

Appendix B

Submission template

Please note that the Department reserves the right to publish any written submission received in the course of this consultation process.

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

The Australian Government reserves the right to accept or refuse a request to treat information as confidential. 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 (only the name of the institution or individual providing the submission will be made public):

Institution / organisation

Name (will be made public unless requested otherwise and agreed):

CHARLES DARWIN UNIVERSITY

Sector:

HIGHER ED AND VET

Prepared by:

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

Contact details:

Student / individual

Name (will be made public unless requested otherwise and agreed):

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 ESOS legislation and National Code are unequivocal in the requirements of institutions with respect to timely and accurate information to prospective and continuing international students. The majority of private providers take the legislation very seriously and appreciate the protection it provides for the long term sustainability and the integrity of international education in Australia. The majority are at pains to ensure we comply with the legislation both in terms of the information distribution to students and also in the continuous training and management of our registered agents with respect to the recruitment and counselling they do on our behalf.

The problems lie with the failure of the State authorities to implement and enforce the legislation which has allowed relatively some institutions and their agents to disregard the legislation and escape without penalty, despite the complaints from other providers to state authorities. These relatively few operators are known to the authorities and have been opportunistic in exploiting the migration and PR demand and the weak compliance enforcement environment. Some of these providers have flourished despite a limited background in the education and the industry; especially evident in the VET private sector.

Recommendation/s

Currently legislations and regulations should be enforced with adequate resources. New registered providers should have a 2 years probationary period during which they must be rigorously monitored to ensure they are compliant with all aspects of the legislation. A financial guarantee should be part of the registration process for new providers. State authorities with deep local knowledge should conduct the compliance monitoring and be properly qualified and resourced to do so.

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

Comments

The risk profile of the sector has changed because of several factors. One, the sudden increase over recent years in opportunistic new providers with no previous experience in international education and no interest in the long term viability of the industry and no rigorous investigation of their financial status. Two, the dramatic rate of growth in international students in Australia, from India and China most markedly and with very large concentrations of one or two dominant nationalities in Melbourne and Sydney. Too many international students, too quickly in too few cities. Third, is the explosion of branch campuses in the eastern cities which have served as commercial enterprises dominated by single nation international enrolments and not domestic enrolments.

The risk is obviously higher for private providers than for government owned providers. Contributions to the TAS should reflect the risk differential for new and for private Providers. It is unreasonable to expect well established and reputable state and private low risk providers to cover the losses of high risk providers.

Recommendation/s

1. New providers during their probationary period should have a financial guarantee to cover default and also pay a higher contribution to TAS as a reflection of the increased risk they bring.
2. A thorough registration process for branch campuses along the lines suggested for new providers entering the international education sector for the first time.
2. Swift and thorough investigation of complaints to minimise risk of major default.

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

Comments

The current mechanisms appear to work and the role of the ombudsman ensures that the students have an independent advocate. International students warrant special consideration for the resolution of complaints and an independent national body might be the vehicle to guarantee standard and objective treatment

Recommendation/s

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

Comments

Students make wrong decisions even when they have the best of information; and their personal circumstances do change. They should be free to change when circumstances allow. There should be financial penalties to the student to discourage flippant changes of provider. Our refund policies cover us for such situations.

The activities of disreputable agents who actively try to poach students could be curtailed if providers refused to pay a commission to an agent where a student is transferring. from another provider for whatever reason.

Recommendation/s

1. allow students to change providers for genuine reasons, with a financial penalty in terms of a % of the tuition fee.
2. providers should not pay commission to an agent who assists a transferring student.
3. Australian legislation should penalise agents operating in Australia who engage in poaching

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 quality assurance frameworks for both VET and HE are adequate and are relevant for all students not just international students.

ESOS regulates who can be a registered provider and should deliver QA through a more rigorous registration process of new providers entering the industry, and branch campuses, with a minimum 2 years experience in the domestic market as a guarantee of bona fides, evidence of a recruitment strategy and business plan to recruit from more than 2 countries, as well as a thorough inspection of premises prior to registration and throughout the first two years of their probationary period. This would at least ensure that international students would be taught alongside domestic students and that more than one country constitutes the international student population.

Providers who limit recruitment to one of two countries should have their registration revoked.

The current registration process allows disreputable providers access to an industry built by established reputable providers.

Recommendation/s

Tighter registration process for new providers into the market and branch campuses, with strict enforcement of probationary period requirements.

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

Comments

There is no need for additional or different legislation to ensure quality of education, this is best left to the education providers once they are Registered and are monitored for compliance.

Recommendation/s

Effective regulation

vii. Is ESOS compliance and enforcement adequate?

Comments

The majority of providers comply diligently with ESOS and appreciate the value that the legislation affords for the long term viability and integrity of the industry and protection of students. It is infuriating for us to see disreputable providers threaten this industry and to witness the lack of will and interest on the part of state and federal authorities to enforce the legislation and rather to pass the buck and dodge responsibility.

Appropriate responsibility and lines of authority and action has to be sorted out and if that means changing the legislation to establish clear responsibilities then do it.

More regulation is not necessary; we need a commitment from the authorities to enforce the legislation and to penalise those who are not compliant

I share this example: My University is at 90% of its CRICOS registered international student capacity; the number ,550 was established almost 10 years ago. Earlier this year in March an alert appeared on PRISMS to indicate we are at 90% capacity and since then all our efforts to increase the capacity have come to nought. The paperwork sits somewhere in Canberra, so we have been advised by the NT state CRICOS manager. Meanwhile we have been advised to just keep issuing COES; and disregard the alerts on PRISMS. What message does that send? What confidence does that give in the authorities will or interest to apply the legislation? This is why private RTOs registered for several hundred students have exceeded enrolments by thousands!!

It is especially disappointing in this context to see that the proposed review and establishment of new national benchmarks for Section B of the National Code in 2007 came to nothing. The state and federal authorities are keen to regulate and control providers but no one it seems is regulating the authorities.

Recommendation/s

ESOS is an extensive and intrusive piece of legislation with penalties for infringement. Adequate and qualified resources must be given to implement it . Providers that are closed by the authorities for non compliance should be publicly named.

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 must be addressed in the registration process for every new provider entering the market and for the establishment of branch campuses. Risk should assess finances, business plan, infrastructure, resources, services, target countries, relevant industry experience in Australian context, site, community responses etc. proximity to other providers. The compliance regime should then reflect the risk assessment .

Recommendation/s

A structured risk assessment for all new providers with a compliance regime that reflects the risk.

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

Comments

Recommendation/s

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

Comments

Recommendation/s

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

The ESOS Act has a continuing important role to play in the sustainability of the industry. The current debacle could have been avoided if the legislation had been enforced.

DEEWR and DIAC are not in sync in international education; they have different agendas, and there is little or no communication or cooperation among them. To providers it is infuriating to watch the buck passing that happens especially when we seek advice.

The subjugation of education to the Australian migration agenda about 7-8 years ago was regarded by many of us a threat to the industry because it took the focus away from the quality of education in Australia and elevated the migration and workforce needs of Australia. Many of our partner universities and countries of recruitment were deeply offended at this blatant talent poaching and brain drain. While migration has always been a legitimate ambition for many international students and should be encouraged, the MODL has driven and distorted demand. MODL has created the current monster in overcrowded international student cities in Melbourne and Sydney, where mostly disreputable providers are exploiting frequently poorly educated and poorly qualified students from the Indian subcontinent with false promises for PR. Government authorities should bear much of the blame for the current mess.

Recommendation/s

General Comments

Thank you.