



# *Australian Education Union*

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6 November 2009

The Hon Bruce Baird  
Review of the Education Services  
for Overseas Students Act 2000

Via Email: [esosreview@deewr.gov.au](mailto:esosreview@deewr.gov.au)

Dear Mr Baird,

**Re: Australian Education Union Submission to the  
Review of the Education Services for Overseas Students Act 2000**

Please find attached a submission from the Australian Education Union (AEU) to the Review of the Education Services for Overseas Students Act 2000.

Please contact me if you have any questions in relation to this submission.

Yours sincerely,

Angelo Gavrielatos  
Federal President

# Australian Education Union

## Submission

to the

### Review of the Education Services for Overseas Students Act 2000

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- 1. 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?**

The provision of accessible quality information is essential to enable international students to make informed choices, which is a major factor in setting up a quality education experience.

Many students have been misled by education agents in key areas such as the quality of a course or a provider, the cost of living in Australia, opportunities for part-time work and employment, further study or migration outcomes. This is a recurring theme in the ongoing controversy over the situation of many international students in Australia, particularly those studying in private training colleges in the VET sector.

This highlights the need for stronger provisions in the *Education Services for Overseas Students Act 2000* and its associated legislation and regulations (ESOS Act) to ensure that students have access to quality information. The legislative provisions in the ESOS Act and its associated regulations currently govern the responsibility of education providers to overseas students who arrive in Australia on student visas. They oblige providers to give students information and prohibit the provision of false or misleading information and manage the education agents that students use. However the current situation makes it clear that these measures are not strong enough, and neither have they been adequately enforced.

Within this context, the AEU notes the Communiqué of outcomes from the International Students Roundtable held in Canberra on 14 and 15 September. We welcome the Government's statement that these outcomes will inform the development of COAG's International Students Strategy and the current review of the Education Services for Overseas Students [ESOS] Act 2000. We also welcome the commitment from Education Ministers at the inaugural meeting of the Ministerial Council on Tertiary Education and Employment [MCTEE] in Brisbane on 28 September 2009 to progress measures presented by three representatives from the Roundtable to improve the quality of the international student experience in Australia.

The current crisis highlights the unacceptability of governments and education and training providers hiding behind the defence that they are unable to control the activities of agents in other countries. Managing the education agents they use is an obligation of providers within Australia under the ESOS Act and breaches by providers can result in enforcement under the ESOS Act. In the case of a breach of the ESOS Act by providers, the Commonwealth has the power to impose sanctions such as the cancellation or suspension of CRICOS registration as well as the removal of non-compliant operators from the industry.

The International Students Roundtable identified the challenges facing international students and their experience in Australia, including pre-arrival information and visas, the quality of education, access to services, social integration, fair treatment and the cost of education. Student representatives also identified actions that the Australian and State and Territory governments, education providers and other stakeholders could take to improve international students' educational outcomes and their Australian experience.

The students recommended a number of actions, including the establishment of International Student Information Centres as one-stop shops for international students to access services vital to their education and welfare while in Australia, and an ongoing connection between the Government and representatives of international students, including an annual roundtable.

They also identified the quality and accessibility of information provided prior to the decision to study in Australia and during their studies as one of the most crucial issues facing international students. In their experience the foremost information gap to resolve is the lack of quality information provided by overseas agents.

The International Students' Roundtable recommended that before arriving in Australia, international students should receive comprehensive information in the form of a one-stop comprehensive manual (extending far beyond the obviously important issues of accommodation, safety and visa) to assist in the ease of accessible quality information, including:

- the ESOS framework and relevant regulatory bodies;
- the quality of the education provider;
- procedures for withdrawal and circumstances of termination;
- student grievance measures;

- student organisations;
- safety and security issues and provisions particular to their institution and location;
- conditions of enrolment and visa requirements;
- all costs including course-related penalties and hidden costs;
- specific programs for multicultural integration in their institution as well as in Australian society.

The Roundtable endorsed setting the receipt of such a manual as a requirement for visa permission to ensure that all prospective students receive this manual.

The International Students Roundtable recommends that the Commonwealth government collaborate with State governments to establish an international student centre in each capital city to provide advice on and referrals to basic services, as some institutions do not provide adequate student information services. They also recommend that all education providers should have an on-campus services referral desk for international students. The AEU supports these recommendations.

### **Recommendations:**

- 1.1. That the Federal Government strengthens the legislative provisions of the ESOS Act to improve the quality, accessibility and timeliness of the information provided to students.
- 1.2. That the Federal Government strengthen existing standards in the ESOS Act, and vigorously enforce its powers to cancel or suspend CRICOS registration, and remove non-compliant operators from the industry.
- 1.3. Any breaches of the ESOS Act, especially where CRICOS registration has been suspended, need to be made public.
- 1.4. That all audit reports on CRICOS registered providers be made publicly available.

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

In the event of provider closure, ESOS legislation currently ensures consumer protection where students do not receive the course for which they paid. The current assurance mechanisms in the ESOS Act – the Tuition Assurance Scheme [TAS] in the first instance and the ESOS Assurance Fund where this is unsuccessful - are designed to ensure that international students are able to continue their studies in Australia, or receive a refund of their course fees, if and when:

- the course in which they are enrolled does not commence on the agreed starting date;
- the course in which they enrolled is no longer available from the provider with whom they are enrolled; or
- the course cannot be delivered or completed because the provider has ceased to operate as a provider of education to international students.

The current legislation specifies that where a provider cannot provide a refund, eligible students must be placed in a comparable course by that provider's Tuition Assurance Scheme [TAS] and if that is not acceptable the ESOS Assurance Fund must endeavour to place the students, and failing that, may make a refund payment to students.

Existing consumer protection mechanisms to support students' interests are inadequate. The current situation has highlighted issues about the design and implementation of the ESOS Assurance Fund and its interaction with the TAS. It is unacceptable that providers are able to shirk their obligations to students from whom they have received substantial amounts of money.

In the face of the global downturn, changes to migration rules and increased government scrutiny as a result of the crisis, there is a heightened risk that more providers will be unable to deliver the courses for which they have taken money from students, with the potential for more closures. As the capacity of TAS to absorb displaced students diminishes, more students will need to be placed or refunded by the ESOS Assurance Fund.

The discussion paper raises the question of whether eligible providers will need to pay additional levies to raise the revenue for the refunds that the ESOS Assurance Fund will have to pay, which in turn raises the issue of whether the risk associated with any given provider has been adequately reflected in contributions to the TAS or the ESOS Assurance Fund.

There is no question that the onus for funding the assurance schemes rests with providers and that higher levels of levies are necessary. The levels of risk associated with a provider should be reflected in the contributions that the provider must make to any improved assurance scheme; the higher risk, the higher the contributions.

In the event of a closure, ESOS needs to strengthen its legislation to ensure that, as a minimum, the government will guarantee students a place in a public provider where there is private provider failure and a suitable alternative cannot be found through the relevant TAS. The responsibility for funding this guarantee should rest with the appropriate assurance fund.

The ESOS Act and the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students [National Code] already stipulate that providers must be able to refund monies paid in the event of provider collapse and must be members of a TAS to allow students to continue their studies at another Australian institution. Compliance is legally enforceable. It is crucial that there be effective regulatory mechanism in place which ensure 'consumer protection' for international students and it is not acceptable for governments to hide behind the 'independence' of the TASs.

There is a lack of clarity in relation to processes around provider closure. The NTEU pointed out in its submission to the Senate Inquiry into the Welfare of International Students that there are significant difficulties in understanding/clarifying how the assurance mechanisms within the ESOS framework actually operate in the absence of clear directions within the legislation or by relevant government agencies and TAS operators, and these need to be urgently addressed.

### **Recommendations:**

- 2.1. Levels of contribution to the TAS or the ESOS Assurance Fund, which protect students in the case of provider closure, should reflect the level of risk associated with the provider. In the event of a closure where no acceptable alternative placement can be found, the government should guarantee students a place in a public provider. The onus for funding of this guarantee should rest with appropriate assurance fund.
- 2.2. Assurance funds must be required to notify relevant authorities immediately if a provider defaults on a payment to the fund.
- 2.3. Providers which default on their payment of premiums should face immediate suspension of registration, and an audit.
- 2.4. This Review needs to closely examine cases where international students have been denied the opportunity to transfer to a provider of their choice on the grounds that the provider was not a member of the TAS of which the original provider was a member.

### **3. Are different mechanisms needed to support international students to resolve complaints effectively? Are additional complaint mechanisms needed?**

The current ESOS Act does not establish an advocacy or conciliator role to address student complaints. This would appear to be at odds with one of the principle purposes of ESOS: to provide ‘consumer protection’ to international students.

The current situation highlights the inadequacy of the current ESOS legislation in meeting its responsibility to put in place effective legislative provisions to ensure detailed complaints handling procedures to protect international students.

The AEU supports the need for the establishment of a new mechanism to investigate and resolve student’s complaints and to support students through the process. International students are entitled to fair treatment and protection from exploitation by poor quality agents, education providers and exploitative employers. The Review should strongly recommend the creation of an independent body for international students to advocate for students and address their complaints. This would provide a single point to which international students could direct all inquiries and/or complaints and receive the appropriate assistance and support.

The current standard says that students should have access to grievance services at little or no cost. This must be changed to ensure providers meet the full costs and ensure students have access to genuinely independent advice and advocacy.

Providers should be required to report to the relevant regulatory authority on the number of student complaints and outcomes.

#### **Recommendations:**

- 3.1. A formal and independent mechanism should be established to investigate and resolve student complaints, including appropriate student support to assist students through the process.
- 3.2. Providers should be required to report to the relevant regulatory authority the number of student complaints and the outcomes of these complaints.

### **4. Should an international student’s ability to change their education provider be limited, if so in what way?**

The ESOS Act imposes a restriction on changing to another education provider and the discussion paper notes that no such restriction applies to Australian students. Given the particular circumstances of international students and the exploitative situation in which many have found themselves, this seems, on the face of it, to be unfair.

It is clear that the reasons which international students give for wishing to change providers, most frequently dissatisfaction with a course or provider, would be substantially minimised by the provision of better quality information about courses and providers in the first instance, and by a stronger and better complaints mechanism, as we have argued earlier.

It is clear that there is the potential for rorting of the system by private providers and their agents who unscrupulously trawl for students to change providers by offering inducements.

Quality education and training requires stable resourcing and the ability to be able to plan beyond the immediate, and the impact of sudden withdrawals of students has the potential to create havoc for resourcing and planning, which must be taken into account in any decisions in this regard.

### **Recommendation:**

- 4.1. The current six month time period that students must serve before they can change provider should be reviewed. Any moves to change this must take into account genuine complaints from students about the quality of education they are receiving, but also the need for certainty and security of budgetary and planning processes for providers. More transparent processes for investigating complaints need to be established.

## **5. How can the intersection between ESOS and the underpinning education quality assurance frameworks be improved?**

Without effective education quality assurance frameworks, ESOS is simply unable to fulfil one of the core purposes for which the legislation was implemented, namely the protection and enhancement of Australia's reputation for quality education and training services, and the related objective of ensuring that international students in Australia are treated with equity and fairness.

The current crisis has the potential to damage Australia's international reputation, cause adverse consequences for international competitiveness and threaten the high demand for Australian trained graduates in the global labour market.

It is noteworthy that the *Education Services for Overseas Students Legislation Amendment Bill 2007*, following the 2004-2005 Review, made changes to ESOS with the express intention of *clarifying* the actual allocation of roles and responsibilities of the Australian government and state and territory governments and relevant authorities in relation to investigating breaches of the National Code and its quality assurance mechanisms.

This was intended to put all providers and government authorities involved in the education services industry on notice regarding their obligations to the sector as a whole in order to maintain and enforce high standards of both education provision and compliance with migration laws. It was said at the time that the failure of either providers or government departments to fulfil their role within the ESOS regime put the viability of other providers and ultimately the success of a multibillion dollar export industry at risk.

The failure of that legislative process to deliver on those objectives and insights is manifest in the current situation.

The discussion paper notes that the current quality assurance frameworks for education and training services in Australia apply to the provision of services for both Australian and international students, and the establishment of the Tertiary Education Quality and Standards Agency (TEQSA) to bring together the regulatory and quality assurance functions across both universities and private providers in the higher education sector. TEQSA will have the responsibility to accredit, monitor and enforce compliance of higher education providers against the National Protocols and elements of ESOS.

In light of the current situation with regard to international students in the private VET sector, the area in which most of the problems which are currently bringing Australia's reputation into disrepute, the AEU sees the need for similar approach towards the development of a national VET regulatory body and a similar focus on accreditation and monitoring with strengthened compliance and enforcement capabilities, coupled with the provision of more information to students and the community on sanction mechanisms and quality.

As part of this process the government must guarantee adequate resources to ensure that this body is able to fulfil the functions required of it, as it is demonstrably clear that inadequate resourcing is one of the factors in the failure of the current system.

### **Recommendation:**

- 5.1. That the Review recommend the formation of an adequately resourced single national authority to bring together the regulatory and quality assurance frameworks of VET providers and provide tougher enforceable quality assurance frameworks.

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

The fundamental aims of regulation in the delivery of education and training services to all students are to ensure quality, equity and fairness, and protection from exploitation. This should be the cornerstone of any quality assurance framework.

The current situation with regard to international students in the private VET sector highlights the potential for poor quality provision, corruption, inequity, exploitation, where the pursuit of profit becomes the primary objective motivating education providers.

As the international students who attended the International Students' Roundtable have said:

*Resonating with the Australian ethic of "fair-go", the Roundtable wants fair and equal treatment for international students. Simply put, this means protection from exploitation, acknowledgement of the value international students provide to Australian society (in addition to the economic benefit), and the streamlining and improvement of the necessary administrative procedures which accompany our study.*

With particular regard to ESOS, however, there is an added component to this question of students' need in relation to international students.

ESOS relates specifically to the provision of education and training to overseas students who arrive in Australia on student visas which have conditions which must be satisfied. The intersection between education and immigration issues raises particular questions where the question of regulation is concerned.

The fact that international students who are recruited and enrolled by education providers are in Australia on student visas means that education providers are required to accept responsibility for the educational outcomes of these students. Under the ESOS regime those education outcomes are important not only in discharging the provider's responsibility to the student as a consumer of education services but also in discharging the responsibilities of both the provider and the student to compliance with visa related matters.

### **Recommendations:**

- 6.1. All providers, as a condition of registration for international provision should be required to demonstrate a history of provision in the domestic market, and all courses, where practicable, should be run for domestic and international students concurrently.
- 6.2. All providers, as a condition of registration, should be required to provide comprehensive student welfare and support services, and audit processes should highlight the crucial importance of this.

## 7. Is ESOS compliance and enforcement adequate?

The current ESOS compliance and enforcement framework and mechanisms are inadequate.

To reiterate:

- Many of the problems that have emerged in the international student sector are due to the rampant and unchecked privatisation of the sector;
- vocational education has been corrupted by shonky private operators using the lure of permanent residency to pursue profits. They have been allowed to prey on those who sought skills and a better life in Australia;
- there is sufficient evidence to suggest that much of the activity by private operators in the VET sector with regard to international student is fraudulent and/or criminal;
- there is no clearer indication of the failure of the existing regulatory structure than the fact that it is only recently that the Federal Government has moved to make it a condition of registration that the principal purpose of a provider is education and that providers will for the first time be required to demonstrate a capacity to provide education of a satisfactory standard. This makes a mockery of repeated claims by both Federal and state government that the ESOS regime is working well;
- the regulatory structure governing the provision of training and education to international students should be completely overhauled. The purpose of that overhaul should be to put in place a system which has at its heart ensuring high quality standards of education and training for every student;
- the focus, at this crucial time, has to be about getting the whole ESOS framework right. There is simply no point in more and more regulation without the commitment from the federal government to enforce its powers under ESOS;
- there is an administrative burden for providers in many of the ESOS requirements and it is essential to the integrity of the system, and the needs of genuine providers, that the cost to them is worth it by enforcing compliance requirements and keeping unscrupulous providers out of the industry.

There has been evidence for a number of years of students being ripped off by unscrupulous private providers. For example, in June 2005 the Attorney-General presented a report to parliament which highlighted that there was little evidence to show that [then] DEST was proactively protecting students and the international education industry from unscrupulous providers. It is time for governments to stop paying lip-service to regulating the industry and adopt a rigorous approach to the whole question of compliance and enforcement.

## **Recommendations:**

- 7.1. The regulatory structures governing the provision of training and education to international students needs to be completely overhauled to ensure that the provision of high quality education rather than profit is the central focus of the system.
- 7.2. Governments need to provide adequate resources for genuine auditing against high standards of all providers.
- 7.3. The outcomes of audits need to be made publicly available.

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

The foundation of an effective framework to govern the delivery of quality education and training must be strong registration requirements.

The AEU supports the establishment of a single national regulatory authority with responsibility for developing and administering a new National Code which actually lives up to its requirement of guaranteeing quality education and training.

The current situation is a culmination of years of failure to deal with a situation where various levels of ‘cooperative’ arrangements between federal and state/territory governments and authorities has allowed abuses in the private training sector to flourish.

The current situation where “historically” registration for international education and training providers relies on state/territory registration processes , allows the Commonwealth to claim (when it suits them) that it has limited scope for excluding poor quality providers from entering international education once they have passed through state/territory processes.

That the so-called ‘cooperative regulatory regime’ has failed is self-evident. Despite years of rhetoric and about strengthening the ESOS regime and clarifying the respective Federal and State/Territory responsibilities to date there has been a marked unwillingness to accept responsibility for the failure to systematically take effective action to rid the industry of known providers whose practices range from unscrupulous to criminal.

It beggars belief that there is currently no ESOS requirement on registration relating to the financial capacity of the education provider nor ongoing monitoring of financial viability. The question of facilities is a central aspect of financial viability and it is well-known within the industry, and now publicly, that many of the promises about facilities made to prospective students by providers and their agents are demonstrably untrue.

While strong registration requirements are an essential and non-negotiable foundation, any effective framework to govern the delivery of quality education and training must build on this foundation with complementary compliance mechanisms which are properly enforced. There are a raft of sanctions the government can apply against errant providers but it has persistently declined to do so.

The failures of the 'risk management' approach which allegedly targets high risk providers and enables regulators to target resources to problem areas are manifest.

During discussions on the recent amendments to the ESOS Act, the government acknowledged that there would be a financial impact associated with the amendments, in particular in relation to the re-registration process. The Government said that additional resources would be met from existing funding, but also suggested that the financial impact would be reduced by States and Territories through risk management approaches, and the redirection of existing resources.

The issue of adequate resourcing of state and territory agencies charged with the responsibility of registering and auditing international education providers has been highlighted by a number of stakeholders throughout the current debate. Requiring a wholesale re-registration of all providers will not serve its intended purpose if governments fail to provide adequate resources to ensure that such processes are effective.

The discussion paper itself notes the inability of current compliance regime to appropriately police the sector or the efficacy of actions taken. It shows that in 2007-08 DEEWR undertook 48 compliance monitoring visits, issued 55 enforcement notices, placed conditions of registration on six providers and cancelled one provider's registration. That this was totally inadequate is shown by the results of fast-tracked audit procedures, and private training college closures, as a result of the increased scrutiny forced on several states by the current intense public focus on the issue.

In short, enforcement powers have been exercised too infrequently and often with little effect. To end the culture of secrecy in the industry, all audit reports of the regulator should be made public. The community should not have to rely on the media to force the level of public attention that has resulted in, among other things, this review.

### **Recommendations:**

- 8.1. A registration system which clearly reflects the risk factors of private organisations should be implemented;

- 8.2. A demonstrated capacity to deliver quality education must be a fundamental condition of initial registration. Providers should have a track record in successfully delivering quality programs to domestic students and be continuing to do so. This would ensure a much greater knowledge and understanding of the Australian vocational education sector and a genuinely culturally rich and diverse experience for international (and domestic) students. It would also serve to mitigate against the ‘ghettoisation’ of the provision of education to international students and the continuing proliferation of unscrupulous operators looking to target international students for profit;
- 8.3. Initial registration needs to be more rigorously enforced, including compulsory site visits, proper examination of financial records, educational qualifications of staff, and student facilities;
- 8.4. Providers must be required to demonstrate financial viability as a condition of registration, and:
- have adequate staff to student ratios and delivers accredited courses;
  - employ only teachers with a teaching qualification. All teachers who work in the VET sector, both domestic and international, should have a teaching qualification. It is not acceptable for a VET system which delivers qualifications and establishes standards to allow such low standards for the workforce in one area of its activity. Managers of training colleges should also be required to hold educational qualifications;
  - Show their capacity to provide student support services commensurate with the scale of their operation, with the minimum required level of provision to be specified in greater detail. This includes welfare (housing, medical, social), but also educational support including language and literacy support, career guidance, and access to libraries and other necessary study materials, study areas and appropriate technology.

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

The rationale for the emphasis in recent years on ‘outcomes measures’ and movement away from ‘input controls’ is that it facilitates the delivery of high-quality outcomes and increased accountability for outcomes.

It is difficult to see how the current situation regarding the delivery of outcomes to many international students in the private VET sector bears this out.

The focus in the provision of education to international students has to be about getting the processes *right*; about being sure that what is measured is not just outcomes in terms of quantity, but rather an ethos within providers which focuses on delivering genuine education and training rather than the pursuit of profit, and an educational and social focus for students.

No amount of auditing will address the problems which beset the sector if Governments are not setting tough standards and measuring and auditing the right things.

The process of determining the balance between ‘inputs’ and ‘outcomes’ in an effective regulatory framework based on entry (registration), compliance monitoring and enforcement, should not be driven by an ideological attachment to either an ‘inputs’ focus or an ‘outcomes’ focus. Rather it should be driven by what balance best supports the right of all students to quality education and training provision based on principles of equity and access and minimises the possibility of corruption and exploitation. An overly outcomes based auditing process exposes students to risk where a provider is failing. It can also provide opportunities for inadequate scrutiny of facilities and resources.

### **Recommendation:**

- 9.1. Auditing should not be outcomes based alone, but a mix of inputs and outcomes. Outcomes based auditing leaves the auditing process too late for students when the college is failing, and it encourages aberrant behaviour.

## **10. How can ESOS better support Australia’s student visa program?**

We have referred earlier to the nexus between ESOS and Australia’s student visa program. In actuality it is not so much a question of better supporting it but rather fulfilling the obligations of the current regulatory regime for international education - the ESOS Act, complementary Acts, ESOS regulations and the National Code - the set of nationally consistent standards that govern the protection of overseas students and delivery of courses to those students by providers registered on the Commonwealth Register of Institutions and Courses for Overseas Students [CRICOS].

It is a requirement that all providers must comply with the National Code and the Act, and key components of the regulatory framework require that providers must be registered with CRICOS; must refrain from misleading and deceptive recruiting practices; must report student breaches of visa conditions; and must disclose previous breaches by the provider.

In the case of a breach of the ESOS Act by providers, the Commonwealth has the power to impose sanctions such as the cancellation or suspension of CRICOS registration, as well as the removal of non-compliant operators from the industry.

The independent evaluation of the ESOS legislation in 2004-2005 addressed quality assurance, consumer protection, migration policy and administration matters. The 2007 review evaluation report stressed the need to protect Australia's international reputation as provider of high quality education and training through nationally consistent standards and avoid the presence in the industry of providers which lack integrity and/or who facilitate breaches of student visa conditions.

The limitations of the 2000 legislation were recognised and 41 recommendations for improving the effectiveness of ESOS were made, some of which were implemented in amendments to the ESOS framework in 2007. Subsequent consultation with States and Territories and representatives of industry and student bodies led to substantial revisions of the National Code, with the National Code 2007 coming into force on 1 July 2007.

One of the key objects of the *Education Services for Overseas Students Legislation Amendment Bill 2007* was to complement Australia's migration laws and it laid down requirements in this regard.

Research, such as that by Bob Birrell from Monash University suggests that one of the drivers for the explosion in vocational college enrolments over recent years has been the lure of permanent residence or entry into the Australian labour market.<sup>1</sup> Unfortunately this has seen a number of immigration scams and unscrupulous providers more interested in providing an easy path to permanent residency rather than quality education and training. Some of the practices associated with these developments include students being told to take holidays, and not come to school but being marked as present.<sup>2</sup>

Many students are upfront about their desire to get permanent residency, but they've also paid for an international standard education, at much higher fees than those charged to domestic students. In the current climate, students are fearful of taking up complaints because of their visa status and claim for permanent residency. While this is clearly undesirable, there does seem to be a high degree of hypocrisy in targeting students when governments and regulatory authorities are allowing these practices to occur and failing to fulfil *their* legal obligations.

### **Recommendation:**

10.1. Government needs to examine effective ways of protecting the educational integrity of the vocational education sector. Much of the unscrupulous behaviour derives from the link between migration and education. One possible avenue to examine could be the insertion of a link between employment in the field that a student has studied, and residency. This would encourage a more direct relationship between the vocational education undertaken, and employment, and also encourage greater cooperation and partnerships between education providers and industry.

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<sup>1</sup> Birrell, Healy and Kinnaird 'Cooks Galore and hairdressers Aplenty' *People and Place* 15.1 (April 2007):30(15); Birrell, Healy and Kinnaird, 'The Cooking-Immigration Nexus' *People and Place* Vol 17, no 1, 2009

<sup>2</sup> (House) Hansard March 29, 2007 pp 50-52; (Senate) Hansard May 10, 2007 pp62-63

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

If the root causes of the current crisis in provision of education to international students are not adequately addressed by governments what is at stake is further damage to Australia's reputation as a quality provider of education, the decline of our third largest export industry and poor outcomes for thousands of students who have chosen to study here.

By failing to deal with the myriad problems which have led to this review, governments have failed to maintain educational quality and to ensure that international students have a rich and diverse learning experience. It has become increasingly obvious that the failure to address problems in the international education sector has led to students enduring poverty, exploitative work and physical attack.

The ethos of the market and the primacy of competition has contributed as much as the faulty and ineffective regulatory regime which sees neither the Commonwealth government nor the States and Territories ready to accept responsibility for its flaws, and a culture which has failed to support and empower those who have raised concerns.

The failures in the system point to the urgent need to bolster the regulatory system to prevent the registration of those with no experience or expertise in education and who want only to use training as a way to make profits.

In the culture that has developed, no amount of auditing will solve the problems in the industry when educational quality is not the explicit focus.

Allowing the private training sector to flourish without adequate rigour in registration, auditing, monitoring and compliance enforcement has led to a situation which has undermined TAFE, the public provider of quality training, and forced cost-cutting and casualisation of the workforce in a bid to compete on price.

Since the original inception of ESOS in 1991 its underpinning aims have been to:

- ensure that international students in Australia are treated with equity and fairness;
- provide a positive basis for promoting Australia's international reputation as a provider of reliable high quality education and training;
- ensure that taxpayers' funds are not required to recompense international students who may have been let down by individual education and training providers;
- complement Australia's migration laws by ensuring compliance in the international education market with the administration of the law relating to student visas.

International students and the international education and training sector, as well as Australia's international reputation, are paying the price for the failure of governments to adequately implement the ESOS regime and its legislative provisions and requirements over the years.