ACPET Submission to Reforming ESOS: Consultations to build a stronger, simpler, smarter framework for international education

Introduction
The Australian Council for Private Education and Training is the peak body for private education and training providers delivering educational opportunities to domestic and international tertiary students. In the past three years, as quality and regulatory problems emerged in the delivery of education to international students, ACPET and its members have worked tirelessly to place students affected by college closures, and with the Department of Education, Employment and Workplace Relations and a number of the State and Territory regulators to identify and address gaps in the ESOS Framework. ACPET and its members recognise and support efforts by government to strengthen quality control in the industry and restore Australia’s reputation as a leading provider of education to international students. ACPET and its members are now working extensively with other peak bodies within Australia and the Asia-Pacific region – to restore confidence in Australia’s international education sector.

Risk assessment and risk management
ACPET supports the introduction of thorough and consistent risk assessment and risk management to the regulatory framework for international education. For too long providers delivering education in different sectors (e.g. ELICOS, VET or higher education) have been treated as three homogeneous groups, with no recognition of differing levels of performance amongst providers within the same sector. This has in turn contributed to too little attention being focussed on poor performers.

With national regulation for VET and higher education providers set to become a reality this year, ACPET questions why the consultation paper seeks advice on a separate set of risk indicators for providers and why the paper appears to be canvassing an apparently separate approach to risk management. At a time when the Commonwealth has invested substantial resources in the establishment of both the Tertiary Education Quality Standards Agency and the National VET Regulator – and both agencies are working on more sophisticated and thorough risk management approaches; it is critical that the Commonwealth not create another, separate and stand alone risk management framework for international education.

With the National VET Regulator due to commence operations in April 2011, the most effective way to strengthen the ESOS framework would be for DEEWR officials involved in ESOS regulation to be working with officials from the National VET Regulator to build on the risk framework the regulator will bring into operation for domestic providers, ensuring it also has applicability for providers delivering to international students. The same integrated approach should be taken with respect to the risk framework which is being developed by TEQSA.
To be successful and have the confidence of the sector, the risk framework for international education providers must be aligned to the frameworks being introduced by the national regulators, with the addition of relevant additional criteria solely for international providers as appropriate. A risk assessment framework must deliver a reduced regulatory burden for high performing providers and much greater scrutiny for poor performing providers. The risk assessment framework must also be sufficiently robust that it allows the Department of Immigration and Citizenship to use the regulators’ risk assessments to replace the ‘sector-wide’ risk assessments it currently uses to set the requirements for student visa applicants.

DEEWR must ensure that where additional data and information is collected from providers, that it is the minimum required for effective risk assessment.

ACPET is introducing a risk assessment and risk management framework to its membership. ACPET’s experience indicates that the following criteria should be considered in a risk framework for international education: financial management, governance, scope of operations, and student outcomes.

ACPET does not agree with the proposal in the consultation paper that different risk criteria be introduced for different sectors. Increasingly educational providers offer a range of courses to international students meaning the introduction of different risk criteria to different aspects of their business would be unwieldy and unworkable. In addition many have long established partnerships with educational providers in other sectors – different risk criteria would impinge upon the successful operation of existing and proven partnership arrangements. Currently in the DIAC risk assessments for international education there are many instances of VET and ELICOS providers receiving a higher risk assessment than higher education providers. This not only disadvantages high quality ELICOS and VET providers it also disadvantages those international students who wish to improve their English language skills and/or learn valuable skills for employment for use on their return to their home country. Australia’s reputation for high quality higher education is well deserved and should be encouraged. The challenge for governments is to recognise and support the high quality education being delivered by providers irrespective of the sector(s) they operate in.

ACPET does not consider that the 1800 word limit on submissions allows sufficient opportunity to effectively answer the 32 questions the Department has posed on establishing and implementing an effective risk assessment and risk management framework. ACPET would be pleased to provide further and more detailed advice on any of these questions to assist the Department in its work to improve its risk framework for international education.

Tuition Protection Service
ACPET does not believe that a single, government run Tuition Protection Service can or will effectively meet the needs of students and the sector in the event of provider default. Australia’s existing fee-protection measures for international students are world-leading and rely primarily on
industry co-operative schemes run by peak bodies for non-government providers. While ACPET’s Tuition Assurance Scheme was never originally conceived to deal with the very large numbers of displaced students it has assisted over the past three years, the evidence shows that where suitable alternative courses were available, the scheme has worked well and relocated students have gone on to successfully complete their studies. ACPET receives regular emails and correspondence from students who have been assisted by its Tuition Assurance Scheme and have gone on to complete their studies and return to their home countries with a positive experience of life and study in Australia.

ACPET recognises that current Tuition Assurance mechanisms can and should be strengthened. To this end ACPET is currently reviewing its Tuition Assurance Schemes (those developed to assist both international and domestic students). Lessons learned from the closures which have occurred in the past three years show that more stringent risk assessments of providers and their courses are required to ensure that suitable alternative courses are available in the same location to place students in, and to ensure greater equity in terms of which providers receive students in the event of a closure. Stronger risk management by peak bodies like ACPET, which operate Tuition Assurance Schemes, combined with measures to provide the Department with greater oversight of the operation of the industry-run schemes would obviate the need for a single Tuition Protection Service.

Several of the questions raised by the Department in its consultation paper indicate a potential lack of understanding of the market dynamics in operation in the international education sector. For example the paper suggests that the single Tuition Protection Service would ensure all registered providers share the burden of placing students. Enshrined in this principle is the notion of government assuming all of the risk for individual private enterprise activity. This in turn reduces the incentives for high levels of cooperation amongst private providers.

While in a government-run scheme, government would be better able to require TAFE providers and universities to take displaced students; if those students came without funds (as is typically the case now in cases of provider default) there would be substantial costs to public providers of this expanded scheme. In time it is evident that such a mechanism would become financially unsustainable and alternative arrangements would be required.

Both private and publicly funded providers have a role to play in the provision of international education. In fact, in many ways, the private sector has led the provision of education to international students. International benchmarking by i-Graduate data shows the current level of satisfaction amongst international students in Australia is high, and that it is equally high for students studying with private providers, TAFEs and universities. The challenge for government in considering new Tuition Assurance arrangements is to ensure they offer genuine and long lasting improvements for students, while still allowing the market to operate effectively and efficiently.

There are a range of legitimate reasons why a private training provider may not be able to accept students affected by provider default. Further improvements to existing Tuition Assurance
arrangements are possible if an amendment is made to the *ESOS Act*, to support the principle that when a provider enters default the student should only be refunded the portion of the course fees for which they have paid but have not yet received any teaching. The current requirement that a provider must refund all tuition fees paid by the student, including for all of the education and training which has legitimately been delivered, is at the heart of the difficulties faced by students and providers when a default occurs. ACPET is not aware of any provider entering default and able to make these extensive refunds.

The current requirement for a full refund leads to the extraordinary situation where a provider who has delivered all but the last subject or unit of a two or three year course of study is required to provide their students with a refund for all of the course fees paid over the two or three years of their course. Amending the *ESOS Act* to require defaulting providers to refund only the course fees paid in advance and for which teaching has not been delivered would see many more students receiving a refund from their provider in the case of default. This would leave students in a financially stronger position, better able to choose their preferred provider for the remaining subjects or units of their course. It would also make placements easier for existing TAS operators and allow them a new role – a ‘matching service’ working to support students in finding the best course and provider for them to transfer to. The number of providers expressing interest in receiving students would increase as those students seeking to be matched would have their refunded course fees available to them to pay for their remaining studies. It would also allow students to be placed with TAFEs and universities if that was the student’s wish, with no financial disadvantage to the provider which accepts the student.

ACPET does not consider that the 1800 word limit on submissions allows sufficient opportunity to engage with and effectively answer the 15 questions the Department has on a Tuition Protection Service. ACPET would be pleased to provide further and more detailed advice on any of these questions to assist the Department in its work to improve tuition assurance arrangements for international students.

**Improving the National Code**

ACPET considers that improvements can and should be made to the National Code, however the 1800 word limit on submissions does not allow sufficient opportunity to engage with and effectively answer the 19 questions the Department has on improving the National Code. ACPET would be pleased to provide further and more detailed advice on any of these questions to assist the Department in its work to improve the National Code.

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