

**SUBMISSION No. 3
Reviews of Auditor-General
Report's Nos 16 - 46 (2011)**

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

QUESTION ON NOTICE

Audit report No. 46 – Management of Student Visas

HEARING DATE: 12 October 2011

DEPARTMENT OF IMMIGRATION AND CITIZENSHIP

Question: Categories of non-compliance

Mrs D'ATH: With the prioritising that you are talking about and the systems that you are putting in place, are you able to categorise the non-compliance notices so that you can prioritise? You have talked about this large group of non-compliance notices that are really just about changes in the requirements of the course that people are doing and it is not really about them not complying. First of all, do you know what the percentages are of those? Of the 178,000, are you able to identify which of those are because of course requirements and which of those are because they are non-starters in education and other studies? Are you categorising them and, if not, how are you prioritising them?

Mr Frew: I am sorry, I do not have a breakdown of the percentages you have just asked for.

Mrs D'ATH: Are you able to get that information? Can you take that on notice?

Mr Frew: I will take it on notice.

Mrs D'ATH: Thank you.

Mr Frew: We can break it down by code. So, yes, we would be able to come up with the information.

Answer:

Non-Compliance Notices (NCN) are categorised by code depending on the reason for the Student Course Variation (SCV). The department has classified the highest risk codes as follows; students who did not commence their course (code 6), did not attend class (code 8), failed to meet course requirements (code 10), ceased study and had their enrolment cancelled (code 16), had their enrolment cancelled due to fees not paid (code 18) and, students under 18 years of age who did not maintain welfare arrangements (code 28).

The figure of 178,000 finalised NCNs was taken from a report dated 30 September 2011. At 14 October 2011, 197,832 NCNs had been finalised through a further auto data cleanse.

0.27% of 197,832 NCNs were for students who did not attend their course (code 8) and students who did not meet course requirements (code 10). 7.40% of 197,832 NCNs were for students who did not commence their course (code 6), have ceased study and had their enrolment cancelled (code 16) or have had their enrolment cancelled due to fees not paid (code 18).

Students with NCNs for not attending their course (code 8) and students who did not meet course requirements (code 10) have their visas automatically cancelled if they do not attend a DIAC office within 28 days from the date they receive notice from their education provider that they have failed to meet course progress and/or attendance requirements. Students who do attend the office within the 28 day time period may have their visa cancelled following consideration of exceptional

circumstances. By necessity, a large proportion of DIAC's resources are directed to resolving these cases as they present, because they trigger the auto-cancellation provisions.

Students who are reported to the department for other high risk codes such as: 'not commenced their course' (code 6); 'have ceased study and had their enrolment cancelled' (code 16); or have had their 'enrolment cancelled due to fees not paid' (code 18) are also considered for possible visa cancellation generally in response to allegations and referrals from other areas of the department, eg. Compliance and offshore posts and other agencies such as DEEWR and State/National education provider regulators.

Finalised NCNs at 14 October 2011

Code	Description	Number	Percentage
25	Student deferred study, same course length	58,938	29.79
5	Student completed course early	43,951	22.22
9	Student enrolled with another provider	41,720	21.09
15	Student deferral, compassionate reasons	19,919	10.07
18	Enrolment cancelled, fees not paid	10,501	5.31
11	Course cancelled, provider not operating	7,321	3.70
22	Enrolment cancelled, unable to run course	3,285	1.66
6	Student did not commence course	2,302	1.16
24	Student changes course and visa subclass	2,281	1.15
16	Cessation of studies/enrolment cancelled	1,840	0.93
14	Visa issued for cancelled CoE	1,663	0.84
7	Course cancelled, provider still operating	1,355	0.68
19	Enrolment cancelled, disciplinary reasons	957	0.48
28	Welfare arrangements unsatisfactory	603	0.30
12	Student not commenced, provider suspended	442	0.22
8	Student non-attendance at classes	333	0.17
10	Student failed to meet course requirements	189	0.10
20	Enrolment cancelled, Student deceased	145	0.07
21	Enrolment deferred, disciplinary reasons	107	0.06
	Total	197,832	100.00

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Question: Cooperation between agencies

Ms O'NEILL: As the Knight review is completed, what are the formal processes and planning going forward to make sure that this high-level committee meeting of assistant secretaries continues to improve the strategic coordination of DEEWR and DIAC? Do you have any policy platform? Do you have any processes in place? Do you have any documentation? Do you have any schedules of meeting?

Ms Williams: Yes, we do. We are meeting monthly. We have a schedule of meetings for next year. It is guided by a terms of reference including membership on both counts. I think the group is working extremely well.

Mr Kukoc: We can provide those documents to the committee.

Answer:

The terms of reference for the DIAC – DEEWR Strategic Student Visa Policy Group are provided at **Attachment A**.

DIAC – DEEWR strategic student visa policy group

Objectives

The objective of the DIAC – DEEWR strategic student visa policy group is to provide a forum for strategic policy coordination between the two organisations regarding the interaction of the student visa program and the international education sector regulatory framework.

Terms of Reference

The DIAC – DEEWR strategic student visa policy group will:

- Provide a key mechanism for information exchange and progression of relevant outcomes of the Baird Review of ESOS Act and the Knight Review of the Student Visa Program.
- Establish priorities for cooperative activity between the Departments relating to overseas students and oversee the implementation of these priorities.
- Oversee and guide activities being undertaken by the PRISMS Technical working group, including data exchange and project priorities.
- Encourage greater understanding among relevant staff of the common goals of both organisations in relation to the international education sector.

Membership

Membership will be limited to Assistant Secretary and Director Level staff.

DIAC membership will include:

AS, Education and Tourism Branch
Director, Student Visa Review Secretariat
Director, Student Visa Policy Section
Director, Student Visa Projects Section

DEEWR membership will include:

Branch Manager, International Quality
Branch Manager, International Strategy
Director, Policy Coordination Unit
Director, Strategic Support Unit
Director, Compliance Unit
Director, Strategic Policy Unit

Chair and meetings

- Meetings will be co-chaired by the relevant Assistant Secretaries of DIAC and DEEWR.
- Meetings will be held monthly, alternate between DIAC and DEEWR premises or as agreed and will normally not exceed one hour.
- To minimise administrative overheads, outcomes notes rather than full minutes will be produced by the hosting agency.

Background

The regulation of Australia's on-shore education and training export industry focuses on the protection and enhancement of Australia's international reputation, migration control and the need to ensure that overseas students receive quality education in Australia.

The regulatory environment – comprising the *Education Services for Overseas Students (ESOS) Act 2000* regulated by the Department of Education, Employment and Workplace Relations; and the *Migration Act 1958* regulated by the Department of Immigration and Citizenship; and associated regulations and instruments, requires that both providers of education and training to overseas students on a student visa, and the overseas students themselves, comply with the requirements of the legislation.

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Question: Compliance/Planning

Further to the evidence given during the hearing:

“Mr BRIGGS: Why has the immigration department not updated its compliance and integrity plans since 2007-08?

Mr Illingworth: We have recently issued a revised compliance priority matrix to our service delivery network and are in the process of rolling out workshops to work through how that will be implemented.”

Please provide a timeframe for completion of the workshops and the full implementation of the plan.

Answer:

The *Compliance Field Prioritisation Matrix 2011-12* has been in development within the Department since 2010. It was finalised for implementation on 15 September 2011. On 20 October 2011 a workshop of Compliance managers and staff from all States and Territories was held in Sydney. This forum considered the new Matrix and how it has been operating since its introduction. Compliance managers were asked if there was a need for additional support or guidance on how to use the Matrix. Managers indicated that the Matrix is already working well and that further specific training or workshops for its implementation were not required.

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Question: Visa processing

Further to the question asked during the hearing:

“Senator THISTLETHWAITE: I have a question regarding the electronic lodgement process for selected visa categories. Can you give us a rough idea of how many of those selected categories are processed through electronic lodgement from start to finish? So in other words, it is without officers having to go through the process. I think it is called the automatic lodgement approval process.”

The response addressed the eVisa take-up rate. Could the department please provide information regarding the auto-grant rates and delayed auto-grant rates that are currently being achieved as a percentage of eVisa applications? Further, what is being done to increase the auto-grant rate?

Answer:

For the latest complete program year, 2010-11, the auto grant rate for student visa applications was 10.4% and the delayed auto grant rate was 10.2%.

The department is not currently seeking to increase the auto-grant rate. The department is, however, seeking to deliver services more efficiently and effectively - a key strategy of this goal is to increase the range of online products and also to increase the uptake rate of eVisa lodgements.

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Question: Institutional compliance

Further to the evidence given during the hearing:

Mr Walters: ... What they need to do under the new system is ensure that they have arrangements in place to ensure the integrity of the processes that they are using—that they are recruiting both genuine students and genuine temporary entrants and that they will not be caught out, down the track, when the monitoring from DIAC comes back and shows that there has been abuse of this migration pathway.

What is the proposed process and schedule for monitoring universities practices and their students' compliance with visa conditions?

Answer:

On 3 November 2011, the Department of Immigration and Citizenship (DIAC) wrote to University Vice-Chancellors to seek their views on the proposed implementation of the Knight Review recommendations relating to streamlining visa processing arrangements for students enrolling in certain courses with universities. This letter detailed the proposed accountability arrangements which will underpin access to the streamlined visa processes including opt in arrangements and arrangements for continued access to the streamlined visa processes. Participation in these opt in arrangements will be conditional on each university providing a written ongoing commitment setting out how it proposes to address issues which are associated with students meeting and complying with visa arrangements. The Government will decide whether a university will be accepted to participate on the basis of each university's written commitment. This ongoing commitment will acknowledge that universities will be held to account on the benchmarks provided and it will be published on DIAC's website.

In relation to ongoing arrangements, the department has proposed to universities that these will involve:

- Universities to be provided with baseline and 6 monthly reports containing data on the visa applications and visa compliance of their student cohorts.
- Benchmarks to be set for this data by the Minister. These will be broadly based on existing Student Visa Assessment Levels. Based on this data, each university could be assigned an appropriate "Assessment Level".

- After 12 months, relevant data and the “Assessment Level” of each university to be made publicly available. Some universities may be put “on notice”, and in the future, some universities may be excluded from the streamlining arrangements for a minimum period of two years if the visa application and visa compliance of their student cohorts do not improve within specified time periods.

The written commitment will also acknowledge the ongoing nature and the consequences of not meeting these requirements.

In order to opt into the arrangements the universities will need to publicly acknowledge that:

- the university’s performance will be judged on the benchmarks. If after 12 months the university does not meet benchmarks it will be put on public notice or excluded from arrangements; and
- after 12 months, universities may also be required to meet other standards as determined by the Government. (As part of its response to the Knight Review, the Government announced a fundamental review of the Assessment Level framework that in particular is to consider the merits of moving to a provider based risk model. The outcomes of this review, to be implemented by 2013, may involve changes to the streamlining arrangements for universities.)

In relation to monitoring student compliance with visa conditions, under the *Education Services for Overseas Students Act 2000* (the ESOS Act), universities are required to notify both students and the Australian Government when students have breached their student visa conditions as a result of having failed to maintain satisfactory course progress or attendance. Under the proposed arrangements, this monitoring and notification role will continue. Monitoring of Student visa holder compliance will remain the responsibility of DIAC.