

# REVIEW OF ESOS ACT BOND UNIVERSITY SUBMISSION

## Institution / organisation

Name: Bond University  
Sector: Higher Education

## 1. Supporting the interests of students

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**Qi.(Part one)** *How can the quality and accessibility of reliable information be improved?*

### **Comments:**

Most providers have developed informative web sites as part of their marketing/student recruitment materials. Government might provide guidelines for or even specify the content which should be provided on such websites, regarding accommodation, living costs and other relevant conditions.

As information such as climate, rental costs and availability, access to public transport and general cost of living do vary significantly from State to State, and in many cases, city to city it is unrealistic to expect Government to create and maintain an accurate and informative site which provides authoritative information about all potential student destinations within Australia. It would be far more effective to ask providers to make sure that that information is available on their sites and for DEEWR to incorporate links to those institutional web sites in their Government advisory site. Ideally all CRICOS registered providers should be offered the opportunity to participate in such an arrangement.

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**Qi (Part Two)** *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 expectations of Government in this regard are sufficiently clear in the existing guidelines and National Code and a hardening of the regulatory requirements is unlikely to do much more than further inconvenience reputable providers who are trying to ensure that they, and their agents, are fully compliant.

One possible solution might be the creation of a national International Student Ombudsman or Student Complaints Authority with that office empowered to investigate complaints; to require remedial action on the part of a provider and to report to DEEWR about non-compliant behaviour by providers. For this to be effective DEEWR would also need to be able and willing to act via the imposition of some penalty or similar measure to require a provider to correct a deficiency within a certain time frame, or run the risk of public censure and even deregistration.

### **Recommendation/s**

The reliability and accessibility of information might be best handled via the web based solution outlined above and we recommend that this possibility be investigated. It would of course be necessary to ensure that information was factual.

The ESOS Act and the National Code provide the standards with which providers and their agents should comply. The issue is rather one of monitoring compliance and of having in place a capacity at either State or Commonwealth level to respond appropriately when standards are deliberately flouted or ignored, or when a provider is manifestly unable to meet the standards set out in the legislation.

All too often legislation is written to try and regulate the behaviour of a small minority of providers who, arguably, should not be permitted to operate. Regulating at this level is a positive hindrance to the overwhelming majority of responsible providers.

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

### **Comments:**

It is clear to Bond University and many other private higher education providers that the current reliance on the Tertiary Assurance Scheme model as a consumer protection solution is deeply flawed. That is not to say that private providers are not painfully aware of the reputational damage that can be inflicted on the Australian Education system, and on the popularity of Australia as a destination for international students by the actions of an irresponsible few, who care little for their product or for their students, and too much for short term profit.

To require at the level of a self accrediting university like Bond and Notre Dame the same level of regulatory control as is applied to a small for profit RTO, which is largely focussed on exploiting current skilled migration policy, does not make a lot of sense. The scale of investment in facilities and staffing is at a totally different level, as is the focus on long term commitment to the industry.

The current regulatory environment has been created essentially as a one size fits all solution on the basis of recommendations made by Phillips KPA several years ago. Unfortunately these recommendations did not take into account the important variable of risk.

### **Recommendations:**

1. Providers should be required to have in place course assurance agreements which guarantee the placement of students, with advanced standing for completed subjects, in comparable courses in comparable institutions.

Bond had such arrangements in place with the University of Queensland but Government preference was for membership of an "approved" TAS which has no such arrangements in place and a limited capacity to create or negotiate them. The financial differential between a responsible alternative and the "approved" TAS were such that there was really no choice.

2. State and Federal education authorities have a far greater responsibility than they seem prepared to acknowledge or to accept for monitoring the behaviour and financial performance of less reliable private providers. It should be an easily accessed matter of record whether a provider has exceeded the number of enrolments for which they are

registered in a course. The number of student visas issued would clearly demonstrate where this had occurred. It should also be relatively simple to check on the current financial status of a provider via a more rigorous and regulated financial reporting regime.

3. State and Federal authorities should either work more cooperatively together or control should be ceded to the Commonwealth, along with the capacity and the will to act in cases where providers are not compliant. There is no evidence of this sort of intervention occurring at a time which would have either reformed the behaviour of a provider or which would have averted failure and the considerable cost and reputational damage associated with failure.
4. The creation of a national Student Complaints Authority would also provide Government with an early warning device which would help to identify a provider who was either failing to deliver as required or being irresponsible about the financial responsibilities which go with providing full-fee education to students.
5. The notion of fee assurance or fee guarantee is a major problem. While reputable higher education providers with a track record may be able to secure insurance - at a price - because of the low risk assessment born of decades of responsible behaviour, many of the smaller RTO's may be in a position where insolvency insurance is simply unobtainable. ACPET appears to be having exactly this problem at the moment. If financial assurance is considered to be an inescapable requirement and obligation, then it should be Government controlled and funded via levies or membership fees paid annually. These levies should not be assessed on size or turnover alone. The fees should also be assessed by a realistic assessment of risk by the fund, such that potentially non viable providers are put into the position of having to make a significant investment to enter the market.

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

**Comments:**

See the suggestions made above for the formation of a National Student Complaints Authority.

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

**Comments:**

The primary issue is providers being able to recoup their investment in student recruitment and to avoid the poaching of students by other providers who offer lower cost courses with similar nomenclature. International students are not always well informed about provider reputation and can form a view that one provider is as good as another. While that may often be true, it is not always the case and it is not good for the industry to have to tolerate this sort of unprincipled behaviour. A minimum period within which transfer is not normally permitted should therefore be stipulated.

**Recommendation/s**

The current requirement that a student should be required to stay with their original provider for a period of 6 months is probably about right, with provision for provider discretion to be exercised where release is clearly in the best interests of the student. However there are providers who actively poach students from other providers and do so on the basis of exploitation of student naivety.

## 2. Delivering quality as the cornerstone of Australian education

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

**Comments:**

Ensuring minimum standards of student support is a separate issue to establishing a quality assurance framework for the quality of the educational product which is delivered. However TEQSA might, as AUQA has done in the past, also scrutinise the quality not only of the education provided, but also of the support services, which are made available to students by a provider and also ESOS and National Code compliance.

**Recommendation/s**

- Use TEQSA as an opportunity to develop a single quality authority rather than to create a series of different entities to audit compliance.
- Try and avoid an even more onerous compliance load upon providers by instead using current compliance measures to ascertain where problems exist, and then intervening decisively in the overall interests of the industry.
- There is significant inconsistency in the stipulation of the minimum level of English competence required for courses which are supposedly comparable, but offered by different providers. The quality of educational products would improve if minimum standards were specified for entry to different courses, in line with AQF definitions.

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

**Comments:**

This question in itself perhaps demonstrates a lack of understanding of the complexity of the international education market. Western European and North American students are probably as well informed about educational expectations as their Australian counterparts and in some cases they are better at demanding their rights. This is also increasingly the case with many university level students recruited from China.

The reality is that, at Bond alone, there are typically more than 80 nationalities represented in the student population in any one semester. Many students are recruited from countries where the level of sophistication of expectation is still developing and many of these students are naive in their expectations and quite vulnerable to exploitation.

There are myriad problems to contemplate. Some students expect their providers to either provide accommodation or to find it for them. Some expect the provision of part-time employment and make their decision to enrol overseas on the assumption that this potential income can be factored into their cost of living budgeting. There is an ignorance of traffic laws, of Australian consumer protection laws in dealing with the sellers of services and products in the surrounding community, of Rental Tenancy provisions and protection. And often there is a chasm in cultural understanding.

It falls on most providers to recognize these deficiencies and to act to address them via the provision of appropriate information and guidance.

Because of the naivety of some groups of students the earlier suggestion of a National Students Complaints Authority should be contemplated.

#### **Recommendation/s**

- Perhaps information made available by the Government should address in a more meaningful and comprehensive way some of these basic issues, while relying on providers to make available more specific and detailed information about their particular region such as climate, living costs, housing and transport.
- Providers should be required to ensure that they provide appropriate information at Orientation and also on an ongoing basis for incoming international students.

### **3. Effective regulation**

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**Q vii. Is ESOS compliance and enforcement adequate?**

#### **Comments:**

The current Code is the product of an external bureaucratic review which provided what is essentially a one size fits all compliance framework. Many older and well established providers would claim that the requirements are sometimes onerous, even irrational. However none would argue against the importance of student welfare and adequate consumer protection. The provisions of the current compliance framework should not become even more complex and demanding.

However enforcement leaves much to be desired, both at State and Commonwealth level (See response to Q 2.).

#### **Recommendation/s:**

- Avoid further and more complex regulation. The Act and the National Code probably don't require further amendment or provision of detailed compliance obligations. Some 'tweaking' however may be justified. However please do this in proper consultation with the providers this time.
- There must however be a more realistic approach to enforcement and to appropriate corrective action, either at a State or preferably at a Commonwealth level. (see recommendations made in response to Q 2.)

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**Q 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:**

Risk management really comes down to the enforcement of compliance, which, as already suggested, is deficient, and adequate consumer protection measures. It has also been suggested in earlier responses that the current reliance on basically one TAS scheme to achieve a risk response is an unrealistic expectation.

Immigration policy, specifically skilled migration policy, plays a role in encouraging inexperienced and opportunistic providers to enter the industry for the wrong reasons and for international students to also enrol with the primary or sole objective of securing permanent residency in Australia. This nexus needs to be broken and immigration policy needs to be developed with a greater awareness of the consequences which flow from it.

**Recommendation/s:**

- Delink student visa issue policy and immigration policy;
- Look to mechanisms which require greater and more considered commitment from new providers via initial risk assessment as part of a national Financial assurance scheme, designed to build up a capability to respond to failure (see responses to Q ii);
- Require providers to establish agreements with other providers which provide realistic course assurance options.

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

**Comments:**

From a higher education perspective the focus should really be on outcomes, however this question overlaps with the earlier one dealing with quality.

For some sectors of the industry perhaps input and control measures are as valid, and in some cases even more so. There should be a sensible balance which recognizes the particular needs of the relevant part of the education sector. For example English language training is quite a different industry to tertiary degree study, yet the relevant industry body maintains a strong commitment from its member institutions to well regulated and responsible behaviour.

Is it necessary therefore to require that industry to police attendance as rigorously as is currently the case, when a more outcomes based approach might be a less disruptive way of achieving the same outcomes?

On the other hand we know that there are other providers who have little concern either for compliance or for outcomes and there does need to be some form of check mechanism for these.

**Recommendation/s:**

- look to other indicators for lower risk providers;
- retain appropriate controls for providers who are considered medium to high risk
- recognise that there is a disparity between the expectations of public and private higher education providers and that the playing field is far from level.

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

**Comments:**

- There should be some form of consultative mechanism which enables DIAC to take advice from providers before embarking on policy changes. Exchange between the two bureaucracies is clearly insufficient to appreciate the possible impact of policy.
- Perhaps the real question is "what are the objectives of the Australian student visa program?" Are they simply a part of the overall immigration program or rather a means of properly controlling incoming students who are coming to study and not to seek PR points?

**Recommendation/s**

- Disconnect MODL assessments and PR points from what was intended to be a superior quality, well controlled export education initiative.
- Continue to have appropriate dialogue with the peak bodies who represent those who deliver the product and listen to the inputs.

**4. Sustainability of the international education sector**

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*Q 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:**

- Arguably the most important aspect of preserving a market position built on reputation and quality, is to protect that reputation from the greedy few who don't care about taking risks which could damage an entire industry. The legislative framework needs to enable that to be done more effectively than is the case now.
- The Act and National Code need to provide a framework and an authority for Government to monitor the behaviour of providers who are potentially problematic, and to intervene decisively when there is a problem. For some reason, whether it be State or Commonwealth confusion about jurisdiction, or unwillingness to excite litigation, this is a feature of the current ESOS environment which concerns almost every reputable provider.
- Legislation should not stifle initiative, nor should it be so onerous as to place a market disadvantage on reputable and low risk private providers when compared with public providers. But risk must be realistically assessed and prompt action taken where it is needed.
- the focus of both the Act and the National Code is biased toward process and not on whether a quality educational product is being delivered. If it is accepted that the latter is a primary objective, it must also be accepted that auditing outcomes and not inputs or processes is the most appropriate path for ensuring quality in the Australian education industry

**Recommendation/s:**

- As suggested by the Bradley Review, create a national independent regulatory body to regulate the international education sector, and that the regulatory body be accountable to Government and to providers.