

Appendix B

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:

Sydney College of English Pty Ltd

Sector:

ELICOS Provider

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


Recommendation/s

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

Comments

TAS and the Tuition Assurance Fund play a great and fundamental role in protecting the International Students' interests. It is very good assurance scheme but needs further improvements.

Recommendation/s

We need the introduction of detailed guidelines or a national code regarding how to operate TAS effectively, especially assessing the ability of TAS members to accept students and the criteria how to place students as per the their study requirement. The total number of displaced students that can be accepted into TAS members' schools in addition to their existing students needs to be clear, for example, 10% or 20% of the total accredited capacity of each TAS member. Currently each TAS member enjoys a discount of 90% of the annual contribution to the Tuition Assurance Fund. However if a TAS member fails to place a misplaced student when requested, that TAS member should make a full contribution to Tuition Assurance Fund in order to recover the refund paid by the Fund (instead the 90% discount). TAS members would then make their best effort to place the student otherwise they would be exposed to a much higher annual contribution. 

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

Comments

Recommendation/s

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

Comments

Recommendation/s

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

Recommendation/s

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

Comments

Recommendation/s

Effective regulation

vii. Is ESOS compliance and enforcement adequate?

Comments

Many of the failed providers closed their doors within 5 years of operation because they could start a business with relatively small working capital and insufficient assets to protect the students' interests. Current entry requirements are dangerously undemanding in terms of the financial backing needed to operate successfully in this industry. Student fees in advance are used as a start up capital and we have all seen the risks to the wider education community in this approach. It is very important to regulate newcomers to the industry so that the failure of a new provider is not at the expense of long established good providers.

Recommendation/s

New providers should be required to produce the security either by bank guarantee or cash deposit to the Tuition Assurance Fund in order to protect the pre-paid tuition fees for at least a provisional period of two years. New providers should not be allowed to join TAS during this provisional period of two years.

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

Recommendation/s

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

The current ESOS Act requires providers to exchange a contract with agents in order to ensure that providers and their agents are held to account in the interests of international students. However, overseas agents are independent operators providing services for fees and are subject to the commercial laws of their country. It is impossible for Australian providers to take responsibility for their overseas agent's business activities. Agent contracts are not enforceable instruments internationally and are merely a confirmation of the terms of a business relationship.

Unless providers receive the fees into their bank accounts from agents or students, the provider cannot protect the fees and the students' interests. One of the biggest Japanese agents called "Gateway 21" went bankrupt last year with approximately ten million dollars of student fees unpaid to the providers. Many students were affected and cancelled their course due to the non-payment of their fees. Neither consumer protection laws in Japan nor the ESOS Act in Australia could protect these students' interests.

Many big European agents wholesale their education package programmes to sub-agents and they never counsel the student directly. The current ESOS Act is misleading the industry regarding the protection of students' interests by putting all responsibilities onto the provider in order to achieve an outcome that is commercially unrealistic. The ESOS Act needs to be reviewed so that the provider is not required to perform a "Mission Impossible". Rather, effort should be focussed on improving industry marketing activities to be more competitive with USA,UK, Canada and New Zealand.

Thank you.

Additional general comments for the submission by Sydney College of English

In reference to my submission dated 30/10/09, I would like to add one more very important point in the general comments section although the closing date has already passed.

My additional submission is:

It is suggested that a review of the current immigration policy regarding the student visa is needed in order to improve Australian Education Exports as a whole.

The current policy restricts the student visa issue for the student to study English only, especially for students from China, India and other countries that are under the category 3. Although last September the Government announced a new student visa 570 for the student to study English only, the rejection rate of this visa is 85 to 90% in China in comparison with 30 to 25% rejection rate for the packaged course (English + VET or tertiary courses). In addition, approximately 50% the reasons given for rejection of the 570 visa according to our records were subjective according to the view of the immigration officer in charge of the visa assessment.

Therefore, the current visa policy does not allow for the students from these countries to choose the VET or Tertiary course **after** the completion of English study in Australia. This is why the students have to enrol in VET or Tertiary courses (for two to three years) and have to make a huge commitment financially before they arrive in Australia without knowing in which institution they are going to study. This is the foundation of the problems for the students, the Australian Government and providers because this provides an opportunity for unethical agents and providers. In the recent years many overseas students has been victimized and several unethical providers (mainly VET providers offering the permanent residency visa related courses) have closed their doors and disappeared after collecting a huge amount of money from the students.

As a consequence, we, as a good and well established ELICOS provider, have today received an email from DEEWR, the administrator of ESOS Tuition Assurance Fund, stating that we have to make an extra contribution to the fund in order to raise one million dollars to support the solvency of the Fund. The good ELICOS provider, who has been contributing to the industry for the last 20 years and therefore since well before the introduction of the ESOS Act, has to pay for the solvency of the Fund; the insolvency has been caused by unethical VET providers and by the malfunction of TAS (i.e. ACPET TAS) for VET providers which is due to the diversity of the courses offered by each VET provider. It is a very difficult task to place the misplaced VET students in the appropriate course. Our TAS (EA TAS for 84% of NEAS accredited providers) for the ELICOS providers is working very well because the majority of member providers offer almost identical courses. As an Australian who is proud of the fairness of Australians, I feel this is very unfair.

It is strongly suggested that the immigration visa policy review will allow the overseas students to come and initially study English only, and subsequently they can choose further study.

This option to choose further study would allow the students to inspect the institution of their choice (VET or Tertiary Institution) before the commitment of a large sum of money in comparison with the English tuition fee (i.e. the 20 to 50 weeks of English study required for Chinese students), which is relatively small in comparison. This is the

only way to make the student, the good VET provider, TAFE and Universities happy as a whole industry because the student can make sure of the quality of the provider by themselves. Moreover, this would avoid the situation of the students being misled by unethical overseas agents, and quality tertiary providers will not be victimized by the high commissions demanded by these bad agents. There would be no need to change the immigration criteria to assess the student visa for the students who wish to study English plus vocational or tertiary study, but just give them the option to choose further study after the completion of English study in Australia. This option to choose further study for the students from China, India, Vietnam and other Asian countries, growing markets in recent years, is available in the all countries of our competitors, but not in Australia. This would improve our ability to compete with Canada, UK, USA and New Zealand in the tough world education market in order to protect and improve our 16 billion dollar industry.