

Submission template

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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.

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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:

Holmes Institute

Sector:

ELICOS, Secondary, VOCED, Higher Education.

Prepared by:

xx

Contact details:

xx

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 majority of international students are neither vulnerable nor naive. They, or their parents, make informed decisions about where they want to study based on a plethora of information made available in a mature industry. Students have been crossing borders for education for generations; in most Asian and European countries study abroad agencies are a common service provider in the established international trade in educational services. They operate on a referral basis in their own countries and are subject to domestic consumer protection laws, which preclude them from providing false and misleading information to students.

Australia is a newcomer to the cross-border trade in educational services and is in danger of overregulating the industry in reaction to isolated racist attacks on international students in Melbourne and Sydney. Although these attacks are utterly deplorable, the majority of international students have an interesting and stimulating time in Australia and feed good word-of-mouth propaganda back to their compatriots at home. This has resulted in the establishment of our very successful industry.

The export education industry is both institution and agent driven. Successful partnerships between agents and institutions are based on the mutual benefit derived from providing students with quality experiences and outcomes. These partnerships are the key to Australia's success in the export education sector and are generally based on good business sense combined with educational integrity. Established stakeholders in the education export market ensure their agents always provide students with accurate and timely information.

Recommendation/s

Standard 1 of the National Code adequately regulates the responsibility of education providers to market their courses accurately and with integrity. No change is recommended.

Standard 4 of the National Code adequately prescribes the legal responsibility of education providers in the agent/principal relationship. No change is recommended.

A centralised website showcasing Australia's capability as an education provider could be developed in a similar manner to the recently developed healthcare website.

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

Comments

Compliance should be at the front end, where higher barriers to entry and closer monitoring over the first period of registration are necessary. Newly established providers should provide bank guarantees equivalent to the fees they expect to

collect on the capacity they apply for. Tuition assurance funds should preclude providers who are unable to provide such guarantees. Tuition assurance funds should also demand that new providers maintain certain financial viability parameters for a specified period of time before granting them full membership. Perhaps a probationary period of 2 years would be appropriate.

Tuition Assurance Schemes should be obliged to risk profile providers and charge different premiums accordingly.

Education export is a cash business; pre-paid student fees are a liability and should be formally accounted for as such. Institutions which spend pre-paid student fees before they have delivered the course for which the students have enrolled may be trading whilst insolvent. Although this is regulated by ASIC, providers should also make a declaration to the education authorities that they can pay their debts as they fall due.

Credit insurance schemes, such as operate in the travel industry, may provide a better cover for students. Alternatively, students could be provided with the option to buy insurance against their fees on enrolment, such as is the case in Canada. This could be done at the same time as the collection of health insurance.

Recommendation/s

1. Introduce probationary CRICOS registration.
2. Introduce financial viability requirements for TAS membership.
3. Introduce risk profiling in TASs.
4. Investigate industry credit insurance schemes to provide cash repayments in case of provider default.
5. Investigate the Canadian system of allowing students to buy insurance against provider default.
6. Providers to make declaration as to solvency to education authorities as well as ASIC.

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

Comments

All institutions are required to abide by Standard 8 of the National Code. Standard 8 is exhaustive in its explanation of the obligations of institutions with regard to the handling of grievances and complaints

Most institutions are required by their accreditation to have professional grievance procedures.

Recommendation/s

Standard 8 is sufficiently rigorous to provide an equitable avenue for the handling of student complaints.

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

Comments

Contracts binding international parties are necessarily strict in order to avoid expensive litigation across different legal systems. Confirmation of Enrolment forms act like letters of credit in evidencing that students have made a commitment to a certain provider. The integrity of that commitment would be undermined if students were free to move to another institution once they arrive in Australia. It is misleading to say 'No such restriction applies to Australian students'. Australian students at private schools pay in advance and do not get a refund if they decide to leave the school. Australian university students are not free to cancel enrolments without penalty after census dates.

The National Code in its first iteration required a student to spend 12 months with the primary provider; in the second iteration this period was reduced to 6 months. The 6 month rule has had disastrous consequences. 6 months is too short for students to settle in to the rhythm of studying in a foreign country. They are confronted by academic problems, accommodation problems, social problems. Given the 6 month rule, a secondary market has evolved, whereby newly arrived students are targeted by referral agents to change provider in order to claim commissions. This is not an educational exercise, but a marketing business.

The 6 month rule creates bitter relationships between the primary provider and students. The student is harassed to change provider, the provider declines, the student is unhappy. Providers need in-house legal advice to cope with the incessant claims from lawyers on behalf of students. Primary marketers, i.e. those who recruit the students off-shore, lose the students they have recruited if they do not progress beyond the first 6 months.

International students need time to settle in to life in Australia. They need time to acclimatise and to acculturate.

Binding students to the institution they enrol in from offshore is absolutely necessary, both to protect students from being preyed on when they arrive in Australia and to protect institutions from having their clients poached.

International students are bound by the refund provisions of the contract they sign with an institution. This is no different to booking a tour through an international travel agency.

Recommendation/s

It is recommended that students have a 12 month minimum obligation to the primary provider.

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

Perhaps the intersection between ESOS and AQTF/TEQSA should be more starkly separated. The introduction of a separate license to issue official documents such as COEs is being introduced in the UK. This may be a method of precluding unsuitable providers from the international market. ESOS approval leads to CRICOS registration, which in turn authorises an entity to issue Confirmation of Enrolment documentation and accept fees from international students. The authority to issue eCOEs should perhaps be more dependent on financial viability and proven track record than 'relying on existing quality assurance frameworks'.

Registration on CRICOS is dependent on so-called ESOS audits, which rely on regulatory authorities to confirm the integrity of the educational offerings of particular institutions. Multi-sectoral and multi-jurisdictional providers are subject to uncoordinated auditing from state and commonwealth authorities. A centrally regulated system in higher education will emerge with TEQSA, but NARA is not recognised as a central regulator in all states.

The intersection between ESOS and the various quality assurance frameworks suffers from a lack of coordination. The establishment of TEQSA in the higher education sector is eagerly awaited. The fiasco of NARA taking so long to establish itself in the VET sector as a national regulator is appalling and largely due to parochial grandstanding on behalf of the state government of NSW, which has proven to be a stubborn obstructionist and a poor regulator in its own right.

Recommendation/s

Expedite the establishment of national regulators in all sectors.
Put pressure on all states to make NARA a truly national body.

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

Comments

International students come predominately from non-English speaking backgrounds. IELTS is taken as the measure of proficiency in English and admission requirements generally state a given score to be achieved before admission. IELTS is an imperfect tool of measuring a student's English ability, but it is most probably the best available. If, upon arrival, a student's English presents as inadequate for the course in which they are enrolled, then institutions are obliged to delay the student's primary course and require them to do more English. The extent to which this occurs is up to the individual institution.

Assessing language ability is a notoriously difficult task and is inexact at the entry level. Awarding Australian qualifications, on the other hand, is the responsibility of the provider. The value of any particular institutions qualifications will be judged in the market/work place according to the quality of it's graduates. There is little the government can do to further regulate this aspect of the international student experience.

The informal aspects of the international student experience vary with each individual and with each particular institution. Institutions may have mono-ethnic based student

bodies and should be free to do so. The international market is characterised by particular markets running hot and cold. Institutions need to access markets when they are viable, and should not be prevented by government from doing so. Any attempt to regulate classroom nationality diversity will be a transgression of the principle of free markets. Institutions are free to limit the proportion of any nationality in a classroom, but government should not interfere.

Attempts to regulate accommodation provision are similarly misguided. Tourists are free to stay wherever they choose. International students should have the same freedom.

Recommendation/s

However inexact the IELTS system of assessing a student's English language level may be, there is no better system on offer. Institutions should be free to assess student's in their own chosen manner.

Government should not attempt to regulate the informal aspects of the international student experience. It should be a function of each individual provider's commitment to students enrolled at their institution..

Effective regulation

vii. Is ESOS compliance and enforcement adequate?

Comments

ESOS compliance and enforcement is obviously totally inadequate in Melbourne and Sydney. We have just witnessed fraud on a massive scale and neither DIAC nor DEEWR nor VETAB nor the VRQA have had any real impact on detecting the fraud at the outset, or quickly isolating the perpetrators and preventing the crisis. Allowing agents such easy access to eVISA facilities on the Indian sub-continent is DIAC's fault. Allowing accreditation of non-bone fide educational VET providers, despite repeated warnings from established institutions, is a grand failure of behalf of the regulator. The fact that the regulator now seeks to blame the providers is a classic case of the pot calling the kettle black.

The National Code is really clear on most issues facing international students, apart from financial regulation of RTOs.

The greatest challenge facing Australia in the international arena is the fact that so many schools fail. This obviously points to failure on the part of the regulators to properly protect Australia's image as a serious provider of international standard education. It would seem that the major cause of the current crisis is failure on the part of regulators, who now seek to blame institutions for the chaos.

It is obviously too easy to establish an RTO. There is no capital requirement on a potential provider; there is no obligation for directors to have a sole purpose of education in running an RTO, as opposed to a higher ed provider; and there is no annual financial report.

Recommendation/s

Introduce tougher entry requirements for persons or corporations wishing to establish

educational institutions.

More extensively staff the offices of the VRQA and VETAB. The current regime is slow and in some cases unqualified. ESOS audits should be carried out by qualified auditors. The subcontracting of a mid-tier accounting firm such as Moore Stephens in Victoria is an example of best practice.

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

Employing professional risk management experts from accounting firms would seem to be essential at this point in time. The Moore Stephens example above works. Trained accountants or risk managers carry out ESOS audits in a different manner than training recognition consultants who are not professional risk managers. The fact that so many non-bone fide providers have been given CRICOS registration and have perpetrated openly fraudulent acts under the noses of the regulator calls for drastic action.

Standard 7 of the National code is the root cause of much of the fraudulent activity perpetrated onshore. As mentioned above it is unfair on students to allow touts to badger them into changing provider after only six months in Australia. Standard 7 should immediately be altered to oblige students to stay at their original chosen provider for at least 12 months. Viable, established providers are losing students at an alarming rate and the 'dodgy' colleges, which we are told by the regulator will be shut down, are enrolling them into sub-standard courses.

Recommendation/s

Immediately pass legislation to alter the minimum period of time a student is obliged to stay at their original chosen provider to 12 months. Do not wait until the review is over to do this. Urgent action is required.

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

Comments

No comment

Recommendation/s

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

Comments

No comment

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

No comment

Recommendation/s

General Comments

The International Education sector is currently Australia's third most valuable export. It is by far the largest service industry in the country and unlike the finite resources sector it is the greatest source of renewable economic prosperity for this nation's future. It pays hundreds of millions of dollars per year in federal and state taxes and provides employment for thousands of key staff and ancillary workers. International students invest and rent in our property market, fly in our airlines, buy our food, use our tourism services, and make up any shortfalls in our labour market.

Most of this prosperity has been due to the sector's long term link with migration. Most western countries in danger of falling populations have protected their economies with tailored migration and education programmes where a course of study has given an aspiring migrant an advantage on the road to permanent residency. This has been a highly sensible policy. Students have paid with foreign currency for a cultural and vocational introduction to their adoptive nation. This has benefited the economy of the host nation and the student, who over the course of his study has been able to evaluate his chances of happiness in his future home. In a sizeable number of cases the student has elected to return to his country of origin. Both Australia and the student have still benefitted.

Providing attractive International Education is Australia's best chance of keeping its window to the world open, particularly in Asia, where it has long looked to forge better ties.

Australia needs population growth. It needs future migrants who are educated in Australian culture and who are trained to do the jobs we need. It also needs the foreign currency and investment they bring, and the thousands of jobs and services they create.

The International Education Industry is highly competitive. For Australia to maintain its position it needs to continue to link education to migration, but ensure that providers are up to the task of providing the quality of education the Australian Government says they can deliver.

Thank you.