Review of Student Visa Assessment Level Framework

Submission from

Australian Council for Private Education and Training (ACPET)

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1. Introduction

The Australian Council for Private Education and Training (ACPET) is the peak body for private education and training providers, delivering educational opportunities to domestic and international tertiary students. We welcome the opportunity to submit this response to the Review of the Student Visa Assessment Level Framework. ACPET has worked closely with government and with other peak body counterparts to create new ways of managing risk and rewarding success for those operating in the international education sector. Government policy settings regarding international education and skilled migration have significantly impacted ACPET’s members.

ACPET recognises that much has been achieved in reforming our quality systems, with the introduction of national regulation for the VET sector, through Australian Skills Quality Authority (ASQA) and the Tertiary Education Quality and Standards Agency (TEQSA) for higher education. Along with Department of Industry, Innovation, Science, Research and Tertiary Education (DIISRTE), these agencies have the mandate to regulate quality for the sector and ESOS compliance. The Department of Immigration and Citizenship (DIAC) rightfully has the mandate for Australia’s student visa system. We recognise that there is a highly complex and interdependent relationship of quality frameworks, policy levers and institutional programs that must be carefully managed in order to protect and sustain Australia’s quality international education sector.

In summary ACPET urges the government to:

1. extend the provider-based risk model to providers other than universities under a pilot, opt-in program to commence in mid-2012
2. offer providers access to data used to calculate relevant risk ratings and work in partnership with providers to reward good practice
3. recognise that quality in the education sector is managed by DIISRTE, ASQA and TEQSA, therefore do not seek to recreate or re-audit existing quality measures that are captured elsewhere
4. change the Assessment Level (AL) categories for country risk to low, medium and high
5. enhance the role of agents in managing risk, particularly in high-risk countries and regions through an agent risk management approach
6. remove the need for English and education qualifications to be considered as part of the visa application process
7. offer providers free access to AEI–NOOSR country profiles to support validation of education qualifications
8. change the risk rating methodology to give more weight to fraud in the visa system
9. continue ongoing communication with the sector through the Education Visa Consultative Committee (EVCC)
10. conduct a workshop with peak bodies after all submissions to the AL review have been received to review and assess the most viable ideas, with full modelling to be completed on any proposed changes, and
11. extend current DIAC approaches to industry engagement (as evidenced through the industry liaison officers) to the education sector.
2. Education provider-based risk management

5.1. Given the challenges and benefits associated with individually rating all international education providers, how could such an approach be introduced?

ACPET has supported the move to a provider-based risk management approach for streamlined visa processing (SVP) and for access to post study work rights. We concur with Ministers Evans and Bowen that such an approach has the capacity to recognise and reward high quality, low risk providers.

Minister Evans, at the Australian International Education Conference (AIEC) in October 2011, noted that:

“Our priority is to ensure that all institutions are competing for students on the basis of quality and are not hindered by onerous and out-of-date regulations. In essence, the Government’s response to the Knight review moves the sector towards a new risk-based assessment system in which we measure provider risk rather than focusing solely on student risk. Immigration will obviously continue its normal processes to ensure they are confident of the migration status of students, but the new model will allow providers to be more agile in their offerings and promote a more attractive product to those students seeking to come to Australia”.

More specifically, upon the government’s release of the Knight Review on 22 September 2011, Senator Evans’ and Minister Bowen’s joint press release stated that:

“The government will also undertake a fundamental review of the Student Visa risk management framework, the ALs, to report by mid-2012. The AL framework review will specifically explore a provider risk model, in consultation with an external reference group. The government will consider options for the early implementation of the findings of the AL framework review, targeting a small number of high quality education providers – including TAFEs – to recognise the lower migration risks associated with them. ’We need to move to a more targeted approach to assessing and responding to immigration risk in the Student Visa program that recognises and rewards high-quality education providers,’ Mr Bowen said’.

In discussing provider-based risk, we believe it important to put it in context as it relates to other forms of risk that support the integrity of the student visa program. Figure 1 below outlines the four elements that need to be considered holistically to manage risk – Country Risk, Provider Risk, Student Risk and Agent Risk.
Currently, the focus is on student risk and country risk. With the SVP arrangements for universities we have seen a shift to provider risk yet questions are raised on how this can be effectively rolled out to the “best of the rest” CRICOS providers.

ACPET notes that DIAC has entered into formal agreements with all 39 Australian universities in order to determine an initial risk rating for access to streamlined visa processing. We also understand that DIAC is looking at practical ways to extend a provider-based risk rating outside of Australia’s universities. It is ACPET’s position that any move to broader provider-based risk rating should be, in the first instance, an opt-in approach with an initial pilot to commence in mid 2012 as per Ministers Evans’ and Bowen’s commitment quoted above.

ACPET reiterates the significant reform implemented in the quality assurance and risk frameworks through TEQSA and ASQA that would offer DIAC a basis for assessment of provider risk without the need to duplicate effort or to create entirely new risk processes. For example in the higher education space, TEQSA’s regulatory risk indicators will look at three areas specifically related to:

1. overseas body corporate
2. delivery of courses offshore, and
3. high/volatile international student population

along with other factors relating to provider standing, corporate governance and financial viability that could inform DIAC’s provider-based risk management. Equally for VET providers, all of ACPET’s international members will be covered under ASQA (except those involved in schooling). The current risk indicators that relate to international risk are performance (history of audit compliance, history of complaints), financial viability, transparency of ownership, RTO delivering to international students and RTO delivering offshore.

On the basis of these national approaches, and in line with ACPET’s Code of Ethics, ACPET has suggested the following criteria as the basis for provider-based risk:

- ownership (including both type of organisation and individuals involved in running the organisation)
• history of regulatory compliance with educational quality standards (both CRICOS and AQTF or Higher Education Standards as appropriate)
• financial viability – including any approval by DIISRTE for FEE-HELP or VET FEE-HELP assistance to students
• history of student visa compliance and adherence to ESOS
• students’ academic progression, retention and completion rates
• range of student support services provided
• depth of course offerings
• mix of international and domestic students
• mix of international students
• length of time in operation
• history of complaints, and
• industry association/peak body membership or endorsement.

ACPET asserts that one of the missing elements to date in the student visa application processes is the differential risk posed by the involvement of education agents. Working collectively and interdependently the four elements of risk will seek to find a balance in sharing the responsibility of risk between governments, students, providers and agents.

This assessment will rely on effective and efficient working relationships between DIAC, DIISRTE, TEQSA and ASQA. These should be formalised and managed in such a way that reduces the overall workload for providers and agencies and does not duplicate effort.

Taking lessons from the experience in universities opting into the SVP arrangements, it will be critical that DIAC shares with providers the data they are using to calculate risk ratings. More detailed analysis and industry consultation will need to be carried out to get this risk rating right. The opt-in pilot model will enable those providers most ready to participate to benefit from SVP and to also work with DIAC to test and improve the risk rating approach.

With regard to student risk we note that since the introduction of the GTE and GS there has been no detailed explanation given to providers on how these requirements would be administered. Given the change to this new student risk assessment process it would not be fair for providers to be penalised if they are now receiving a significant number of rejections. It will be critical that the reasons for rejection and decline are made available to the provider and agent where relevant as these rejections will impact overall country and provider risk ratings.

Lastly, we appreciate DIAC’s concern in seeking to assess and regulate the current 1,200 CRICOS registered providers. However it should also be noted that as of 1 July 2012 this number will reduce significantly when multi-state providers will only be counted once and not in each state they operate.

5.2 If it is not feasible to implement such an approach in its entirety, what would be the features of an alternative and administratively feasible approach that allowed ‘granularity’ in identifying and managing risk? For example, could groups of providers be rated together in smaller groupings than at present, and on what criteria? Or could providers with certain characteristics be ‘deemed’ to be of a particular risk rating?

Any move to provider-based risk for the sector should be offered as an opt-in model for providers in the first instance. This will enable a period of trial implementation for those providers most ready and open
to new changes, and with the strongest track record. In the sector there is wide variance on the size and scope of private providers.

Providers should receive regular feedback regarding their performance against the agreed benchmarks, a process that would have the aim of facilitating improved understanding by the provider of where issues lie (with particular countries, programs or agents for example) so that providers can address the issues and improve their practice.

DIAC resources could therefore be applied to applications for study with high-risk providers whilst streamlining processing times for applications for low risk providers. This proposal relies heavily on DIAC, DIISRTE and regulatory agencies making data regarding their performance available to providers on a regular basis.

As was noted in the response above, any approach to manage provider-based risk will rely on a whole-of-government approach. The processes and risk management approaches used in the recent CRICOS re-registration process for providers, VET FEE HELP and FEE HELP requirements and the Tuition Protection Service (TPS) risk management systems provide proven models for identifying the appropriate groupings from which to introduce provider-based risk.

5.3 Alternatively, if an applicant’s country and education sector continues to be used to determine risk, what should be put in place to manage the current limitations of this approach?

ACPET believes that the country risk rating should remain, albeit with a move to the proposed three levels of low, medium and high (see response to 5.5 below). ACPET does not believe that the rating via education sector should remain. It is disappointing to note that sectoral divides appear to have become more entrenched and relationships strained since the introduction of migration changes, intended to support the whole sector. With a move to provider-based risk this will enable more targeted management of risk. The former education sector classification was a blunt instrument that sought to manage risk using education sector as a proxy for quality. Yet this classification has worked against many high quality low risk providers, particularly those in the VET and ELICOS sectors.

5.4 What measures could be introduced to manage the limitations of considering risk within countries?

ACPET recognises that this issue is highly relevant to China and India, who represent a large proportion of enrolments in Australia. As DIAC has already noted there is difficulty in assigning a level of risk to an applicant’s stated area of residence or origin, as these claims too can be fraudulent. Further segmenting countries by region is also politically and diplomatically difficult for governments to manage.

The single most important measure that should be introduced to manage the limitations of considering risk within countries is to focus on the role of agents. For example, while overall data shows that approximately 60% of international students come to Australia through an agent, for students from AL 3 and AL 4 countries, the proportion increases to above 90% with only a few (typically postgraduate students) having the confidence to submit student visa applications without an intermediary agent. It is in these countries where DIAC has the most challenges with cases of fraud and other non-compliance matters.

Working more closely with agents in these regions/countries with a high risk rating will enable us to leverage a network of partners who are best placed to ensure that students are genuine temporary entrants and genuine students. Building in a risk management system for agents would reward agents and educational providers who are doing the right thing. This would require ratings to be allocated along
those already offered for country risk assessments, i.e. agents’ performance and therefore risk rating to be assessed against:

- rate of applications refused due to fraudulent documentation and other reasons
- rate of visa cancellation
- rate at which visa holders overstay their visa, and
- rate at which visa holders apply for certain other permanent visas.

Taking this assessment level to agents essentially then ensures a virtuous loop between the key stakeholders of students, agents and institutions involved in ensuring a quality education sector. An education agent assigned as “low risk” should receive priority processing for their clients to encourage their business practices to support the integrity of the student visa program. The Australian Government should continue to support and promote the Education Agent Training Course (EATC) as a means to support professionalism and benchmarking for agents, again with a focus on high-risk regions and or countries.

3. Risk categories

5.5 Should the five AL levels be collapsed – perhaps into ‘low’, ‘medium’ and ‘high’ risk categories?

ACPET supports a move to simplify the number of country risk categories moving from the existing five assessment levels to three risk categories of ‘low’, ‘medium’ and ‘high’. The reality is that despite having five Assessment Levels (ALs) only four are in use. The difference between AL 3 and 4 is quite minimal and the industry, government and students would be better served to see this moved to a low, medium and high rating.

5.6 Should the current AL categories be maintained, or maintained with the exception of AL5 which should be removed?

Based on the response to 5.5 above, we do not believe that the current Assessment Level categories should be maintained.

4. Eligibility requirements

5.7 What are the merits and limitations of an approach whereby education providers certify that prospective students have appropriately robust levels of English language, rather than DIAC assessing this as part of the visa application process? If so, how should these levels be set?

ACPET believes that English language ability is not a proxy for risk. However, it is an important determinant of student success and ultimately employment outcomes. ACPET suggests that it should be the provider’s responsibility to determine academic and English language entry requirements against agreed standards. Standard 2.1a of the National Code requires that before accepting a student for enrolment in a course (i.e. before issuing a CoE) the provider must provide current and accurate information about the minimum level of English language proficiency required. Under ESOS providers need to have in place documented procedures for assessing whether a student’s qualifications,
experience and English language proficiency are appropriate for the course for which enrolment is sought.

There is a case for minimum standards for English entry set and monitored by education institutions, without needing to be part of the visa application process. From DIAC’s perspective, this may reduce processing workload. From the provider perspective, given the provider-based risk approach, it will be in the providers’ and students’ interests to ensure that thresholds for English language entry are set appropriately. Institutions will continue to work closely with English testing authorities such as IELTS, TOEFL, Pearson Test of English and Cambridge to support English language entry.

5.8 Are the recent changes to the financial requirements and the introduction of the Fraud PIC for Student visas sufficient to address concerns about fraud in financial evidence and documentation? Should they be allowed to operate for a certain period of time before this issue is re-examined? If changes to the financial requirements should be made as a result of this review of the Student visa AL framework, what changes should be made?

ACPET believes that there has not been enough time to access and evaluate the recent changes to the financial requirements and the introduction of the Fraud PIC. They should operate for a period of 12 months, with a full review at this time the outcome of which should be reported via the Education Visa Advisory Committee for further discussion and recommendations.

5.9 What are the merits and limitations in DIAC continuing to request evidence of educational qualifications?

By themselves, English language proficiency and educational qualifications are not indicators of risk. They may well be indicators of the student’s ability to effectively engage in the course of study and to successfully complete their approved studies, but this is a judgment best left to the provider, not to immigration officials. Removing the requirement for DIAC to request evidence of educational qualifications may reduce DIAC’s workload and puts incentive on providers to improve and quality assure admissions processes. To support this move, the Government (AEI NOOSR) should improve the quality and timeliness of information provided in the Country Education Profiles (CEP) and offer free access to these as part of a package to assist in the move to providers verifying education qualifications. Equally, in this light DIAC should consider incentives for providers to work with government to improve the quality of students and applications.

5. Data and methodology

5.10 Should the risk management methodology be different for countries depending upon whether they are large or small source countries or whether they are traditionally high or low risk?

ACPET supports a robust and transparent risk management methodology that takes into account small and large source markets but is applied universally. ACPET supports rules for small countries and small providers in order to mitigate against any issues of bias in the reporting. Without access to DIAC’s data on small country risk it is difficult to offer an informed response. However, we argue that the methodology needs to be considered on an annual basis and combined with a qualitative measure (rated up to 15%) to accommodate for any changes needed.
We need to be mindful of complete reliance on the statistics and need to build in flexibility to manage and understand certain aberrations in poor statistics. For example, in 2008–2009 in Mauritius a number of new agents entered the market and the number of fraudulent documents/applicants rose significantly. ACPET has been advised that these agents have now ceased operations, yet students applying through highly reputable agents (such as IDP, OVEC) have suffered as a result.

5.11 What risk factors should be considered in the future framework, and what should the ratings be?

ACPET is aware that the current approach includes analysis of data from 12 months previous based on the following five risk factors (see Table 1).

Managing these risks relies on two components:
- identifying the potential risk before the visa is granted (factors 1 & 2), and
- identifying and acting on breaches of visa conditions after the visa has been granted (factors 3, 4, 5).

The first risks are in many ways, particularly in high-risk countries, best managed in partnership with education agents. It is why ACPET further argues that agent risk needs to be considered in light of the AL Review. The next critical link to risk is the education provider who needs to meet the obligations under ESOS legislation and national regulation to recruit students ethically into their programs and to monitor and report on students’ course attendance and progress.

We argue that the first factor “fraud” should be more highly weighted given the flow-on effect by reducing the number of visas allocated due to fraud. This also then accounts for many factors outside of the control of the agent and the education provider on choices that students may make once they are in Australia (i.e. overstaying, not attending class and/or applying for residency).

Without having access to DIAC’s data, we cannot know how to change the percentage rating and/or what impact these changes might have on countries. However, generally we suggest a higher weighting for factor 1 and reduced ratings for the remaining factors, given the importance of stopping fraudulent claims as an indicator for post-visa success.

Table 1 below offers a sample restructure of risk factors and ratings to shift the onus on elements detected prior to the visa being granted. It is important to note that these are suggestions only and any change will require more detailed modelling and analysis from DIAC, to be shared with the sector.

<table>
<thead>
<tr>
<th>Factor</th>
<th>Current rating</th>
<th>Proposed rating</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Rate of applications refused due to fraudulent documentation</td>
<td>28%</td>
<td>40%</td>
</tr>
<tr>
<td>2. Rate of applications refused due to other</td>
<td>8%</td>
<td>10%</td>
</tr>
<tr>
<td>3. Rate of visa cancellation</td>
<td>28%</td>
<td>20%</td>
</tr>
<tr>
<td>4. Rate at which visa holders overstay their visa</td>
<td>28%</td>
<td>15%</td>
</tr>
<tr>
<td>5. Rate at which visa holders apply for certain other permanent visas</td>
<td>8%</td>
<td>0%</td>
</tr>
<tr>
<td>6. Other qualitative factors relevant to the country/region</td>
<td>0%</td>
<td>15%</td>
</tr>
</tbody>
</table>

“Factor 3 Rate of visa cancellation” needs to be more fully explored. Visa cancellations occur for a myriad of reasons and in many cases, they occur because the provider is operating within the requirements of the National Code and the student visa requirements. For example, reporting students for non-
attendance or lack of academic progress resulting in a visa cancellation should not be held against the country or the provider, but might even be rewarded.

Finally, ACPET strongly suggests that factor 5 is removed from any risk rating. It is Australian Government policy to allow students to take up temporary work and permanent residence visas post their studies. Students, institutions and countries should not penalised for behaving within government policy guidelines. ACPET also suggests that 15% weighting be offered to other qualitative factors that are relevant to that country and region.

5.12 Should the risk index thresholds at which cohorts are assessed as AL1, 2, 3, etc be changed?

No, ACPET supports the move away from five Assessment Levels and any risk index should be standard across all countries.

6. Review mechanism

5.13 Should the review mechanism include input from consultative fora from the international education sector, such as the EVCC?

ACPET's position is that regular, substantive and ongoing consultation is a critical requirement to manage student visa risk in Australia. There are significant changes occurring domestically and globally – any government policy must be responsive and well informed and this can only occur through regular and open engagement with the industry.

The Education Visa Consultative Committee (EVCC) has an important role to play in effective consultation with the sector and in scoping emerging trends and issues. This is a two way sharing process – DIAC with data and policy updates, and education representatives with case studies and evidence from the sector. Combining these elements is crucial to track trends and deal with issues as they are emerging. By way of example at a recent consultation meeting DIAC reported that based on their data, since 5 November 2011, when the Genuine Temporary Entrant criterion was introduced, there had been no noticeable change in refusal rates. From education representatives we were able to report that in practice these have skyrocketed from certain markets.

While the work of the EVCC is critical we also need to think differently about how to capture feedback and intelligence from the market – whether this be from providers, agents, students and other clients.

As an example of industry engagement, ACPET notes DIAC's investment in Industry Outreach Officers who are placed in 19 regional chambers of commerce and industry groups. The program was established to build partnership between government and industry with a view to help employers better understand how to use immigration's services to address skilled labour shortages. This is in line with other outreach services in the regions and with unions.

<table>
<thead>
<tr>
<th>Table 2: Summary of DIAC outreach officers supporting industry</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regional outreach officers</td>
</tr>
<tr>
<td>11 officers</td>
</tr>
</tbody>
</table>

Support for an outreach officer network amongst education peak bodies may be another tangible way to improve the two-way communication between the education and training sector and government. Given
the significance of the student visa program and the importance in managing compliance and industry specific matters this may go some way to improving feedback mechanisms.

5.14 What are the factors that should determine how frequently DIAC reviews risk in the Student Visa Program?

Managing risk in the Student Visa Program is an ongoing and dynamic process. We understand that the Government needs to respond to risk (real or perceived) in a timely manner. Reviews can and should occur post-peak enrolment times to respond to any notable changes. Working in a partnership capacity with providers, DIAC may be able to interrogate specific issues or concerns with specific providers and/or agents. Provider risk reviews should align to other risk management approaches being implemented by TEQSA, ASQA and TPS. Country Reviews should continue to occur on an annual basis.