

**Submission template**

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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](mailto:esosreview@deewr.gov.au).

About you:

**Institution / organisation**

Name:

Phoenix Academy

Sector:

VET and ELICOS

Prepared by:

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**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

Most students enrol through a reputable overseas agent and make a commitment to study a course at one of the providers that this reputable agent has the authority to recruit for. These institutions spend considerable time and money training their overseas representatives and ensure that they are compliant with conduct expected within the National Code. These students often enrol in packaged courses and pay full fees for the entire package. Commissions are paid to these overseas representatives for their counselling services and for their expertise.

On arrival in Australia these international students then encounter an underclass of agents who set in motion a movement that encourages these students to change providers. These local agencies are often located in the inner city area of the big Australian cities. They target students already enrolled in and committed to courses and advertise through local language newspapers and through blogs and word of mouth. They make all sorts of promises to their potential customers. Promises such as we can get you out of your current course, we can get you a full refund, we can get you into a cheap/discount school where they don't monitor attendance, we can get you permanent residency etc.

It is not rocket science to see that this regime is undermining the integrity of the quality operations of bonafide schools and agencies that operate within the National Code.

Phoenix is concerned about this state of affairs and also very disappointed that DEEWR and the Department of Immigration don't support providers in ensuring visaed pathways are followed. This would go a long way to wiping out the activities of on shore malpractice by agents.

Many of these local agencies promise to get students "out of their course", "help them change their visa" and the distressing fact is that the Immigration Department is allowing these changes of course and changes of provider to occur. We can name many such examples where students have been permitted to change providers once they have approached Immigration. DEEWR is encouraging this by allowing institutions to fraudulently overwrite other institutions' COE's. Immigration simply ignores this and validates COE's as their right claiming it is a PRISMS/DEEWR matter.

Agents blatantly advertise in the media that they can arrange for students to switch schools, not have to attend classes, "we can get you the paper work to say you have been having work experience" etc. What is the government doing about this situation? Agents make claims that would be considered to be outside the normal advisory role of a registered Migration Agents. The claims made are coaching students to change providers and enlist other students to do the same by payment of an incentive and is unethical and possibly illegal. There are obligations made clear in the National Code 2007 Standards 4 and 7 that extend to agents and are being ignored by government, particularly DEEWR.

## Recommendation/s

Local agents must be closely monitored and their operations and marketing activities made to be compliant with the code

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

## Comments

### Consumer Beware Principal

(i) Basically international students need to be responsible for enrolling in a school that is accredited and registered and has a CRICOS code. Once they do this then like all consumer responsibilities they need to do research, ask questions, check marketing materials and look at price. If the cost of the course falls below the normally accepted standard cost of a qualification i.e. it is massively discounted then this is a sign that it is likely to be neither a genuine provider nor a viable program. In other words, if the price of the course is too good to be true, then it is likely to be so. Airlines that sell \$50 flights when their competitors sell \$500 flights are always the ones that fail to fly and collapse. This is the true for all sales and marketing. Why are we being so precious about selling education? If the price is massively discounted then this is a sign that there is something wrong. The consumer has to accept the risk when making such a discounted purchase and then buy adequate insurance themselves to protect them from the collapse of the provider. This is the responsibility of the consumer.

(ii) Growth in markets more than 15%

Government can protect the consumer by monitoring rapid growth in new markets and monitoring out of kilter market fluctuations. Phoenix is of the opinion that government is not currently taking this important role seriously enough. Government is not watching or monitoring sudden and inexplicable growth in markets for example India (40% growth in one year) and Nepal (60% growth in one year). Everyone could see that these students were not genuine students and had been sold migration pathways to Australia. Government did nothing about it. This was a disaster waiting to happen

(iii) Trust Funds and Insurance

Consumer's pre-paid fees need to be protected more than they currently are. There has been a dumbing down of standards over the years. 20 years ago when the ESOS was first established private institutions were required to have a Trust Account for the protection of all student fees, this Trust Account model was the basis of the original ESOS act and is referred to in Hansard as the "Phoenix Model". This system of protection of student fees was initiated using my company as the initial testing ground for fees protection. And it worked. Twenty years on Phoenix continued to utilise a trust account system. It is just plain good business sense to do so. Over the years this Trust Account requirement has gone as has all requirements for financial accountability (except of course for those of us in Western Australia who operated our businesses under the ESPRA Act). Again a lowering of the bar for quality and an approach by government to distance itself from accepting any responsibility. The concept of a "minimum" level of cash reserves should be introduced to ensure institutions are financially viable.

## Recommendation/s

Students are consumers and must protect themselves through their own insurance. If you buy a cheap product or service and it fails to operate or breaks down then it is the consumers responsibility to insure themselves against this..the warranty principle

Government must monitor out of kilter growth in markets and sudden explosions of growth in particular courses. Why collect stats and measure trends if no action is taken, the rapid growth of the Indian and Nepalese students in hairdressing and commercial cookery should have been seen well in advance as a likely blow out

Student fees should be protected until they have been earned.

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

## Comments

Those institutions who maintain standards and insist that students commit to their studies in a genuine manner are those centres that have most complaints registered against them. These are the providers where recalcitrant students are permitted to change provider and these are the providers who have experienced the most regular complaints from students. All because the client demands freedom to choose where and how they study. In many cases, these non genuine students prefer to study in schools where they are free to attend school when they will, to work as much as they can, to not to have to do homework. It is an interesting contradiction that the high quality schools in Perth are those that are not at capacity.

## Recommendation/s

DIAC and DEWR should reinstate requirements for providers to monitor and report on attendance. DIAC should insist on knowing the whereabouts of all students at all times. These important measures of student activity and movement have all been put to one side.

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

## Comments

We currently have the situation where the government has abrogated responsibility for monitoring student activity back to schools. DIAC no longer wants student addresses to be maintained, students do not have to complete their principle course and students do not need letters of release.

This is being condoned and permitted by DEWR and rubber stamped by DIAC by allowing students for example to change their visa classes at the desk and ignoring Standard 7 and not requiring letters of release. There would be more than several hundred students in Perth alone (mostly Saudi and Indian students) who have left their principle courses of studies without letters of release and their whereabouts are unknown. It is believed that they have gone to Melbourne and other eastern states destinations. Standard 7 of the ESOS Act, which covers transfer between registered

provider's states: "Registered providers assess requests from students for a transfer between registered providers prior to the students completing six months of the principle course of study in accordance with the documented procedures..." this is not being enforced through PRISMS/ESOS or followed by DIAC or providers including universities

This is an example of where standards are being compromised. The practice of monitoring student movement that was once tightly regulated by the PRISMS system has developed into a total "free for all". Providers are knowingly passing through the PRISMS system and lying when prompted to respond to specific questions regarding Letters of Release and then proceeding to issue second and third COE's when they haven't paid due diligence to whether a student is already on a current COE.

Students are leaving programs with tuition debts, books unreturned; home stay fees unpaid and their whereabouts unknown. No release letters have been issued and again government is failing to act here. Students once were required to remain in the initial course of study and could not change providers until after 6 months into their principle course. This appears to no longer be a requirement that is being enforced. Without enforcement and serious intent to enforce, standards are compromised.

Quality institutions are the losers and are placed under threat. Those of us in the industry who follow "best practice" in order to maintain quality and respect the established standards and abide by the law are missing out again.

Recommendation/s

DIAC and DEEWR have to agree to revert to the principle of the integrity of PRISMS. Providers and students do not regard PRISMS as a serious reporting mechanism any more.

Students should not be permitted to leave their course until they have completed 6 months of their principle course. This requirement has all but vanished and is the reason why so many non-genuine students are roaming the streets of Australia searching for the cheapest deal where they can reside in Australia for the longest time with the least accountability.

### **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

Offering incentives such as free international travel, laptops etc for students that enrol and for students that refer students...very apparent at University of Central Queensland shouldn't be permitted under the code.

Perception of international education as a business where you can make fast money needs to be addressed. If you do it well and according to regulations there is not a lot of margin in this business. The fact that providers can enter the international education business with no experience, no business plan, and no financial audits are all signals that quality assurance frameworks have collapsed.

Another sign where quality frameworks are being compromised is where institutions are established that target and recruit a single nationality i.e. Indians, Nepalese and Chinese. These institutions are mostly always owned by the same nationality and they act as the education agency that channels these students through from their home country.

Government needs to have a look at the rapid decline of market share for Western Australia. From 14% to less than 7% in the past 5 years and compare this with Victoria and NSW where they have gone from 30% to 60% and then correlate this with the growth of visa factory schools in Victoria and NSW and the number of closures in NSW and Victoria. Have a look at the correlation between schools that specialise in migration fast track courses such as hairdressing and cooking courses and schools that close.

Another area where quality is compromised is the dichotomy that exists between Western Australia and all the other states. Western Australia is the only precinct where financials are examined when a prospective applicant to enter the international education industry applies to be registered. Financial accounts are required during registration and re-registration process. Unbelievably this doesn't happen anywhere else in Australia and then we wonder why all these businesses have collapsed!!

Another area where Standards are being compromised is the area of English language entry to universities and institutions of higher learning. Once again it is very widely known throughout the ELICOS industry that IELTS results from many overseas destinations are totally unreliable and inaccurate. Whether it is due to fraud, rote learning or redundancy, many students arrive in Australia with an IELTS score written on a piece of paper that they clasp which is 2 band scores below their real level. Sadly most universities in Australia know this but are happy to accept these students because it comes down to cashflow. Quality and standards in English teaching comes from on-shore ELICOS programs. On-shore programs are currently discriminated against in favour of off-shore IELTS factories.

Phoenix Academy has been conducting a long-term study on this problem and has alerted IELTS Australia to our concerns many times over the past 5 years. Phoenix has documented evidence to substantiate our concerns. IELTS/IDP does not want to hear any of this negative feedback. Phoenix recently submitted an abstract to the recent AIEC Conference. The paper is entitled IELTS unveiled. It was rejected. Why weren't we surprised?

Bob Birrell and the University of Melbourne research team are alarmed at why international students are graduating from Australian universities with IELTS levels of 5.0 and 5.5 and not being able to be employed. They say how can this happen? They are easy to blame the "feeder institutions" and point their fingers at ELICOS and VET Pathway providers. The real answer is because many international students are entering university with a real IELTS level of 4.5 or 5.0. The universities don't want to hear this story, as this will diminish their financial returns significantly.

The same dumbing down of entry levels is occurring right throughout the industry. Right down to the level of children entering government and elite private schools in Australia when they have IELTS equivalent levels of 3 and 3.5 simply because the schools have already spent the money. At a recent parent seminar at a local government high school the Principal boasted to all in attendance that the income from the international students this year has heated their swimming pool. It hasn't been spent on resources and ESL teachers; it has heated the school pool. That's Quality for you. In many primary and secondary classrooms in Australia today there

are many teachers struggling to cope with teaching their curricula to a class full of eager learners whilst there are students sitting in the same class them who can't spell "cat" or "dog".

Another area where the ELICOS industry has had their standards questioned is the Birrell and Bradley attack on English Preparation and Pathway Studies providers. Again, they claim that we must be feeding students of dubious quality into the universities because they are failing to be employed when they graduate. Phoenix Academy has been conducting a longitudinal research study with over 100 graduates from its Academic English program who have entered Murdoch University over the past 2 years. These graduates from a quality EAP course have been performing with outstanding success at university. Their subsequent Murdoch semester results show levels higher than their counterparts who enter directly from overseas with their IELTS results. This paper was also submitted to the AIEC Conference and it was also rejected.

It seems that no one wants to hear about the compromise of quality in international education.

#### Recommendation/s

Incentives and gifts as incentives to enrol should not be permitted under the code. People considering entering the industry should be briefed on the "business" and advised that this is not a lucrative business to be in if it is done well.

Company Financials should be examined during all audits and registration and re-registration activities.

The fit and proper test needs to be applied more stringently

There should be a requirement in the code that there not be permitted excess of 60% of a nationality in a program at any one time

There needs to be a major review/enquiry into IELTS and the unreliability fo IELTS results as an accurate measure of language competency

There needs to be a review of the level of English that international students have who are entering Australian primary and secondary schools.

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

#### Comments

Students who enter Australia on a student visa must be able to be tracked and accounted for at all times. A COE is not a ticket to enter Australia and roam around the country at will. In all other respects international students need to be responsible for finding their own jobs and finding their own accommodation just as all Australian students must do.

#### Recommendation/s

## **Effective regulation**

vii. Is ESOS compliance and enforcement adequate?

### Comments

Governments, both federal and state, need to support industry, not to create standards for industry that everyone ignores. Industry should create the standards and government regulators should enforce these standards with appropriate sanctions and punishment when they are broken or ignored. This is not happening in Australia.

For example, when industry is aware that standards are not being maintained and they alert government then the regulators need to act swiftly. This has not been happening.

Providers are required to collect and maintain accurate data on student addresses and yet again DIAC doesn't regard where students are residing as of interest to them any more. They say it is up to providers if they wish to maintain these records. Again an institutions system for maintaining the integrity of an international student's whereabouts is not of concern to DIAC anymore. Why do the quality institutions bother to collect this information? Who cares? DIAC's main concern is that everyone has a valid visa. Full stop.

PRISMS is under the domain of DEEWR is what DIAC maintains and DEEWR when challenged simply points to the National Code and says that it is up to the states to uphold the Code!! This is a vicious circle of abrogation of responsibility. It is time that DEEWR and DIAC started talking to each other and that DESWA if possible was also included in the conversation

Another example of a compromise of Standards is the approach taken to Attendance. For example the NEAS standard requires providers to check attendance regularly in the ELICOS industry (at least 2-3 times per day) and Student Visa conditions require students to maintain satisfactory attendance (Standard 11 of the National Code 2007). But now DIAC doesn't regard failure to attend as a reason to withdraw a visa. Students once reported to DIAC for failure to attend are simply allowed to re-enrol at another institution and the institution that has maintained high standards is the one that is made to look silly and misses out again. In many instances these students are in breach of at least 3 Student Visa conditions (attendance, notifying DIAC and the institution of current contact details and finances) and yet they are granted a "bridging visa" after meeting with their DIAC Case Officer and permitted to enrol in a different institution. It is therefore not surprising that these students have adopted an attitude of indifference towards breaching Student Visa requirements and openly admit that they will continue transferring providers within Australia until they have exhausted their options; whilst institutions at fault of accepting these students are continuing to do so in full knowledge that their actions will not have any negative repercussions from regulatory bodies.

### Recommendation/s

Standards that are established by government must be monitored and acted upon if transgressions occur. There is a perception at the moment that government doesn't have any teeth and hasn't acted in a timely manner once serious breeches have been brought to their attention.

Government departments such as DIAC, DEEWR and DESWA need to get together and talk about issues and have a common pathway and common strategy not just continue to point the finger at each other and stand back and say its not our area or not our problem to deal with.

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

##### Spot Checks

In the light of the recent collapse of so many schools on the eastern seaboard we need to take stock and learn from this experience. In almost 100% of the cases persons who have owned the schools that have closed are not educators and haven't had any long-term association with the education system in Australia. They are mostly speculators who have seen the international education system as a "golden goose" and have milked the system for all it is worth.

The "fit and proper person" test needs to encompass an examination of the owner's connections with and knowledge of and commitment to the principles of education. Hiring a Director of Studies on a short-term contract to prepare for your registration process and represent you at audits is common practice. These Director of Studies are sent on their way once the school is operational. Why aren't spot checks carried out on the management systems of schools to ascertain whether Directors of Studies with the appropriate qualifications are actually working at the school? Why don't Directors of Studies and Academic Managers have to undertake a PIERS form of accreditation? Most of us in the industry can name the schools where we know there are no qualified Directors of Studies. Industry again is able to establish and inform but they can't act to make change as a vigilant government regulator can.

There appears to be a scenario of using the one big stick for all approach. Those schools and states where TAS's work well and where there have been no closures and where the TAS's are operating well are being treated the same as those states and schools where everyone is running amok.... why not use an insurance system where schools and states are awarded no claim bonuses or credit for delivering quality education and not failing as businesses?

#### Conclusion

Standards work best when they are established and maintained by industry. Best practice works best when industry is totally involved. Phoenix Academy therefore welcomes any review that involves the most important stakeholders-institutions, agents and clients.

#### Recommendation/s

There needs to be a system such as PIERS for determining whether persons have the skills and knowledge to run international educational institutions  
Spot Checks on the operations of schools are far more reliable than pre-warned audits or registration visits.

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

Recommendation/s

**General Comments**

Thank you.