additional fee may apply.
The inclusion of ‘registered’ in the definition above is a recent addition as a result of Jisc’s TNE licensing pilot work, which aims to clarify what constitutes an Authorised User. In the context of Jisc Collections’ licence agreements a student registration means:

’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.’

Although HEIs may use different terminology locally to mean ‘registered’, and/or to define what a student is, or is not, in terms of Jisc Collection’s content agreements, we have chosen to use the meaning adopted by HESA (and by extension, HEIs) when recording students both in the Student Record (home registrations) and the Aggregate Offshore Record (offshore registrations). We are also supporting HESA’s Data Futures programme and other stakeholders, such as UUKi, the British Council and QAA, all seeking a common nomenclature in this area of activity.

Therefore, to determine if students located abroad are Authorised Users under the terms of Jisc Collections agreements, it is important to know if the students concerned are registered with the UK Institution as the legal entity (‘The Licensee’).

This identification is achieved by understanding the type of scenario and its corresponding Code heading under which the student has been entered under in the HESA AOR. There are 5 code headings in the AOR as shown below:

<table>
<thead>
<tr>
<th>Code 1</th>
<th>Code 2</th>
<th>Code 3</th>
<th>Code 4</th>
<th>Code 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Registered at reporting provider – studying overseas for UK HE award at overseas campus of reporting provider</td>
<td>Registered at reporting provider – studying overseas for UK HE award other than at an overseas campus of reporting provider</td>
<td>Registered at reporting provider – distance, flexible and distributed learning for UK HE 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>
</tr>
</tbody>
</table>

These codes are not immediately obvious to those entering data into the HESA AOR, so it is important for HE staff to understand that their TNE provision arrangements as recorded are associated with a particular code which may impact on questions of access rights for the students concerned.

Where your staff report students in scenarios relating to codes 1, 2 and 3, these students are ‘Registered at reporting provider’, i.e. they are registered with the UK HEI legal entity. This means those students are eligible to access and use the content licensed by Jisc Collections with a provider using the Jisc Model Licence terms, in exactly the same way as any other Authorised User, e.g. studying at the main campus or a satellite campus of the main HEI, as a distance learning student living in the Shetland Isles, or a student on an Erasmus or sandwich year, located abroad.

However, where your staff report students relating to provisions in Codes 4 and 5, this means those students are registered either with the overseas partner legal entity, or perhaps not registered at all. In such cases those students are not covered by Jisc Collections agreements under the Jisc Model Licence terms as Authorised Users and are identified as ‘Additional Authorised Users’.

**Additional authorised users (AAUs)**

AAUs are students in partnership arrangements associated with Codes 4 and/or 5 of the HESA AOR or who are not recorded at all in the HESA AOR. If you wish to licence access for the collection of content for such a cohort of students an ‘AAU Fee’ may apply. If you wish to licence for offshore learners who do not appear at all in the HESA AOR, then an AAU Fee will almost certainly apply.

Jisc Collections’ TNE Licensing Approach is aiming to gain transparency from publishers on their pricing for AAUs and when a fee does or does not apply. Publishers have agreed local licences with HEIs for content access, but our understanding is that in general there is no consistency of approach or pricing, or what constitutes an AAU. From Transnational education (TNE) | Licensing guidance for higher education institutions – Jisc Collections agreements
the TNE Licensing Pilot work, we know there are many partnership arrangements that involve low numbers of students based at a site, or campus-type arrangements that, in everything but legal ownership (due to partner country legislation), are very similar to HESA AOR Code 1 campus scenarios. We have identified these scenarios and are engaging with sector representatives and publishers to explain the differences between Code 4 arrangements and how these differences impact on the relevance of fees for AAUs. If your institution has learners registered under AOR Code 4 and you wish to provide access to licensed content for these students and understand the implications, Jisc Collections can provide licensing advice and guidance.¹

The Jisc Model Licence can accommodate the possibility of licensing-in AAUs to an established agreement (whether for a fee, or for no fee/a peppercorn, as agreed with the publisher), via a licence addendum. Where an AAU Fee is agreed, a student identified as an AAU would then have the same rights as an AU under the terms of the agreement.

Secure authentication

To maintain the security of a Publisher's content, the Jisc Model Licence makes it clear to the UK subscribing Institution that any access to Licensed Material (i.e. the content) must be via a Secure Network only, that is to say via 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 Model 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.

¹ Jisc Collections does not offer legal advice.