

TAFE DIRECTORS AUSTRALIA

SUBMISSION ON THE EFFECTIVENESS AND EFFICIENCY OF THE ESOS ACT

TAFE Directors Australia supports the objectives of the ESOS Act and the general approach embodied in the Act and the National Code.

We recognised and supported the need to take action to protect the consumer, to enhance the quality of provision especially by removing providers who lack integrity and fail to meet appropriate standards, and to reduce the flow of non-genuine students coming to Australia.

There have, however, proved to be a number of shortcomings in the Act and the way in which it operates which impact adversely on TAFE Institutes and their capacity to attract international students.

Some of the main problems are tensions and inconsistencies with migration policy, inconsistencies in administration of the ESOS Act among the various jurisdictions, unnecessarily burdensome requirements placed on TAFE providers, inequities between sectors, and excessively high CRICOS registration charges.

The Act has undoubtedly helped to cut down the number of non-genuine students coming to Australia. But at the same time the operation of the student visa regime and the impact of the ESOS Act have together also hindered growth in the number of genuine VET students coming to Australia.

The central aim of government policy should be twofold: first, to ensure that the reputation of Australia's education industry is not compromised by providers lacking integrity or failing to meet quality standards; and second to ensure that abuse of student visas is minimised while not penalising or deterring genuine students.

TDA's view is that a more effective and efficient approach would place more weight on initial provider registration requirements and take a less burdensome approach to monitoring ongoing compliance. At the same time, as we have noted in submissions to DIMIA, there need to be modifications to the risk assessment methodology employed in the student visa regime including giving more weight to the quality of the provider concerned through its demonstrated track record.

We have set out below our comments on the Key Issues identified in the consultation guide.

Quality assurance

Adequacy of current requirements

TDA considers that the initial requirements for registration should put more weight on the provider's capacity to offer quality education programs to international students. Relevant criteria could include a demonstrated track record of delivering quality programs to Australian students.

Areas of the National Code where there is inconsistent application across jurisdictions, sectors and provider types

There are a number of areas where there are inconsistencies in the Code as it applies to different types of providers. Areas of substantial concern to TAFE are the requirements for attendance monitoring and the interpretation of full time study

- *Attendance monitoring*

TAFE Institutes, like other VET providers, are required to monitor attendance fortnightly whereas higher education providers are exempt from any attendance monitoring requirement. Both types of providers are in the tertiary sector and the students are adults. Student attendance as such, as distinct from academic progress, is not a requirement to obtain a VET qualification. There is no sensible rationale for this discriminatory policy.

The fortnightly attendance monitoring requirement, especially in the way it is currently framed (ie monitoring to ensure attendance meets a requirement of 80% attendance over a semester), is of concern to TAFE because of the costs that it imposes. These costs can be very considerable in institutions where international students are part of a much larger student body and where each individual's program may vary. We recommend that VET providers should be required to report on academic progress only, as is the case with university providers.

- *Full time study*

The National Code requires all courses to be full time but this is defined differently for different sectors. In the case of VET it is 20 hours a week by 18 weeks each semester, whereas universities themselves define what a fulltime course is.

In practice, full time VET courses can differ in the number of hours involved for various reasons including RPL, credits, failure to pass re-requisite subjects, varying modes of delivery, elective modules with varying hours etc. The current requirement is costly to administer and is without sound educational justification.

Currently international students are sometimes forced to undertake additional 'fill-in' study to achieve the definition of full time study where domestic students do not face any such requirement.

TDA recommends that VET providers determine what constitutes a full time course, as university providers do.

- *Registration of Course on CRICOS*

There are inconsistencies between State jurisdictions in their approach to CRICOS registration.

Some State authorities specify that foundation courses must be non-award courses but this is not the case in other States where a number of Certificate and Diploma courses are registered on CRICOS as foundation courses. This has direct implications for

providers, which can have the same course registered in one State but not another. There should be consistency on these matters between jurisdictions.

Consumer Protection

TDA considers that the consumer protection provisions are adequate and that no change is necessary

Migration Policy

The reporting requirements appear to be adequate. The main issue appears to be the slow response by DIMIA to reports made by providers. TAFE Institutes report that there are many examples of students being reported to DIMIA for failure to meet attendance requirements or academic progress requirements where DIMIA's decision making process takes three to four months.

A closely related concern is failure by DIMIA to communicate directly with providers on the outcome of reports.

Joined up Government

Effectiveness of government agencies

There appear to be differences in interpretation of the Code by State accrediting bodies which can lead to inconsistencies in application of the Code.

It seems inefficient and imposes unnecessary costs on providers to have duplication of processes between the Commonwealth and the States. Currently, providers are liable for audit by both Commonwealth and State bodies. Streamlining of arrangements is desirable.

Is the ESOS Act the most effective means of meeting the Australian Government's objectives?

We note that there are tensions between migration policy requirements (at least in their current form) and the objective of ensuring a high quality VET export industry.

The ESOS Act has an underlying objective of encouraging high quality provision. In the VET sector, domestic students benefit from a system that has been developed to take advantage of the benefits offered by flexible forms of delivery (including on-line delivery) and workplace based training. However, the requirements of the ESOS Act in relation to full-time study and minimum levels of on-campus, in-classroom instruction mean that these benefits are not available to international students. As a result the programs available to international students sometimes cannot be of the same quality as those available to domestic students. Some of these problems could be addressed by changes to the National Code.

We also emphasise our view that there would be benefit in greater synergies between the ESOS Act and migration legislation/regulations and their administration and that this could be achieved if the latter put greater weight on the track record of providers

in determining risk assessment levels for the purposes of administering the student visa regime. Currently, categorisation of education sector and level of qualification being sought by the student are being used as a fundamental discriminator in determining risk assessment levels for student visa purposes. We believe that other factors, notably the quality of the provider, are more important and that the current approach should be modified. Giving more weight to a provider's demonstrated track record when determining student risk assessment levels would reinforce incentives for quality delivery and conscientious and effective implementation of the requirements under the ESOS Act.

Administration of the legislation

Are costs fair and reasonable?

We have indicated above that we believe the current requirements relating to attendance monitoring and full time study impose unnecessarily onerous, inequitable and costly burdens on TAFE providers. We recommend their removal.

We also consider that the charges for CRICOS registration are unnecessarily high. Duplication of processes and hence charges between the Commonwealth and the States should be avoided.

**TAFE Directors Australia
1 October 2004**