

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

About you:

**Institution / organisation**

Name:

Sydney Institute of Tertiary Education Pty Ltd

Sector:

VET

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

The ESOS Act as it stands has adequate safeguards for students, but it is the implementation of the provisions of the Act that determine its effect. All providers in Australia are subject to Australian law. However, because the implementation of the ESOS Act, of necessity, is delegated to State authorities, there is an uneven approach from State to State.

The State with the largest number of private providers is New South Wales, where the designate(d authority is the Vocational Education Training Advisory Board (VETAB) of the NSW Department of Education and Training NSW DET). This fragmentation provides differing and idiosyncratic standards of implementation. This is further exacerbated by differing and idiosyncratic standards between auditors.

1. How can the quality and accessibility of reliable information be improved?

This section is too short to give much information to you but, in short, information about such things as Australian and local details (costs, travel, health services, etc) should be provided by the Commonwealth Government and a link provided to RTO websites.

2. 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?

As Australian law does not have extra-territorial effect, it is only possible to legislate for such persons who fall under Australian authority. This means, in the main, that off-shore agents are not subject to the ESOS Act.

### Recommendation/s

1. Quality and accessibility of reliable information improvements..

In short, information such as Australian and local details (costs, travel, health services, etc) should be provided by the Commonwealth Government and a link provided to RTO web-sites.

2. Ensuring providers and their agents are held to account for supplying international students with accurate and timely information.

Commonwealth provides most information, to be included in RTO web-sites.

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

### Comments

Current processes are part of the answer (ESOS Assurance Fund). See recommendations below.

#### Recommendation/s

Trust type of accounts, as for Migration Agents, would give some protection. The OSTAS is another.

The OSTAS should be taken out of the hands of ACPET and made a separate provision, linked to the ESOS Assurance Fund.

In addition, draw down accounts would provide some of the answer.

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

#### Comments

For students, there is a range of systems, and that seems to be adequate. DEEWR, ACPET, VETAB and other State bodies, NCQ, Fair Trading, etc.

Some student complaints are not to do with RTOs but with such things as security, travel concessions, housing, etc.

In these cases, international students should be treated in the same way as other Australian residents.

#### Recommendation/s

Travel concessions could be made available evenly across all States.

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

#### Comments

International students have much the same problem as any students. Sometimes they enrol in a course and then change their minds for a variety of reasons (too difficult, change of interest, change of Government policy on what might meet migration requirements, proximity to friends, change of family circumstances).

Providers face the problem of having to estimate student numbers to meet planning requirements for teachers, accommodation and teaching resources such as materials.

Accommodation is one of the most inflexible and costly resources.

The current National Code allows students to change providers after six months, which creates problems for almost all providers that offer courses lasting more than six months.

Students are to some extent reliant on agents, who in turn are reliant on agent commissions. There are occasional conflicts of interests for agents, as, for example, it is in an agent's interests to encourage a student to move frequently, as this means additional commissions.

## Recommendation/s

The current six months rule for to change providers is really too short a time for most providers and for the integrity of a VET or High School course.

Changing after only six months can mean that the student has not considered the course seriously in the first place.

A change back to the twelve month rule will create two categories of students - those before the change and those after the change. However, the twelve month rule is more educationally sound.

## **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 starting point needs to be to clarify what the 'quality assurance frameworks' are trying to assure.

If it is adherence to a series of rules, that is provided by the initial registration process and occasional audits.

If it is the quality of the education, this can only be tested by the outcomes of that education.

Currently this 'testing' is done within RTOs by means of assessment against course and units of competence requirements.

Ways of testing this quality could be by means of cross-RTO testing or spot audits by qualified persons.

## Recommendation/s

Test the outcome quality by means of cross-RTO testing or spot audits by qualified persons

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

### Comments

International students have a built in difficulty through (normally) not being English-language speaking.

They are also not attuned to Australian customs and they are initially strangers (in most cases).

They normally need additional funds to survive in Australia and often work at menial jobs for basic wages.

However, many Australians have language problems, work at jobs below their skill levels (or may not find work at all).

Many will be in sub-standard housing and many will have only a small circle of friends and acquaintances.

International students have a relative vulnerability in one unique respect. They are

bound by the conditions of their student visas and they cannot work wherever and whenever they can find employment and for as long as they are capable of working.

#### Recommendation/s

The relative vulnerability will not change, as the students enter Australia under understood conditions.

This will not be altered by additional regulation other than to ease restrictions, which in turn will detract from the educational purpose.

#### **Effective regulation**

vii. Is ESOS compliance and enforcement adequate?

#### Comments

This is a large question.

The ESOS Act came into force in 2001 because of perceived exploitation of international students.

Regulation is always a difficult problem and not all problems can be legislated against.

A good example of an area that the ESOS Act cannot cover is the recent claims by international students about discrimination and about being targeted because of their ethnic backgrounds.

Another area that cannot be legislated against is the economic viability of private providers of education.

Another aspect that cannot be realistically covered by the ESOS Act is the activities of education agents outside Australia.

The National Code 2007 was revised recently and covers the major areas of concern about looking after the interests of international students.

There is also the problem of the culture of students from different countries, regarding their position vis-a-vis education agents. Quite a number of students pay agents in cash and do not get receipts. Agents might then pay a small part of the money to an RTO and the student will only find out at a later stage that they have lost part of their payments.

It is all very well to say that students and agents should be fully aware of the education contracts they enter into, but they are in no different a position from any Australian who does not make himself or herself aware of all the pitfalls of entering into contracts.

#### Recommendation/s

Further regulation is not required under the ESOS Act.

The activities of education agents in Australia could be scrutinised more closely, with a link between reports to DEEWR on unsatisfactory agents and referrals to State or Federal police.

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

Risks run by students or by the system?

Not all risk can be managed, and this must be recognised.

The ESOS Act goes a large part of the way towards minimising or at least ameliorating the risks run by international students

#### Recommendation/s

No further regulation in this area should be contemplated.

International student problems can be considered through other areas (personal safety, costs of living, adapting to Australia)

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

#### Comments

If the outcomes are educational outcomes, the ESOS Act will not control such outcomes.

Part of the National Code 2007 requires a certain level of academic progress, and can include attendance requirements.

#### Recommendation/s

A minimum of regulation combined with spot checks.

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

#### Comments

The principal objects of the Act are:

(a) to provide financial and tuition assurance to overseas students for courses for which they have paid; and

(b) to protect and enhance Australia's reputation for quality education and training services; and

(c) to complement Australia's migration laws by ensuring providers collect and report information relevant to the administration of the law relating to student visas.

1. Provide financial and tuition assurance to overseas students for courses for which they have paid

This is covered to some extent but will probably never provide 100% cover. The liaison with ACPET and the States goes a considerable way towards meeting this object.

2. Protect and enhance Australia's reputation for quality education and training services.

This can only be done through liaison with the States. Unfortunately, because each State operates idiosyncratically, the quality of State input varies. This is exacerbated by varying and once again idiosyncratic audit processes. Private providers spend an inordinate amount of time meeting regulatory requirements, and this is particularly evident in NSW where the providers have to deal with the unsatisfactory services provided by VETAB.

3. To complement Australia's migration laws by ensuring providers collect and report information relevant to the administration of the law relating to student visas. There is a mismatch between DIAC and DEEWR on many aspects of student requirements. These have been taken up with both bodies but with almost no response.

#### Recommendation/s

1. The current OSTAS and ESOS Assurance schemes have worked adequately in the past but recently have come under pressure. An option is to require RTOs to operate on a draw-down system for student fees.

Nothing will protect students from all eventualities.

2. State liaison. A better alternative would be a centralised system with common standards of service and professionalism. NARA has been suggested as a replacement for State designated authorities - this will only be useful if NARA takes the attitude that it is there to assist, not to coerce.

3. Commonwealth and State authorities should consider what they will do with the data that is collected. If it is for coercion against a set of 'standards' then those standards need to be realistic.

#### **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

Supporting the ongoing sustainability of the international education sector should not be a separate issue from overall education in Australia.

The ESOS Act should concentrate on looking to the welfare and protection of international students.

The quality of education in Australia is an overall national issue, not a separate one for the international sector.

The principal objects of the ESOS Act are (as mentioned previously):

(a) to provide financial and tuition assurance to overseas students for courses for which they have paid; and

(b) to protect and enhance Australia's reputation for quality education and training services; and

(c) to complement Australia's migration laws by ensuring providers collect and report information relevant to the administration of the law relating to student visas.

Regarding (b), this should be part of Australian policy for all education, not just for

international students.

#### Recommendation/s

1. (a) to provide financial and tuition assurance to overseas students for courses for which they have paid.

Continue with the current scheme. See previous comments.

2. (b) to protect and enhance Australia's reputation for quality education and training services.

Provide centralise information services, instead of requiring providers to do this. Maintain regulations but do not expand them, as they are a considerable burden already, because of varying service standards between the States.

(continued below in General comments)

#### General Comments

(continued from above)

A move to a centralised and standardised regulatory system would probably be beneficial, but there needs to be a balance between regulation and common sense. In addition, it is the private providers that have created the bulk of the industry in the first place, so regulators need to take account of economic imperatives in the operation of regulation.

A more timely response rate (particularly from VETAB) would assist, with clear reasons for decisions. Providers should have rapid access to review procedures, separate from regulatory bodies.

3. (c) to complement Australia's migration laws by ensuring providers collect and report information relevant to the administration of the law relating to student visas. DEEWR needs to make sure the data is relevant before requiring it from providers. In addition, the PRISMS system could be adapted to give required details without requiring providers to duplicate data collection. Use the PRISMS data directly.

4. One thing that has been missing all along in the regulatory process, is the reluctance of delegated State bodies to give advice. The Commonwealth is getting better at this, and has (slowly) developed best practice examples.

At the recent ACPET Conference in Canberra, Clare Field of NARA gave a talk on how NARA saw the regulatory process.

In brief this was, for RTOs :

A. Poor standard – stringent audit process

B. Average standard – concentrating on possible continuing problem areas

C. High Standard – Best Practice and Support. I think in the explanatory part of your talk this in fact became "Support for Best Practice"

A far better system would be to reverse the process as follows:

A. First establishment and what later became "Poor" RTOs – Support and demonstration or examples of Best Practice. These are the bodies that need support and guidance into best practice. Some good examples of best practice right from the beginning would have saved quite a lot of audit time.

B. Average. Much the same as for "Poor" but concentrating on the problem areas.

C. High. Rigorous but rapid audits. Basically a checking exercise.

5. I have mixed thoughts about the teaching and learning aspects of the audits. There seemed to be too much time wasted on the idiosyncratic views of individual auditors, with resultant amendments to applications by RTOs to take account of these. Inevitably, the next auditor would have different views. It should be sufficient to provide the details outlined in the Training Packages and then do occasional audits to check how the training is being given.

Thank you.