

Submission template

Please note that the Department usually publishes and reserves the right to publish any written submission received and the names of persons making written submissions in the course of this consultation process.

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.

The Australian Government reserves the right to accept or refuse a request to treat information as confidential and will use the criteria set out in the Department of Finance and Deregulation's Financial Management Guidance No. 3 on confidentiality in procurement, July 2007, as a guide when determining whether to accept a claim for confidentiality. 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:

Institution / organisation

Name:

Study Group Australia

Sector:

Study Group delivers programs across all sectors: ELICOS, Schools, Higher Education and Foundation Programs and VET

Prepared by:

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Contact details:

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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

Prospective international students now have more access, via the internet, to information about the opportunities for and challenges of study in Australia than ever before. In addition, the current ESOS Act and National Code provide a robust regulatory framework to "ensure that marketing of their (providers') education and training services is professional, accurate and maintains the integrity and reputation of the industry". Despite this, there is considerable anecdotal commentary which suggests that some students do feel that they have been misled by an agent and / or provider. It is possible that some international students lack the critical thinking and decision management skills required to sift through all the information available and then to arrive at a well informed decision. However, it is doubtful that additional regulation of the sector can prevent this. Our view is that the ESOS Act and the National Code provide an adequate regulatory framework for ensuring that providers supply international students with accurate information. However, it seems that there has been a lack of robust audit and enforcement of the existing requirements, in particular with respect to the requirement that "the registered provider must not give false or misleading information or advice in relation to possible migration outcomes".

Agent management is a more complex issue. Most education agents are very professional and provide valuable assistance to prospective students. They assist with the college application process and the complex task of visa application (particularly where the agent can lodge an e-visa), provide pre departure briefings, arrange flight bookings, airport pick ups and student accommodation placement. Many agents have been representing Australian providers for ten to fifteen years or more. Over that time they have consistently delivered a high level of service to both their customers and the institutions they represent.

The National Code makes providers responsible for the activities of their agents and we believe that this is where primary responsibility should continue to reside. We operate one of the world's most sophisticated education marketing and recruitment networks. We have 28 marketing support offices and 200 marketing and admissions staff globally, across a full range of markets including Japan, China, South Asia, Korea, Taiwan, Russia, Eastern Europe, the Middle East, South America, Central America, Africa and Central Asia. In addition, we have a large Australasian sales and marketing organisation. We believe that our on-going engagement with agents via our Regional Office network means that we are the best placed provider in the industry to manage our agents and for ESOS compliance.

Study Group also provides a high level of agent training and support through our regional office network. In addition, for new agents (and new staff in existing agencies) Study Group recommends the Education Agents Training Course delivered by PIER and supported by AEI and DIAC. Our experience has proven that training is the most effective way to improve agent performance.

Unfortunately, the recent discussion of education agents has paid insufficient attention to professionalism of many agents who have served numerous providers and thousands of students exceptionally well over many years. However, while we

can manage our own agents, the current arrangements do not provide the necessary transparency for agent management across the sector. There is currently no mechanism whereby providers can alert the wider industry about their concerns regarding a particular agent. As a result, when a provider cancels its arrangements with an agent it suspects of acting unethically, that agent is able to give prospective students numerous inventive reasons why a particular institution is no longer a wise choice and then shift its business to a new and unsuspecting competitor. It would be a litigious minefield for a provider to publicise that it has severed its relationship with a particular agent because of unprofessional conduct, and it is at this stage that the Government can assist. Study Group therefore supports the observation by DIAC in its submission to the Senate Inquiry into the Welfare of International Students that "there is a need for the Government be able to more effectively monitor and sanction education agents who do not represent the best interests of consumers."

Recommendation/s

There is no requirement for additional regulation - the existing ESOS Act and National Code provide an adequate regulatory framework for ensuring providers are held to account for supplying international students with accurate information. What is required is more efficient and effective implementation of the existing regulatory framework.

The Government should continue to support the Education Agents Training Course delivered by PIER and encourage its use across the sector. Agent training is the most effective way to improve agent performance.

The primary responsibility for agent management should continue to reside with providers. However, there is a role for Government to work with providers in monitoring agent activities and if required, to then sanction those education agents who engage in malpractice.

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 current arrangements concerning fee refunds and student placement in the event of a provider closing need reform. Our experience is that the current arrangements are cumbersome and the responsibilities too entangled between State and Federal Departments, corporate administrators, the managers of the Tuition Assurance Scheme, Professional Associations and so on. The result is that the issue takes too long to resolve. In addition, the development and implementation of an appropriate risk index would enable the regulatory authorities to monitor high risk enterprises and act so that College closures are managed and controlled. The over-riding objective should be to develop a process that prevents as far as is practicable the 'College crash and student lock out' scenario, which leads to a blaze of negative publicity in both in Australia and overseas, to the detriment of the entire industry.

Resourcing

The current arrangements for contribution to tuition assurance schemes mean that those providers that are the most commercially stable and successful, with a track record of excellence in delivery, are providing the most significant contribution to the

various 'tuition assurance schemes.' Study Group proposes that the level of provider contribution to these schemes should be determined on the basis of a risk assessment. Those providers who operate in highly volatile areas should pay a higher premium. The mechanisms for calculating Tuition Assurance Scheme contributions should in part replicate the general principles of the insurance industry - that is, the higher the risk, the higher the premium.

Recommendation/s

A provider's contribution to a tuition assurance scheme should be based on a risk assessment. Those providers who operate in highly volatile areas should pay a higher premium.

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

Comments

According to the current National Code, providers of education must have complaints and appeals processes that are “independent, easily and immediately accessible, and inexpensive for the parties involved”. Study Group's Complaints and Appeals procedures are based on these principles. We are always seeking to improve our services and so we welcome feedback whenever our customers are dissatisfied or feel that they have been unfairly dealt with. Our students know they are entitled to make a complaint about any aspect of our services. Our experience is that the existing consumer protection and student grievance provisions of the National Code work well and there is no requirement for different mechanisms.

Recommendation/s

No additional complaints mechanisms are required.

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

Comments

It is possible to group of providers operating in the international education sector according to two broad categories. There are those providers, like Study Group, who invest in international marketing. Over the past ten years, Study Group has built a global recruitment and marketing network that spreads across all major student markets. Our Regional Offices are at the heart of our worldwide recruitment network. Regional Managers are responsible for local market development and agent management, training and support. They organise a wide range of in-country promotional activities, including exhibitions, mini-tours, school and agent presentations and student interviews. They also negotiate participation of agent counsellors and course advisors from key agents in agent training and our familiarisation tours (where we pay for agents to visit our campuses). The provision of such a high level of in market support enables Study Group to maintain a symbiotic relationship with our key agents, and this also informs the negotiation of commercial terms with our agents by the specific Regional Director located in each

market.

A second category provider is those who do not market off-shore. Their objective is to recruit international students who are already on-shore. Unfortunately, this strategy creates the climate for student poaching. It encourages local agents to attempt to lure students to change provider. Study Group has witnessed an increase in this activity since the changes introduced with the National Code 2007. Unfortunately, the recently arrived (and in particular younger students) are particularly vulnerable. Study Group therefore recommends that the previous 12 month restriction that prevented a student transferring to another provider should be re-introduced.

In addition, we would strongly oppose any reduction in the current six month restriction on student transfers. This would result in serious damage to the sector. The resultant uncertainty as to whether a student would actually undertake the course for which they had enrolled would undermine our business planning and lead to a market free for all. In such an environment, the current level of engagement with prospective students off-shore provided by Study Group and similar providers would become commercially unsound. Such a proposal also contradicts the previously stated objective to improve the accessibility and reliability of information provided to prospective students.

Recommendation/s

Study Group recommends that the previous 12 month restriction that prevented a student transferring to another provider should be re-introduced.

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 issues paper notes that the current legislative framework means that 'providers must first meet the quality arrangements for delivery of education services to domestic students to be registered on CRICOS'. However, this demonstration of capability is conceptual only. An entirely new 'start up' provider does not need to demonstrate a suitable track record of actually delivering these courses to domestic students before it is registered on CRICOS. Perhaps it should. We believe that this proposition warrants further consideration.

Recommendation/s

Nil

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

Comments

There is no need for new or additional regulation.

It is our view that there is an inappropriate focus on the role of IELTS as a key quality assurance mechanism in international education. An IELTS assessment is not a pure science. An IELTS score is not the sole defining indicator of whether or not a student will be successful. Our experience is that what is most generally labelled the "poor English" of international students is in fact a complex series of skill deficits, compounded by the 'cognitive disorientation' of dependent learners when confronted with the demands of a western style education. Their learning challenges are more complex than those that can be resolved by an English proficiency measure - the issue is not simply English language proficiency. They lack generic skills such as the processing skills necessary for sound strategic and tactical thinking and independent learning, the communicative skills that will allow intelligent and creative participation in the process of decision-making, the skills necessary for understanding the nature of argument analysis, evaluation and construction and so on. Despite this, there is considerable data to demonstrate that the majority of international students who come to Australia are academically successful and enjoy their experience. In the case of one Study Group program, research by the Faculty of Education and Social Work at the University of Sydney concluded that - "University of Sydney Foundation Program students are performing at levels competitive with local entry HSC students and, in a handful of Units of Study they have produced the highest average marks. We can conclude that USFP students have been well prepared for the academically challenging and highly competitive environment of Sydney University".

It is also our view that a regulatory mechanism to ensure diversity of student cohorts would be neither desirable nor practicable. Study Group's objective is to recruit the high quality students that are essential to our continuing success, irrespective of their background.

Recommendation/s

There should be no new or additional regulations which attempt to impose IELTS entry scores or diversity of student cohorts.

Effective regulation

vii. Is ESOS compliance and enforcement adequate?

Comments

There is already in place sufficient regulation to protect the integrity of the international education industry. The ESOS Act and the National Code of Practice already provide a robust regulatory framework. This is supplemented by 'The Shared Responsibility Framework', which sets out the respective roles of the Australian Government and the State and Territory governments in administering ESOS and the National Code. However, it seems that the "shared responsibility framework" has failed in implementation. There is no shortage of regulation. However, there appears to have been an unfortunate lack of diligence and rigor in compliance management (and auditing). On this matter Study Group concurs with the observations of Professor Ian Young, Vice-chancellor, Swinburne University of Technology: "The entire system is being threatened by a small number of private providers who act irresponsibly. Yet it is not through lack of regulation but due to lack of enforcement, as a result of under-resourcing of agencies by state and federal governments, and a lack of jurisdictional clarity about enforcing compliance". (Campus Review 18 August 2009).

The lack of 'jurisdictional clarity' is a particular burden for providers operating in all sectors and across multiple jurisdictions. At times, Study Group campuses seem to be in an almost constant state of audit by a succession of different authorities, and these are time consuming and costly. In addition, the recent trend in some States to subcontract audits to professional auditing companies with no knowledge or experience of the education sector, or international education, has resulted in a strange auditor training / audit review hybrid process. Providers which operate across multiple jurisdictions should be able to deal with one expert auditing and registration authority in each sector.

Recommendation/s

The jurisdictional responsibilities for enforcement of the existing regulations should be simplified and streamlined.

Providers (and in particular those which operate across multiple jurisdictions such as Study Group) should be able to deal with one auditing and registration authority in each sector.

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

We do not believe there are systemic flaws inherent in the current regulatory framework. The recent problems in this sector are not the result of insufficient regulation, but lack of implementation of the existing framework, confusion of responsibilities and lack of audit and enforcement. Risk should be managed according to a risk index, which could be developed in consultation with industry stakeholders and provider representatives. For example, a new start up operation, with no track record of capability to deliver, operating in a highly volatile sector, should be subjected to regular audit - particularly in the first year of operation.

Recommendation/s

NIL

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

Comments

Study Group is comfortable with the existing regulatory framework. As mentioned in the Issues Paper, there are areas where the 2007 National Code is overly prescriptive on educational matters. These could be refined through consultations with the industry. We do not perceive the requirement for a major overhaul, nor the need for new and additional regulation. In addition, we share the concerns raised in

the issues paper that a move to outcomes-based regulation would make it more difficult to establish non-compliance. At Study Group, the National Code generally performs the role of an industry quality assurance standard, not that dissimilar to an ISO regime, in that it guides the procedures that cover our key operations.

Recommendation/s

NIL

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

Comments

Generally, we find the National Code and the ESOS Act are supportive of the visa program. As stated above, there are areas where the National Code is overly prescriptive on educational matters, and in other is seems heavily bureaucratic - for example, the punitive provider default refund requirements for providers changing their legal entity. Although this has already been flagged for change, we would welcome more flexibility in this area in particular.

Recommendation/s

NIL

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

Study Group is an Australian company, and is one of the world's leading private education companies. We are now actively engaged with nearly 200 higher education institutions globally, and Study Group is the partner of choice for a large number of leading universities in Australia, New Zealand, the United Kingdom, Canada, China and the United States. This experience give us a unique global perspective on the sector. We believe the sector in Australia will continue to grow and prosper, and so we are continuing to invest in our Australian operations.

Study Group sells education, not migration. We market our courses to prospective students on the basis of our record for delivery of quality education programs over many years. Our cooperation with Monash University will celebrate its twentieth anniversary this year. The joint venture with the University of Sydney celebrated ten years of success in September 2008. We also deliver a successful Foundation program for the University of Western Australia from their campus at Claremont. In addition, Study Group has delivered university courses (at both undergraduate and post graduate level) for Charles Sturt University for more than ten years. We operate across the full range of sectors: higher education, university pathway programs, vocational educational and training (for both local and international students), high school, and academic and general English language courses. We take considerable pride in the achievements of our students.

We share the aspirations for quality and diversity outlined in the Issues Paper. However, do not not believe that these can or will be achieved by regulation. In addition, the recent issues involving a small number of providers were due to the lack of enforcement, not the lack of regulation. The international education sector in Australia is already heavily regulated when compared to competitors such a the UK, Canada and the US. There is no need for additional regulation.

Recommendation/s

There is no need for additional regulation.

General Comments

Thank you.