

Appendix B

Submission template

Please note that the Department usually publishes and reserves the right to publish any written submission received and the names of persons making written submissions in the course of this consultation process.

If you consider that information in your submission should be treated as confidential, or if you wish to remain anonymous please clearly indicate this in your submission or in a cover note and provide reasons for your request.

The Australian Government reserves the right to accept or refuse a request to treat information as confidential and will use the criteria set out in the Department of Finance and Deregulation's Financial Management Guidance No. 3 on confidentiality in procurement, July 2007, as a guide when determining whether to accept a claim for confidentiality. Information relating to individuals will be protected under the *Privacy Act 1988*. Requests for access to such information will be dealt with under the provisions of the *Freedom of Information Act 1982*.

The template reflects the terms of reference for the review and the issues identified in the issues paper. Please refer to the issues paper and terms of reference for more information.

A field for general comments has been included below for you to raise additional issues.

Written submissions are to be received by 30 October 2009 and sent by email to: esosreview@deewr.gov.au.

About you:

Institution / organisation

Name:

ACT Department of Education and Training and the ACT Accreditation and Registration Council.

Sector:

Senior Secondary, Vocational Education and Training, higher education, ELICOS and Foundation

Prepared by:

xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

Contact details:

xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

Student / individual

Name:

Institution / organisation:

Course / role:

Home Country:

Contact details:

Supporting the interests of students

- i. How can the quality and accessibility of reliable information be improved? What role can ESOS have in ensuring providers and their agents are held to account for supplying prospective and current international students with accurate and timely information?

Comments

The risk of inaccurate and out of date information being transferred to prospective students, students considering a transfer within Australia, is very high, given the wide variety of agent practice.

The industry itself sees transparency of the commercial link between providers and agents (and agents' associates) and the National Code as a very high priority.

Registered providers often identify their agents in public material, however more rigour could be introduced by the Australian Government regulating agents of providers in some low impact, but robust manner.

Recommendation/s

The ESOS Act could help consolidate the market visible 'Study in Australia' (SIA) website from national consistency perspective.

If SIA were reviewed, it could highlight issues of authentic, timely information on providers, their use of agents and related marketing practice. The same approach could be embedded in the National Code and possibly the ESOS Act itself.

- ii. How should the Australian Government and the international education sector protect international students if a provider closes? How should this be resourced?

Comments

Tuition Assurance Schemes are one way of handling issue of provider closure, as are ESOS Act provisions concerning the ESOS assurance fund. The role of the Australian Government should be to work with stakeholders to prevent collapses, wherever and whenever possible.

The CRICOS authority for the ACT practises pro-active risk management of providers, with the assistance of DEEWR's compliance unit and DIAC regional office staff where appropriate. The ACT also risk manages new entrants to CRICOS by registering VET providers for 12 months initially, with extension to five years occurring only after a satisfactory, fully compliant outcome at an audit within the first year.

State and territory authorities, in conjunction with the Australian Government should continue to cooperate in the event of closures. The Act allows for this, as does the Shared Responsibility Framework (SRF).

Recommendation/s

Acknowledging that responsibility for students in the event of provider closure is a clear function of the current Act, it highlights the plight of domestic students enrolled in the same environment receiving equity in treatment. Consequently, any resourcing solution needs to take a holistic approach to student protection when providers collapse.

- iii. Are different mechanisms needed to support international students to resolve complaints effectively? Are additional complaint mechanisms needed?

Comments

Registered providers have adequate mechanisms for handling student complaints, consistent with National Code requirements.

Providers also report that a tripartite agreement between student, parent and provider is very useful in clarifying responsibilities of a legal nature (where the complaint may involve issues like unpaid fees, fees withheld over assessment outcomes, for example.)

Pastoral care has a role to play in capturing student concerns, that may elevate into formal complaints about internal student management process, tuition fee payments, academic progress or examination outcomes. Providers can manage these issues within their own domain, however, providers have called for a national mechanism (covering all sectors) that advocates international students interests, in terms of personal support and welfare.

Recommendation/s

In short, there is no need to introduce different mechanisms for complaint resolution.

All authorities, in all sectors, should use national complaint handling guidelines and policies, such as exist in the VET sector, and apply its broad principles across all sectors. The National Code section for regulators could be amended to reflect this approach.

Reviewers of the ESOS Act should consider a national 'student advocate', to support student welfare and act on their behalf in cases where systemic issues are a barrier to natural justice.

- iv. Should an international student's ability to change their education provider be limited, if so in what way?

Comments

The current regulatory framework is appropriate. The National Code addresses this issue of provider change in a flexible manner. Students can be at a disadvantage when they discover, on enrolment, that course quality is clearly sub standard, or when students are at risk. Moving to another provider must be an option in those circumstances.

Recommendation/s

The National Code advocates a balanced approach to student ability to change providers. No change recommended.

Delivering quality as the cornerstone of Australian education

- v. How can the intersection between ESOS and the underpinning education quality assurance frameworks be improved?

Comments

The current national discourse appears to be predominantly about quality of outcomes in the VET and the secondary sectors. It would be strategic to recognise the tertiary sector as a whole, where regulation is working, risks of provider default are relatively low. Treat the risk in context.

One quality assurance framework would simplify provider obligations, and ease the load on registration authorities. Tuition assurance and student welfare should continue to be the focus of national laws and any amendments. The coordinated approach of the Australian Government working with states and territories, and embodied in the SRF* (Sections 2,3 and 4), could be considered for inclusion in the ESOS Act.

* Shared Responsibility Framework: http://www.aei.gov.au/AEI/ESOS/NationalCodeExplanatoryGuide/PartB/Shared_Responsibility_Network_pdf.pdf

Recommendation/s

Amend the ESOS Act 2000 to better align its quality assurance provisions with existing QA frameworks: modify the Act to accept and integrate all other quality frameworks*, already agreed at Ministerial level.

* ESOS (National Code), AQTF, National Protocols - HE, ELICOS, Foundation, Senior Secondary and the Australian Qualifications Framework.

- vi. Where do international students' needs differ to other students, such that additional or different regulation is required?

Comments

Additional regulation is not required.

The Department of Immigration and Citizenship (DIAC) could work in a practical, deliberate manner with DEEWR on joint approaches to student compliance with their visa conditions. International students may have specific health requirements that cannot be managed if they move to Australia to study.

For example, students with special needs like mental illness, may not be adequately provided for in either DIAC visa regulations or ESOS law and/or regulations. While student health insurance needs are managed so as to not impact the public health budget, there are gaps for some individuals in terms of the services available, and the capacity of health agencies to intervene. Holistic health issues are important, in terms of onshore management of the students welfare and safety, often left entirely to the provider.

Perhaps the entry to Australia of persons with significant health issues that are invisible to the casual observer, could be reviewed by the responsible agency. The Australian health system, and provider resources in student welfare and management, are not routinely equipped to handle the special needs of people with mental health issues.

Recommendation/s

Additional regulation is not required. It is noted that DIAC officers' offshore assessment of an individual's eligibility for entry to Australia on a student visa could include a wider range of factors, other than CRICOS registration, a valid offer of enrolment and fundamental checks of health and financial capacity.

Effective regulation

vii. Is ESOS compliance and enforcement adequate?

Comments

This question and question x [ESOS support for Australia's student visa program] are related, in the eyes of providers.

Visa policy is central. Strategic coordination of the responsible agency (DIAC) and the Education agency could be improved, according to feedback from providers, who deal with student visa issues under the National Code.

Variability of approach by Regional DIAC offices, and inconsistencies with DIAC National Office policy, is frustrating many providers locally and across the country, according to anecdotal evidence. What is decided one time in respect of a student's compliance with visa conditions may not apply the next time.

It is appreciated that DIAC officials have some flexibility in interpreting their regulations, but it may help if the National Office were to compare, contrast and perhaps moderate their approach to decision making on student visa matters.

Recommendation/s

The ESOS Act is fundamentally sound in this regard.

The application of the law, and related regulations does not always occur in a coordinated manner. State and federal agencies and registering bodies must have the capacity to engage strategically and pro actively to prevent provider defaults, which put students at risk. The DIAC agency in particular may benefit from appropriate resources to allow it to engage more frequently and constructively with State/Territory authorities and DEEWR, as per the SRF.

viii. Can risk be better addressed through strengthening registration requirements and/or better targeting of compliance and enforcement action? How else can risk be managed?

Comments

Providers see a role for all governments to periodically remind providers and students of their respective rights and obligations per the National Code.

DIAC, when it issues a student visa, attaches advice on its conditions and the regulatory environment onshore. While some information is supplied at the outset, periodic reminders could be provided to students and providers through an efficient mechanism (email alerts for example). Tripartite meetings of the local registration authority, regional DIAC staff and DEEWR are very useful in sharing intelligence on providers and their clients. These meetings can address student access to timely information, which is a proactive way of managing issues around students, visas and logical, satisfactory progression through a course.

Recommendation/s

The draft legislation before federal parliament will address registration requirements, targeted compliance and enforcement. Periodic updates and reminders to providers and students about rights and responsibilities could be distributed more frequently, through efficient use of existing mechanisms.

ix. What should be the balance between a focus on inputs and prescription versus outcomes?

Comments

The balance is dependent on the sector's underpinning quality assurance framework. The VET sector is now focussed on outcomes, the schools and university sectors are largely 'self accrediting' and being publicly funded in the main, enjoy a lighter touch under the ESOS Act and the Code. Inputs and prescription have their place, to protect consumers and to provide confidence in the various sectors and in the industry as a whole.

Recommendation/s

A balanced approach is necessary. States and Territories already work together to risk manage providers and apply the appropriate regulatory response to a provider, given its context of operations (including scope, scale within an education sector.)

x. How can ESOS better support Australia's student visa program?

Comments

The ESOS Act could benefit the industry through amendments secure the environment around education provider agents. For example, ACPET report on their website that they are compiling a reputable agent register.

DIAC could provide their Migration Agents experience to DEEWR and also consult states and territories in an effort to regulate education provider agents.

Amendments to the ESOS Act could include mandatory provision of clear information on the support mechanisms available to international students, before they enter Australia and periodically thereafter.

Recommendation/s

Regulate providers' education agents, acknowledging that a model exists in the Migration Agents Register. After meeting criteria ...

Sustainability of the international education sector

- xi. What role should ESOS have in supporting the ongoing sustainability of the international education sector given the challenges it faces into the future?

Comments

States and Territories as approving authorities, providing a recommendation to the AG on provider eligibility, have a key role in the QA and regulatory cycle, but the current modus operandi of agencies at the federal level makes sustaining the sector a significant challenge.

The two Australian Government agencies [with a legal obligation to manage the international student experience] could coordinate their efforts at both strategic and operational levels. DIAC and DEEWR could make joint policy decisions in this regulatory space.

Sustaining the sector is only possible when student compliance with visa conditions and quality of provider effort are recognized as mutually inclusive issues. The CRICOS is an Australian Government instrument, supported by the states and territories.

Recommendation/s

Improved policy coordination between Australian Government agencies would add considerably to sustainability of the sector. Formalise the relationship that the SRF embodies, via sub groups under MCEEDYA, inviting the DIAC portfolio into the discourse and decision making around international education.

No amendments to the ESOS Act are needed, if it is agreed that the role of the Act is simply to regulate provision and protect student fees paid in advance.

General Comments

Thank you.