

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:

WA ESOS Reference Group

Sector:

Higher Education

Prepared by:

xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

Contact details:

xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

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 WA ESOS Reference Group believes that all education agent employees who have a student counselling role should be required to complete an agent training course. This course should be free and should be provided by DEEWR rather than by a private organization. Staff who have completed the course should be given a registration number, and providers should be able to look this up to ensure that their agents are complying with this requirement.

Recommendation/s

1. All education agent employees who have a student counselling role should be required to complete an agent training course.
2. This course should be free and should be provided by DEEWR rather than by a private organization.
3. Staff who have completed the course should be given a registration number, and providers should be able to look this up to ensure that their agents are complying with this requirement.

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

Comments

If the TAS system is not working satisfactorily then the mechanism should be revisited. There should be sufficient funds to support students who are left stranded when a provider closes.

If the TAS needs to provide refunds to larger numbers of students, providers from the relevant sectors who are required to subscribe to the TAS should cover the cost with a higher level of contributions. An increased level of legislative mechanisms may be required to manage the TAS in order to ensure that the rights of students are protected.

Recommendation/s

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

Comments

International students would benefit from the existence in each state of a well-publicised government body which could hear complaints and also to provide guidance and process advice on any issue, including appeals.

Recommendation/s

1. A government body should be in place in each state to hear complaints and also to provide guidance and process advice on any issue, including appeals.

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

Comments

The current requirement whereby students must remain with the provider for the first six months should be maintained, as this does act as a deterrent should students wish to change provider prior to completion of the first six months of study. It is felt that in many cases decisions to change provider are driven by migration issues rather than educational concerns. Institutions put considerable resources into the recruitment process and if the student does not stay at least six months these costs will not be covered. The requirement should, however, be changed to require students to remain with the initial provider for the six months, rather than the primary provider, to deal with students in package course pathways.

It is worth noting that the National Code standard which relates to the transfer of students in the first six months is contradictory. While the standard mandates that students cannot transfer for six months, providers must provide valid reasons as to why students cannot transfer prior to this, should the student lodge an appeal if a request to transfer is refused.

Recommendation/s

1. The requirement should be changed to require students to remain with the initial provider for the six months, rather than 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

If the ESOS framework was applied and monitored consistently across Australia strengthening of the current mechanisms would not be required.

Stronger enforcement is required at state level and the state authorities need to provide a more consistent approach. The relationship with the state authority in Western Australia works well and there is constant communication between the Department of Education Services, Western Australia and institutions. However, it

would appear that state authorities in other states are not applying a consistent approach to the regulation of ESOS.

There is a need for harmonising and strengthening at state and federal level of the regulation of all sectors. This will allow for a more transparent approach to regulation of all aspects of ESOS.

Recommendation/s

1. Stronger enforcement is required at state level and the state authorities need to provide a more consistent approach.

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

Under the ESOS framework responsibilities are split between state and federal authorities and the National Code delineates between state and federal responsibilities. Stronger enforcement is required at both federal and state level and this should be undertaken on a risk analysis basis. The current ESOS framework does not require significant change, although Part B of the National Code should be expanded to make more explicit the division of responsibilities, including those of TEQSA. The ESOS Act requires stronger and consistent enforcement across Australia.

As DEEWR notes in the Issues Paper, there is a clear perception within the industry, often based on first-hand as well as anecdotal evidence, that the government at a state and commonwealth level does not take action against providers which are considered to be acting unethically. A strong argument could be made that neither compliance nor enforcement are adequate under the current system, but that this is the fault of the regulators and not of the regulations. The Issues Paper indicates that DEEWR undertook only 48 compliance monitoring visits in 2007-2008, across the entire country and across all sectors.

Recommendation/s

1. Stronger enforcement is required at both federal and state level and this should be undertaken on a risk analysis basis.

2. Part B of the National Code should be expanded to make more explicit the division of responsibilities, including those of TEQSA

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

The ESOS Act applies the same requirements to all education sectors while each sector has different characteristics and associated risks. A risk management approach to compliance would seem appropriate.

Given that there are 1315 registered providers in Australia, effective management of risk needs to take into consideration the different risk levels posed by the different kinds of providers. It should be possible to create "Assessment Levels" for providers, similar to those used under the student visa system. These could be based on factors such as: public/private; percentage/numbers of international students; percentage of students in immigration-focussed courses; findings of prior audits; how long a provider has been operating; and so on. These assessment levels could then be used as the basis for differing registration requirements and for targeted compliance monitoring visits.

Recommendation/s

1. Effective management of risk needs to take into consideration the different risk levels posed by the different kinds of providers.
2. "Assessment Levels" for providers should be created, similar to those used under the student visa system. These assessment levels could then be used as the basis for differing registration requirements and for targeted compliance monitoring visits.

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

Comments

The current regulations are satisfactory and helpful. The issue is not about input and outcomes, but about more consistent targeting of high risk providers and high risk immigration-focussed courses.

Recommendation/s

1. There should be more consistent targeting of high risk providers and high risk immigration-focussed courses.

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

Comments

The mandatory visa cancellation and three-year exclusion period is a harsh punishment for students who do not make satisfactory progress. It should be replaced with a system whereby DIAC makes a decision on the merits of each case.

International students are also not able to change courses should they not achieve satisfactory performance in a particular course. If a student is not successful in one course they should be allowed to change to another more suitable course at the same or another provider.

It would be more appropriate and straightforward for providers to report a student when their own internal appeals process is complete, rather than at the end of an external process over which they have no control. Students could then be given the opportunity to present evidence to DIAC that they had made an external appeal, and DIAC would be able to make a considered decision on visa cancellation on the basis of the information provided.

Recommendation/s

1. Mandatory visa cancellation and the three-year exclusion period should be replaced with a system whereby DIAC makes a decision on the merits of each case.
2. International students who do not achieve satisfactory performance in a particular course should be allowed to change to another more suitable course at the same or another provider.
3. Providers should report a student when their own internal appeals process is complete. Students could then present evidence to DIAC that they had made an external appeal, and DIAC would be able to make a considered decision on visa cancellation.

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

International education provides significant economic social and cultural benefits to the wider Australian community. In order to sustain the Australian international education industry it is imperative that the brand is not affected by the recent adverse publicity.

The focus on migration outcomes by some providers has led to an erosion of standards where specific courses and nationalities have been targeted in order to meet migration outcomes.

The growth of global international education over the last twenty years has seen Australia become a leader in international education. This growth has been achieved with the delivery of quality education and quality services provided to international

students.

The ESOS Act has provided a quality framework whereby providers can meet national compliance standards. This has assisted in the marketing of international education and similar mechanisms are not evident in other countries.

Enforcement of the ESOS framework requirements needs to be more proactive to ensure that the brand of international education in Australian is not tarnished.

Recommendation/s

1. Enforcement of the ESOS framework requirements needs to be more proactive to ensure that the brand of international education in Australian is not tarnished.

General Comments

The WA ESOS Reference Group is made up of staff members with responsibility for managing ESOS compliance and associated issues in the five Western Australian universities. This submission is made on behalf of the members of the group, and the views expressed may not reflect the views of the universities themselves.

Thank you.