



COMMONWEALTH OF AUSTRALIA

Proof Committee Hansard

SENATE

EDUCATION AND EMPLOYMENT LEGISLATION COMMITTEE

**Education Services for Overseas Students Amendment (Quality and Integrity)
Bill 2024**

(Public)

WEDNESDAY, 2 OCTOBER 2024

CANBERRA

CONDITIONS OF DISTRIBUTION

This is an uncorrected proof of evidence taken before the committee.
It is made available under the condition that it is recognised as such.

BY AUTHORITY OF THE SENATE

[PROOF COPY]

EDUCATION AND EMPLOYMENT LEGISLATION COMMITTEE

Wednesday, 2 October 2024

Members in attendance: Senators Bilyk, Brockman, Canavan, Faruqi, Henderson, O'Sullivan and Sheldon

Terms of Reference for the Inquiry:

To inquire into and report on the Education Services for Overseas Students Amendment (Quality and Integrity) Bill 2024

WITNESSES

ANGUS, Ms Laura, First Assistant Secretary, Careers, International, Defence and Assessment, Department of Employment and Workplace Relations.....	56
BERMEJO, Mr Michael, Director, Key 2 Learning Pty Ltd	23
BIJO, Dr Kunnumpurath, Chief Executive Officer, Institute of Health & Management Pty Ltd.....	23
BOUSAMRA, Mr George, Vice Chair, Bankstown Community College Inc. [by video link]	23
CAGLIARINI, Mr Adam, First Assistant Secretary, Macroeconomic Conditions and Population Division, Department of the Treasury	43
CHANDER, Dr Mukesh, Chief Executive Officer, Imperial Engineering Education [by video link]	1
COOK, Mr Tony, Secretary, Department of Education.....	56
COSTA, Mr Thomas, Assistant Secretary, Unions NSW [by video link].....	18
CROSTHWAITE, Ms Kerren, First Assistant Secretary, Housing Division, Small Business, Housing, Corporate and Law Group, Department of the Treasury.....	43
De MARGHERITI, Mr John, Chief Executive Officer, Academy of Interactive Entertainment Ltd.....	23
DODD, Ms Jenny, Chief Executive Officer, TAFE Directors Australia [by video link]	8
ECKENFELS, Mr Timothy, Chief Executive Officer, IH Sydney Training Services Pty Ltd	35
FAITHFULL, Ms Anna, Deputy Secretary, Skills and Training, Department of Employment and Workplace Relations.....	56
FIELD, Ms Claire, Private capacity	8
JOUNING, Mr Rod, Deputy Head, Operations, Moorabbin Aviation Services Pty Ltd [by video link]	35
KILNER, Mr Damien, First Assistant Secretary, Immigration Programs Division, Department of Home Affairs.....	43
KNIGHT, Ms Monique, Chief Executive Officer, Bankstown Community College Inc. [by video link].....	23
LATIMER, Mr Nicholas, Assistant Secretary, Centre for Population, Department of the Treasury.....	43
McKENNA, Mr Brendan, Acting First Assistant Secretary, Labour Market, Environment, Infrastructure and Industry Division, Fiscal Group,..... Department of the Treasury.....	43
NEWTON, Mr David, Chief Executive Officer, BASAIR Australia	35
NIEUWENHUIS, Ms Adrienne, Acting Chief Commissioner, Tertiary Education Quality and Standards Agency [by video link]	56
O'BRIEN, Ms Fiona, Executive Director, Policy and Partnerships, Australian Skills Quality Authority.....	56
PIENAAR, Mr Johan, Chief Executive Officer, Flight Training Adelaide.....	35
PIRIE, Mr Felix, Deputy Chief Executive, Policy and Research, Independent Tertiary Education Council Australia	8
PRATT, Mr Ian, Managing Director, Lexis Education Pty Ltd [by audio link]	35
RAVEN, Mr Mark, General Manager, Revenue, IH Sydney Training Services Pty Ltd	35
REINHARDT, Ms Sam, Deputy Secretary, Fiscal Group, Department of the Treasury	43
RICE, Ms Saxon, Chief Executive Officer, Australian Skills Quality Authority	56

WITNESSES

RIMMER, Mr Ben, Deputy Secretary, Higher Education, Research and International,.....	
Department of Education	56
RUSSELL, Dr Mary, Chief Executive Officer,	
Tertiary Education Quality and Standards Agency [by video link]	56
SANDERCOCK, Ms Karen, First Assistant Secretary, International Division,	
Department of Education	56
TEGG, Mr Brendan, Assistant Secretary, Migration Reform Taskforce,	
Department of Home Affairs.....	43
WILLIAMS, Mr Troy, Chief Executive, Independent Tertiary Education Council Australia.....	8

CHANDER, Dr Mukesh, Chief Executive Officer, Imperial Engineering Education [by video link]**Committee met at 08:23**

CHAIR (Senator Sheldon): I declare open this hearing of the Senate Education and Employment Legislation Committee into the provisions of the Education Services for Overseas Students Amendment (Quality and Integrity) Bill 2024. I begin by acknowledging the traditional custodians of the land on which we meet and pay my respects to their elders past and present. I extend that respect to Aboriginal and Torres Strait Islander people here today. I am joined by other committee members in person and online. These are public proceedings being audio streamed live via the parliament's website, and a *Hansard* transcript is being made.

I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee, and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence. Witnesses also have a right to request to be heard in camera. If a witness objects to answering a question, they should state the ground upon which the objection is made, and the committee will determine whether it will insist on an answer, having regard to the ground which is claimed. If the committee determines to insist on an answer, the witness may request that the answer be given in camera. I remind all senators that, as we continue our work implementing the *Set the standard* report, as chair I will ensure that proceedings are conducted in an orderly, respectful and courteous way.

I now welcome the representative from Imperial Engineering Education. I understand that information on parliamentary privilege and the protection of witnesses giving evidence to Senate committees has been provided to you. I now invite you to make a short opening statement. At the conclusion of any remarks, I'll invite members of the committee to ask questions.

Dr Chander: Thank you for the opportunity to be here today. Imperial Engineering Education was established in August 2021 with the intention of delivering two engineering technology degrees, mainly in advanced manufacturing and renewable energy. We are an accredited higher education provider at the moment, with CRICOS approval of 275 students. We submitted our TEQSA application in December 2022 and were formally approved as an accredited provider in November 2023. We got our CRICOS approval in April 2024, and now we are in the process of trying to get students from overseas and start formally delivering our education in these two relevant degrees.

In September, we received a letter from the Department of Education advising us that our CRICOS limit of 275 is no longer in place and that now we have a limit of 10 students only. I'd like to make the point that, given that we were established in 2021, we've spent a lot of money in setting up the courses and curriculum, engaging staff, signing leases and setting up facilities. We have undertaken a lot of marketing materials to 2024. Now, given that there's a limit of 10 students, it's highly disheartening to note that, while we can trade in 2025 with 10 students, that will give us a very limited capacity to actually trade in the coming future.

Our submission at the moment is that, if they can revisit our numbers and revise the cap limit from 10 to our CRICOS approved limit of 275, that will actually really assist us with continuing to provide our degrees. As you know, we provide engineering degrees in advanced manufacturing and renewable energy. These courses are quite current for South Australia in particular, given 40 to 50 per cent of our curriculum is designed to teach elements of the AUKUS project, so what we're offering is quite relevant and will continually assist the economy of South Australia.

CHAIR: Senator O'Sullivan.

Senator O'SULLIVAN: Thank you, Dr Chander, for appearing before the committee today and for your statement. I just want to unpack that a little bit more—the impact of this bill upon your business and, as you're saying, across the sector in areas of demand in South Australia. Just to recap, how many students does Imperial Engineering Education have enrolled at present?

Dr Chander: We have no students enrolled at the moment, and we have issued CoEs for up to 50 students at the moment, pending approval by their home ministries. We are awaiting their visa approvals. At this point in time, there are no formal enrolments because the visas have not yet been approved.

Senator O'SULLIVAN: Given they're all needing visas, I take it then that they're all international students?

Dr Chander: That's right. At this stage, they are international students. We don't yet have the approval to deliver to domestic students. We are in the process of making a formal submission to the Department of Education for FEE-HELP approval, which should be made some time this month.

Senator O'SULLIVAN: So you've been approved by the regulator to enrol 275 international students?

Dr Chander: That's right.

Senator O'SULLIVAN: But, under this legislation, the government has advised that you'll have—I think you said it was a cap of 10 international students?

Dr Chander: That's right.

Senator O'SULLIVAN: So what will this mean for your operations and your viability? Will you be able to operate with only 10 international students?

Dr Chander: Absolutely not. If you take into account—we have signed a 10-year lease, of course with renewables in place. So there's a 10-year lease in place. We have engaged staff at the moment. We have permanent staff. We have contractors in place. In total, we have roughly 25 full-time and contracted staff, and the intention was to prepare all the curriculum and prepare all the facilities. We have technologies like smartboards in place, and we are even looking to set up additional labs for 3D printing, robotics technology, AI and all the technology that will assist us with the course curriculum development and delivery. So there has been a fair bit of investment that has happened since 2021, and all of that will come to nothing if we can't be financial.

Senator O'SULLIVAN: Just to quantify that, your submission says you've invested \$3.5 million. Is that correct?

Dr Chander: That's right.

Senator O'SULLIVAN: And presumably—you're not a charity; you're seeking to return a profit, so you would be wanting a return on that investment. What does this now mean for that return on the investment that you've already made?

Dr Chander: In our strategic plan, we're not looking for a return, at least in year 4 or 5, so we have made provision for that, because our intention is to ensure that students that we recruit are delivered the right courses with the right delivery and the right curriculum. We engage industry engineers that can teach here on the premises, and it's face-to-face delivery. At this point in time, everything is in house; we're not resorting to online deliveries or making the whole program digital. That could be something down the track, but, at this point in time, we're doing face-to-face delivery. It's quite important for us to ensure that the students are the core of the business, and we do everything we can to retain them, to make sure they finish the course in the nominated time of three years and to ensure they become accredited by Engineering Australia. At the end of that period, they have a choice to continue with further education or go back to their countries. From our point of view—

Senator O'SULLIVAN: I'm just a little short of time. For the remaining part of my time, I just want focus on the courses that you're offering. You've mentioned that some are relevant to AUKUS and also renewable energy, which are obviously key parts of the South Australian economy in particular. What do you see as the impact on those industries and the ability for those industries to attract the staff that they need with the qualifications that you're providing?

Dr Chander: It's quite clear at the moment that there's a shortage of engineers in South Australia and in Australia at the moment, and we are geared up to actually fill that gap for students wanting to continue to be permanent residents or even contractors. We are niche in the space. We are a private provider. We're not a university. Although we are a private provider, we have the resources, facilities and technologies to fill the gap in the South Australian economy and provide those engineers that will be needed down the track in vast areas of advanced manufacturing and renewable energy.

Senator O'SULLIVAN: Have you contacted the department to seek a review of your allocation?

Dr Chander: Yes, I have written to Mr Ben Rimmer at the Department of Education, and I have written to—

Senator O'SULLIVAN: Do you have the dates for when you wrote to them?

Dr Chander: I think I wrote to Mr Ben Rimmer of the department on 4 September.

Senator O'SULLIVAN: Are we able to have copies of that letter?

Dr Chander: Yes.

Senator O'SULLIVAN: Have they responded?

Dr Chander: They responded to the extent that I will hear back from them shortly.

Senator O'SULLIVAN: So it was just a receipt of your correspondence?

Dr Chander: Yes, an acknowledgement.

Senator O'SULLIVAN: When they say 'shortly', have they given you a timeframe of when they will get back to you?

Dr Chander: No. I have written back to them and asked if they need any more information or there is anything else I can do. They said that at this stage they don't need any further information.

Senator O'SULLIVAN: Okay. No further questions from me.

Senator FARUQI: Good morning, Dr Chander. Thank you for appearing before us today. I want to go back to the offers that you have made. You said that Imperial Engineering Education had made 50 offers already for next year?

Dr Chander: No, that is actually for this year. We haven't made any offers for next year purely because we're not sure 10 students would be enough for us to make any provisions for delivery. We're not sure whether 10 students are confirmed or whether there'll be some further information from the department. We're waiting for further direction from the department on whether it is confirmed as 10 or whether there will be some leniency—

Senator FARUQI: So you've made no offers. How many applications are you looking at for next year?

Dr Chander: We were hoping that, if our CRICOS limit is approved and we can get to that extent, then we can think of having two intakes, but, with 10 students, we would probably just have one intake and continue doing what is best for the students.

Senator FARUQI: So you will remain open even with 10 students?

Dr Chander: We have to because, as I explained, we have invested a fair bit into resources, technology and leases we can't just walk away from our contracts in place. We are genuine businessmen and we want to continue trading. If 10 is the case, we will continue, although it is not ideal. I have to add that I support some of the changes that the bill has introduced, such as those looking at the unscrupulous agents and providers. I accept that there is a need for change, but I think the change should be reviewed and the genuine providers should not—

Senator FARUQI: Before you got the direction that you had a cap of 10 international students, was there any consultation with you from the department on the methodology or anything else?

Dr Chander: No, we just received a letter by email confirming that now the limit is 10 students. We had no intake in 2023, because at that time we were just approved by TEQSA, so we couldn't do any new recruitment until we had our CRICOS approval, which came through this year. Until that time there was no consultation. It came as a surprise and we had to stop everything and reconsider: 'Okay, it's now 10 students. What do we do next?' It was a serious concern at a board level as to our strategy now. Do we now unwind everything that we have prepared for? Does the strategy have to be reconsidered? What do we do next? There are a lot of calculations we have to do at the moment, and it's an ongoing thing for us and for the board.

Senator FARUQI: When were you told you had a cap of 10 only?

Dr Chander: I believe it was on 2 September.

Senator FARUQI: Okay, it was just recently. Did you write pretty soon after that to have the process reviewed?

Dr Chander: Yes, that's right.

Senator FARUQI: We've heard what you're telling us again and again. This is the fourth day of the hearing into this bill. Everyone, from universities to private providers and others, has highlighted how chaotic and messy the process has been, how the formulas or the methodology used has been arbitrary and how there has been a lack of consultation. So at this stage, in an ideal scenario, do you think the international caps as presented at the moment should not go ahead, that ministerial direction 107 should be scrapped and that the government should go back to the drawing board, actually consult with the sector and come up with a plan that is workable and sustainable?

Dr Chander: The short answer is yes. There are a variety of reasons for that. Firstly, my understanding is that this sector is one of the biggest sectors that brings in revenue for the government. The measures in place are necessary; I accept that. But I think the measures need to be reviewed through all the stakeholders—the universities and the private providers. At the end of the day the impact matters to the people who are employed, to the higher ed providers and to the universities. We're dealing with people here—families. A lot of the providers are now thinking, 'Okay, Christmas is approaching; we have to start drafting letters and making redundancies.' Redundancies are not cheap. We will have to pay out people for reasons beyond our control. There's a lot to be unpacked here, and I think the preferred way would have been some consultation. This probably should have been implemented over a period of a couple of years so that you could phase out all the unscrupulous providers and agents.

You have to understand that this is a complex arrangement where agents are involved, and they are our contact between the providers and the students. That relationship has to be properly assessed, because a lot of the students

are not actually getting the correct information from the agents. On the other side, the agents, at some point in time, become like auctioneers to the providers who provide them with the highest amount of commissions and bonuses. They have right of passage to the other providers, even if they are providing general courses. There are a lot of unsustainable characters in the whole system, so you can't just pin down the private providers.

Some of the key metrics that have been missed in all this are from the QILT surveys, which have been set up by the government. If you look at the QILT surveys for the years 2019, 2020 and 2021, you will note that the private providers have a better rating than the universities across most of the key matrices. The reason is that the good providers are doing everything they can with limited resources to make sure the students who actually pay a lot of the fees get a good education, have good facilities and get a good quality teachers. It is not that the private providers are there just to rip students off. Yes, there are unscrupulous providers, but they are across all sectors—in construction, in the NDIS and in early childhood.

I think the regulators probably need to be more resourced to tackle this situation. But I think the overall thing needs good consultation across a range of stakeholders, and then we need to assess how to move forward. At the moment, I think the universities have been affected but not to that extent. The private providers have limited resources, and they have been hit harder. I accept there are unscrupulous providers. They need to be weeded out. I totally accept that, including a lot of those agents that undertake practices that give wrong advice to the students.

Senator FARUQI: I'm going to the students as well, and I know I'm running out of time, so this is the last question from me, Chair. In terms of the students, I know that especially since this bill was introduced, the debate that followed and the rhetoric attached to the bill and how it has been presented has been scapegoating international students for the housing crisis, for example. There's been dog whistling going on. Most recently, the leader of the coalition, Peter Dutton, has called them a version of modern boat arrivals. I know that students are feeling really attacked and under pressure. I'm just wondering if you have heard from students and how they are feeling about this. And what sort of damage does it do to international students and to Australia's reputation as a provider of international education?

Dr Chander: I think that students have been completely sidelined in this whole process, because, at the end of the day, every provider makes a dollar on the back of every student, but in a lot of these cases the students have not been considered a key stakeholder in all of this. They bring in the revenue. At the same time, I think we need to understand from the student's perspective that their parents borrow a lot of money to send the students through the agents, and then the agents decide what the student has to do. That whole recruitment sector for the students is unbalanced and has to be reviewed carefully because the students are not actually getting proper advice.

At the same time, they're being considered the demons of this process. I actually don't feel that they account for the housing crisis. If you look at the students, in the way they accommodate themselves, there are half a dozen of them in one or two rooms. They don't have the resources to buy flashy houses or apartments. I think they're taking a proportion of the society, but we have to also understand that they bring a lot of revenue. And, down the track, if some of them choose to become residents, they pay taxes. They even pay taxes as students; they contribute. So I think we have not looked at their contribution. We have only looked at the negative things about students. Comparing them to asylum seekers is a bit over the top, in the sense that these kids have come on genuine visas. We have allowed them to come. We have allowed them to work. They are paying taxes. They have come to study.

Yes, there is a problem in the process where the students are misguided through the agents. I'm not blaming the agents or anyone here. I'm just saying the process needs to be reviewed—where students are given proper information about education in Australia and what their options are after they finish. If we set up a system where the students are given a visa to study, then part of the study should be an evaluation every 12 months so that students who are not progressing have to go back. Make it simple. If you don't perform, you go back. It's quite simple in the sense that, if you're not making progress because you're working all the time, yes, you're not meeting the visa criteria. 'Sorry, mate, you have to look at other options.' While the system is set up for the genuine students, they are actually bearing the brunt because a lot of other students are taking advantage of the visa system.

I accept there are flaws across the board, but the system needs to be reviewed carefully, and I think some time should be spent assessing the needs of every stakeholder and how we make it better for Australia. At the end of the day, we want what is best for Australia, the Australian citizens and the people who come to Australia. So we have to be mindful that they are actually properly scrutinised and given the right information. At the same time, we need to look at the needs and considerations as well.

CHAIR: Senator Henderson.

Senator HENDERSON: Thank you so much for joining us this morning. I'm very sorry to hear about the situation you are in. The degrees you are offering in engineering technology are in renewable energy and advanced manufacturing.

Dr Chander: That's right.

Senator HENDERSON: Could you explain why those skills are so important for your business in South Australia and more broadly for the skills for the AUKUS program.

Dr Chander: These two degrees were primarily introduced purely to tackle the shortage of engineering skills in South Australia, particularly in advanced manufacturing. There is a broad spectrum of opportunities. For example, in advance manufacturing we teach in the AI space, which is upcoming. We teach in the 3D printing space. We teach in the robotics space. There is a fair bit of opportunity for skilled engineers, once they graduate from this program. Same with the renewables. So there is a fair bit of opportunity for a lot of students. Once they finish these courses, they become engineering technologists, and they're open to either share their wealth of knowledge back home or offer the same expertise in South Australia. The shortage is part of the reason that we introduced these courses. Otherwise, if we just wanted to be another provider, we have introduced some courses that—

Senator HENDERSON: I apologise for interrupting. I want to understand the importance of these skills for the AUKUS program, if you could address that.

Dr Chander: Yes, both the programs cover up to 40 to 45 per cent of the curriculum that is relevant to the AUKUS project. They are specifically designed to cater to the needs of the submarines. While these courses have other offerings in terms of the deal, like I previously said, in other areas of engineering, 40 to 45 per cent of the course is directly related to the manufacturing of the submarines and the renewable energy part of the submarines, as well. So one is dealing with the advance manufacturing, and the other is dealing with the energy management of the AUKUS project.

Senator HENDERSON: So this is very much geared to the defence industry needs of South Australia?

Dr Chander: Absolutely.

Senator HENDERSON: How could you be approved with CRICOS for a capacity of 275 by the regulator TEQSA—because you are a higher education provider—and be given a cap of just 10? Doesn't that show an unacceptable level of competence by the government in terms of the cap you have been given?

Dr Chander: I accept the cap of 10 is not acceptable for us to provide a fair bit of—at the end of the day, 10 students will not get us that far. I believe that proper consultation would have given information about what we do and about the ability of our courses to assist the South Australian economy and the defence sector. But, at the same time, we would have done some easy calculations to demonstrate that 10 would not be a viable solution for anyone.

Senator HENDERSON: What would you say to the Minister for Education if he was here right now in terms of this methodology that you have been hit with, which is threatening your business?

Dr Chander: I would request that a review be undertaken. We have been approved for 275 students, and I would request that, upon review and careful consideration of our courses and the investment we've undertaken, we be approved again for the 275 limit that was approved by CRICOS.

Senator HENDERSON: Approved by TEQSA?

Dr Chander: Yes.

Senator HENDERSON: What is the impact of this cap going to be on the advance manufacturing and renewable energy skills needs of South Australia?

Dr Chander: The impact will be direct in the sense that, if we're not able to continue trading in the way we have strategically formulated, the outcomes for the students are not going to be possible. We will not be able to deliver the courses that we intended to start—

Senator HENDERSON: What impact will that have on the South Australian skills needs?

Dr Chander: It will have a damaging impact. We will not be able to provide the pipeline of students that are needed for the defence sector and the engineering sector.

Senator HENDERSON: In terms of the degrees that you are offering and the importance of those skills for Australia's AUKUS submarine program, can you give us more detail about the sorts of skills that you are proposing to teach and how they will directly benefit the AUKUS program?

Dr Chander: Like I said, 40 to 45 per cent of both the courses are directly related with the promotion of developing skills in advance manufacturing.

Senator HENDERSON: What sorts of skills are we talking about?

Dr Chander: Skills in AI, robotics, manufacturing of submarines and 3D printing. Regarding skills on the renewable side, there is managing of the energy capabilities of the submarines. So there's a fair bit of involvement.

Senator HENDERSON: Has anyone involved in the AUKUS program raised concerns with you about what's happened to your business and the fact that you have basically had the door shut on you in terms of delivering the skills that you need for this program?

Dr Chander: Look, to be fair, I think, being a new organisation, it is sometimes quite difficult to promote yourself with information on your capacity, because, as a new provider, a lot of the big industrials think: 'Oh, this is a newbie. We're not sure if it's going to be around.' So we're not getting the assistance we need at the moment—

Senator HENDERSON: So, in other words, you've got to get those runs on the board?

Dr Chander: Yes, that's right.

Senator HENDERSON: In terms of your negotiations with the department—I mean, frankly, it's appalling that providers are now having to go and try and have some sort of behind-closed-doors negotiation to survive. How much under threat is your business right now?

Dr Chander: I don't see the feasibility of continuing trading with 10 students—although, we are going to continue trading, but we now have to get additional bank loans and other investments. So, in terms of—

Senator HENDERSON: But that may not be possible, given how much you've spent already. You've got a 10-year lease agreement.

Dr Chander: That's right.

Senator HENDERSON: You were hoping to get at least 50 students for next year, and you've got a limit of 10, so what does that do to the viability of your business?

Dr Chander: Well, the immediate thing that's going to happen is that, with a 10-student limit, we're going to have TEQSA knocking on our door pretty soon, because they know that with 10 students we're not going to be financially viable, so they're going to ask us to invest more money in—

Senator HENDERSON: And those letters have already started to go out from TEQSA. So, appallingly, the government is imposing these shockingly low caps on some private providers—in a very discriminatory way, I would put to you. TEQSA are now writing letters to private providers, threatening them, saying, 'We are concerned that you don't meet the minimum requirements for financial viability.'

Dr Chander: That's right.

Senator HENDERSON: I mean, that is surely appalling, when it's the government's own actions that are causing the regulator to now basically threaten private providers.

Dr Chander: This is the domino effect of giving private providers low limits without understanding the financial consequences. As I said, we are new. We have a small number of staff, a combination of contract and permanent, up to 2025, so it'll take us some time to unpack everything. But, yes, our financial liability is at stake at the moment, and we are now continuously working behind the scenes to make sure that we are not caught in the trap, because we want to make this happen.

Senator HENDERSON: That's part of the problem with these caps, isn't it? It forces providers to do deals behind closed doors just to survive.

Dr Chander: Absolutely. We need to be sure about what we do next. If the 10-student limit is locked in, we will need to find additional resources to continue trading, because we really believe in this thing. We have spent so much on the degrees that we are offering, and we want this to happen. We think this is great for not just South Australia but the engineering community, given that there is a shortage of engineers in Australia. We've spent time trying to make this happen, to make it come to fruition, and now we're being told that we have to stop everything, that we have to redo the strategic plan—we have to do everything that points to 10 students. I think that's really impossible.

Senator HENDERSON: As I said, I'm very sorry to hear about the situation you're in. Thank you very much for your time, Dr Chander.

CHAIR: Senator Bilyk.

Senator BILYK: You mentioned earlier about exploitation in regard to unscrupulous providers and agents. I'm sure you would agree that both providers and agents need to be accountable for their activities and that quality and integrity are integral to international students' training and education. I was wondering if you can give me some examples of any exploitation or unscrupulous behaviour that you know about.

Dr Chander: What I've heard from whispers in the sector is that, given the caps are being introduced, a lot of private providers at the moment are trying to put measures in place to survive. One of the things they're doing at the moment is offering agents up to 50 per cent commissions, they're offering bonuses on every student, whether they're onshore or offshore; and then they're promoting the sense that the agents will get the entire deposit off the first term of student fees. So there are various ways that the agents are being compensated just to make sure these providers get the students locked in for this year so that they can remain financial for the next year or so.

So there are a lot of deals happening behind doors, and it seems like an auctioning process now, where providers are making higher bids in terms of commissions or bonuses. We were told by some to actually give them higher bonuses and higher commissions to match other providers. We have walked away from some of those deals, saying, 'We're here to provide quality education. If you take the bulk of the commissions, we end up with nothing.'

There are problems at numerous levels, including ethically. I think we need to put some transparency around these relationships and we need to cap these commissions. I think these commissions are damaging the sector in a lot of ways, damaging the students and the providers, and the genuine providers are left sometimes with students that are not worth actually delivering to. So we have to be careful about how the stakeholders are measured, and because the agents—I might appear to be damaging their reputation, but there are a lot of genuine agents in the marketplace. They're doing the right thing, they're doing it by the book and they're saying, 'This is what we agreed.' They have formal agreements in place. But you have, like I said, unscrupulous agents.

A lot of students come under the impression that the agents do the best for them, so these agents carry the bulk of students on their databases, and the students will follow the agents. The agents direct them to institute A, B or C. The agent is able to do that purely based on their own financial interest. That's a flaw in the system.

Senator BILYK: So what you're saying to me is that you were approached by an agent to increase to 50 per cent—

Dr Chander: A higher commission—not 50 per cent, but this is what's happening with other providers. We've been approached by some asking for bonuses and higher commissions because they've been getting the same from other providers. We have just said to them, 'Sorry, we can't do business.'

Senator BILYK: How do you find your potential students?

Dr Chander: Through agents.

Senator BILYK: Presumably you're not working anymore with those agents that have asked for increased bonuses.

Dr Chander: No, we can't. Like I said, there's an ethical issue there. It's an issue for the students in itself. It undermines the whole framework of education. We're here to provide a decent education to students. In that process we need to ensure that the people and stakeholders we work with are genuine and ethical and are on the same wavelength. It's as simple as that.

Senator BILYK: This is my final question. Can you give me any other examples of where there have been unscrupulous activities happening?

Dr Chander: I think at the moment it's quite desperate for many providers. They are purely thinking about their survival in the next 12 months, and part of the survival criteria is to approach agents and offer them the highest commission possible in the marketplace plus bonuses plus other incentives. This is the message that's in the marketplace. Although we're not part of this system with these agents, it is what is happening at the moment—not across all the agents. Like I said, there are a handful of agents who have a lot of clout, and they're using that clout to take advantage of the current scenario.

Senator BILYK: Okay. Thanks very much.

CHAIR: Thanks very much for your evidence. If you've taken any questions on notice, could you please return the answers to the secretariat by 3 October 2024. Have a very good morning.

DODD, Ms Jenny, Chief Executive Officer, TAFE Directors Australia [by video link]

FIELD, Ms Claire, Private capacity

PIRIE, Mr Felix, Deputy Chief Executive, Policy and Research, Independent Tertiary Education Council Australia

WILLIAMS, Mr Troy, Chief Executive, Independent Tertiary Education Council Australia

[09:04]

CHAIR: I now welcome representatives from the Independent Tertiary Education Council Australia and TAFE Directors Australia and Ms Claire Field. I understand that information on parliamentary privilege and the protection of witnesses giving evidence to Senate committees has been provided to you. Do you have any comments about the capacity in which you appear?

Ms Field: I'm an independent consultant at Claire Field & Associates.

CHAIR: I now invite you each to make a short opening statement, and at the conclusion of any remarks I'll invite members of the committee to ask questions.

Ms Field: My submission goes to anomalies that I think are apparent in how the caps have been allocated. A brief bit of further analysis that I did after looking at the data indicates that, with the exception of TAFE institutes—and Jenny will no doubt speak to that—for every other provider, being public universities, private universities, non-university higher education providers and private VET providers, there is no consistency in how caps have been allocated even within those individual groups of providers. When you look at 2019, 2023 or 2024 and compare those to the cap, it is completely mixed for all other providers, except we see one pattern with the TAFE institutes, who have all been given a cap for 2025, which is the same as their 2023 international student VET enrolments.

With that in mind and that lack of consistency even within different groups of providers, I would urge the committee to have a look at the supplementary submission from Western Sydney University. I believe that recommendation 1 of theirs would address both the issues and anomalies that I've found in the data. It would provide much greater transparency, criteria for how caps are applied, a focus on integrity and consultation with providers. The caps would also be subject to parliamentary scrutiny, and there would be a public register of them. That will be enough from me.

Mr Williams: Chair, I've got a fairly lengthy statement, but with your indulgence I'll table it and give you a highlight if you're comfortable with that.

CHAIR: That would be very helpful. Thank you.

Mr Williams: Before us is an international education bill. But make no mistake: it's fundamentally a migration bill masquerading as an education bill. Its origins lie not in any genuine attempt to improve the international education system but in the government's mishandling of migration policy. When the government was first elected, with much fanfare it cleared a backlog of a million visas without the apparent understanding that, if these visas were granted, they would indeed come to Australia—and many students did come. It was astonishing that this wasn't anticipated at the time, and as a consequence we now have legislation before us to unscramble that egg.

This bill hurts small business. Let me be clear: the legacy of the legislation, if passed, will not be to improve or enhance international education or, indeed, our offering to international students. It will instead tarnish Australia's reputation as a welcoming destination for those students. More importantly, this bill will exacerbate job losses in the education sector. As you will hear from many ITECA members today and those who put in submissions, they will be smaller and some will close. These job losses are not just statistics. They are the jobs of ordinary hardworking Australians whose only crime was to deliver quality outcomes for international students.

We're talking about thousands of people here and many hundreds of ordinary businesses which have done nothing but deliver quality outcomes for students. We've seen that in the submissions, and I dare say you'll hear from some of those people today. Thank you.

Ms Dodd: Thank you very much for having TAFE Directors Australia here at this hearing. We'll make three short points. Integrity in the international education environment is crucial, and it has been a problem for quite some time. The ESOS Act seeks to address integrity. It is our view it is not rushed legislation. While there may be issues with some aspects of it, the overarching purpose of what it is trying to achieve is about improving integrity.

The second point is around quality. TDA is the peak body for all public providers of vocational education—TAFEs. I want to remind the committee that TAFEs are owned by their state or territory governments, and there

are 22 TAFEs. We also have a peak body for six dual-sector universities that have TAFE divisions. In terms of the bill, we believe there is an opportunity to use the public provider more into the future, although I appreciate that's not the essence of today's hearing.

Finally, despite there being some differences between our members at TDA in the way in which the caps are calculated in terms of what their preference would be, there is strong support that the bill should pass. Thank you.

CHAIR: Thank you. Senator Faruqi.

Senator FARUQI: Thank you very much everyone for being here. If I could start with you, Ms Field. I have read through your submissions and also some of the analysis you have done which is online. Could you tell the committee a little bit about your analysis and give examples of some of errors that you have seen that make this policy a real mess, chaotic and inconsistent?

Ms Field: Of course. There were 11 when I did the analysis but one more has been cancelled by ASQA, so there are now 12 private VET providers who are fighting a cancellation decision by ASQA in the Administrative Appeals Tribunal who have been given, collectively, a total of 1,429 places. One of them in particular has the sixth highest cap, higher than TAFE NSW as an entire state public provider. While a number of other elements of the legislative changes are focused on integrity, it appears that there has been a lack of communication potentially between ASQA as the regulator and departmental officials involved in setting the caps.

I once was a regulator. There's a need for procedural fairness for people who are appealing against ASQA decisions. There was another private international provider who recently won their appeal against an ASQA decision to suspend part of their scope. The fact that people are in the AAT fighting an ASQA cancellation decision doesn't mean that it will be imposed, but it does strike me as anomalous that, in a bill focused on integrity, we've got a relatively high number of places going to providers who the regulator doesn't think should be teaching students.

There are 10 providers who have been given a cap for 2025 which is above the overall number of international students, their CRICOS cap. One of those is a dual-sector institution. You might have seen in the media that it's NIDA. They actually don't have any VET qualifications with CRICOS approval. It's a minor thing, but it potentially goes to a lack of systemisation in how the caps were set. Of the remaining nine who were given a cap for 2025 which is higher than the total number of students they can enrol, five of them have quite long courses, running for 36 to 73 weeks. So a number of them will not be able to enrol the number that they've been given.

I don't mean to make assumptions about quality, but nonetheless ASQA, as the regulator, quite correctly signals that short courses are a known quality risk. The other four who have been given much higher caps for 2025 than their overall CRICOS enrolments are offering four- to eight-week certificate level courses. That's certificate level II and III courses. Ordinarily, a certificate II or III course should be taught, at a minimum, for between six to 12 months. Now, there could be reasons—I find it somewhat unlikely, but I don't want to presume—such as, perhaps these are particular cohorts of international students with extensive backgrounds in the fields that are being taught, or perhaps they're just offering incredibly short courses. The length of their course is not in dispute; it is included in the information, in the details on the CRICOS register.

Regarding the very last anomaly, departmental officials, in their evidence to you in a previous hearing, indicated that they were keeping approximately 4½ thousand caps for new providers—those who were already registered but were quite new and therefore hadn't enrolled that many students yet. They said they would all be given 30 each, so I went looking to try to understand who those providers were. I looked at all providers who got a cap of 30. Based on how the formula works, obviously some would get a cap of 30, because they've been trading for years and that's just how the methodology works. There are 79 providers who have a cap of 30 for 2025 and have not enrolled any international VET students since at least 2019, and they are not new; some of them date back to the 1990s. Either these are providers who have chosen to focus just on domestic VET students or there's a group of them who have chosen to focus just on international higher education students. Yet we have, by my calculation, nearly 2,400 VET places allocated to providers who have not delivered to international VET students for more than six years but have, I think, been mischaracterised as being new. Yet—and I'm sorry; I don't mean to take too much of your time—

Senator FARUQI: No, that's alright.

Ms Field: on the other hand, there are 192 private VET providers with a cap of 10 or less. They are going to face the financial viabilities that you heard the former witness explaining, because the caps have been allocated in other ways to some other groups that I think, at a minimum, warrant a second look.

Senator FARUQI: From what you've picked up as anomalies—or mistakes, or just the chaotic way that this process has been run, in a very rushed way, when there was no reason at all to do that—and from other things

you've picked up, the cap and the methodology and how it's been processed seems to be the exact opposite of integrity, to be honest. So, this government rhetoric that this is a bill about integrity is completely untrue. Why do you think this has happened? Is it because the government is making policy on the run and everything had to be rushed, because it's more a political decision than an education decision? What's your assessment? And I know you don't know exactly what happened, but is there any excuse for these errors, when this bill is going to have a massive negative impact on literally everyone in the international sector?

Ms Field: I don't want to talk too much about the politics of it; that's not my purview. But obviously there are political pressures. And, again, I was once a public servant, and I don't mean to disparage any of the great public servants—

Senator FARUQI: No, I'm not asking you to.

Ms Field: who've done a lot of work to put this together. But I suspect that something has happened in splitting the Department of Employment and Workplace Relations, to have VET responsibility, out of the Department of Education. There's a much bigger group of people with international expertise within the Department of Education. There are still some anomalies, I think, in higher education, but there seem to be more in VET, and there probably hasn't been a conversation with the regulator. So, I think there are fewer international education experts within DEWR, and a conversation probably wasn't had with ASQA.

Senator FARUQI: So, should the government stop and halt now—go back to the drawing board and consult with everyone and come back with something that is sustainable and actually can be implemented?

Ms Field: It would be wrong to go ahead like this, in my view, yes.

Senator BILYK: My first question is to Mr Williams or Mr Pirie. You're particularly critical of elements in this bill that are targeted at education agents, and you suggest a number of amendments in your submission. You told the 2023 inquiry into Australia's tourism and international education sectors that 'though there are problems with offshore agents, there are very good agents who provide cost-effective and good service'. The inquiry's final report found that there is overwhelming evidence that international students in Australia are vulnerable to serious exploitation, including being trafficked for sex and enslaved under conditions of debt bondage and forced labour conditions. Do you think the integrity measures in this bill that are aimed at education agents prevent activities of spurious providers that enable international-student exploitation and visa rorting?

Mr Williams: It's important to note that those activities identified in the migration review were illegal at the time. Nothing in this bill seriously deals with it. They were illegal at the time and they continue to be illegal, and some of them have been dealt with and continue to be dealt with. This bill pretends it's dealing with the integrity of the system. If there are genuine issues of integrity, they should be dealt with by ASQA and TEQSA; they are the appropriate agencies. This bill, as I said from the outset, is really a migration bill. The name of it is a misnomer. There are issues with agents—we've put forward recommendations to improve that framework—but many of the activities which were undertaken by a small number of nongenuine providers are quite frankly using the student visa as a visa of convenience. Those activities were illegal at the time; nothing in this bill will strengthen that illegality.

Mr Pirie: As Mr Williams pointed out, and as you did in your question, we did at the time provide some suggestions for the government as to how we might progress with the, for want of a better term, regulation of education agents; we've tabled recommendations to this committee for that as well. We worked very productively with colleagues in the sector in that regard. There is nothing in this bill that will enhance that project in terms of working to improve the sector's interaction with education agents. To the comments Mr Williams just made about the activities that were highlighted and that you're pointing to in terms of the Nixon review: nothing in this bill will facilitate an improvement in that regard. I should also point out that we've written to Minister Burke in relation to our suggestions, and we're eagerly awaiting a reply.

Senator BILYK: Part 1 of the ESOS bill includes a fit-and-proper-person test as well as additional admin rules concerning education agents' commissions. Do you think these provisions are important?

Mr Williams: They're important, but they duplicate existing provisions elsewhere. They will have an impact but mostly through the creation of additional red tape. The other issue is that disclosure of commissions presents some commercial anomalies, and some cases are commercially sensitive.

Mr Pirie: This is one of the problems these elements of the bill have got. The Department of Education, to their credit, undertook what I would call a very high level of engagement with the peak bodies very early this year in relation to some very broad aspects that may or may not have been included in legislative reform, as they put it to us at the time. One of those was in relation to commissions. It was not discussed at the time that—I'm pretty sure I can say this because I don't think I signed anything—there would be a revision of the definition of what an

agent is. What we now see in the bill is incredibly problematic because what is encapsulated in terms of an agent will cover both Troy and I. It's likely to cover industry associations that engage with businesses who then have their staff come to Australia as students. The scope of this has never been seen before here in Australia or overseas. In terms of commissions, it includes benefits whether they be financial or non-financial. This is not going to be helpful. It was highlighted and discussed in the Nixon review that we need targeted compliance activity. There is nothing targeted about this at all.

I want to pick up on a point Ms Field made. We talked about procedural fairness. She talked about procedural fairness in the context of the regulators. The regulators are very good at that, and that's embedded in their establishment. This bill denies procedural fairness across a range of the measures that have been put in place, and this is another one that will do the same.

Senator BILYK: Mr Dutton said in his budget reply speech that, if elected, he will reduce annual permanent migration from 185,000 to 140,000, and he called the current number of students 'excessive'. From my point of view, the LNP are clearly trying to align themselves with the RTOs but, at the same time, if they're elected, they're going to go further than the measures contained in the bill. Seeing as international students make up roughly half of our migration intake, what impacts would the coalition's policies have on the sector?

Senator HENDERSON: Point of order, Chair. In terms of leading the witness and putting that question to the witness, the senator has not correctly characterised what Mr Dutton announced in his budget reply.

CHAIR: It's up to the witness to—

Senator HENDERSON: I ask her to correctly characterise the announcement of the opposition.

CHAIR: We don't interrupt what some on this committee might consider questions that are a little bit wide of the mark. If you hold that view, you hold that view. But it's up to the witnesses to answer the question, if they wish, and how the witnesses answer it will be up to them.

Senator HENDERSON: I'm just suggesting that the senator should not mislead the witness.

CHAIR: Thank you.

Senator BILYK: On the facts I just asked about?

Mr Williams: We're dealing with the here and now, and the damaging implications of this policy. We've not looked at the coalition policy beyond the statements, and we haven't had the opportunity to assess it. We've simply looked at the impact on small businesses and the loss of employment presented by the framework that this bill enables.

CHAIR: Mr Williams, you're not seriously telling us that, with an election next year, if a coalition government was to be elected, you haven't taken consideration of the statements from the opposition. That seems incredulous.

Senator HENDERSON: Point of order, Chair.

CHAIR: No, you are interrupting my question and I have a right to ask that question.

Senator HENDERSON: I am allowed to raise a point of order.

CHAIR: Understand this: if this is the way the hearing is going to continue, if there are going to be continual disruptions of questions where it is very clearly the intent of points of order to allow Mr Williams to not answer the question—

Senator HENDERSON: I ask you to give me the call on the point of order, Chair, which is a requirement under the standing orders.

Senator BILYK: You got it, and now we're going back to the witnesses.

Senator HENDERSON: No, I'm raising another point of order.

CHAIR: What's the point of order?

Senator HENDERSON: The point of order is on direct relevance. The questions need to be directly relevant to the purpose of this committee's work, which is to interrogate this bill. I ask that you ask the witnesses questions which are directly relevant and not mischaracterising the opposition's policy.

CHAIR: The point of order is out of order because the question is quite clearly relevant to alternative models that Mr Williams, Mr Pirie and others have been talking about throughout the four hearings we've had on this matter. This is an alternative model that's been put forward, and it just happens to be an alternative model that exposes the opposition for what they're actually up to.

Senator HENDERSON: No, it cannot be mischaracterised.

CHAIR: Mr Williams either has an opportunity to answer that question—

Senator HENDERSON: Our concern was in relation to excessive foreign students in metropolitan cities. Mr Dutton made that very clear.

CHAIR: Come on; that is out of order.

Senator HENDERSON: It's not out of order. You cannot mischaracterise Mr Dutton's announcement.

CHAIR: Can you stop misrepresenting—

Senator FARUQI: This is exactly the race to the bottom that both Labor and the Liberals are involved in. You have no consideration for the education sector or international students. You're both racist—

Senator HENDERSON: I am asking the chair to not mischaracterise the opposition's statement.

CHAIR: We're going to suspend.

Proceedings suspended from 09:28 to 09:33

CHAIR: Do you need me to re-ask the question?

Mr Williams: It is dangerously close, but, no, I can remember it. To Senator Sheldon's point: as a matter of principle, we have a problem with limiting the number of international students with by any policy mechanism. What I can tell you with regard to opposition policy is that, beyond a couple of broad statements, there hasn't been anything in detail to assess. Beyond having a problem with what the statements were, when we look at some of the other work we've got before us, as you would imagine, with the Universities Accord support for students bill and the student ombudsman bill, both of which are before committees, and the RTO standards, which were released only yesterday, our bandwidth to deal with hypotheticals or broad statements is pretty limited. But, as I said, as a matter of principle, we have a problem with international students limits that aren't fully formed. We just don't have anything to assess beyond a broad statement.

Senator BILYK: You mentioned exploitation and students basically being put in difficult positions. Are you able to expand on that for me? What sort of areas is that? TAFE, maybe you would like to jump in on this as well.

Mr Williams: We have a fundamental problem with any action by any party that harms students. I think there'd be universal agreement on that. One of the biggest issues we've got at the moment is the uncertainty. Many public providers, many independent providers, have offered students places for next year. From the feedback we've had from students, it's not an unrealistic expectation having been offered a place. They will get a visa. We know that won't be the case for many, and so there is some angst happening with students who were looking forward to taking up quality study in Australia and will be unable to do so.

Mr Pirie: One of the real concerns we've got is that we know of some providers where they have offered places, students have accepted those places and visas have been granted or are in the process of being granted that exceed their notional limits for next year. That's a serious problem. Some of those students are likely to already be in Australia. The majority are overseas. That's obviously a really serious problem. This is probably a question you would be better placed asking directly of Home Affairs, but in our view it is likely to place those students at greater risk of exploitation.

The point about exploitation of a student visa holder—or any visa holder, frankly—is really an issue that is better placed in the context of Home Affairs and, in particular, Border Force. Mr Williams raised the point about the work that regulators and, in particular, Border Force are doing in that context. We're very supportive of that work and we certainly do work with them on that.

Senator BILYK: Ms Dodd, do you have any comment to make with regard to exploitative work practices and study arrangements?

Ms Dodd: The decision to return to limited work hours has been a good decision. It was a challenging time period for Australia, for students and so on, so being able to prioritise that the purpose for international students being here is to be educated is really important. Exploitation can exist in a range of ways. One area that we've been very supportive of is increasing from six months to 12 months the inability of a student to move between providers, because we believe that that adds to the potential for exploitation and also diminishes the investment that providers have made in the genuine process of recruitment of international students. Broadly, they would be my main comments.

Mr Pirie: We've done a lot of work on that 12-month issue over a considerable period and did do some work on that with TAFE Directors Australia, colleagues in independent higher education and our members during the pandemic. It is a fraught area. One of the issues that we have with that—certainly, along with Ms Field, I've been working in international education for 15 or 16 years, and I have seen exploitation of students occur in every

single provider type in every sector. One of the things with the potential change between six and 12 months is that it's quite common that you'll see a student come to Australia and do, for example, a 24-week English language course and a VET diploma and then move into a bachelor's degree. In the current circumstance, they will be locked into their program of study for a minimum of two years before they can move, because that six months relates to their principal course of study, which is their highest AQF level: the bachelor's degree. If you change that to 12 months, it's 2½ years. If someone's intent on moving, they're going to move. Twelve months will make no difference to unscrupulous practices. If it's about the recouping of an investment made by a provider, there are other avenues to do that. If we're really talking about protecting students, 12 months is not going to help. Unscrupulous practices happen anyway whether it is six months, 12 months or 24 months. This is an enforcement issue in relation to other matters. I think we need to look afresh at that. That would be our view.

Senator BILYK: Thanks. I think I've run out of time.

CHAIR: Senator Henderson.

Senator HENDERSON: Firstly to you, Ms Field, thank you very much for your evidence already explaining the anomalies with these student caps. I want to particularly focus on the integrity issues you've raised. What do you say to the methodology that's been used when providers that are under a very black cloud are given student caps, while other reputable providers are being severely penalised or even having their entire business threatened?

Ms Field: I find it hard to believe that it was done with forethought. I suspect it's an error that's been missed. You can see that, when you look at a higher education provider, there's an explicit note in the details provided by the Department of Education that that provider will not be able to use its cap until the matter that TEQSA is suspending them for has been dealt with and addressed. The fact that we have 12 providers in the VET sector where there's no commentary from the department when they submitted the documents in response to the order for the production of documents says to me that it's an oversight, and I really think it is wrong and unfortunate.

We ought not be giving caps to providers that the regulator wants to cancel. There are clearly compliance issues. The level of severity will be resolved in the AAT appeal. But the regulator has found such problematic behaviour that they want to close the providers down for the good of students, yet these providers are getting thousands of places where other much smaller providers will get minimal places. They are likely to struggle to remain financially viable and may have an excellent quality and integrity reputation. So I find it difficult to reconcile.

Senator HENDERSON: I would put to you that this is an absolute mess. The government is trying to run this narrative that this is all about quality and integrity, yet this botched scheme has delivered thousands of foreign student places to providers under a very big cloud of investigation while very reputable providers are being penalised.

Ms Field: Yes. It would appear to be a clear breakdown. When officials in the Department of Employment and Workplace Relations developed their methodology and ran it through the data and the figures, they appear to not have cross-checked their list and how their caps were allocated with ASQA, the regulator, to double-check whether any of these providers were under a cloud. I would add if I—

Senator HENDERSON: I will put to you that that demonstrates gross incompetence by the minister's department.

Ms Field: You'll ask officials later today. If that's what happened—

Senator HENDERSON: Don't worry. I will be asking them about their gross incompetence.

Ms Field: It's a serious oversight; otherwise, I can't believe that it's intentional. It doesn't seem to make sense.

Senator HENDERSON: In terms of the impact that this has on the whole sector—and you are a very well-known and highly regarded expert in private education—what do you say about the impact that this flawed methodology that the government is using is having on the entire sector?

Ms Field: I think this goes to the point I made at the start. It's actually going to impact some private providers and even some public providers—this is less so for the TAFE institutes but, certainly, for some public universities—and they've spoken on their own behalf. But you can see that some of the regional universities are relatively disadvantaged, compared to others where there might appear to be greater issues in relation to housing, which has been raised as an argument for the caps. This is similar for some of the outer suburban public universities.

Looking at private higher education and private VET providers, the impact is really quite mixed, and that's because we don't have all of the transparency in how they have been allocated and the decisions that have been

taken. If the caps go forward as they're currently proposed, I suspect we will see quite a large number of private VET providers in particular close their doors.

Senator HENDERSON: And many of them, I imagine and I'm informed, are already facing insolvency. I am sorry to cut you off, but I've only got a couple more minutes.

Ms Field: I need to add that they're probably not poor quality, and I think that's a terrible fact.

Senator HENDERSON: Yes, that's a huge issue. I will now go to ITECA. Apart from the flawed methodology—and thank you for your evidence to date—there's also a provision in the bill which provides for the automatic suspension of a provider, both public university and private education provider, if that provider goes over their student cap at a campus by just one person, even though this could be the fault of the department, for instance. What do you say to that provision?

Mr Williams: This is where the legislation would have benefited from being issued first in an exposure draft to work through some of the mechanics of these issues. In circumstances where a provider goes over the cap through no fault of their own but just because processes have allowed that to happen, it's nonsensical that they should be penalised.

Senator HENDERSON: Not just penalised—their entire registration would be suspended.

Mr Williams: That's right.

Senator HENDERSON: And they couldn't teach any student—any international student, at least—based on the way the bill is drafted.

Mr Williams: That's one element of the bill, and there are a number of others where punitive actions are automatic. There's no ministerial or departmental discretion; they just happen.

Senator HENDERSON: We've seen a myriad of frankly shocking errors—shocking incompetence, I would put to you—by the department in the way these student caps have been devised. Now, because of the flawed nature of this bill, this also poses a threat to the very existence of some providers even if there's an incident that occurs through no fault of their own.

Mr Williams: I wouldn't characterise it any differently. This comes down to the lack of procedural fairness in a number of elements of the bill.

Mr Pirie: I think there are two parts of the bill that have a similar effect. One is way worse than the other. The one you were talking about in terms of the automatic suspension which goes for the rest of the calendar year—and that does affect all providers. One of the problems with that, among the myriad that you referred to, is that the suspension is automatic when a confirmation of enrolment reaches studying status automatically. So someone is enrolled, and they could be enrolled today to start studying on 1 February, but you reach studying status automatically. Even if you're not yet in the country for whatever reason or you're not actually on campus for whatever reason, you reach studying status automatically.

So a person might breach that limit for the provider automatically even though the provider is aware that they're not actually going to start on that date, and they think: 'It's okay. Next week, I'll go back in and change the date.' It's too late by then. There's no provision in the bill for what is known in the sector as a student course variation, an SCV, to go back and do that. The department has said: 'It's fine. We're going to make provision for that.' But it's not in the bill, and it's nowhere in the framework, so that's not able to happen. That's for a suspension, but the problem with the suspension is that it means that they can't actually recruit students to any of their courses at any of their locations for the rest of the year.

CHAIR: That is time; thank you very much, Senator Henderson. I just want to go to this question you raised that there are no improvements or enhancements in the bill and your opposition to the bill. I just note that at a 2023 inquiry into Australia's tourism and international education sectors, a joint hearing and inquiry which you're both aware of, a postgraduate student said:

... some of the people working in the international education sector have the mindset of treating us international students like a product instead of people who are coming here to study.

I note that you said there were no improvements or enhancements, but I'll just go to one as an example. Part 6 of the bill allows for automatic suspension of a provider's registration when an agency or state authority determines that a provider does not meet the fit-and-proper-person test because it's under investigation for a specified offence. There are notorious operators out there. Shouldn't there be the capacity—which doesn't apply now—as there is in this part 6 and shouldn't that be encouraged?

Mr Williams: It's a fair question. The challenge is: it duplicates, largely, existing provisions within the ASQA and TEQSA frameworks. The intent of the bill—

CHAIR: Mr Williams, there is a consensus that it hasn't been working; there is a need for it to be enhanced. In actual fact, a lot of evidence has been given by universities and by other private providers and observers, and, again, from—I don't want to put words in the mouth of the TAFE directors, but I understood the TAFE directors to be saying that there are some provisions that need to be increased and improved here too. So you're opposed to that being improved?

Mr Williams: The appropriate mechanism would be to look at both the NVETR Act, under which act ASQA works, and indeed the legislation under which TEQSA works. If there were faults in the system dealing with the regulation of providers, that would be the appropriate amendment. We've had a fairly significant piece of skills reform. We've got a fairly significant piece of higher education reform. If there are faults in the regulatory frameworks of either higher education providers or ASQA, that's the appropriate mechanism.

CHAIR: So you're saying: 'Keep it the same; don't do part 6'?

Mr Williams: Look at it in the context of the ASQA and TEQSA regulation.

Mr Pirie: Senator, in our submissions we've said we are relatively comfortable with part 6 because—

CHAIR: So you're not opposed to some of the improvements and enhancements in the bill?

Mr Pirie: In part 6—but one of the critical things is that, and I said this previously in relation to Senator Bilyk's question—

CHAIR: Sorry, Mr Pirie—just because I've got a short amount of time: I just want to be clear that you're not opposed to some of the aspects within the bill?

Mr Pirie: Some of them, and part 6 is probably one—

CHAIR: Thanks.

Mr Pirie: But—

CHAIR: That's alright—you've given other evidence on this other matter. I want to then go to the question regarding TAFE Directors Australia. Ms Dodd, you mentioned there are a number of provisions in the bill that you said would improve—I'm using my words—the situation for delivery of courses and also the integrity of the system. Would you just outline those in some more detail.

Ms Dodd: The sections on education commission agents we think are really fundamental to improving integrity. We support those. We support the increased focus—appreciating that there are many places that this occurs—on fit and proper person. We understand the enormity of trying to put quality at the first heightened area of how international students participate within Australia. The amendments that you were referring to previously in part 6 are supported. Broadly, we believe the bill has a number of components that will go to improving integrity and will ensure that those who are delivering in international student areas will end up as quality providers. We do have some views that differ amongst our members in terms of how the caps have been calculated, but I think that has been addressed through some open letters from, in particular, the Victorian ministers that you would all be aware of. But, in a broad sense, the bill is a step forward in terms of getting Australia back on the right track to integrity and quality.

CHAIR: Ms Field, I appreciate you've outlined your differences and nuances about the bill. What aspects in the bill do you support and find have some strengths?

Ms Field: I think there are a number of them. It really is to be able to act more immediately on fit and proper—it could have been put in other legislation, but I don't think putting it here is a material problem. I think one of the challenges that we have with the current approach is that these things tend to drag out for a particularly long time. If there's serious evidence that someone doesn't meet a fit-and-proper-person test, then there ought to be the opportunity to suspend them rather than having this take all of the time that it currently does. There are a number of other aspects. I think caps are likely, and my submission was really 'let's try and make them operate in the best and most effective way we can.'

Senator O'SULLIVAN: Mr Pirie, in your testimony, you've noted that the new definition of an agent means that people like yourself should go overseas and promote Australia's education system. Does this mean that anyone selling or promoting Australia's education system could be deemed an agent, including the Minister for Education and even the Prime Minister, given their many trips to India and meetings with Prime Minister Modi?

Mr Pirie: I couldn't speculate on whether or not a minister might be captured, but I have spoken to colleagues in states and territories. All of the states and territories have education counsellors offshore. There is a large offshore network. Austrade, obviously, is an agency that does a lot of work in that area. Colleagues in states and territories that I've spoken to who do that work are very concerned that their education counsellor networks are likely to be captured by this. I will give you an example. One of my colleagues in one of the states has got someone

in India but also someone in South America, in Colombia, and they hold meetings with employers but also with students, and they demonstrate to those students 'these are some of the institutes we've got in our state'. And they specifically name them for particular courses—'These are some of the great courses you can go to.' Students will then take either literal pamphlets or digital pamphlets. If the student goes to one of those providers, because the language in the bill is a 'student or intending student', then they're captured under this bill. But it also relates to students who are onshore. They don't have to be an offshore student; they can be an onshore student, which is one of the reasons why it's likely to capture me or Troy or Jenny or any person. It could be a family member. It could be anyone. That is a big concern.

Senator O'SULLIVAN: Ms Field, in your opening statement you pointed to Western Sydney University's model. What is it that you believe about that model makes it superior to what has been presented in this bill?

Ms Field: They've got a one-page recommendation which has two parts to it. Recommendation 1 firstly talks about having explicit criteria that ought to be used to set caps, which is the integrity of the provider, available accommodation and a focus on whether or not the courses being offered relate to addressing skill shortages. So there's some explicit criteria. It talks to the fact that the caps ought to be subject to parliamentary scrutiny. They might need to be amended during the year, but actually they ought to be disallowable. They ought to be published publicly. Providers should be consulted on them. On the question of the automatic suspension of a provider that goes over their cap, they make a very good case that a very significant financial penalty could be considered, but, in actual fact, the automatic suspension creates a lot of—sorry, they don't say this; I'm overly emphasising their much better written point. It's a much better mechanism to deal with this. We don't want people to be ignoring their caps. We want them to pay attention to them. But automatic suspension is a really heavy penalty.

Senator O'SULLIVAN: In terms of the application, would you say it is a far more transparent and equitable approach to it, rather than the black box kind of methodology that is in the bill at the moment?

Ms Field: I do.

Senator HENDERSON: Mr Williams and Mr Pirie, you've heard, obviously, the excellent analysis of Ms Field in terms of the anomalies with the outcome of these caps. They impact directly on your members. What do you say in relation to the perilous situation that many very reputable providers are currently facing while dodgy providers are being propped up by this government?

Mr Williams: I'd probably reflect on some comments I made when we held a meeting of members in this building two or three weeks ago. I had one of the best jobs in education. This job is no longer fun. I've had to—as has Felix and others within ITECA—take phone calls late in the evening, dealing with members who have quality providers, asking: 'Do I mortgage my house to keep the business open? The business has no cash. Do I mortgage the house?' I'm no financial adviser, but that's the pain that they're in.

Senator HENDERSON: I'm told that one provider has been hospitalised, after having a breakdown. I am profoundly concerned about the impact that these discriminatory caps are going to have on private providers, including on their mental health and wellbeing, given that many businesses are facing insolvency or bankruptcy. Can you elaborate on those concerns?

Mr Williams: One of the worst phone calls I've had in 25 years in policy advocacy was from the son of one of our members, ringing up to ask what was wrong with his dad. I knew the circumstances. This was a college that will close. They'll be able to do it in a managed way, but it's a business that has been around for 30 years and they'll walk away with virtually nothing. Bad colleges will go the way of the dodo—we're perfectly comfortable with that. We have concern for their students, but we're happy to have bad operators out of the system. But there are a lot of good providers here who have been given caps that aren't sustainable.

Prior to COVID, we championed the international education sector. Everyone in this building and elsewhere happily championed the fact it was a \$40 billion sector, supporting more than half a million jobs. With those welcoming messages, a lot of providers went into the international education space and delivered quality outcomes. But now, because of different decisions, those providers aren't viable.

During COVID there were some problems, and I think we all understand that there were appropriate measures put in place, with border closures and other measures, but a lot of our members—the lucky ones will be smaller, but that's not good for their staff.

Senator HENDERSON: Just in terms of the—

CHAIR: We've run out of time.

Senator HENDERSON: Chair, could I just have one follow-up question?

CHAIR: No. You've already gone over time.

Senator HENDERSON: Right.

CHAIR: Thank you very much for your time in joining us today. If there are any questions on notice, could you please return the answers to the secretariat by 3 October 2024.

COSTA, Mr Thomas, Assistant Secretary, Unions NSW [by video link]

[10:03]

CHAIR: I now welcome representatives via video conference from Unions NSW. I understand that information on parliamentary privilege and the protection of witnesses giving evidence to Senate committees has been provided to you. I invite you to make a short opening statement. At the conclusion of any remarks, I'll invite members of the committee to ask questions.

Mr Costa: Unions NSW is the peak body for the union movement in our state, and it represents over 50 affiliated unions across industries as diverse as education, health, construction and the care sector. At Unions NSW, we have a long history of advocating for migrant workers' rights. Through our Visa Assist program, which is a partnership with the Immigration Advice and Rights Centre, a community legal centre, we provide free employment law and immigration advice to migrant workers in New South Wales. This is the only major service in Australia that combines visa and workplace advice in a single service. Over the past five years, Visa Assist has provided over 3,000 legal services, and over 70 per cent of the workers we assist through our program are on student visas.

In relation to the bill, Unions NSW does not oppose the introduction of a cap on international student enrolments, and it supports the government's efforts in maintaining the equality, integrity and sustainable growth of the international education sector. However, our temporary migration system must embrace ethical migration and ensure that, once international students arrive in Australia and are part of our community, they are treated equally to other Australians, and that includes fair wages and the ability to enforce their rights and feel integrated into our society. Current narratives that blame international students for the Australian housing crisis without rigorous economic modelling or supporting data are irresponsible and disregard the enormous contribution of international students to our workplaces and communities.

The international education sector is a major contributor to the Australian economy. The sector is our second-biggest export after mining. In 2023, the sector was worth over \$47 billion and provided almost 250,000 jobs. In NSW alone, the sector supports over 95,000 full-time-equivalent jobs and brought over \$11.4 billion into the NSW economy in 2020. The Australian economy also benefits from the skills and labour of international students, many of whom work in our essential services.

It is incorrect to blame international students for the Australian housing crisis, especially when we know from recent studies that temporary migrants are twice as likely than long-term residents to be underpaid. In 2023, the Grattan Institute found that most international graduates and former student visa holders were earning less than \$53,000 per year, and it also found that nearly 75 per cent of temporary graduate visa holders earned less than the average Australian worker in 2021. This is hardly a cohort of people in the position to bid upwards of a million-dollar price tag for an average home in Sydney or Melbourne.

Additionally, international students experience higher rates of exploitation and unsafe working conditions. In 2019, survey research of over 2,000 international students found that almost half were paid below the legal minimum wage and over 70 per cent were paid below the minimum casual hourly wage; more than a quarter earned \$12 or less per hour. The vulnerability of international students to workplace exploitation is greatly exacerbated by the discriminatory treatment created by our migration system, which imposes conditions on student visa holders that limit their access to employment opportunities and makes them dependent on their employers due to the fear of breaching visa conditions.

International students are also frequently exploited by unscrupulous education providers, particularly in the VET sector, who, after taking their fees, either don't deliver the courses or provide low-quality training. Unions NSW supports the government's efforts to protect and enhance the quality and integrity of the international education sector and to ensure our reputation is not undermined by unscrupulous providers. We acknowledge the government's efforts in uncovering those colleges and the integrity issues with Australia's VET sector, which were widespread under the former Liberal-National coalition government.

Additionally, we recommend the introduction of stronger policies to force education providers to take greater responsibility in ensuring international students have a positive experience while studying in Australia. Some additional initiatives that could be implemented include education providers establishing emergency programs, to ensure international students have a safe place to stay if they need to leave their accommodation; and education providers entering into an MOU, a memorandum of understanding, with relevant unions and the union peak body to develop education strategies to inform international students of their workplace rights in Australia. And these strategies should ensure union participation during orientation programs and other student events to allow unions to deliver rights-at-work workshops and distribute educational material and promote union membership.

We also believe that, to ensure international students have equal access to employment opportunities and to reduce workplace exploitation, the government should work with education providers, unions and industry to develop programs that encourage greater paid work and learning opportunities in educational courses. This will help international students gain local experience in their field of study while building professional networks before they graduate. To support these programs, a review of visa conditions to improve work experience opportunities for students should be considered.

CHAIR: Thanks. Senator Bilyk?

Senator BILYK: Thank you for your contribution today, Mr Costa, and for appearing. You mentioned that Unions NSW runs the Migrant Workers Hub. Can you give us some examples from the hub where international students are put in difficult circumstances? I'm thinking about exploitative work, wage exploitation, study arrangements.

Mr Costa: A very common situation that arises for the types of people who come to our service is that of international students who essentially have engaged in a course from overseas. It's been advertised to them overseas. They've been told that they will receive training or education that will give them skills of a high quality. They spend a lot of money on that course when they arrive. They're also told that the cost of living in the capital cities, like Sydney and Melbourne, is very affordable and they will easily be able to find work to pay for their living costs when they arrive. Unfortunately, when they arrive, having spent a lot of money on that education, they quickly find out that the cost of living here is a lot higher than they were told and the work on offer to them is of a very low standard and usually very exploitative. This forces them into a very precarious situation. What we see very commonly is that a lot of international students, because they are desperate to find work in order to pay their way while they're here, will often take up jobs, such as food-delivery riding, working in small businesses—lots of occupations—that do not pay minimum wages. What makes it particularly unfair is that these employers are very aware that international students have a cap on the number of hours they are allowed to work on their visa and, if they breach that cap for any reason, their visa can be cancelled or they can have a future visa refused.

This practice was first uncovered over five years ago when 7-Eleven franchisees were caught out paying international students half the minimum wage but requiring them to work 40 hours a week, which was double the number they were legally allowed under their visa. Those students could not complain or raise any issue about that, because their employer threatened that they would notify the Department of Home Affairs that they were in breach of their visa. That's a very common situation that we deal with. Many of these international students feel trapped in that situation, where they have to work for lower wages and longer hours than they are legally allowed to because of the fear that their visa could be cancelled or a future visa could be refused.

Senator BILYK: What about in regard to housing? Have you heard some stories there? Have you got some examples you can give us in regard to students not being able to find decent housing?

Mr Costa: It's very common, with the international students we see, that they are either living in dedicated student housing or living in share houses where they are sharing rooms with at least two to four people. They are paying very high rents, like everyone is paying in Sydney, but for an international student who is earning below the minimum wage, in some cases \$12 an hour, this is still a very expensive cost, even when they're sharing rooms in very low standard housing.

Senator BILYK: That's not the kind of education Australia really wants to promote. I'm sure nobody in the room would want to have that type of thing promoted. Do you think the measures in the bill go some way to preventing the kind of wage exploitation and the crowded, often unhealthy, accommodation that you've just talked about?

Mr Costa: Yes. We support the fact that the bill is focusing on integrity and ensuring that there will be quality in the educational sector. We have some experience of where unscrupulous educational providers are connected to employers and arrange for these sorts of exploitative arrangements to happen. For that reason, we think any measures that go towards rooting out those unscrupulous educational providers and their networks with employers that exploit migrant workers are a good thing, and that increased focus in the bill on the fit and proper person and allowing the measures to be implemented quite quickly is something we see as a good measure.

Senator BILYK: Do you support the need for caps on the number and mix of international students that education providers can accept each year?

Mr Costa: We have no position on caps on international students coming into Australia. We recognise that that is a decision for government to make about how many people should and can come into the country. As I said in my opening submission, we think it's quite disingenuous for commentators out there to blame international students for the housing crisis and all other ills of the Australian economy but at the same time say there should

not be caps on international students coming into the country. The former government's approach to international education seemed to be to have a complete open market in terms of advertising educational places to international students but, at the same time, to create a system where international students were so heavily exploited. Their measure to try and reduce international students was to exploit them more. We think that is an incredibly unfair way to treat international students.

Our view is that the government has the right to cap the numbers of migrants, whichever way they come into Australia, and we don't want to quibble on those numbers. Our view, though, is that once a person is in Australia, whether they're an international student, a sponsored visa holder or a citizen, they should be treated equally and fairly and have the same rights as everybody else and the ability to enforce those rights. But we support any measures that go towards ensuring that the education that's provided to these students is of a high standard and an appropriate quality for the cost and towards removing those unscrupulous actors.

Senator BILYK: Thank you.

CHAIR: Senator Henderson.

Senator HENDERSON: Mr Costa, thank you very much for your time this morning. You're obviously concerned about integrity in the international student sector but you don't have a position on the caps themselves. Do you believe that this bill improves integrity in the international student sector?

Mr Costa: Yes, I do.

Senator HENDERSON: If that's the case, what do you say to the evidence we've heard this morning that the government has given 1,429 places to 12 providers that the regulator wants to cancel and has issued cancellation notices against?

Mr Costa: I'm not aware of that evidence except for the small part of it that I heard when I logged in. This seems to be a question for the government and the providers. It's not one that we have any information on. I can take the question on notice and see if we do have any people that we assist that have been in those providers and if we have any concerns with them. But I don't represent educational providers. I'm not aware of their situation.

Senator HENDERSON: Yes, but, in terms of the integrity measures, doesn't it concern you that this bill is facilitating the giving of foreign student places to so-called dodgy operators?

Mr Costa: We are very concerned that for the last 10 years the system has allowed dodgy operators to engage as many international students as they like without any integrity measures and that this system has run rampant and many of the people that we assist have been preyed upon by these dodgy operators.

Senator HENDERSON: Just to go back to my question, though, this is about 1,429 places being given to 12 providers that the regulator wants to cancel. They're now under appeal in the AAT. I understand that you don't have the details, but, more broadly in relation to the integrity measures in the bill, doesn't it concern you that it can lead to these sorts of perverse outcomes?

Mr Costa: Well, I don't know if these outcomes are perverse. I haven't seen those situations. I'm not aware of the appeals or the detail in the appeals. I haven't looked at how the caps have been issued to those providers. I just don't have that information at all, because I don't represent providers.

Senator HENDERSON: Alright. Thanks, Mr Costa. I have no further questions, Chair.

CHAIR: There was a joint parliamentary inquiry in Australia into the tourism and international education sectors. There were no dissenting remarks from any of the crossbenchers or the opposition in that inquiry. The report said:

... some providers in the private VET sector have systematically exploited Australia's education system and broken migration law to funnel vulnerable international students ...

The inquiry also found that these students:

... are unwilling participants into sophisticated operations that in almost all cases lead to labour exploitation and worse indentured slave labour and sex trafficking.

Are you able to give us some examples from the people you've been engaged with in the program, Visa Assist, of international students being put in difficult circumstances, such as exploitive work or study arrangements?

Mr Costa: Yes, I am, and unfortunately it is very common, and very common amongst the workers we assist. I can give you an example of a group of 15 workers who were engaged to receive training and education in hospitality and at the same time, as part of that training, were to receive work experience in a major hotel. They essentially arrived in Australia and were bussed out to this hotel, which was in a regional area, where accommodation was five people to a room. They would work for more than 12 hours a day. The education that

was being provided to them was quite minimal—for example, PowerPoint presentations that they were given to look over themselves.

The food they were given as part of their education package was the leftover food from the breakfast buffet that they prepared for guests at the hotel. And the cost of the accommodation and the food—the leftovers—was deducted from what they were paid for the work they did in the hotel so that by the end of the week they received only \$220 each, for working those 12-hour days. We assisted those workers. We were able to reach a settlement with that hotel and also were able to find those workers alternative work, an alternative education provider and alternative courses. Unfortunately, that is not an unusual story. Those sorts of things happen quite often. But it is illustrative of the types of situations you spoke about, Chair.

CHAIR: And on the question of training and skills, but effectively for exploitive employment: the evidence that was received by that joint parliamentary committee, which raised these concerns in 2023, also went to issues of indentured slave labour and sex trafficking. Do you have other examples you're able to share with us? Obviously you would depersonalise the details.

Mr Costa: recently there was a group of women that we assisted who were held in a fairly terrible situation in a Canberra massage parlour. They were essentially not allowed to leave their work premises while they were there and were forced to work for that business. They weren't paid. Their passports were confiscated. It was only when a customer of that business reported to one of our union affiliates what was happening that we were able to intervene and essentially rescue those women from that situation.

That is a form of modern slavery. These women weren't paid for the work that they were doing. They had no way of actually seeking any assistance until they were out of that situation. So this does happen. That is not a situation that we deal with frequently, but it is one that we come across from time to time, and it is something that still happens in Australia.

CHAIR: And they were introduced by a migration agent, were they?

Mr Costa: That's right.

CHAIR: I've got many questions I'd like to ask. Are there any more questions from the coalition?

Senator HENDERSON: It's alright; I'll put them on notice if I need to.

CHAIR: Senator Faruqi.

Senator FARUQI: Good morning, Mr Costa. This is the fourth day of hearings into this particular bill, and we have heard over and over again, on all those days, about the chaotic and inconsistent way international student caps have been set, how reckless this bill is and how the international student cap will do nothing for integrity in any way, shape or form. The first six parts of this bill might tweak some of the existing laws a little bit, but people have raised with us that the enforcement has been the real issue. Could you explain to me how capping international students would do anything for integrity in the higher education sector?

Mr Costa: I think it's a really important question, and this is part of the debate that often gets missed out here, which is that over the past decade or so, particularly under the previous government, international students and, in fact, all forms of temporary migration were used as a temporary guest worker system to support low-skilled job growth in Australia or the need for low-skilled employees in Australia. That, in large part, occurs because there is no pathway into the Australian workforce for a migrant to work legally in low-skilled work. We have no low-skilled work visa in Australia, yet we have a very high demand for those workers.

Any person who walks down the streets of any major capital city in Australia will see foreign workers in hospitality and many other industries, like agriculture, cleaning, aged care and child care. However, none of those people will have a visa that is specified for that low-skilled work. They will be on either an international student visa or working holiday-maker visa or some other form of temporary visa that is not designed for them to be working in that industry. For a long time, because employers needed these workers and there was no other option, they would seek out international students to do this type of work.

The unfortunate reality is that, because of the very strict visa conditions on international students, they were easily exploited, so those industries have become, essentially, dependent on exploiting these types of visa holders in these industries. Capping them—

Senator FARUQI: But stopping them from coming here is not going to stop that problem. Every single witness that we have heard who has come in here and is involved in international education says this is reckless, and I agree with them 100 per cent. And I agree with you about the rhetoric around this policy, which vilifies international students and scapegoats them for the housing crisis. We also now have the opposition leader, Peter

Dutton, calling them 'modern-day boat arrivals'. It is just disgraceful. What I'm trying to say is that the caps do nothing for all the issues that you have mentioned, and I agree that they need to be addressed.

I'm short of time, so I will ask you one question, because you do represent so many workers in this country. We heard evidence that, if these caps come into place, tens of thousands of jobs will be lost, not only in universities but also in private providers. These are providers who have integrity, and some of them will have to close. What do you have to say about that?

Mr Costa: We don't support anything that's going to lead to the loss of jobs. As I said in my opening statement, we're not pro-cap or anti-cap. We don't have a position on the cap. Our view is that's a decision for government. Migration into Australia is a decision for government.

I welcomed your previous question because I think this does force a conversation in Australia about what we want from our migration system. If we need low-skilled workers, rather than using international students or other types of visas as a kind of hidden way of bringing in those workers, let's actually have the conversation about allowing workers in to do those jobs on low-skilled working visas dedicated to that type of work.

Senator FARUQI: I agree with that, but there are better ways of having the conversation without decimating the whole higher education sector in the country.

Mr Costa: Sure. While we don't support the decimation of the sector, we just don't have a position on the caps. We see that as a decision for government to make on the settings for how many migrants come into Australia. That's not a decision for us.

Senator FARUQI: Thank you very much.

CHAIR: Thank you, Mr Costa, for your evidence this morning. If you've taken any questions on notice, could you please return the answers to the secretariat by 3 October 2024. Have a very good morning.

Mr Costa: Thank you very much.

Proceedings suspended from 10:30 to 10:46

BERMEJO, Mr Michael, Director, Key 2 Learning Pty Ltd

BIJO, Dr Kunnumpurath, Chief Executive Officer, Institute of Health & Management Pty Ltd

BOUSAMRA, Mr George, Vice Chair, Bankstown Community College Inc. [by video link]

De MARGHERITI, Mr John, Chief Executive Officer, Academy of Interactive Entertainment Ltd

KNIGHT, Ms Monique, Chief Executive Officer, Bankstown Community College Inc. [by video link]

CHAIR: Welcome. I understand that information on parliamentary privilege and the protection of witnesses giving evidence to Senate committees has been provided to you. I now invite each of you to make a short opening statement. If it is long and in writing then we can hand it up to the secretariat. It will go on the record, and we will also be able to consider it. It will be public. If it is long, just make a short precis of it, because we want to get into questions very quickly.

Mr De Margheriti: I'd like to thank the members of the Senate committee for providing the Academy of Interactive Entertainment an opportunity to speak. We're a global success story. We're the first educator in the world to offer accredited courses in video game development. Due to our not-for-profit status, we've used our surpluses over the last 28 years to build a major industry in Australia. We've placed more video game graduates into industry jobs than two leading universities combined. In 1999 we funded and launched the industry association conference, and three years ago we launched the world's first virtual production filmmaking advanced diploma course. It took many years of planning and \$5 million in infrastructure to establish this world's-best facility.

Our second-year visual effects students recently undertook paid work on *Nawi*, the journey of a 12-year-old Kenyan girl with millions of dreams of becoming a doctor or scientist having her dream shattered as she's sold off for 100 sheep into child marriage. This important film, filmed in Kenya, has been selected as a contender for this year's Oscars. I don't know of any other educator who's got their students in a film that's attending the Oscars.

The United States ambassador, Caroline Kennedy, recently visited the academy and congratulated us for our joint venture partnership with the Louisiana state government, where we're co-investing in film infrastructure to help US students over there develop their skills and create jobs.

This bill impacts the AIE's long-term strategic planning. We're bringing together the ACT government and industry partners to deliver a new global headquarters in Canberra that will feature place based training in industry-specialised learning, research and production facilities. We invested heavily in the purchase of land to build our new campus, and many years of planning have gone into this with the belief that this program would attract the world's brightest and most creative students.

We're about to lodge a development application, and later we'll apply for a grant from the federal government's Urban Precincts and Partnerships Program for AIE's transformative investment that will grow Canberra's economy. It's taken us many years, and we're about to lodge the DA at the end of this year. We're concerned that this drastic drop in international student numbers—in our case to zero or two—would mean we have to cancel or change our master plan, which currently includes up to 600 student beds. We applied for a CRICOS accreditation, and the regulator determined that if we had the capacity to support the proposed numbers of international students—the number was allocated based on what the regulator believed the applicants can support effectively.

We ask that you do not take away our future. We're a not-for-profit, tax-exempt entity, and we're serving Australia. We deserve more than zero international students. Not all educators are the same. The AIE has historically focused on domestic students, to market and grow opportunities for Australian students through our incubators. Some other educators found that the burden of compliance for VET student loans was just too much, and they focused on the international market. Businesses need time to adjust and make these changes. Three months notice would be catastrophic for the entire industry, particularly for the providers that are heavily weighted to international students. It takes years to build the student pipeline; marketing spending will go to waste as businesses go under, and the Australian reputation will be ruined.

We need more time for these changes, at least until 2026. I would ask you to consider a threshold model where small approved providers are allowed to maintain their current allowances. For AIE that's 248 international students, and for the institute it's 43. This would help to ensure that the huge infrastructure investment we've been making over many years is not wasted.

CHAIR: Thank you. Dr Bijo.

Dr Bijo: Good morning, Chair and distinguished members. It is a privilege and honour for me to appear before this committee for the first time in my capacity as the chief executive officer of the Institute of Health &

Management. I would like to give the committee our considered opinion on how the proposed bill, especially its capping of international student enrolments, will badly impact small but quality health education providers like us.

The Institute of Health & Management was established in 2015, and it's based out of Melbourne. We have campuses in Perth and Sydney as well as Melbourne. We have a vocational division, the Institute of Health and Nursing Australia, IHNA, which was established in 2007. We have trained more than 25,000 healthcare professionals from 2007 onwards, and they are working in the industry today. Currently, we employ more than 150 full-time staff, and, with the changes coming up, I think we may have to adjust in the future, and there may be job losses for more than 45 staff in the organisation. Most of them are nurses, clinicians and healthcare educators.

Our position on the bill is that the international enrolment for this institute will directly impact the way we train and the number of nurses in Australia, because we predominantly do nursing education, and the capping of the nursing students will definitely affect nurse availability in the future. It's already recognised as a very critical skill shortage by every agency. I have read the submission from the Department of Education, which says that the minister has the authority to exempt courses for a critical skill shortage, and they put the examples of nursing and teaching.

Our position is, first, that the minister's power to impose capping on international students is not transparent and not based on evidence. Second, we do not support capping in the first place; however, if caps are made, we recommend that institutes providing health education should be exempt—for example, for nursing. IHM does not support the one-size-fits-all method of course-level limitations on international enrolment. We saw restrictions imposed in the recent past, and they have already had an impact on the college. We are just coming out of the COVID situation and starting to pick up, and we do have a long-term plan.

Our vocational division, the Institute of Health and Nursing Australia, has been recognised with the Victorian government's international education excellence award for the last three years consecutively. We have great plans to improve quality education, and we are invested heavily into all the locations. And we recently invested in a new campus in Brisbane as well.

With all these changes coming up, I think it will definitely impact our staffing financially as well as economically. The most impact is basically going to be on the nursing students. Normally they work in the industry while they're studying, as care workers. So the aged-care sector is basically also being impacted, if there is a restriction on these kinds of industries.

To conclude, I would like to emphasise that the course enrolment limits must not be applied to nursing and social work. The extensive powers granted to the minister need to be transferred to the commission, once established. And only a provider with proven illegal activities should be subjected to a course-level limit. The good ones must not be punished.

CHAIR: Thank you. Key 2 Learning.

Mr Bermejo: I think my colleague here has stolen all my thunder! I have provided a written submission, so I'm not going to go too much into it. You can read in detail. I'm just going to summarise. I have two issues I would like to cover. One is the impact that the international student cap has had on our organisation, and the second one is to propose perhaps a better allocation method in terms of the student cap.

Key 2 Learning college was established in the ACT in 2009. We specialise, like my colleague here, in aged care, nursing and community services. Our diploma courses—Diploma of Nursing, Diploma of Community Services—are aligned to occupations on the Australian skills shortage list, such as enrolled nurses and community workers. We have both domestic and international students, and we have won a number of awards in the ACT. Recently, we won the ACT Small Training Provider of the Year Award for 2024, which we won in 2022 as well. I like to think we are a good quality, high quality education provider, but, probably more importantly, our courses are helping to address the skills shortages here in the ACT. Our graduates are contributing to the ACT community. We work very closely with aged-care organisations, hospitals, NDIS providers, community service organisations. We are helping to broach the gap that exists in the market.

On Friday 6 September, we got a letter from the Department of Employment and Workplace Relations—on Friday, which is usually the case with the department—advising that our cap had been given to 75 international students. That's at least half of our traditional historical levels of international students. On the same day, we were advised by ASQA that our CRICOS application had been renewed for the maximum seven years and we'd been allocated 250 international students. On the one hand, we have 75, and, on the other hand, we have 250. Go figure!

The point I'm making is that our courses are aligned to occupations on the skills shortage list. We are filling a gap, like my colleague here. My proposal is that there be a safeguard for vocational and tertiary education providers whose courses are aligned to occupations on the skills list; we should not be penalised. It should not be an arbitrary formula that is just a number based on, in our case, 30 per cent of our CRICOS number. It should take into consideration what the international students are contributing. In my opinion, we should be safeguarded. Our courses should be safeguarded from any reductions in international students, and we should be allowed to continue to deliver our CRICOS approved numbers—in our case, 250.

The implications for us, with 75 students, are that we are going to have to significantly reduce staff. You might not be able to deliver the courses for the Diploma of Nursing. That will create a shortage. There are about 75,000 nurses needed in Australia. And we might not even continue to deliver community services. Potentially, realistically, it might force the closure of the college. So it will have a very significant impact. We're a small training organisation. We're not the only ones in Australia facing a similar challenge. I ask the committee to take those factors into consideration and, in particular, improve the way we determine the allocation of international students.

CHAIR: Thank you. We will go to the final speaker.

Ms Knight: We are also a not-for-profit with CRICOS and domestic students. We've been providing training to the south-west Sydney area, predominantly Canterbury-Bankstown, for over 38 years. Our students are from diverse backgrounds and different parts of the world. While they're studying with us at Bankstown Community College, they gain employment in their fields. These fields include child care, aged care, disability support and community services. We currently have skill shortages in these industries, and our international students help to fill that employment demand in the health and early childhood systems. We have MOUs with national healthcare providers and early childcare providers and we also support our local businesses with employees.

My team and I were appointed to Bankstown Community College in April 2023, and it has taken some time for us to establish these partnerships. We're only just starting to see the positive effects now. Our international student market has been severely affected. First we had COVID. Straight after that we had visa approval rates reduce dramatically, and then the mandatory English level requirement was increased from 5.5 to 6.0. If that's not enough, student visa application fees increased by over 100 per cent, taking them up over \$1,000 per application. This means that, if a student's application is rejected for whatever reason, they need to find that \$1,000 again when they reapply. This is on top of the other financial requirements that they need to be eligible to study here in Australia.

Bankstown Community College's approved capacity through AQSA, which is our national regulatory body, is 360. The proposed cap we've been given for new students in 2025 is only 15. This does not allow us to run one full-time class, unless we get 15 students wanting to do the exact same course and start at the exact same time. We've invested a lot of time, resources and money to become a training college of choice, and a cap of 15 hinders our international students from choosing the college that they want to study at and that has been recommended to them by their peers.

The Canterbury-Bankstown area is quite transient. As we have a higher migrant population, students will be more likely to choose our college and our community area as their first home in Australia. We want Canterbury-Bankstown to be the place where they can come and live, work, enjoy and be educated. The Bankstown Community College is more than a CRICOS provider. We provide, in our local community, invaluable and unique support in comparison to other RTOs. The nature of a community college is to nurture and support every student that comes through its doors and provide a safe and inclusive learning environment. This cap of 15 would potentially close our doors. It would close down our community college, and it would have a devastating effect on the Canterbury-Bankstown community.

CHAIR: Thanks very much. Senator Henderson.

Senator HENDERSON: Good morning to you all. Thank you very much for your compelling opening statements. Ms Knight, I'll start with you and ask you to put your camera back on. You've told a very grim story about the cap that you've been given. You say that you may be forced to close your doors. How important is the role your college plays in servicing critical skills shortages in western Sydney?

Ms Knight: It's a very critical role. It's not only filling those skills shortages in our community. Our local students are from disadvantaged cohorts. A lot of the international students that we get in have come from other providers. They've come to this community because it is quite a diverse community. We're inclusive. They come to us because it's a safe and caring environment. We take the time. We do keep our class sizes quite small, and the cap would have a really devastating effect on our community. We also provide other services, like different

workshops. We help the students—and this is in our own time—with stuff like resumes, interviewing skills and professional presentation skills. These are just the little things that we do as a community college. We go above and beyond, unlike these other, larger providers.

Senator HENDERSON: Your submission says that you've got a CRICOS capacity of 348. Is it 348 or 360?

Ms Knight: I've been told by my compliance manager that it was just under 360; it's 348.

Senator HENDERSON: What would you say to the Minister for Education after getting a cap under what we say is a botched methodology that takes you from the 348 approved by the regulator to just 15?

Ms Knight: I would ask that, before making these decisions, they be informed. Speak to us. Find out why. I'm under the impression that the decision was made based on performance over the last year. As I have mentioned, we've just come out of COVID. We've had a lot of visas that weren't approved for minute reasons.

Senator HENDERSON: That would mean as a result of ministerial direction 107, where your visas were not being approved by the government.

Ms Knight: That's correct, yes. So having a conversation with us and finding out why our numbers were low before making this decision would have been a better process. I'm not completely against caps. There are providers that are out there that have massive caps. Make it fair across the board. Don't make it so that the small colleges that do all this groundwork in the community can't continue to do this hard work and benefit the community.

Senator HENDERSON: I'm sorry I've got such little time, but I just want to go to Mr De Margheriti. Thank you for your opening statement. You're obviously also facing a very grim situation. Obviously you are a provider that has had an enormous amount of success, including in relation to next year's Oscars, so congratulations to you on that. Again, how do you think this could happen? How could you be placed in this situation?

Mr De Margheriti: I have no idea. Honestly, I can't believe that I'm standing before you having to explain this whole situation. What is going on? Is this robodebt all over again? Is this the cattle trade stuff again? What country are we living in? I feel like I'm in a banana republic. I've got a college that has generated an industry that's worth \$3 billion to \$4 billion to Australia. We come to a third to 40 per cent of the entire employment. We're a not-for-profit educator. We're tax exempt. We've been servicing the Australian market. We're just entering international markets now, and we're faced with this. We've gone through COVID. We went through the VET student loan debacle in 2016. We go through COVID, and now here we are again. What is going on? You're meant to be serving the Australian people, but you're not.

The fact that we're actually here having this discussion is a total shock to me. But I'm here. I've flown in from Italy. I cut down my holiday to be here to confront you and tell you to wake up and to not destroy our nation, because that's what you're about to do. This bill is wrong in every possible way. The amount of job losses we're going to see, the number of businesses, is incredible. You've got a lawsuit happening with the cattle trade which you have not even settled. You've got a half-a-billion-dollar lawsuit, and you still haven't paid it out. You're going to do it all over again. We've had families hurt over robodebt, and now we're going through this? Please wake up.

Senator HENDERSON: Can you tell me in relation to the cap you've been given how that compares with the number of international students that you have been servicing?

Mr De Margheriti: We've gone down to two and zero. We've got zero for the institute and two for the AIE. We've been given 243 students in the past. We've been working our way through it. We're making a huge investment. We have to spend \$40 million in Canberra building a new campus with master plans and student accommodation. It's wonderful. We've got the ACT government contributing millions of dollars. We've put at least \$8 million into it so far, and we're going to go to zero students and might have a percentage of zero next year, which is also zero. What is going on? Is this just a formula that's run by an AI program that spits out zero? What is the logic in this?

Senator HENDERSON: Clearly there's been absolutely no consultation.

CHAIR: Senator Henderson, it's time to rotate. Senator Bilyk.

Senator BILYK: Mr De Margheriti, your submission says that the AIE Institute tried to fill your 43 international student spots you're allocated by CRICOS but you were unable to get a single student. Did I read that right? Is that correct?

Mr De Margheriti: We tried hard. We tried to build a major network. We've not had any experience. We've only focused on domestic students and building Australia's capacity, and we've done a pretty good job. We're now focusing on the international student market. We tried in the previous year, and we got one student. We doubled our efforts, we worked very hard and now we've got a lot more students. In fact, at the moment, quite a few

students have applied, but we're going to have to turn these students down, which is ridiculous. The whole thing is just ridiculous. At the moment, we have eight prospective advanced diploma international students. We've got four prospective international degree students that have actually gone through, and we have at least a dozen going through the process. We don't know what the final numbers will look like, but—

Senator BILYK: But you couldn't find one potential international student for 2024—is that correct?

Mr De Margheriti: That's right because we just started. This is our first year running the degree. This is our first year.

Senator BILYK: How many international students do you have? None.

Mr De Margheriti: We have more than one. We have, at the moment—

Senator BILYK: Two?

Mr De Margheriti: In 2024, we've got nine students for the first-year diploma and two students for the second-year advanced diploma for a total of 11 international students for the AIE. When it comes to the degree, which has just started running this year, we issued two COEs for 2024; however, one did not get their visa approved on time because it's so difficult to do now and so will come in 2025. The second student withdrew last minute, so we have one.

Senator BILYK: How many domestic students do you have?

Mr De Margheriti: We have 1,463 domestic students.

Senator BILYK: So the percentage of your international enrolments is like 0.00-something.

Mr De Margheriti: You're taking away our future. We've actually calculated what this is going to do us. We worked out we're going to lose \$65 million through to 2040. We're planning to have 312 students by 2040. It's not a huge number. We cap ourselves to 20 per cent. It will stop us from doing deals with the University of Technology in Tokyo where we have an exchange program. There are a lot of things we're planning to do—

Senator BILYK: Okay. Thank you. We've got very limited time, and I've got quite a few other questions. There have been quite a lot of integrity issues raised about the integrity of some of the agents that VET providers use, especially those based overseas. How do you find your students and what process do you have in place to ensure the agents you use act with integrity?

Mr De Margheriti: We've just started. This is our first year of our degree program.

Senator BILYK: You've offered people positions.

Mr De Margheriti: We have agents. It takes us—

Senator BILYK: What processes do you have in place?

Mr De Margheriti: We have to look at the actual providers. We look at what they've done. We looked at whether they worked for other universities. We actually have to do a lot of research into them.

Senator BILYK: Do you use an agent, though?

Mr De Margheriti: We have two agents. We're an emerging international market.

Senator BILYK: How do you make sure that those agents are acting ethically and not drawing people under false or misleading pretences?

Mr De Margheriti: First of all, we look for quality agents. We particularly look at agents that the major universities are using. That gives us a level of comfort. We also get them to sign agreements that they won't do a bunch of different activities like breach or do false advertising of courses. We also look at materials—

Senator BILYK: Can we get a copy of that agreement on notice?

Mr De Margheriti: Yes. I can give you a copy of all the agreements we have with the very few international agents we have.

Senator BILYK: You just said you had two.

Mr De Margheriti: We have two institutions. We have the AI Institute, which is a higher education provider, and we have the Academy of Interactive Entertainment, which is a vocational education provider, so there are two entities.

Senator BILYK: How many agents do you have?

Mr De Margheriti: Less than half a dozen.

Senator BILYK: Can we get a copy of those agreements?

Mr De Margheriti: We can give you the agreements with our agents, which are very few. Most international students directly apply—

Senator BILYK: Thank you. I do need to move on.

CHAIR: Final question.

Senator HENDERSON: Could I just be given the opportunity to—

CHAIR: Can you not take up her time, please.

Senator BILYK: Thank you. I want to ask the Institute of Health & Management. I had a look at the website. I noticed that two of the courses you offer are unrelated to health or social work fields. You offer a general English course and English for academic purposes course. How many international students do you have in those courses?

Dr Bijó: We have around 300-plus students currently studying in the college, and we have around 1,300-plus as the total course capacity at the moment.

Senator BILYK: Do you promote these courses through overseas agents?

Dr Bijó: Yes, we promote through agents.

Senator BILYK: This is the same question; you might take it on notice. What processes do you have to make sure—

Dr Bijó: In general, we have a due diligence which is documented, and we also have an annual review process for agents.

Senator BILYK: Okay. The chair's just told me my time's run out, so I might put some questions on notice. Thank you.

CHAIR: I will go to Senator Henderson.

Senator HENDERSON: Thank you very much. I now want to raise some questions with the Key 2 Learning College. Mr Bermejo, could you please explain the dire situation that you are now facing as a result of the cap that you've been given for next year?

Mr Bermejo: Absolutely. As I mentioned before, we are now facing a situation where our allocation of international students has been halved, and that problem has been compounded this year because there has been no funding from the ACT government for diploma courses.

Senator HENDERSON: For what courses?

Mr Bermejo: There has been no ACT subsidised funding for diploma courses for domestic students. Effectively, we lost the funding for domestic students for our diploma courses, so we're relying on international students even more. With the reduction in the international student numbers, we now face a situation where we have 75 students. Our diploma of nursing allocation mark is 60 students, so we can choose to do nursing and no longer do community services, or we can do community services and cease to deliver nursing courses. Either way, we are going to have significant reductions in our staff.

I don't know whether the college will remain financially viable, because of those reductions, and that's going to have a very detrimental effect on the ACT community. We're the only private vocational education in the ACT that offers the diploma of nursing, and we're the only private provider in the ACT that has a diploma of community service accredited by the Australian Community Workers Association.

Senator HENDERSON: You're obviously delivering courses in areas where there are some critical skill shortages as identified by Jobs and Skills Australia. What impact will that have on the Canberra region?

Mr Bermejo: Again, we deliver courses and certificate courses for domestic students in aged care, nursing and community services. A lot of our students have roles as aged-care workers, support workers and community support workers. They work in aged-care organisations and community services.

Senator HENDERSON: Sorry, just to go to though to international students, could you reiterate the cap that you've been given for next year compared with your CRICOS capacity?

Mr Bermejo: Our cap has been based on the Department of Employment and Workplace Relations and is based on 75 students. As I said, on the same day, ASQA reregistration approval was for 250 students. That happens on identical days by coincidence, but that's—

Senator HENDERSON: Was that 250?

Mr Bermejo: Yes—250 students.

Senator HENDERSON: So you've got the regulator saying you've got a CRICOS capacity of 250 students, and then you've got this proposal for 75 students. What will that dramatic reduction in international students do for the Canberra region? I imagine that those skills are important for Canberra.

Mr Bermejo: Absolutely. Those skills are actually in the skills list of the ACT government. They're skills that cannot be filled by domestic workers. The aged-care organisations, community organisations and hospitals rely on these international students to fill those critical skill gaps. And that is my point. If we are going to make a decision about reducing numbers, don't penalise those colleges that are offering courses that are aligned to occupations on the skills list.

Senator HENDERSON: Mr De Margheriti, do you believe the private education sector has been grossly discriminated against? Is that your view?

Mr De Margheriti: Absolutely. My view is that this is an ideology, and it's driven to basically shut down private providers, whether they're not-for-profit community organisations or for-profit organisations. There seems to be this perception that, unless it's an organisation or a school that is run by government with taxpayer money, we're an evil group of people. I'm seeing a situation where the institute is going from 43 international students—that's our allocation—to zero students; we've been allocated 248 and we're going to get two. You're effectively saying, no international students. Our massive investment that we're putting in Canberra—600 beds, our future—will go out the door if this bill goes through.

Senator HENDERSON: So you're proposing to build 600 beds—

Mr De Margheriti: We are, right now, doing the developer application. We're about to invest, I think, about \$40-odd million into Canberra to build student beds, production facilities and a whole bunch of things. The whole project—

Senator HENDERSON: That is to deliver which courses?

Mr De Margheriti: This is to deliver our international course as well as our domestic courses, and that's just part of it; that's stage 1. The whole project is \$200 million for Canberra.

Senator HENDERSON: You're funding that all yourselves?

Mr De Margheriti: We are funding it. We're not-for-profit. Fortunately, I'm a pretty wealthy individual and I've been donating millions of my money to Canberra. I want to do this because I enjoy doing it. I want to create opportunities for young Australians. But governments around the world are asking me to set up overseas. I've got the US—in the last 14 years we've set up charitable institutions in Seattle, Washington. I've now got the Japanese government wanting me to set things up. I'm helping other countries, and my own country is working against me. Other countries are very open. We've had support from the Washington state government where they've funded our students—look at the joint venture with the Louisiana state government. In this country it's incredibly bad.

Senator HENDERSON: You believe this has been driven by brutal ideology?

Mr De Margheriti: It's total ideology. Mind you, when the Liberal government was here we saw similar ideological things. It looks like these things are driven by ideologies, not sensible decisions.

Senator HENDERSON: I'm not sure about that. We're seeing with these caps that universities have gone backwards by one per cent, and private providers overall in their caps have gone back by 28 per cent. It seems to be a brutal targeting of private providers.

Mr De Margheriti: Yes. To go to zero to two is farcical. And to be given a number that we work to over the years and making these huge investments, for us—and I'm sure everybody else is in the same boat—this is totally ridiculous.

CHAIR: It's time to go to Senator Faruqi.

Senator FARUQI: Good morning, everyone. Could each of you please tell me that you have all gone through the proper registration processes required by the regulator and that that's how you operate. Obviously you've all gone through those processes; I'm just leading on from Senator Bilyk's comments. You have all gone through the process set by the regulators—TEQSA, ASQA, whatever—and that's how you got your CRICOS codes, right?

Mr De Margheriti: Yes.

Dr Bijo: That's correct.

Ms Knight: Absolutely.

Senator FARUQI: Were any of you consulted by any government department throughout this process of setting gaps, of methodology, of anything?

Mr De Margheriti: No.

Ms Knight: No.

Senator FARUQI: The answer is 'no' from every single one of you?

Mr De Margheriti: That's right.

Senator FARUQI: We have heard here again and again what a rushed, hot mess this whole thing is—that the way the caps have been set up is arbitrary and makes no sense to anyone. Do you have any understanding of how these caps were set for any of you—what criteria were used, how they were set?

Ms Knight: No, none at all.

Mr De Margheriti: I have a guess: someone rolled the dice. I have no idea.

Dr Bijo: There is an explanation letter from the department of workplace relations about setting up the cap, which has the three criteria there, and it is all about 2023 enrolments based on that. The person's age has been given—

Senator FARUQI: But that doesn't make any sense.

Dr Bijo: That is the 2023 enrolments. I would say less than 18 per cent are international students. Then it will be the consequent 2024 enrolment numbers; that was mentioned. But when we calculate where that data came from—so we may think that it is still a work in progress, that the numbers are not 100 per cent, that the department is still working through it. I hope the department will take a little more care, once a response is given, to make the numbers more appropriate for people.

Mr Bermejo: The problem with that is that methodology does not take into account the criticality of the courses or the quality of the providers. It's purely on an arbitrary basis that seems to favour mediocrity, in the sense that the more numbers you're able to push in 2023 you're going to get the benefits now.

Senator FARUQI: Dr Bijo, you said you had a CRICOS code that allowed you how many international students? How many international students can you get?

Dr Bijo: We have 1,343.

Senator FARUQI: What is your cap?

Dr Bijo: The cap is 80 against the 1,343.

Senator FARUQI: Understood. I have been saying from day one that this is a migration bill disguised as an education bill—it's not even disguised; it's openly cracking down on migration. The vast majority of people who have come to the hearings agree with that. In their submission, International House have said: 'This legislation is not about cleaning up shonky providers. It is not about the housing crisis.' Would you agree with that description of this bill? I know, Mr De Margheriti, you have said, 'This bill is wrong in every possible way.' I agree with you. But do you agree with that kind of classification? International student caps are not about integrity, at the end of the day.

Mr De Margheriti: I agree with that but I think it's deeper than that. I think it's a total attack on private providers—that's what it boils down to. As to the institute, this is our first year after, I think, six years of work, \$5 million and a lot of good people putting this degree together. To then be told that our numbers are based on our past—we don't have a past; we just got started. Give us a future, please.

Senator FARUQI: In an ideal scenario—if you could each respond to that—should ministerial direction 107 be scrapped? Should the government withdraw this bill, go back to the drawing board, consult with the sector, with the providers, the universities and everyone who is involved, properly, and then come back with something that makes sense? Should that be the direction from here on? Maybe I'll start with you, Ms Knight.

Ms Knight: Yes, I think that they should revisit it, consult with us first and make another ruling—set out some new numbers based on actual information.

Senator FARUQI: There is no need to rush this.

Ms Knight: No, there's no need to rush it. And, like I said, they're going based on numbers where we were all struggling out of COVID and all struggling with visas not being approved and the price of visas going up and stuff like that. So, yes, I think that they need to talk to us.

Senator FARUQI: Could I get a response from each of you.

Dr Bijo: The Australian Strategy for International Education 2021-2030 was published in November 2021, which was after or the end of the COVID time, and it was based on the experience during COVID. That strategy was really appreciable and it was really calling for expanding international education beyond Australian borders and also looking into global partnerships and TNE partnerships, and hybrid delivery where you can do some

studying overseas and come and do finishing here. A lot of pathway options were created in that, so we were actually excited at the possibility of expanding our international education sector, because private providers don't have Commonwealth supported places, like we, and our state funding is always limited to a certain number of students. Each state has different ways, but it's all limited. It's there, but it is not that great.

Senator FARUQI: Yes, but—I'm sorry, my time is limited—my question is: should this bill be scrapped? And should direction 107 be scrapped as well?

Dr Bijoy: It is not in alignment with the Australian Strategy for International Education 2021-2030, which was published just a few years back, which we started adopting.

Senator FARUQI: Could I get a quick response from the two other people as well.

Mr Bermejo: From my perspective—and I already outlined this—there needs to be reconsideration of the methodology. There has to be a lot more thought around that methodology. My other point would be: the reality is that, for a lot of people who come to Australia to study, it's because they want to stay in Australia; it's not necessarily about the Australian education system. If we generally want to look at only determining those students who want to come to Australia to study and are going to return home, then I would suggest that you put a condition—an offer to stay—on the student visa.

Senator FARUQI: And from you, Mr De Margheriti?

Mr De Margheriti: For me it's just an issue of the unfairness of the whole process: not to be consulted—and I see this repeatedly in Australia's history, as to many things. Robodebt is a classic example. I see shades of this. I think it's not necessarily that the bill has to be scrapped, but at least consult us; at least put something together that doesn't do harm—

Senator FARUQI: Go back to the drawing board?

Mr De Margheriti: Well, re-think it through. I don't necessarily have a problem with caps as a whole. I understand what you're trying to do. But do it in a manner where you're thinking about the Australians, you're thinking about these companies, especially us not-for-profits—entities that are serving the country. Have a think about it, because you're harming Australia in what you're doing. Think about a bill which actually is fair and reasonable. Consult. I don't have a problem with the bill as a whole, in terms of what you're trying to do. But do it in a manner that actually has some level of transparency.

Senator FARUQI: Thank you. Thanks, Chair.

CHAIR: Mr De Margheriti, I just want to talk to your answer to the question about the caps. I want to just go to the other witnesses. Do you support there being caps in the broad context? I appreciate there are concerns about what has happened to date, and you have raised those, but do you support the idea of there being caps?

Mr De Margheriti: Is this to me?

CHAIR: No, you've already answered it, so I might just go to Dr Bijoy.

Dr Bijoy: I think the caps need to be considered carefully. As we mentioned, the 2023 numbers cannot be a benchmark for adopting a cap for 2025. We were actually disadvantaged in 2023 because of ministerial direction 107. That's because international students mainly come from the Philippines, Nepal and India. Those countries mainly come to study here, and those are the countries, mostly, whose visas have been rejected.

CHAIR: So you agree there should be some sort of cap; you just, obviously, have a disagreement about what's transpired so far?

Dr Bijoy: Yes.

CHAIR: Are there other aspects of the bill, concepts in the bill, that you support?

Dr Bijoy: I really think that we need to reconsider the methodology.

CHAIR: Moving away from the methodology, there other aspects. For example, in part 6 of the bill there's a fit and proper test—that is, suspension of a provider's registration when an agency or state authority determines that the provider does not meet the fit and proper test because it's under investigation for a specified offence. Do you support that part of the bill?

Dr Bijoy: Yes.

CHAIR: I might move across to others as well.

Mr Bermejo: I definitely support the caps, because of the situation here in Australia. I have no problems with that. It's more around how those caps are determined. And I totally support a higher level of compliance. Colleges, hopefully like ours, who put a lot of emphasis on quality should be supported and encouraged.

CHAIR: Thank you. Ms Knight?

Ms Knight: Yes, I echo that. I support the caps as long as they support the community. And the other one was?

CHAIR: The other one was with regard to part 6, which provides for automatic suspension.

Ms Knight: Absolutely, yes. Compliance is a massive thing. Yes, I support that—definitely.

CHAIR: I want to put another proposition to you. When, on this committee, we've been looking at alternative models, something that's been raised is whether the present arguments are bringing the industry and the sector into disrepute. I might start with you, Ms Knight. Last week, the Liberal Party leader, Peter Dutton, described international students as 'the modern version of boat arrivals'. Do you think that the Leader of the Opposition and those sorts of comments, effectively calling international students boat people, have an impact on how Australia—

Senator HENDERSON: No, he didn't say that, Chair

CHAIR: is viewed by international students?

Senator HENDERSON: That's a misrepresentation, Chair. He was referring to the—

CHAIR: Ms Knight?

Senator HENDERSON: visa denials, and they're caught up in the AAT. So please don't mislead the witness.

CHAIR: Thank you, Ms Knight.

Senator HENDERSON: They've been misleading you, Ms Knight. He was referring to the—

CHAIR: Can you stop interrupting Ms Knight.

Senator HENDERSON: No, because you've been misleading the witness, Chair.

Senator BILYK: Just turn her microphone off.

Ms Knight: We're focused on our college and our community. We just want to do what's right for our students, our college and our community.

CHAIR: We'll suspend. We're going to hold a committee meeting.

Proceedings suspended from 11:32 to 11:38

CHAIR: Was there a point of order you wished to make, Senator Henderson?

Senator HENDERSON: Thank you very much, Chair. On the point of order, firstly, on direct relevance, I just want to raise concerns to make sure that the question is directly relevant to the bill and the purpose of the committee's meeting today in this hearing. Also, out of respect to the witnesses, I was raising concerns. I'm happy if you want to table Mr Dutton's comments. There was a particular article in relation to the reference he made to student visa appeals being caught up in the AAT. I am very happy if you want to table that document so the witnesses can see exactly to what you're referring.

CHAIR: Thank you. I'll make a ruling on that. It's not a point of order. The question is being asked of the witnesses. They are encouraged the answer the question. It is within standing orders for me to ask that question. I appreciate that there is a differing view from the opposition: that the question shouldn't be asked. But I will continue to pursue that question and other questions as I see appropriate.

Senator HENDERSON: Just as a clarification, I wasn't seeking that you not ask the question, just that you provide the witnesses with the accurate statement that Mr Dutton made. That would be helpful.

CHAIR: I am providing that. Last week the Liberal Party leader, Peter Dutton, described international students as 'the modern version of boat arrivals'. Does the Leader of the Opposition effectively calling international students 'boat people' have an impact on how Australia is viewed by international students?

Senator HENDERSON: Chair, can we have that tabled please because—

CHAIR: Thank you, Ms Knight.

Ms Knight: Regardless of Mr Dutton's decision, our students just want to study here in Australia.

CHAIR: Maybe others will wish to answer this. The question then goes more broadly to if it is appropriate for international students—because it has been discussed and raised by the opposition as well in questions about the international standing of international students. I note Ms Knight hasn't been able to go to the heart of the question, and that is: does it have an impact on international students wanting to arrive here if they're described as boat people?

Senator HENDERSON: Chair, come on! Seriously!

Mr De Margheriti: For us, the majority of our international students—

Senator HENDERSON: You don't have to answer that.

Mr De Margheriti: directly apply to the academy. We have very few who go through agents. Because we are so famous as a brand, globally, people approach us directly. That's the first thing. None of the students that come to us think of themselves as boat people. They come because they want to study at our institution. If Mr Dutton has made those comments, I don't know. I don't really care what he says—pro or against. We have international kids that want to study here because we've got a really good program.

In fact, we find it easier to set up these programs overseas to avoid all this kibosh that we see in Australia. We'll continue expanding our charitable institutions in the United States and other countries, because it's, frankly, easier to do that than to go through this process, regardless of political standings of parties.

CHAIR: Thank you for that comment. I'll go to Dr Bijoy and the others who haven't spoken yet. In the *Guardian* today—I'll ask you to take this is read because I'm reading directly from the *Guardian*. International student Raghav Motani told the *Guardian*:

Why are you using these words to describe us?

That is in relation to the opposition leader's comments about being boat people. He went on to say:

What have we done that's unlawful? ... We've not come illegally, we've not jumped borders, why are we framed like this? We're helping the economy, we're putting a lot of money into it. Protect us.

Is it concerning that international students have that sort of reaction to Mr Dutton's comments?

Dr Bijoy: I will give my own view, my opinion, only.

Senator HENDERSON: You don't have to answer it.

Dr Bijoy: Australia is well reputed in terms of advanced education in the global space. I look from the Indian perspective. Any communication in any press release by any leader in Australia has an impact on the reputation of Australia has a leader in international education.

Senator FARUQI: It harms international students as well, doesn't it?

Dr Bijoy: Definitely.

Senator FARUQI: Defining international students as modern-day boat arrivals really harms people of colour, migrants and international students.

Dr Bijoy: Definitely

Senator FARUQI: Wouldn't you agree with that?

Dr Bijoy: A hundred per cent.

CHAIR: Key 2 Learning college.

Mr Bermejo: From my perspective, international students have a process. If they legally want to remain in Australia, then that is the process. From our perspective, as my colleague indicated, comments like that probably don't help. Students are here. There is a certain appeal process they can follow through the tribunal. That is pretty much my position.

CHAIR: Ms Knight, did you want to add anything to your previous comment?

Ms Knight: No, thank you.

CHAIR: There are a large number of other questions I would like to ask, but I think we've gone a little bit over time, and I don't want to hold everybody up, and I want to try and get to the other witnesses, as we get the opportunity.

Senator BROCKMAN: I'll formally table that document, through the secretariat, so everyone is aware of what exactly the Leader of the Opposition said.

CHAIR: I can tell you that Mr Raghav Motani has a very clear view, as he told the *Guardian* today, as an international student, as has been public—

Senator BROCKMAN: So you wouldn't object to the tabling of the document, would you, Chair?

CHAIR: I have no problems about tabling any documents and any of the quotes from Mr Dutton because, as you well know, Senator Brockman—

Senator BROCKMAN: There was a legal process—

CHAIR: As you well know, Senator Brockman, the comments were passed. Don't hide. Take ownership of what's been said. Thank you. If the witnesses have taken any questions on notice, please return the answers to the secretariat by 3 October 2024. Have a very good morning.

ECKENFELS, Mr Timothy, Chief Executive Officer, IH Sydney Training Services Pty Ltd

JOUNING, Mr Rod, Deputy Head, Operations, Moorabbin Aviation Services Pty Ltd [by video link]

NEWTON, Mr David, Chief Executive Officer, BASAIR Australia

PIENAAR, Mr Johan, Chief Executive Officer, Flight Training Adelaide

PRATT, Mr Ian, Managing Director, Lexis Education Pty Ltd [by audio link]

RAVEN, Mr Mark, General Manager, Revenue, IH Sydney Training Services Pty Ltd

[11:45]

CHAIR: I now welcome our next representatives, both in person and via video link. I understand that information on parliamentary privilege and the protection of witnesses giving evidence to Senate committees has been provided to you. Is there anything further you would like to add in relation to the capacity in which you appear?

Mr Eckenfels: I am the owner as well as the CEO of Sydney Training Services.

CHAIR: Thank you very much. I'll invite you all to make a short opening statement. If it's quite long, we will take it on record, but if you could paraphrase it that would be of great assistance. Mr Newton?

Mr Newton: Thank you to the committee for the opportunity to speak to you this morning. Since 1991, BASAIR Australia has prided itself on delivering world-class aviation training. This proposed reduction in international students threatens not only our future operations but also Australia's standing as a global leader in aviation education. We currently employ almost 70 young Australian women and men as instructors, working hard to gain the flying hours required to go on to work for one of the many charter companies in the Northern Territory or Western Australia, to fly for Qantas, Virgin, the Royal Flying Doctor Service or, indeed, a global airline.

Our organisation has invested heavily in training infrastructure, including aircraft and simulators, to secure agreements, including a critical partnership with an international airline. This contract entrusts us with training their cadets from zero hours to commercial pilot level. The proposed cap, in its current form, would prevent us from meeting the terms of this agreement, resulting in its cancellation and causing significant reputational and financial damage. Each international commercial pilot student contributes in excess of \$150,000 in tuition fees over 65 weeks, excluding living expenses and local services, further benefiting the wider community.

Under current CRICOS limits, the Australian aviation training sector, excluding universities, can accommodate 2,850 international commercial pilot students. Under the proposed cap, that number falls to 308, or just over 10 per cent. The 2,850 commercial pilots generate almost half a billion dollars in tuition fees, excluding additional spending. All of that is from students who possess extremely high levels of English, have been through rigorous academic and psychometric testing to be accepted on the program, have strong financial backing, and, very importantly, have a deep desire to return home. In fact, Qantas or Virgin don't want these entry pilots with 200 hours of experience; they won't take them. These students will return to their own countries and seek jobs with their own airlines, who will take them with 200 hours initial training. We agree this should not be an unlimited number of international students coming to Australia, but, please, can we be more nuanced about how the total is distributed? Why waste caps on, as the minister describes them, shonky providers, and why not distribute their allocation between those reputable organisations?

I urge the committee to reconsider this proposal and support Australia's continued leadership in aviation training. This is crucial not only for our sector but also for the continued success of our global airline partnerships, which rely heavily on the steady influx of skilled graduates from Australia.

Mr Pienaar: Thank you for the opportunity. Flight Training Adelaide has been around for 40 years. We've trained international students, and 9,000 have graduated and find themselves in South-East Asia, the Middle East and Europe. We deal with 300 students a year out of Parafield, and we also have a domestic school with the Qantas Group Pilot Academy out of Toowoomba. We employ 400 staff to deliver that training. The capital investment to do that training is between \$100 million and \$150 million. The revenue generated is in the order of \$80 million per annum from both those schools. The new cap that's being imposed on us will take revenue from our international school, Parafield, effectively down from \$40 million a year to \$15.8 million for 2025. With an estimated loss of \$10.1 million, we will cease to exist and so will the Qantas Group Pilot Academy. We cannot survive that type of arrangement; it just will not work for us.

The unintended consequence that I don't think anybody thinks about is that we have a very nervous international aviation community. Because of the immigration process for getting into Australia, we are not the cheapest; we are one of the most expensive, but we are valued for our quality. But they are price sensitive. If they get wind of this change, the supply chain for flight training is so long that it will go to the US. It'll take them 12 months to set up a training relationship, 24 months to get their first product online and another 12 months to work out whether that product works for them. We won't see those international students for the next three to five years. It will decimate the international flight training industry if we go down this path.

The reasons given by the Minister for Education for why we are going down this path and putting this bill in place are: we want to address shonky providers; we want to make sure that we are addressing poor-English students coming into Australia; we want to address the housing crisis; and we want to stop them taking our jobs. Most of these airline students are fully sponsored—and ours are. We have 292 beds and none of them live out in the community; they live with us, and we give them three meals a day. They are fully sponsored. English, as has already been mentioned, has already been dealt with on three different occasions during their training, so that is not an issue at all. They are not allowed to work because they sit under a sponsorship, and they return back to airline jobs upon completion.

In short, if we go down this path, Flight Training Adelaide will cease to exist. It's probably the biggest international flight training provider in Australia and a legacy provider. We will lose the international aviation student base, which will basically kill our industry. This stands in stark contrast to what has been asked for in the white paper to grow our general aviation community.

Mr Eckenfels: Good morning, senators. I am the sole shareholder, owner and CEO of IH Sydney Training Services. I'm a board member of English Australia, and I am chair of the board and largest affiliate of the prestigious International House World Organisation, the oldest and most well-known language learning association in the world. For the past 30 years I have worked in and dedicated my life to the education industry. Since acquiring IH Sydney in 2012, I have made substantial investments to grow the company. From one location in Sydney, the language college now offers English, VET and higher education courses on nine campuses in seven locations to over 15,000 students in Australia. Our property leases give us 10,400 COEs. Half of our revenue is invested in regional areas.

The secretive implementation of ministerial directive 107 and the uncertainty of the proposed legislation is putting the future viability of my company at risk. Enrolments are dropping nearly 10 per cent month on month. Visa rejections have increased from six per cent to 19 per cent. This year alone we will make refunds of over \$12 million of student tuition. Cash is tight, and bank and loan covenants will soon be breached. This week, we announced our first-ever campus closure in regional New South Wales. If our VET and higher ed allocations remain the same, we will review operations in Darwin, Adelaide and the Gold Coast—locations with small numbers but in desperate need of population growth.

Today we employ 406 Australians. We are now reviewing our needs, and up to 35 per cent of our staff are now at risk. The resulting redundancy entitlements are well over \$500,000. Leases and financial commitments are long term and cannot be reduced overnight. No company has been able to prepare for the impact of directive 107 in its operations.

To give you an example from my own company: following our five-year plan, we acquired a higher ed provider in September last year for \$7 million. It's a subsidiary of IH Sydney, PBL Education. This year, our first year of operation, in order to protect our risk rating we rejected more than 70 per cent of all applications, coming from more than 35 countries. The Department of Home Affairs rejected another 50 per cent of the COEs we extended. Today we have 30 students from 16 countries, at a time when we should have more than 100. For 2025 we have been allocated 25 new students. That makes a total of 55 students in a program that should see well over 200. Thank you.

CHAIR: Thank you. Mr Raven?

Mr Raven: I'm going to speak to some of the specifics in relation to the impact of ministerial directive 107, because, in our experience, the caps have already been applied. Over the course of the past nine months we have seen substantial numbers of student visa applications being refused by the Department of Home Affairs, with very little reasoning or context. We've invested substantially in an internal review process to ensure that only the most genuine student visas are being forwarded to the department to be processed. This year our own institution has refused more than 390 student applications, at a cost of \$4 million in revenue to the business. The subsequent applications that were forwarded to the department after they had vetted our substantial criteria for approval were then also rejected at that layer. This number was 510 applications, or another \$5 million worth of potential revenue.

To date, our refusal process alone has cost \$9 million, on a \$50 million turnover, as required in order to meet our overhead. This is close to 20 per cent of our operational need. By the time we get to Christmas, that will be close to 25 per cent. Put simply, if we reduce our revenue by 25 per cent we have to reduce our headcount by between 25 and 30 per cent. That is 100 ordinary Australians who will be affected by the full-time job losses that we are proposing in order for our business to survive. We will close at least 50 per cent of our campus network. This will occur within the next six to nine months. If you've ever walked onto a campus and had to let people go, you'll know what that means.

We deliver courses in child care, construction and aged care. These are courses that are in demand. Unplanned costs associated with what's been going on for the past nine months will result in damage to local communities, which is already starting. We can't just switch off our campuses, because we're caught in a vice. We are obliged to teach the students who are currently on campus. We must run at a loss. We're being forced towards insolvency. We're caught between two pieces of legislation, two pieces of regulation which are at odds. And while we sit here trying to negotiate these challenges, we can see the pointscore taking place, and we're trying to stay away from that.

We need to rely on you to do a couple of things. You are leading our industry as well as our nation. We seek your help. First, we urge you to consider delaying the implementation of this legislation. It is not ready. Do not take it out of the oven. It's not cooked. There's time. We can limit the damage. We can move through a process where we get to where we need to be, but it will take time. Second, we need the Commonwealth government's assurance that a manageable and reliable business community can function in this country. Last of all—this has been requested of me by many of our colleagues in the sector, particularly the ELICOS sector—can we please review the cost of a student visa for a student who wants to come on shore and study English in a short-term course. The cost of a \$1,600 visa for a student to do a 16-to-24-week English course is just prohibitive, particularly with refusal rates which are so high. All we're looking for is some compassion in this discussion.

CHAIR: Thank you. Mr Jouning, Moorabbin Aviation Services?

Mr Jouning: Thank you very much for the opportunity to speak today. To begin with, I'd like to outline that our company isn't quite as large as Flight Training Adelaide or BASAIR, who you'll be hearing from, but this equally impacts on us. We're a small business locally operated out of Moorabbin. I'd like to express our serious concerns regarding the proposed amendments and student caps. In their current form, these caps would have a devastating impact on our small business, the flight training industry and the Australian aviation sector at large, including the broader international student training market.

Australia holds a vital role in the global aviation industry, training a significant number of pilots needed by international airlines to sustain their ever-expanding operations. Australia is the training provider of choice. Why? Because of our highly regulated aviation standards, our safety record and our reliability. The proposed caps would severely hinder our ability to continue providing this essential service, resulting in enormous long-term reputational damage, and would push business and investment out of Australia.

The indicative numbers shared with us as well as with our providers indicated that it would no longer be commercially viable for us to remain a CRICOS registered institution. This would inevitably lead to staff layoffs; a reduction in local pilot training; fewer opportunities for flight experience among local pilots, particularly instructors; and a decreased supply of pilots to local airlines and other businesses. The same impact would be felt by our industry training colleagues and in turn by aircraft maintenance engineers, fuel suppliers and avionics providers, and the list goes on. What does that mean for the Australian community? A destabilised airline industry means more unemployment, fewer flights and increased fees.

We believe the methodology used to determine these indicative numbers is fundamentally flawed, lacks clarity and warrants immediate review. Additionally, we're concerned that these proposed changes were introduced without any consultation with the industry. They have been introduced abruptly and at a time when, like many other businesses, we're still recovering from post-COVID challenges.

Prior to COVID, we were training more than 50 privately funded international students and 150 China Southern Airlines cadets, and since then we've had to close our Mangalore base in regional Victoria and lay off 35 instructors. The flow-on effect to the local community at that time was significant. Post COVID, despite having made substantial investment over the last 2½ years, in accordance with our CRICOS registration approvals, we were moving towards reopening Mangalore. Reducing our CRICOS approved limit of 90 students to a proposed intake of seven for 2025 clearly prevents that from occurring. Again, the broader regional community suffers.

We urge a pause in the implementation of these caps to allow for a comprehensive review of the potential consequences. That process will demonstrate that currently Australia's training of international aviation students is

highly regulated and robust and enjoys an outstanding, hard-earned international reputation. Student enrolment and vetting comprise extensive English language and aptitude testing, which has already been outlined. Many of our students utilise homestay accommodation, therefore contributing to Australian household incomes and easing the cost of living. We estimate that to be probably \$50,000 during the time of their stay in Australia. Given the highly technical nature of this training and the significant cost involved—which is between \$120,000 and \$150,000 for each student—the students are driven to succeed and capitalise on their investment and progress to obtaining pilot employment in their country of origin. We also advocate for a collaborative process involving an aviation industry advisory panel, as has been suggested by the AOPA submission, which we fully support. Thank you.

CHAIR: Thank you for that. Mr Pratt, would you like to make your opening statement? Thank you very much.

Mr Pratt: Thank you very much. I'm the owner of Lexis Education. Twenty years ago this month, I founded Lexis with my wife, Yasuko. Both of us were former international students. Like many businesses in the international education sector, Lexis started as a family business and it remains one today. Lexis is headquartered in regional Queensland. We have campuses in Noosa Heads, Maroochydore, Byron Bay and Manly Beach, as well as two over in Western Australia. Around 10 years ago, we opened Korean language schools in Seoul and Busan and a Japanese language school in Kobe.

Just for today, I'd like to focus on our first location and our headquarters, up on the Sunshine Coast. Noosa Heads has always relied on the tourism sector and has demographic challenges of a local population skewed heavily towards retirement age. During COVID and following it, long-term labour shortages became acute, meaning many hospitality providers—the restaurants, cafes, bars and resorts on which the town and the surrounding region completely rely—either could not open or could not trade beyond very reduced hours. The impact on our region was huge. With an older population, there were no workers to fill the roles. With the nearest TAFE colleges 90 minutes away by very infrequent public transport, there was no capacity to train workers. So we invested a very substantial sum in building training kitchens, a training restaurant, cafes and bars and, in close consultation with the local industry, set up to train the 200 or so chefs and other hospitality professionals each year that the town requires to function. This has been a huge success. It's no exaggeration to say that The Culinary Academy has alleviated the vast bulk of skilled staffing issues within Noosa.

TCA is expensive to run and it's marginally profitable at best, but it's supported by the rest of our business. With the imposition of a crippling low cap on enrolments, there is no business case to continue to operate this part of our company. Rather, the enrolment limit we've been given will force us to wind back our regional operations as a whole and move our focus onto courses that are in capital cities and so are easier to market and cheaper to deliver. This is a disaster for Noosa, and it will have serious long-term economic impacts on the town. TCA is one small part of one small company, but this is going to happen absolutely everywhere next year. Private vocational companies fill huge gaps in our regions. I fear that we're only going to realise how huge a gap they fill when they've gone, and, when they're gone, it's going to take a long time before we put our toes back into that water.

A bill that's designed, at least in part, to alleviate housing pressures on the inner cities has been so poorly designed and so bluntly implemented that it will hit regional operators hardest. We don't have the same housing pressures out where I live, but we have dreadful training gaps and crippling labour shortages. Closing The Culinary Academy and so many schools like it won't free up a single bedroom in a housing shortage area, and it won't improve the quality or the integrity of anybody's study experience, but it will cost Australians their businesses and their jobs, it will mean local kids are untrained, and it will mean international students are trained back in the city centres. The fallout will be felt far beyond just the immediate training companies and their employees. This bill is destructive for our industry, it is destructive for the regions and it is not fit for purpose. I'd say: senators, please amend this bill. Thank you.

CHAIR: Thanks very much. Senator Bilyk.

Senator BILYK: Just quickly, because we're really short of time, I will ask the aviation people: in terms of accommodation provision, the types of students you attract and what your students do after graduation—that is, go back home—how do you differ from most other VET providers?

Mr Pienaar: I'll talk on behalf of Flight Training Adelaide. All our students come directly from an airline. We have no single contracts with individual students. We have Cathay Pacific, China Airlines—we have eight different airlines that we train for. They select these students 18 months in advance of when they're looking to get them into the system to do type ratings, so we have a very controlled cohort, very well selected, in an

environment where they are safely looked after, fed and kept, and they have jobs hanging off the back of that. There is no risk of these students coming through, taking up housing or jobs after the fact and staying illegally.

Senator BILYK: So you're quite different, really, aren't you?

Mr Pienaar: We are significantly different, and I believe I speak for most of the people in the aviation sector.

Senator BILYK: Fine. I'm sure you'll be aware that the international student profile numbers that have been released are only indicative; they're not final. It seems like there may be some special circumstances in the aviation industry that warrant further consideration. Are you engaging with the department at all on those issues?

Mr Newton: Yes, we are engaging with the department, both on the international student issue and on the government *Aviation white paper*. So, yes, we do see some success.

Senator BILYK: Great. I want to turn to International House Sydney. Mr Raven, what was the self-refusal number you mentioned to me?

Mr Raven: We have an internal refusal number of 390 students—students who didn't make it beyond our admissions team—and an additional 510 who passed our admissions team and were passed to DoHA.

Mr Eckenfels: That's program specific.

Mr Raven: Just general applications, yes.

Senator BILYK: That's across the board?

Mr Raven: Yes. I might just make the point that we also have a pathway for English language students to commence their studies with BASAIR, so there is actually a connection between two of the parties at the table, academically.

Senator BILYK: Those 390 people that you self-rejected—were they sent to you by an agent?

Mr Raven: We have two primary channels. Because we're a global brand, and we have a substantial footprint within that global brand, we have a substantial number of students who apply directly through that channel. We also have a network of agencies that we work with.

Senator BILYK: I'm not quite sure you can blame the government for lost revenue when you've actually rejected people yourself, to be honest.

Mr Raven: No—the interpretation is that we're obviously working within the framework that's before us, and the framework has moved substantially this year. There have been a series of announcements this year—they have been mentioned already in this hearing; I won't go over them—and, obviously, we adjust our credentials and criteria according to those changes. There is an issue, though, with the lag. When an announcement is made on 23 March, we'll have students who have applied to study with us under the previous criteria but who are refused under the new criteria. This has created a schism, with that rapid change of process, in our admissions team. We're trying to stay ahead of that wave, and that's one of the reasons we're self-refusing.

Senator BILYK: I want to talk about some of the courses you run. I'm a former early childhood educator of some 12 years. I'm interested in the fact that, as you mentioned, you do early childhood education, construction and aged care but you also do a whole lot of things around business marketing and communication, digital media marketing and leadership management. Would you accept that Australia isn't suffering a skills shortage in any of those areas, other than early childhood, construction and aged care?

Mr Raven: My previous role was with Western Sydney University, and, in my time working at that institution, there were over 6,000 vacant positions in project management, working on some of the major infrastructure projects in Western Sydney, including the airport construction, the new aerotropolis and the connecting lines, both road and rail. Project management has a substantial skills deficit, and this is one of the reasons why we're also offering the Advanced Diploma of Civil Construction Design through this institution. The leadership and management programs have a different role to play, in terms of a student's choice to study with us.

Senator BILYK: How many students do you have enrolled in your early childhood area, construction area and aged-care area?

Mr Raven: I'm sorry; I don't have that information on hand right now.

Senator BILYK: Could you take that on notice and give me a breakdown of domestic and international?

Mr Raven: Yes, of course.

Senator BILYK: In fact, could you give me a breakdown of domestic and international in all the courses you run?

Mr Raven: Domestic students are around 200. They're predominantly—

Senator BILYK: I want a breakdown course by course though, because you offer so many different courses.

Mr Raven: We'll take it on notice.

Senator BILYK: Do you think there's a strong case for focusing international student enrolments in areas like nursing, early childhood education and aged care rather than some of the other courses you run? I heard what you said about program management.

Mr Raven: I think there are two points to be made. If the student genuinely wants to return to their home country, I think the student should have the choice of the course that they wish to study. That's a principle of market choice. However, if the student is seeking a different destination in the long run, perhaps we need to be looking at skills shortages. As Professor Norton has noted, there is a disconnect between those two narratives right now, and we're finding it hard to identify where the right answer would be. I believe that, yes, we should be giving a little bit more room for childhood, early childhood and aged-care qualifications. There's a massive skills shortage in Australia, and it hasn't improved since COVID. I think we should invest in that.

Senator BILYK: Oh, it hasn't improved in 40 years. When I first went into the industry—

Mr Raven: And it deteriorated over COVID, yes. I would be in agreement with you there.

Senator BILYK: Thank you, Chair.

CHAIR: Senator Henderson.

Senator HENDERSON: Good afternoon to you all. I'm very sorry to hear about the situation that you are in. Firstly, I go to Flight Training Adelaide. Mr Pienaar, your evidence today makes it clear that you are facing catastrophic closure by reason of the cap that you have been given, but this also impacts on your domestic pilot training business as well. Are you able to expand on that?

Mr Pienaar: It does because of the sheer amount of money that goes into the capital investment of 80 aircraft, the facilities and the infrastructure. We have the two facilities: one in Parafield and one sitting in Toowoomba in Wellcamp. The Wellcamp one is the Qantas Group Pilot Academy. We leverage aircraft and staff off each other, so a \$10.1 million loss in Parafield will have a similar catastrophic effect on the domestic school sitting in Wellcamp.

Senator HENDERSON: Chair, I want to table an article in the *Australian*: 'Caps risk flight school disaster: foreign student limits leave pilot training on verge of collapse'. I please table that article. It looks right here and now like pilot training in this country is on the verge of collapse, but we just heard from Senator Bilyk a curious statement that the government appears to be considering special consideration for pilot training. Do you know anything about that? Have you had any discussions?

Mr Pienaar: No, I have not had any discussions or been given any indication that that is the case. I have had communication after the fact but no consultation before I was notified of the cap. I was called last Friday by DEEWR, who were trying to understand context and were quite surprised when they heard the unintended consequence of the cap itself. The words I got were that there would be consideration but there were no promises.

Senator HENDERSON: If the government is considering some sort of special consideration for your sector, can I also check with IH Sydney Training and Lexis: have you been given the same sorts of assurances that there might be some special consideration provided to your sectors?

Mr Eckenfels: We've not been given any consideration like that. We engaged immediately after being given the caps. We sent our reply. We've also, as you might be aware, reached out to all of the MPs in the areas where we have campuses to share, but at this point we understand that nothing will be going forward until the legislation passes.

Senator HENDERSON: Mr Pratt, have there been any discussions saying that there might be a carve-out for your business and the service that you provide?

Mr Pratt: No, there's been absolutely no communication beyond proforma letters.

Senator HENDERSON: Okay. My understanding is that the government is having discussions about carving out pilot training on the basis of national interest considerations, but I would put to you that, for every business trying to operate with certainty and security right across the private education sector, there is a national interest in ensuring that those businesses can operate with requisite certainty into the future.

I go back to flight training and to BASAIR. Mr Newton, if this is not resolved quickly, what are the impacts on your business for next year?

Mr Newton: There will be immediate impacts on the business for next year. At the moment, our cohort is currently mostly domestic students, but since 2019—and you will note the irony there—we've had a five-year

plan that involved a contract with a global airline bringing students in. Obviously, COVID delayed that. We are hoping to begin that contract next year. If that doesn't take place, we've already bought the aircraft. We've bought the simulators. We're ramping up our instructor cohort. It'll have an immediate impact.

Senator HENDERSON: Mr Raven, you talked about campus closures and one in regional New South Wales. Could you please give us more detail on that closure?

Mr Raven: The cap as it's been distributed is location agnostic. It means that we need to be looking at campuses where we can maximise the value of the cap according to enrolment. As has already been noted by Mr Pratt, the regional areas do not give the same cost return for that investment. Our first campus closure is Byron Bay. We've gone on notice already to all of our stakeholders. We will cease operations on 20 December.

Senator HENDERSON: Is that because of the level of uncertainty you're facing right now?

Mr Raven: The cost to our business, as I noted, was \$9 million year-to-date to try to negotiate ministerial directive 107 compared to 2023, so we've already felt the cost. By the time the cap comes in, we believe, a large part of the damage, if you want to call it that, will have been done. Other campuses, as has been noted by Mr Eckenfels, will be Darwin, Adelaide and the Gold Coast as possible casualties of the change.

Senator HENDERSON: That's just as a result of the government's ministerial direction 107?

Mr Raven: Yes.

Mr Eckenfels: That's ministerial 107. The numbers are low. When you look at the numbers, you see Sydney and Melbourne are the biggest destinations. That's where you have more significant numbers. Therefore, the regional locations are much more highly impacted.

Senator HENDERSON: I'm concerned that Senator Bilyk was reflecting on your organisation for not accepting student all visa applications—

Senator BILYK: That's a bit rough.

Senator HENDERSON: One of the issues that I would put to you is that you need to responsibly process student visas to maintain your integrity and also the integrity of the services that you offer. Isn't it the case that, when you are scrutinising and either rejecting or declining visa applications, that's an important part of your integrity process?

Mr Eckenfels: That is correct. Since ministerial directive 107, we've had to take a very hard line on these applications that are being given to us in order that we do not impact further our risk rating. As I shared with all of you, it's gone from six per cent last year, 2023, to 19 per cent now. There is no rhyme or reason, and I promise you we scrutinised this very closely as to the waves of rejections that take place. Genuine students are being impacted by this. There are students that would readily be accepted, and they're just clearing them out as a way of bringing down the numbers. Without the caps, the numbers are already down considerably.

Senator HENDERSON: Can you respond to the government's decision to allocate 61,000 student visa places next year to the Group of Eight? That's eight universities receiving 61,000 places. What's your response to that decision?

Mr Eckenfels: For me, it's the bigger picture. Of the 270,000 places that they're looking to allocate next year, it appears that the Group of Eight are being impacted by one per cent while the private industry is being impacted by 28 per cent. That's what we question. It would also have been terrific if this algorithm or whatever that was created to create these proposed caps were something that was transparent, discussed and made sense. We've gone back, to the best of our ability, to try to see if the formula that we've now been given equates to the number of our cap for our vocational training, and it doesn't. We're scratching our heads and wondering why, but it's almost impossible for us to go into the detail to learn how the government came up with this number. I want to share one other thing.

As everyone knows, in January 2022 the country reopened from COVID. At that time, there was a major shortage in staff around the country. The government took the decision to allow student visa holders to go onto a 408 visa. This gave them unlimited work rights, and they did not have to study with a provider. I get the economic decision behind that; however, the impact on the providers who were just trying to begin to recover from the pandemic was significant. That was not rescinded until July 2023, 18 months later. So, when looking at caps for a calendar year, in 2023, you have six months, July to December, when the industry was not impacted by the 408 visa. In 2024, we have January to June data that was also impacted by ministerial directive 107. It really took a while for that to start slowing. When I look at the numbers, our 2023 calendar year numbers are half of what they should have been in a typical year, 2024 is shaping up to be half of what it should have been in a typical year, and

the cap allocation is even slightly less than the average of those two numbers. You're keeping us in a difficult position.

CHAIR: Senator Faruqi.

Senator FARUQI: I just wanted to ask if any of you were consulted before the caps were handed down to you, in terms of the caps more broadly or the methodology more specifically.

Mr Pratt: There was no consultation.

Senator FARUQI: Everyone's shaking their heads. If anyone was consulted, let me know, otherwise I'll—

Mr Pienaar: None of us were consulted.

Senator FARUQI: None of you were consulted. If I can go to International House, in your submission you said that this legislation is not about cleaning up shonky providers and that it is not about the housing crisis, which are the two things the government is insisting it is about.

Mr Eckenfels: Yes.

Senator FARUQI: I know what it's about, and I've said that very openly. What is it about, then, at the end of the day?

Mr Raven: The decision to make changes to the industry started with a narrative around accommodation. My personal view is that it has more to do with the government's need to try and address the cost of living and maybe some investment decisions around accommodation and infrastructure that were delayed as a result of COVID and maybe some other issues that couldn't be dealt with at that time. I feel that this industry is the scapegoat for that economic rationalism.

Senator FARUQI: Nothing to do with education, though?

Mr Raven: It's not an education conversation.

Mr Eckenfels: No.

Senator FARUQI: From where I sit, this policy had nothing to do with education.

Mr Eckenfels: No.

Senator FARUQI: In fact, it harms the international education sector, as you've all pointed out.

Mr Eckenfels: It is harming the entire sector—shonky and quality providers—was the point I wanted to make. If they want to clean up shonky providers, there are lots of ways to do that. It must go through the regulator. Money was given to the regulator last year; however, they need time to train people to begin to implement their processes and policies to deal with the shonky providers. I think that can be done. I have a lot of faith in ASQA and TEQSA.

With the housing crisis, it's not about international students. This was clear in the March report from the Property Council of Australia, the Accenture report. We're doing the same; we're sending students to homestays. Last year—this past year to date—we contributed \$1.5 million towards people's mortgages by putting students into their homes. This is significant. We understand people are hurting. The property issue is something that needs to be resolved, but it's not sitting with migrants and international students.

Senator FARUQI: What's your message to the government? Is it to go back to the drawing board, consult with people who are being affected and then come back with something that is sustainable?

Mr Eckenfels: My message to the government today is rescind ministerial direction 107.

Senator FARUQI: That's a no-brainer.

Mr Eckenfels: That's No. 1. It has the industry on its knees. No. 2: talk to us; let's sit down together. We are not necessarily opposed to caps, if they are needed, but they need to make sense. They should not be given to shonky providers, providers with sanctions, providers that don't even have CRICOS. There was just a big mistake right across the board with that. Let's sit down together. We can work through this and we can implement it with a proper timeline that does not jeopardise these businesses.

Senator FARUQI: Thank you.

CHAIR: Thank you very much. I'd like to thank you all for your evidence this afternoon. If you have taken any questions on notice, could you please return the answers to the secretariat by 3 October 2024. Have a good afternoon.

Proceedings suspended from 12:30 to 13:33

CAGLIARINI, Mr Adam, First Assistant Secretary, Macroeconomic Conditions and Population Division, Department of the Treasury

CROSTHWAITE, Ms Kerren, First Assistant Secretary, Housing Division, Small Business, Housing, Corporate and Law Group, Department of the Treasury

KILNER, Mr Damien, First Assistant Secretary, Immigration Programs Division, Department of Home Affairs

LATIMER, Mr Nicholas, Assistant Secretary, Centre for Population, Department of the Treasury

McKENNA, Mr Brendan, Acting First Assistant Secretary, Labour Market, Environment, Infrastructure and Industry Division, Fiscal Group, Department of the Treasury

REINHARDT, Ms Sam, Deputy Secretary, Fiscal Group, Department of the Treasury

TEGG, Mr Brendan, Assistant Secretary, Migration Reform Taskforce, Department of Home Affairs

CHAIR: Thanks, everybody. I now welcome representatives of the Department of Home Affairs and the Department of the Treasury, including the Centre for Population. I understand that information on parliamentary privilege and the protection of witnesses giving evidence to Senate committees has been provided to you.

The Senate has resolved that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. Commonwealth officers appearing today are also reminded of the Senate order specifying the process by which a claim of public interest immunity should be raised. A copy of the order is available from the secretariat.

The extract read as follows—

Public interest immunity claims

That the Senate—

(a) notes that ministers and officers have continued to refuse to provide information to Senate committees without properly raising claims of public interest immunity as required by past resolutions of the Senate;

(b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;

(c) orders that the following operate as an order of continuing effect:

(1) If:

(a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and

(b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee, the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.

(2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.

(3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.

(4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.

(5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.

(6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.

(7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).

(8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(d) requires the Procedure Committee to review the operation of this order and report to the Senate by 20 August 2009.

(13 May 2009 J.1941)

(Extract, Senate Standing Orders)

CHAIR: I'll go to the coalition.

Senator HENDERSON: Good afternoon to you all. As a bit of homework, I have asked for the working calculations of Treasury in relation to net overseas migration. This is really important for us to consider this bill. Have you got a copy of those documents, please?

Ms Reinhardt: As I've said previously, Treasury has fed into the process around the calculations for the national planning—

Senator HENDERSON: Sorry, but just to be clear—I don't want to have a debate about it—I'm seeking the documents that we sought, which were your internal working calculations in relation to net overseas migration. That was taken on notice. We have sought those documents and we have not received them, and we are asking for them in order to do our work.

Ms Reinhardt: Senator, I think we've tabled the answer to the question on notice, and that has information on that work that's been undertaken.

Senator HENDERSON: We've also asked for the documents.

Ms Reinhardt: I think I said previously that they were part of a cabinet process, and I can take that on notice—

Senator HENDERSON: With respect, that's not a reason not to provide the documents. That is not in accordance with the Senate rules. Yes, if it is a formal cabinet document—as probably you understand. But information which informs cabinet is not a protected document. Is it possible for you to provide these documents this afternoon?

Ms Reinhardt: I can take that on notice, but there aren't documents that I would provide that would not be related to the cabinet process—

Senator HENDERSON: I'm sorry, but are you seeking to make a public interest immunity claim in relation to the documents?

Ms Reinhardt: I'm well aware that it's not my role to submit a public immunity—

Senator HENDERSON: What I'm saying to you is that that is not a reason to not provide the documents. You may well have executed your responsibility and provided those to the Treasurer. I don't want to personally reflect on you. Is this something that you've given to the Treasurer? Are these documents sitting with the Treasurer?

Ms Reinhardt: Treasury has been part of a broader government process that's fed into establishing the national planning levels. We, Treasury, have not run specific documents that we would provide—

Senator HENDERSON: I'm not asking for those. I was asking for your internal working documents, your calculations, in relation to net overseas migration. Have those documents that we have sought on notice—that you are required to provide to this committee under the rules of the Senate—been sent to the minister for his sign-off?

Ms Reinhardt: In terms of net overseas migration, I think I said last time that we do calculations for net overseas migration as part of the budget process and part of the MYEFO process.

Senator HENDERSON: I'm seeking—and I don't want to argue about it—those internal working calculations, those documents.

Ms Reinhardt: That we are working towards MYEFO on?

Senator HENDERSON: No. I'm seeking the existing documents that you have in relation to the working calculations of net overseas migration.

Ms Reinhardt: The working calculations are the budget. That is the latest update of the net overseas migration forecast.

Senator HENDERSON: I'm not asking for an update. I'm asking for your internal working documents. I'm saying to you that this is very important and I'm very concerned that our request has not been fulfilled as required under the rules of the Senate.

Ms Reinhardt: I'm not sure how to say it. We do an update—

Senator HENDERSON: Do you want to take it on notice?

Ms Reinhardt: I can take it on notice.

Senator HENDERSON: I don't want to have a debate with you about it. I'm just saying that's your obligation. My only question was: In relation to those internal working documents, those calculations, and to how you might respond to the question on notice, are they with the Treasurer? Have you provided those questions to the Treasurer?

Ms Reinhardt: If it's helpful, we could provide the detailed breakdown of what into the net overseas migration data for the budget—so the different visa classes that feed into those calculations broadly. But there is no update before we get to MYEFO.

Senator HENDERSON: Please don't mischaracterise my question. I think you're very well aware of what I'm asking, and I'm seeking those documents, please.

Ms Reinhardt: I can take that on notice, but, to be really honest, I'm not entirely sure. If it's the net overseas migration calculations, we do those twice a year and we're in the process of doing them for MYEFO.

Senator HENDERSON: What I'm asking for are your internal working documents in terms of any advice or other communications in relation to those calculations, because I'm sure that you don't have a blank sheet of paper sitting in Treasury in relation to net overseas migration.

Ms Reinhardt: I will take that on notice.

Senator HENDERSON: Thank you. I'll just go to the Department of Home Affairs. Has the department analysed the impact of the increase in the student visa fee to \$1,600, particularly in relation to short-term courses? It looks like there's been a significant drop off in student visa applications. Could you update us?

Mr Kilner: I'm happy to provide you with some updated statistics for data by sector. So far this financial year, from 1 July 2024 to 30 September 2024, a total of 131,431 visa applications have been lodged—sorry, the lodged applications are 100,775. Apologies, they are on-hand numbers. There have been 100,775 applications lodged.

Senator HENDERSON: For what period of time?

Mr Kilner: That is for the first three months of this program year. I can give you a breakdown via sector, if you'd prefer.

Senator HENDERSON: Sorry, I might need to ask you to take that on notice, because we have such limited time.

Senator O'SULLIVAN: Just to clarify, we're after the impact of it, so it would require a focus on—

Senator HENDERSON: For the first three months, the increased visa charge did not apply. So what we're asking for is: have you done any analysis on what has been the impact of that visa charge? I think it was since 1 July.

Mr Tegg: That's correct. The visa application charge increase came into effect on 1 July. I think it will probably be too early at this stage to understand the exact impact of that change due to the nature of how visa applications are lodged. Coming into the end of the year, we will probably have a better understanding of that.

Senator HENDERSON: Could you provide with us with the data?

Mr Tegg: Sure, absolutely.

Senator HENDERSON: Could you provide us with the student visa application data for this year on a month-by-month basis—

Mr Kilner: Yes.

Senator HENDERSON: for applications, acceptances and refusals?

Mr Tegg: Applications—

Senator HENDERSON: Obviously, as you've heard today, ministerial direction 107 is having a catastrophic impact on many education providers. Are you able to give us the latest data for the last month—is September available yet?

Mr Kilner: Yes. Sorry, one moment.

Senator HENDERSON: How many student visa applications were either accepted or refused, please?

Mr Kilner: Our data so far is just to 31 August, for the majority of our reporting. I can give you July and August figures.

Senator HENDERSON: Yes, please.

Mr Kilner: For the total number of lodgements for student visas, I've got 32,124 in July and 36,681 in August.

Senator HENDERSON: Those are lodgements. How many acceptances?

Mr Kilner: They're next. For the number of visas granted, I have 34,539 in July.

Senator HENDERSON: I thought there were 32,000 applications.

Mr Kilner: Those were lodgements, and that will include cases that have been granted or processed that were on hand at 30 June. There were 34,539 visas granted in July and 27,814 in August. There were 9,368 refusals in July and 6,573 in August.

Senator HENDERSON: Could you table the document from which you're reading?

Mr Kilner: Yes, I can.

Senator HENDERSON: What is that document?

Mr Tegg: That was a document prepared on the basis of your motion from the Senate.

Mr Kilner: An earlier question.

Mr Tegg: It wasn't dealt with in the Senate.

Senator HENDERSON: Thank you very much.

Mr Tegg: I'm happy to table that.

Mr Kilner: That will give a comparison with previous years as well.

Senator HENDERSON: We heard from the Department of Education that it's in the process of upgrading the PRISMS IT system.

Mr Kilner: Yes.

Senator HENDERSON: But we've also heard today there have been some catastrophic oversights in terms of the fact that foreign student places are being given to VET providers that have actually been cancelled by the regulator. This shows a very serious breakdown in knowing what's going on between the regulator and the department. What's the status of that IT upgrade? I'm informed that in fact that hasn't yet started, there's very poor communication with the Department of Home Affairs, and the Department of Education are still working on Excel spreadsheets.

Mr Kilner: The majority of the system changes on the Home Affairs side are in our visa processing system, not in regard to PRISMS, which is the Department of Education system. We're still completing our changes, but they are on track for release. They will be completed as part of a standard release which will occur in December for implementation from 1 January, should the bill be passed.

Senator HENDERSON: Could I also ask you to provide a breakdown of student visa grants and rejections in each category for each financial year since 2019 and in the last two years, month by month, so we can see a full picture.

Mr Kilner: Certainly. I think the document I just tabled has most of that information, but I'll double-check that, and we'll certainly be able to table that for you.

CHAIR: It's time to rotate to Senator Faruqi.

Senator FARUQI: I might start with Home Affairs. Recently, international students have said that they have not come here illegally, in response to coalition leader Peter Dutton's comparisons about the modern version of boat arrivals. To be honest, we all know that seeking asylum is perfectly legal as well, but could you tell me that appealing to the AAT is also perfectly legal?

Mr Tegg: Yes.

Mr Kilner: It is a lawful application to the AAT, yes.

Senator FARUQI: Thank you very much for clarifying that. To me, it's been pretty clear from the beginning that this bill is a migration bill, and literally everyone that I've asked this question during four days of these hearings has said exactly the same: that the caps have very little to do with improving any educational outcome. You probably are aware of Minister Clare's letter to universities—

Mr Kilner: Yes, I'm aware of that.

Senator FARUQI: which makes it perfectly clear that to reduce international student numbers it's either ministerial direction No. 107 or this bill. From where I sit, that's pretty much strong-arming the sector, but let's leave that to one side for now. So this bill is really all about reducing the numbers of international students and has a migration outcome. But when I questioned Ms Cavanagh back in August, I was told: 'We didn't craft this piece of legislation. This is an education bill.' Do you stand by that statement? Did you have anything to do with this bill, and do you still believe it is an education bill?

Mr Kilner: Yes, we do. It is a bill that has been crafted through our colleagues in the Department of Education. As with many different departments, we'll contribute information, statistics et cetera, but it is definitely not a bill from the Department of Home Affairs or sponsored by us.

Senator FARUQI: I want to follow up from some of the questions that Senator Henderson was asking about the IT system and its upgrade. I think on 6 August evidence was given that this new system would require significant changes to Home Affairs systems, including your IT, but you were unable to provide details of a timeline or the cost of it. Do you have the cost?

Mr Kilner: I'm not able to provide the cost, because it's a subset of overall changes that are being made. Our system has three major releases a year that reflect the introduction of new visa classes, amendments to the rules that are in the visa classes et cetera. Obviously, we're also in the process of implementing the government's migration strategy, with introduction of potential new subclasses coming in towards the end of this calendar year as part of the same release cycle. So it's not possible to quantify the exact changes.

Senator FARUQI: What's the overall cost?

Mr Kilner: I don't have the total figure because it's part of our annual IT expenditure, which is a routine cost. I can come back to you on notice, if I can, but the actual costs or changes required in our—

Senator FARUQI: Surely they are costed in some way, shape or form—

Mr Kilner: Sure.

Senator FARUQI: so, if you could, take that on notice.

Mr Kilner: I'll take that on notice.

Senator FARUQI: What is the timeline for when these system updates will be done to allow this bill to be implemented if it passes?

Mr Kilner: As I mentioned, we are working through it at the moment—

Senator FARUQI: So there's no timeline?

Mr Kilner: There is a timeline. We have a release coming out in December—currently scheduled for the first week of December, although that would be subject to testing. It would not shift more than a few days if it did. That would incorporate the changes that would be needed to implement the bill, and those changes have been coded to come into effect from 1 January. Should the bill not come into effect, then we would not implement those changes. We would then look at a further amendment to our system, which is a very minor amendment, not to commence the changes. Largely, the systems changes for Home Affairs will be around the way we manage our caseloads, in terms of both our risk systems and our work allocation systems.

Senator FARUQI: At the last hearing, on 6 September, Mr Rimmer advised that ministerial direction 107 would be replaced on 1 January 2025. I asked a similar question to representatives from Home Affairs, who stated that no decision has been made to replace ministerial direction 107. Now, as I highlighted earlier, the education minister has written to universities, threatening that ministerial direction 107 will be lifted only if this bill passes. So I want some clarification on this. Is there a timeline for ministerial direction 107 to be removed or not yet?

Mr Kilner: That is a decision for government. The Minister for Home Affairs is the one that will give the direction to our team, and the minister, consistent with what Minister Clare has said, would be looking at removing or amending 107 once the bill has passed and got royal assent.

Senator FARUQI: So there is no timeline at the moment?

Mr Kilner: It's not a particularly complicated piece of work to make an amendment. The minister will need to decide whether it's revoked or replaced, so it'll be subject to whether the bill passes, as we provided evidence before.

Senator FARUQI: There was some confusion about that as well. Some said it would be revoked; other evidence said it would be replaced. So what you're saying is that there's no decision.

Mr Kilner: No decision has been made. We will provide advice to the minister around that, subject to the passage of the bill, as I said. Ministerial direction 107 is a prioritisation instruction for our staff. It basically gives us guidance to our teams on the order of processing. The changes coming from the bill will provide a different framework for us to process within. So, if the decision is to revoke it, then we would continue to process visas as we do with all other visa categories in usual practice.

Senator FARUQI: You say that no decision has been made, but the Minister for Education's letter to universities said:

I can confirm that ministerial direction 107 will be lifted.

Is that revoking or not?

Mr Kilner: At this stage, no ministerial direction has been signed, nor any submission been given, to revoke. But, as I said, it's a relatively straightforward process and, as has been indicated, that will occur once the bill passes and gets royal assent.

Senator FARUQI: I just have a couple of questions for Department of the Treasury. We are in the fourth day of the hearing on this bill. Despite repeated requests from myself and my colleagues, we are yet to see any modelling. I think Senator Henderson was asking about the \$270,000 figure. On that, or whatever work has been done—if you don't like the word 'modelling', which you didn't in the last questioning—on the development of this policy or the proposed impacts of this policy, I'll ask again: is there anything you can give us on the economic labour and social costs of these caps, and the impacts of these caps?

Mr Cagliarini: At the moment, in terms of the economic forecast in particular, the national planning level was not included in the budget forecast because that wasn't government policy at the time. We're currently going through that process right now and trying to understand the implications that planning level will have for NOM as well as the economic impacts.

Senator FARUQI: So the bill is here in parliament without any assessment of the economic impacts. We have heard from Sydney university; they've done some modelling; they suggest \$4.1 billion lost to the Australian economy. But surely, when a bill of this significance is brought in, shouldn't there be some modelling and work done on the impacts of it?

Ms Reinhardt: I think last time we said that we saw that the numbers—the National Planning Level numbers of 270 were consistent with what was in the budget in terms of student net overseas migration, which means that they're also consistent in terms of the economic forecast. So we would not see a substantive impact as a result of those changes. What Mr—

Senator FARUQI: So no substantive impact on the economy?

Ms Reinhardt: As a result of the 270 National Planning Level? That is correct.

Senator FARUQI: Have you looked at the job losses that will be incurred if this bill passes and the impact of those? We have heard from universities of tens of thousands of job losses. We have heard from private providers; they are closing down already—and one in particular that was here today has closed down its regional operation. We have heard that families will be decimated. Is it not the responsibility of Treasury to actually look at those very real life impacts?

Mr Cagliarini: We are looking at the economic impacts and, as I think I said in the evidence that I gave to this committee in September, the National Planning Level, as Ms Reinhardt said, was broadly consistent with the NOM numbers that we published at budget, and we don't anticipate a significant economic effect of the policy.

Senator FARUQI: So 22,000 job losses in the university sector is not a significant effect? People closing down their businesses and having no livelihood is not a significant impact? And many of them—universities and private providers—train people in the skills that are required. That is not a significant impact?

Mr Cagliarini: I understand—obviously, any job loss for the families affected is significant. All I'm saying is that I'd like to see the basis of that modelling. There are a lot of assumptions that go into modelling.

Senator FARUQI: Why haven't you done that modelling? Do you say there will be no job losses in universities?

Mr Cagliarini: We are doing that at the moment.

Senator FARUQI: The billions! Then we shouldn't—

Ms Reinhardt: Senator, to be very clear—

Senator FARUQI: How can we pass a bill when we don't know these impacts?

Ms Reinhardt: We do not see any impacts of this bill from a macroeconomic sense and we do not expect any job losses as a result of this bill.

Senator HENDERSON: What?

Senator FARUQI: So you think universities are lying and everyone who has given evidence to us over the four days is lying?

Ms Reinhardt: From a macroeconomic perspective—

Senator FARUQI: 'Macro' doesn't mean anything. You've got to look at the sector—

Senator HENDERSON: No. That's—

Senator FARUQI: and look at the universities and look at where those operations are.

Senator HENDERSON: It's just—

Senator FARUQI: 'Macro' means nothing in this end. You would know better than me. I'm just a lawyer here. You're the economists.

Senator HENDERSON: You just heard campuses are closing—

Mr Cagliarini: Sorry, but the modelling—

Senator FARUQI: I'm sorry—that is audacious and outrageous!

Senator HENDERSON: Yes, that is. I agree.

CHAIR: Please, can we let them answer. And then it's time to rotate, Senator Faruqi.

Senator FARUQI: Sure.

CHAIR: You've gone over time; I let that series of questions finish. I don't know if you want to respond, and then I will go to Senator Bilyk.

Mr Cagliarini: I don't think there's anything—

Senator FARUQI: There is not? Sure.

CHAIR: There's nothing else to add? Alright. Senator Bilyk.

Senator BILYK: We've heard a lot about universities today. The Minister for Education has said publicly that some universities have asked for ministerial direction 107 to be removed as they believe they are being treated unfairly. Can you explain how ministerial direction 107 has treated some providers and universities, like the Go8, differently to others, like those in the regions? That's for Home Affairs.

Mr Kilner: The ministerial direction is basically providing guidance to our decision-makers, based on the risk category—the evidence level risks that are within the individual applications. So there are three evidence levels that are set each year through the simplified visa framework. It looks at overall performance of the universities in terms of their recruitment. It looks at things like the refusal rate, protection visa and other indicators. Out of that, it provides guidance to our staff in terms of prioritising the lowest-risk cases for processing; medium-level processing—so categories 1, 2 and 3. Those providers that have the lowest risk rating, risk rating 1, basically have students who make applications with minimal supporting documentation to our department because we are able to assess those as generally meeting, on their declarations through their applications. For example, they'll declare that they have satisfactory English, or they'll declare that they have satisfactory financial education—that they meet the course requirements for university entrance, for example. That doesn't mean they haven't demonstrated that. They're expected to have demonstrated meeting those entry requirements as part of the issuing of the enrolment certificate by the individual providers.

Where other providers work their way down to, say, category 3—the high-risk applicants, I guess—those who are applying in those situations would be required to provide a lot more evidence for the department to assess. That obviously takes a longer period of time for our teams to assess. We look at the overall English language requirements. They have to provide certificates to us on that. They have to provide evidence of their financials and evidence of their schooling and other requirements, depending on the application.

MD 107 basically says that we are to give priority to the lowest risk categories first, followed by the medium risk category, No. 2, followed by the No. 3 category. That is the processing direction that's been given to our processing staff.

Senator BILYK: How does that end up treating some providers and universities differently to others in the regions?

Mr Kilner: Because we're giving priority processing to the lowest risk providers, so they end up getting their applications processed more quickly.

Senator BILYK: Minister Clare has also said publicly that the proposal to cap student places was done at the request of some vice-chancellors. Are you able to explain to me how those that might have been negatively affected by ministerial direction 107 would benefit from the government's new proposal, if it was to come into force?

Mr Kilner: If ministerial direction 107 is removed, one of the possibilities is that we will return to a standard processing regime that would see us processing applications more in date order than in priority order. We would be processing applications more quickly for those that are currently impacted by MD 107.

Senator BILYK: According to the 2023 *Student visa and temporary graduate visa program report*, released by Home Affairs, the student visa program experienced increased use of fraudulent documentation and information, and attempts to use the program for other migration purposes, resulting in higher refusal numbers. There's clearly a long-standing problem with particular cohorts who are misusing the student visa program. Can you talk to me about those issues and how the department has addressed them.

Mr Kilner: Certainly. We have put a lot of investment into a range of factors. For example, we have improved our risk base systems to bring to the attention of our decision-making staff, when they receive an application, to identify whether it may be coming from, let's say, a province in a particular country that has had higher fraud rates associated with student applications. That gives our staff guidance in terms of potentially going off and verifying documents, whereas other applications we may just take on face value, for example.

We look at the overall protection visa rates as well, in terms of negative outcomes onshore, post arrival. We have also provided a lot of training to our staff in identifying areas where fraud might be found. We're testing documents more than we were before. There has been a lot of work to identify fraud. For example, we've done a number of sampling exercises: even in traditionally lower risk cohorts, we've gone through and had our decision-makers or case officers conduct interviews with those staff—for example, to test their English language outcomes. In many cases we've seen students from particular areas not having the level of English that they're claiming within their application. It's the same with financial documents.

We've also worked really closely with the education sector. We're giving examples of fraud that's been detected. We're giving them feedback on applications that are coming through, being lodged through their agents, and giving them indications of where they need to improve in testing whether fraud could be coming through in those applications. Predominantly, fraud will be around financials, English language and some supporting documentation—for example, school certificates and those sorts of things.

Senator BILYK: The Migration Strategy Action Plan has introduced additional requirements, as we know, on the student visa system, including increasing the English language requirement, issuing the ministerial direction 107, implementing the genuine student requirement and introducing the financial capacity requirement. We've been trying to clean up the mess that Mr Dutton left in our immigration system. Can you talk about the effects that these measures have had on the overall number of visa students coming to Australia and the quality of applications that are received by the department?

Senator Henderson interjecting—

Senator BILYK: Excuse my rude colleague for her interruption. Do you need me to repeat the question?

Mr Kilner: Yes, I think that might be helpful.

Senator BILYK: Can you talk about the effects that these measures have had on the overall number of visa students coming to Australia and the quality of applications that are received by the department with those changes?

Mr Kilner: I won't go through every change that you've listed there, but I would say the cumulative impact is allowing us to, hopefully, weed out unscrupulous actors that are lodging applications, where there has been, in the past, significant fraud, for example. We have seen, as I said—I've given the statistics here—some drop-off with applications, but we think that is also as a result of the amount of refusals that have picked up in terms of identifying not bona fide applications or fraud in terms of not meeting the requirements. So there is definitely an impact there. A number of these measures, as you would appreciate, are relatively new, so it's a little early to be able to quantify all the effects from each of those measures. But we are starting to see better quality applications coming through as a result of some of these changes.

Senator BILYK: A positive outcome.

Mr Kilner: There is, in that regard.

Senator BILYK: I've just got a couple of questions to Treasury. The Minister for Education announced a national planning level—we discussed this just earlier—of 270,000 eligible new commencements for next year.

Are you able to explain to us if this is consistent with Treasury's forecast in the most recent budget? I'm really conscious that some people are arguing that the 270,000 number is a cut, but I understand this is contested by other people. Can you just talk me through it.

Ms Reinhardt: The 270,000—I'll allow my colleagues to go into more detail—is broadly consistent with what was in the budget. The way it works is the 270,000 represents the number of student enrolments that universities can allow to enrol. We then make an estimate of how the number would translate through to student NOM, where we would take into account things like what proportion of those would be in Australia and what proportion would be overseas. The overseas ones obviously contribute to NOM when they come in. We then also have to make estimates about the number of student departures. That has changed substantially over the years. Also, some of those students will have partners, so that impacts on the final numbers as well. Then there is at least one or possibly two more factors that feed into how that translates to actual student NOM numbers. When we look at all of that, it's very clear that it's consistent with the numbers that were in the budget, so we do not expect an impact on the economic outcomes for the sector and more broadly in Australia. Also, I would say, in terms of the actual number going forward, yes, it's very consistent with what we have seen in the previous budget, so I wouldn't expect any changes as a result of that.

CHAIR: Senator Brockman.

Senator BROCKMAN: I'll just run through this really quickly because I would like to cede some time to Senator Canavan. Have you assessed the impact of the bill on net overseas migration for 2025 and beyond? If so, could you please detail the numbers and relevant assumptions? And, if not, have you been asked not to?

Ms Reinhardt: That is the process, as I think I said earlier, along with other government policy changes that we will do as part of the upgrade that we will do in MYEFO, so at the end of this year. We will look at all of the changes that we've seen to student numbers. We have seen some declines in student visa applications over the last year, and that comes down to a number of factors, including the policy changes of government over the last six to 18 months. Then we will also take into account this—which, as I've said, is consistent with our budget numbers, so we're unlikely to see an impact as a result of this particular change—and then other changes that are happening to net overseas migration. All of those things will feed into MYEFO, so that's work that we will do as part of the MYEFO process.

Senator BROCKMAN: Have you assessed the impact of the bill in relation to rents, particularly in capital cities?

Ms Reinhardt: Kerren, do you want to jump in and talk about this?

Ms Crosthwaite: Yes. We haven't specifically modelled the impact of the bill or the student caps on rental markets. One of the reasons for that is that we don't generally model the relationship between a category like international students and the private rental market in and of itself. Another reason is that, as you alluded to, the impact is different depending on the specific rental market that an institution is in. If it's a place where there are really low vacancy rates, we would expect there to be more of an impact on a higher number of international students in those places than in places where the vacancy rates are quite high. But we haven't specifically done any modelling on that, no.

Senator BROCKMAN: Given that you were recently asked to undertake a review into negative gearing, what impact would this have on housing supply, and would this exacerbate the issue of higher rents that this bill is seeking to solve? Would this mean that we'd need higher caps in future if this negative gearing policy were to eventuate?

Ms Reinhardt: I can just say that we're here to answer questions on this particular bill. None of the team here is from Revenue Group, and we're not going to try to delve into Revenue Group issues of negative gearing.

I can add that, on the international students in the private market, I know there was some discussion of how international students make up only four per cent of the total market. That was 2021 census data. I think Senator Pocock asked last time about updates to that data, and they will come with the next census, so they will take some time to come through. We do think that's a significant understatement of the number of overseas students in the rental market. With some of the figures that my Home Affairs colleagues talked about earlier, around an increase in the stocks of international students, we've seen that go from around 363,000 at census time to current stocks of around 690,000. That's a fairly big increase in the number of international students. Even if our expectation is that a relatively large proportion of those would be in student accommodation, we still think that a significant number are also in the housing market. In local government areas where there are universities and higher education facilities, we also see relatively low vacancy rates, which we think reflect some pressure on those markets.

Overall, in the housing market, it's usually an issue of working on issues around housing supply, but, while housing supply is slow to adjust, we do tend to see that—

Senator BROCKMAN: I am going to have to keep moving, because I am going to run out of time here. With the caps, you've said that the modelling is happening in relation to MYEFO. If these caps commenced on 1 January as planned, what's the net overseas migration forecast for the next year? Do you have that figure?

Ms Reinhardt: At the moment, that would be the budget figure for the next year. They're done on financial years. It's 260,000. The budget figure is the latest figure.

Senator BROCKMAN: So the budget figure is the latest figure?

Ms Reinhardt: And it's a financial year, not a calendar year.

Senator HENDERSON: Are you updating that now, knowing what the latest data is?

Mr Cagliarini: Yes, we're going through that process now and updating that forecast.

Senator BROCKMAN: The budget net overseas migration for 2023-24 was 395,000. What was the actual?

Mr Cagliarini: We don't actually have the actual. We've only got the year to the March quarter at the moment. That is what the ABS has released. My colleague can correct me, but I think it was about 388,000.

Senator BROCKMAN: For three-quarters of a year?

Mr Cagliarini: Correct.

Senator BROCKMAN: The 2024-25 net overseas migration target is 260,000. Do we have net overseas migration as at today? We don't?

Mr Cagliarini: It's a forecast rather than a target, but 260,000 is the forecast for 2024-25.

Senator BROCKMAN: Do we have an actual as of today?

Mr Cagliarini: Not yet, because the data is running about six months behind, so we probably won't get our first read of that until early next year.

Senator BROCKMAN: Is it your view that the government's changes to international student numbers will reduce the net overseas migration to the target of 260?

Mr Cagliarini: We don't believe it is inconsistent with that forecast at the moment. In fact, in that forecast we had student net overseas migration easing over the forecast period—so we were expecting that to fall even in the absence of the national planning level.

Senator HENDERSON: Could you provide the student data on notice, please?

Mr Cagliarini: We can do that.

Senator CANAVAN: I realise that the department has done the details here, so I want to confirm, first—I'm not across all the details but a lot of people have contacted me about this—that if an institution doesn't use its allocated numbers under this cap system no-one else can use those. Is there any way to transfer them to others?

Ms Reinhardt: I think you're revealing your economics background here, with the cap-and-trade system. I think that's a question for the education department. I'm not aware at this point that that's the plan, though.

Senator CANAVAN: I suppose that leads into my next question, which is, yes, coming from an economics background: given Treasury is the premier economic agency, have you been asked at all to look at how to allocate a scarce resource—in this case, a cap, and you support a cap—across different institutions? Have you provided any advice on that?

Ms Reinhardt: That is for the education department, which is working closely with specific institutions. We think it's for them to work out how they best allocate that, and the arrangements to re-allocate that. It is a very complicated piece of legislation. It's important to allocate it properly. That's their first priority and their main focus.

Senator CANAVAN: Can I bring you back to the question. It's a simple question: have you been asked to provide any advice on the efficient allocation of caps across different institutions for this particular model?

Mr McKenna: The allocation is one of many issues that we considered—

Senator CANAVAN: We've got limited time; I don't mean to interrupt. I didn't want more than a couple of minutes. I'm asking a very simple question. Bringing you to the question: have you been asked? I'm not asking for the advice you gave, if you gave any. Have you been asked about compared different allocation methods?

Mr McKenna: All I'm saying is the allocation is one of many things that was considered throughout the ERC process and the cabinet process we're involved in and that we gave advice on, but—

Senator CANAVAN: So you did give advice on the different—

Ms Reinhardt: We haven't advised on the individual institutions and how the allocation should work for the individual institutions.

Senator HENDERSON: Could you just answer the question?

Ms Reinhardt: We haven't advised on individual student allocations to individual universities.

Senator CANAVAN: There are lots of different ways you could allocate. You mentioned a cap-and-trade system. Presumably there could be some banking. There could be lots of different ways to do this—a trading system—but have you been asked to look at comparable models and actually analyse the models, not just provide some commentary in a meeting? Have you been specifically asked to do some work on comparable models to efficiently allocate this scarce resource?

Ms Reinhardt: We have been asked for our advice on these sorts of issues, and we've provided our advice on these sorts of issues. We have suggested the allocation to universities, and how they manage that, to the education department, but that has been for the education department to allocate. They can talk to you about how they have made that assessment.

Senator CANAVAN: Okay; we'll take it up with them.

Ms Reinhardt: We have said we thought it should be done in an efficient way, but it is for them to understand their sector and what the best allocation is.

Senator CANAVAN: Were you asked to look at the choice of a baseline year? There were a lot of complaints about the use of 2023, where some institutions weren't up to their pre-COVID levels and have been disadvantaged by that. Have you looked at all at that data of what would be the best comparative year to choose, given the disruption of COVID?

Ms Reinhardt: That is a question for the education department, but my understanding is not that there's been a specific and single year that they have looked at but more that they've looked at the evolution for different institutions over different years—the pre-COVID years, the 2023 year. So I think that's a question for them, but—

Senator CANAVAN: Just to clarify, I'm not denying that they might have looked at that. My understanding—and I might be wrong; I don't come to this as an expert—based on what I've been told is that, in terms of allocating their 2025 caps, 2023 has been used as the baseline year to then apply the reduction for the private colleges. Am I wrong about that?

Ms Reinhardt: I think it's best to talk to Education about that.

Senator CANAVAN: Okay.

CHAIR: I want to ask a question of Treasury. Regarding forecasts when providing advice to government—and the number of new international students is one of them—how important is it that the government can accurately predict the number of international students who arrive in Australia each year?

Ms Reinhardt: Sorry—of international students—

CHAIR: How important is it that the government can accurately predict the number of international students who arrive in Australia each year?

Ms Reinhardt: It's obviously a very significant part of net overseas migration. Generally around 50 per cent of total net overseas migration relates to students, which explains why this bill was considered important. In terms of net overseas migration of students and more broadly, it is extraordinarily difficult to predict, particularly post-COVID. Some of the factors are simply the rates of departure. The rates of departure are currently relatively low because students have come back post-COVID. Many of them have started longer degrees. So, those numbers of actual departures are relatively low. We would expect those to pick up to some extent. That will then affect the inflow of students that governments might consider in a future allocation of national planning levels as well.

CHAIR: I might just turn to this question about the migration strategy, about the Department of Home Affairs report on the number of temporary visa holders in Australia from July 2024. As you're aware, that report found that 90 per cent of international student enrolments are in the major cities of Australia—Sydney, Melbourne, Brisbane, Adelaide, Perth and Canberra. I understand that that's correct, and perhaps you could just confirm that. But also could you talk us through some of the other findings of that report?

Mr Tegg: Sorry—could you repeat the name of the report you're referring to?

CHAIR: It's the report of the Department of Home Affairs, July 2024—the number of temporary visa holders in Australia.

Mr Tegg: Sorry—I don't have a copy of that report in front of me.

CHAIR: That's okay. I want to go back, then, to Mr Kilner. A question was asked by my colleague Senator Bilyk regarding increasing the English-language requirements from 23 March 2024, issuing ministerial direction 107, implementing a genuine student requirement from 23 March 2024 and introducing the financial capacity requirements from 10 May 2024. As we've mentioned, we're trying to clean up the mess Mr Dutton made as immigration minister. I know you mentioned that you wanted to step through some more of the details, but could you take us through the details of the impact of those measures overall on the number of visa students and those four different measures in some more detail?

Mr Tegg: I don't think we've got data to suggest how individual measures have impacted the student visa refusal rate. But I'm happy to talk through I guess—

CHAIR: If you could, give us a recap and some more detail on the holistic approach that those measures—

Mr Kilner: Of the visa refusal numbers or the measures that are being put in place?

CHAIR: The measures—introducing financial capacity requirements from May 2024, implementing a genuine student requirement from March 2024, increasing the English language requirements from March 2024 and issuing ministerial direction 107. What is overarching some of those? Give us some more detail, if you're able to, on the impacts of those policies. You touched on them before.

Mr Kilner: I'll start, and I'll let Mr Tegg join in. The impacts are going to be varied depending on the market, of course. But, largely, if you're increasing the English language requirement, as has occurred here, it's twofold. One is to ensure that there is adequate educational capacity to study at universities and to make sure that there are successful outcomes so that students do get the proper study experience that they're seeking. The financial capacity hadn't been raised for a number of years, so the requirement to increase the financial capacity was to enable students to demonstrate that they are able to meet the cost of living in Australia not relying solely on part-time or other work in Australia, for example. The impact is that the students that are not able to afford to study in Australia will not be able to meet the requirements for the visa. We're expecting them to increase the overall ability to meet their course costs and the overall living costs as well. Do you want to jump in?

Mr Tegg: I would add that a number of those measures are on the back of the Nixon review and joint standing committee review, which found particularly concerning evidence of exploitation of students and of providers seeking to exploit students. Key measures, as you've identified, are increasing the English language requirements to ensure that students are able to speak English, are able to get help and are able to understand their rights and obligations. Also, as Mr Kilner mentioned, the increase to the financial capacity is to ensure that students can afford to live here and are less likely to then fall into an exploitative working environment.

CHAIR: Are you able to touch on some of the findings of the Nixon review and some of the elements of the more harrowing information that the Nixon review found?

Mr Tegg: Certainly. The main recommendation that has been put into effect by government is bringing immigration compliance functions back into immigration and reprioritising those functions. That is a work in progress, but it's starting to see some good results. They're also looking into comprehensive background checks within OMARA, the Office of the Migration Agents Registration Authority. Some of the other main recommendations are with regard to character checks and fit-and-proper-person checks for migration agents to ensure that players in the system are doing the right thing and aren't seeking to exploit vulnerable students and other migrant workers.

CHAIR: Thank you all for coming and joining us this afternoon. Thank you for your evidence today. If you have taken any questions on notice, could you please return the answers to the secretariat by 3 October 2024. Have a very good afternoon.

Ms Reinhardt: Chair, I think we have a document we were going to table as well. It goes with the underlying data.

CHAIR: If you could.

Senator HENDERSON: Sorry, Chair, if I could ask a question, is it possible to get a soft copy of this document?

Mr Kilner: A soft copy, did you say?

Senator HENDERSON: It's just a housekeeping question, Chair; don't get worried.

CHAIR: I'm not getting worried; I'm being mindful.

Senator HENDERSON: I wouldn't let you down, Chair! This data starts from the beginning of 2023. Is it possible to get this—the way you've broken down this data—but from 2019?

Mr Kilner: Yes.

Senator HENDERSON: It looks like this is dataset 2. There must be a dataset 1; is there? Could we get that, starting from 2019, which was my question already.

Mr Kilner: Yes. We'll get it back to you.

Senator HENDERSON: Thanks.

ANGUS, Ms Laura, First Assistant Secretary, Careers, International, Defence and Assessment, Department of Employment and Workplace Relations

COOK, Mr Tony, Secretary, Department of Education

FAITHFULL, Ms Anna, Deputy Secretary, Skills and Training, Department of Employment and Workplace Relations

NIEUWENHUIS, Ms Adrienne, Acting Chief Commissioner, Tertiary Education Quality and Standards Agency [by video link]

O'BRIEN, Ms Fiona, Executive Director, Policy and Partnerships, Australian Skills Quality Authority

RICE, Ms Saxon, Chief Executive Officer, Australian Skills Quality Authority

RIMMER, Mr Ben, Deputy Secretary, Higher Education, Research and International, Department of Education

RUSSELL, Dr Mary, Chief Executive Officer, Tertiary Education Quality and Standards Agency [by video link]

SANDERCOCK, Ms Karen, First Assistant Secretary, International Division, Department of Education

[14:31]

CHAIR: I now welcome representatives, both in person and via videoconference, from the Department of Education, the Department of Employment and Workplace Relations, the Australian Skills Quality Authority and the Tertiary Education Quality and Standards Agency. I understand that information on parliamentary privilege and the protection of witnesses giving evidence to Senate committees has been provided to you. The Senate has resolved that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions in matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. Commonwealth officers appearing today are also reminded of the Senate order specifying the process by which a claim of public interest immunity should be raised. A copy of the order is available from the secretariat.

The extract read as follows—

Public interest immunity claims

That the Senate—

(a) notes that ministers and officers have continued to refuse to provide information to Senate committees without properly raising claims of public interest immunity as required by past resolutions of the Senate;

(b) reaffirms the principles of past resolutions of the Senate by this order, to provide ministers and officers with guidance as to the proper process for raising public interest immunity claims and to consolidate those past resolutions of the Senate;

(c) orders that the following operate as an order of continuing effect:

(1) If:

(a) a Senate committee, or a senator in the course of proceedings of a committee, requests information or a document from a Commonwealth department or agency; and

(b) an officer of the department or agency to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee, the officer shall state to the committee the ground on which the officer believes that it may not be in the public interest to disclose the information or document to the committee, and specify the harm to the public interest that could result from the disclosure of the information or document.

(2) If, after receiving the officer's statement under paragraph (1), the committee or the senator requests the officer to refer the question of the disclosure of the information or document to a responsible minister, the officer shall refer that question to the minister.

(3) If a minister, on a reference by an officer under paragraph (2), concludes that it would not be in the public interest to disclose the information or document to the committee, the minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.

(4) A minister, in a statement under paragraph (3), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as in camera evidence.

(5) If, after considering a statement by a minister provided under paragraph (3), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Senate.

(6) A decision by a committee not to report a matter to the Senate under paragraph (5) does not prevent a senator from raising the matter in the Senate in accordance with other procedures of the Senate.

(7) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraph (1) or (4).

(8) If a minister concludes that a statement under paragraph (3) should more appropriately be made by the head of an agency, by reason of the independence of that agency from ministerial direction or control, the minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraph (3).

(d) requires the Procedure Committee to review the operation of this order and report to the Senate by 20 August 2009.

(13 May 2009 J.1941)

(Extract, Senate Standing Orders)

Senator FARUQI: Good afternoon, everyone. Thank you for appearing yet again. I'll start with the evidence that we got again today, when providers yet again told us how arbitrary the caps and the methodologies are, how chaotic they are, how they are full of errors and flaws and how they make no sense. We had especially compelling evidence from Ms Claire Field, who is an education expert. In one of the pieces that she has written, she says her 'head is hurting after trying to untangle the allocation of international student caps at the provider level'. After reading her analysis, I have to say my head is exploding.

Basically, she has raised so many issues and so many errors, and I'll give you just a couple of examples. She says there are VET providers who have received indicative caps that are above their CRICOS caps. She also raises the fact that there are 12 private VET providers who are at the moment fighting a cancellation decision by ASQA and have been allocated a collective cap of 2,429. There's a litany of errors. We also heard from one of the private providers today that, on the same day they got a cap of 75 from the Department of Employment and Workplace Relations, they got a letter from ASQA approving their CRICOS registration of 250 international students.

Is there any explanation or justification that you can give me for these errors? Is it because it is policy on the run and you're just rushing to get this government's reckless caps through?

Ms Faithfull: Thank you for the question. I think this is one for me, in the context of the VET applications. The first question is really about the CRICOS capacity limit and the relationship with the NOSC limit. The CRICOS capacity limit is set by the regulator, as you said, and this is about a point-in-time capacity—the number of international students that a provider can have at a point in time at the facilities in their operation. The NOSC is about how many new commencements they can have in any one year. The two are separate numbers. For instance, a provider may run short courses, six months in duration, and be able to have additional NOSC students, more than their CRICOS point-in-time allocation.

Senator FARUQI: What is the point in time of that allocation?

Ms Angus: That means how many students you can have on campus, effectively. For example, we know that, in relation to utilisation, as at 1 September providers had on average only 24 per cent of their maximum student capacity. A capacity is determined—

Senator FARUQI: If they have 250 students now, let's say, and their cap is 10, when does the 250 expire? I'm trying to get my head around that.

Ms Angus: Their capacity is attached to the registration.

Senator FARUQI: Yes, I do know that it is attached to the registration, but how do the two interact?

Ms Angus: One is an annual allocation of new overseas student commencements, so that would be refreshed annually. The life of the registration would have the capacity, and I assume that, if someone wanted to change that, they would apply to the regulator to do that.

Senator FARUQI: So they would again have to apply to the regulator.

Ms Angus: I believe so.

Senator FARUQI: That's fine.

Ms Faithfull: Just to add to that, the CRICOS capacity is also about students who might be in their second or third year of study or training. That's the totality of students that are in that provider's set of infrastructure

operations at any point in time. The new overseas student commencement is about a year-on-year number—the number of students starting with that provider in that year.

Senator FARUQI: If the provider is full—they already have 250—does that mean they can have no more international students?

Ms Faithfull: If they have a 250 CRICOS capacity, yes—they can't go above that. These are two separate numbers.

Senator FARUQI: Could you also explain how 12 private VET providers who are fighting a cancellation decision by ASQA were allocated a collective cap of 2,429—or in the thousands.

Ms Faithfull: Yes. The methodology has also worked on the basis of due process. Where providers are at the moment in review, whether that's internal review or external review, to the Administrative Appeals Tribunal, we have afforded due process in the context of, at 5 September, offering them the NOSC numbers they would have received, pending the outcome of the review. If, as a result of that review, the decision by ASQA to have them suspended or deregistered is upheld, that will translate into the system and those NOSCs will return to the reserve pool.

Senator FARUQI: How does the reserve pool work?

Ms Faithfull: We will monitor it. Through this process of receiving feedback based on the indicative numbers, we are collating that feedback to brief government on how it might want to think about the arrangements in relation to a reserve pool.

Senator FARUQI: You do know that people are making decisions now because of the caps they have and they are already closing down their operations or getting rid of their staff? So it will be too late by the time you go to the reserve pool and come back to them. That is another huge flaw in this. Have you looked at Ms Field's analysis?

Ms Faithfull: Yes, I have.

Senator FARUQI: So you have an explanation for everything, there are no errors in your system and you think it is not arbitrary or flawed at all. Is that your response to that?

Ms Faithfull: No. I think that we're willing to take any feedback from providers directly, from experts such as Ms Field and from peak representatives—we're in close engagement with ITECA and TDA—to make sure we are taking into account all of these considerations and all of this insight and ensuring that we keep government abreast of that. I think that we do have explanations for some of the issues that Ms Field raised, and I appreciate that there are different numbers. It's a methodology. We've been in direct engagement with many providers to work through the methodology to make sure our data is accurate. So—

Senator FARUQI: You haven't consulted, though, with a single provider while setting up this methodology—not a single provider, not a single private provider and not a single university. Is that something that you regret doing?

Ms Faithfull: We have consulted with their representative bodies—

Senator FARUQI: Not in determining the methodology. Everyone has told us that. Who did you consult in determining the formula?

Ms Faithfull: The policy principles that underpin the formula—

Senator FARUQI: I'm talking about the formula itself by which you calculated the indicative number before you sent it off.

Ms Faithfull: The formula is premised on those policy principles, which are about quality and integrity. It's about diversity in providers and ensuring we have a mix of domestic and international students, and it's about sustainable growth. That was the basis on which we thought through the three categories—

Senator FARUQI: I'm sorry, but you haven't answered my question. Did you consult anyone in the sector while developing the formula?

Ms Faithfull: No.

Senator FARUQI: That was my question. I will move on. Have universities who, prior to receiving their indicative cap, had already enrolled more international students than their cap been asked to stop enrolling more students or stop offering places?

Mr Rimmer: By definition, the limits apply to commencements who have actually started, and therefore no university had enrolled more than its cap at the point that the limits were advised to providers. We have been monitoring, very closely, the number of certificates of enrolment in relation to 2025 that have been made by each

provider. In a couple of cases, we've had conversations with providers about their certificate of enrolment numbers and how they relate to their limit. In the absence of legislation as yet, decisions about what to do as a result of what government is saying publicly are a matter for each provider.

Senator FARUQI: So you have put universities on notice that they might be at risk of overenrolling?

Mr Rimmer: We have put one university on notice that they might be at risk of overenrolling.

Senator FARUQI: Which university is that?

Mr Rimmer: That's the Australian Catholic University.

Senator FARUQI: So you think that their enrolments will be over the cap. Is that why you put them on notice?

Mr Rimmer: I don't think they will be; I think they're at higher risk than other providers.

Senator FARUQI: Is that because their international student numbers are being cut by a tremendous amount? Is that the reason?

Mr Rimmer: No. Their international student numbers are not being cut by a tremendous amount.

Senator FARUQI: Fifty-three per cent?

Mr Rimmer: If you look at a slightly longer time period, you see 2019 wasn't a terrible year in higher education. It wasn't a terrible year for Australian Catholic University. My colleague Ms Sandercock might be able to find me the percentage increase compared to 2019, but the issue with ACU is that their numbers put them at higher than ordinary risk of breaching their limit based on where they're up to now. It's not possible to say whether or not they will breach their limit, because, first of all, there are a number of actions that they could take to reduce that risk; secondly, some of those students don't yet have visas are not all will get visas; and, thirdly, some students might have another offer from another university and might choose to go there.

Senator FARUQI: So they'll have to rescind their offers in some circumstances? Is that what you're saying?

Mr Rimmer: They haven't done that at the moment. Whether or not they should do that is up to them. But it's normal in the system for there to be some attrition of student numbers from people who have accepted an offer to people who actually commence the course. That attrition changes depending on the provider and is something that each provider will need to manage quite closely. To go to the earlier question: ACU had 1,273 commencements in 2019.

Senator FARUQI: I do know the numbers. Thank you.

Mr Rimmer: It's a significant growth to compared to 2019.

Senator FARUQI: It depends on where you start the comparative point from.

I have a few more questions on the formula itself. The expansionary to memorandum of this bill refers to providers with sufficient student accommodation being able to seek higher caps. How does the formula used for both universities and VET providers take into account the providers' accommodation options?

Mr Rimmer: That question is relevant only in relation to publicly funded universities; it's not relevant in relation to VET providers.

Senator FARUQI: For publicly funded universities, how does the formula take into account a provider's accommodation options?

Mr Rimmer: It does not take that into account for 2025. The government is still considering how that issue will work in relation to 2026 limits.

Senator FARUQI: And the bill is titled as a quality and integrity amendment bill. How does the formula used take into account a provider's track record of quality? We just saw that a provider's track record means nothing, because they have been cancelled, they are fighting that and they are still being provided thousands of students. How does the formula take into account a provider's track record of quality?

Mr Rimmer: It's entirely incorrect to say that the formula does not take into account cancellations. If a provider is cancelled, they don't have an international student limit. If a provider is not registered with—

Senator FARUQI: What is the quality and integrity measure in the formula?

Mr Rimmer: Can I just finish my previous sentence? Each ESOS agency has a decision to make about whether a provider is registered under CRICOS. A provider that is not registered under CRICOS, by definition, cannot enrol international students and cannot use its limit. So there is no inconsistency in this approach.

Senator FARUQI: That has nothing to do with the formula though.

Mr Rimmer: On that matter, I regret to say that Ms Field, who generally speaking is an excellent expert we enjoy working with closely, on that matter is just incorrect. The formula takes into account quality and integrity by looking at enrolments for public universities. It does this by taking into account enrolments over time. It avoids some sudden peaks and troughs in enrolments.

Senator FARUQI: What does that have to do with quality or integrity? What does the number have to do with quality or integrity?

Mr Rimmer: The enrolment number, the limits number, reflects over time the history of that provider. For example, some providers have had a very large increase in 2024. It's hard to see how all of that is quality provision.

Senator FARUQI: That's an assumption.

Mr Rimmer: That is an assumption. If a provider has grown by many thousands of students in one year, it's hard to see how all of that relates to quality. So the formula avoids some of those peaks and troughs and looks for stable long-term performance. It also prioritises—

Senator FARUQI: That still has nothing to do with quality or integrity.

Mr Rimmer: Sorry; can I continue.

Senator FARUQI: Sure, you can continue, but you're making no sense to me, I'm sorry.

Mr Rimmer: The methodology also prioritises publicly funded providers. That's a matter of some concern to some in the private sector; I don't dispute that. But in the VET system it prioritises publicly funded TAFES. In the higher education system it prioritises publicly funded universities.

Senator FARUQI: My time is limited, so I might go to the next question. How does the formula take into account whether the provider offers courses that service Australia's workforce shortages and critical skills needs?

Mr Rimmer: It does not at this stage in 2025. That matter is still under consideration in relation to 2026, but it does not in relation to 2025.

Senator FARUQI: This is a bill to address the housing crisis, it's a bill to address integrity issues and it's a bill—apparently—to address critical workforce shortages, but the formula developed to put those caps on addresses none of those issues. I don't know if I'm living in a parallel universe here. Here's this bill put forward which doesn't do anything that it is purported to do. Why are we discussing this bill? We have no modelling on how many jobs will be lost, and universities are telling us there will be thousands. Private providers are telling us they will lose their livelihoods. There's been no research done on that—nothing on the impact. Why has this bill been brought forward? Is it just because government is pushing through?

Mr Rimmer: Bills are a matter of government. It's been brought forward because the government has made a decision.

Senator FARUQI: But surely the department, who is responsible for providing all this information, should give that advice to the government and should give that advice to us. On what basis are we going to make a decision that this bill should pass? Every single thing that we have heard is that this is a terrible, reckless bill.

Ms Faithfull: If I can answer your question around the methodology in relation to the VET sector, the correlation with quality and the application of the cap. As Mr Rimmer said, public providers, including TAFEs, were provided NOSC levels equal to their 2023 overseas student commencement levels. Those with 80 per cent or more total international enrolments were provided indicative new overseas student commencement limits at a proportionate share of their remaining new commencements—that's 2023 NOSC minus 40.8 per cent. And those with less than 80 per cent total enrolments of international students relative to their domestic enrolments received NOSC levels equal to the department's projection of their 2024 new commencements—that's 2023 NOSC minus 31 per cent.

The rationale is—and I can ask Ms Rice to reflect on this if you wish—that data to date has shown us that the risk factors around integrity and quality that we saw through, for instance, Ms Nixon's review predominantly occur in those providers that have a high concentration of international students. The methodology was taking those insights and applying that in the context of the three different categories. The providers who do have that very high concentration of international students saw that 40.8 per cent reduction, as opposed to those—

Senator FARUQI: Even though their CRICOS scores had been renewed and renewed and renewed. So you don't talk to ASQA, then. My last question is, Mr Cook—

CHAIR: Senator Faruqi, that's time.

Senator FARUQI: Just a very quick one, Chair—did you advise the government that this bill makes no sense whatsoever and that it should not be put to Parliament?

Mr Cook: No.

CHAIR: Senator Bilyk.

Senator BILYK: I'm a little bit confused.

Senator HENDERSON: You're not the only one, Senator!

Senator BILYK: You might be able to clarify for me. We've heard in evidence, even today, from ITECA, and throughout other submissions to the inquiry, that many providers are concerned about how the suspension provisions of this bill will work if providers go above their international student profile. I think it's a scare campaign and a disinformation campaign. I'm wondering if someone can clarify for me what will happen if someone goes over their allocation.

Mr Cook: I'll ask Ms Sandercock to add to my response. I have heard, myself, potential views that if someone goes over their enrolment limit then the entire university will basically be suspended from operating. Those things obviously are not true and that's not the provision within the bill. I'll ask Ms Sandercock to give a bit more detail around what is actually in the bill. It's quite explicit around that. So it's clarification not just for the committee but also for anyone else who might be listening about this.

Ms Sandercock: Just to add to that: I can confirm that the suspension provisions in the bill do not preclude the normal operations of the provider. The provider can continue to teach to their domestic and their commenced international students. The only elements that a provider will be prevented from progressing are in relation to enrolling any more international students above their limit and taking money from international students who have not yet commenced within the limit; and they will not be able to permit a student to commence a course other than an exempt course such as the higher degree research courses and the like, which are exempt. Otherwise, all of that will continue. And it only relates to that particular year in which the provider has exceeded their limit.

Senator BILYK: I just want to get this on the record: if international students are correctly enrolled below their limit, they won't be affected?

Ms Sandercock: The provider will not be affected. The international students will not be affected.

Senator BILYK: The world won't end.

Ms Sandercock: They will be able to commence and continue their studies, as will all other elements of the provider's operations.

Senator BILYK: What will happen to the domestic students that they're teaching?

Ms Sandercock: There will be no impact on domestic students. The suspension applies to the provider's international operations, to students who are looking to commence over and above the provider's limit, and only in that year; the provider can continue to recruit students for a subsequent year, but not for that year in which they've exceeded their limit.

Senator BILYK: Thank you for clearing that up. So, as you've just explained, the institutions will only be suspended from enrolling further international students above their cap in that academic year—correct?

Ms Sandercock: Correct.

Senator BILYK: What steps have you taken or will you take to communicate this to the sector? Obviously, the scare campaign has come home to roost a bit, if I can say that!

Ms Sandercock: Indeed. We have worked in our engagements with providers and peak bodies to clarify this. We will continue to do so. And of course, upon passage of legislation, it would be standard practice for us to publish a range of guidance to inform the sector, as we do around existing elements of the ESOS Act and its supplementary instruments. So we will be publishing fact sheets and other information and continuing to conduct the kinds of engagements that we regularly do with international education peak bodies and stakeholders, individual providers and their representatives, through a range of fora.

Senator BILYK: So your department is on the frontline, as to the impacts of ministerial direction 107, and we've seen record numbers of international students at many of the Go8 universities, while regional university numbers are down. I think most international students are in the major capital cities. Is it right to say that ministerial direction 107 has benefited the big city universities at the expense of smaller regional universities, or is there a logical explanation?

Mr Rimmer: Ministerial direction 107 has definitely benefited a small number of the largest, most central city universities, if I can put it in that way. I wouldn't characterise it as being 'at the expense of' other universities. But it's definitely true that there are some universities and some non-university higher education providers whose enrolment numbers are very much lower in the context of MD107, and other universities who have seen very large growth in their student numbers in 2024—very large: thousands of students extra commencing.

Senator BILYK: I'm keen to better understand the contrasting impacts of the new program as proposed by the government. Can you talk me through that? Does the new program reverse some of the impacts of ministerial direction 107?

Mr Rimmer: The new arrangements provide for an orderly, planned, sustainable approach where each provider knows what its limit is and how that limit fits into the overall approach to international education and where, frankly, government knows how the overall approach to international education fits into the overall migration program. In the course of setting up those limits, obviously the government has taken into account the needs and interests of different kinds of universities and the need for fairness and equity in the approach to the distribution of those students. For example, if there are regional universities, regional campuses, that are doing well at attracting international students, such as La Trobe Bendigo, then the limits and the methodology have been set taking that into account, such that regional campuses, regional provision has been considered.

It's also relevant that there is a particular and acute kind of housing crisis in the most inner-city locations. It's of course the case that there are housing challenges right across the Australian community. But there is a particular and acute challenge in the centre of the largest cities—in particular, Brisbane, Melbourne and Sydney. So, there's a relationship there as well. But, just to reiterate, the overall arrangements are designed to produce a higher-quality, more-sustainable, higher-integrity system that is predictable over time and that doesn't fluctuate wildly from year to year depending on other circumstances.

Senator BILYK: Thank you. Secretary, you wrote to all universities with their indicative international student profiles last month, and I'm keen to better understand the variety of feedback you've received in regard to those letters. Can you talk me through those?

Mr Cook: I'll start, and, again, the team—who met with every university and many non-university providers over the past several weeks—can provide a bit of an overview. You would appreciate that some universities were disappointed with the numbers they were provided, but other universities were satisfied with the number. I met with a number of vice-chancellors in various meetings that I had and spoke about their numbers, particularly compared with what had happened as a result of ministerial direction 107 for some universities—a significant increase in the international student profile for 2025 compared with the numbers of students they've been able to enrol in 2024.

I think we've mentioned before that for regional universities there's an increase of something like 70 per cent—Ms Sandercock might be able to help me with the numbers—in relation to actual enrolments they've been able to do in 2023-24. Also, some of the other public universities have been working with us around their data, seeking more information about their data, and we've been working with them in terms of those indicative numbers. I think the figure is 78 per cent in relation to indicative 2024 enrolment numbers for the regional investees. That's the increase compared with what we anticipate they would have been enrolling this year. So, for them it's a significant change compared with ministerial direction 107. But Ms Sandercock, you might have other information.

Ms Sandercock: Yes, I can probably add to that. In almost all cases, regional universities have received indicative allocations at or well above their 2023 levels, by about an extra 1,600 places, to build their capacity to grow. That reflects Mr Rimmer's comments that of course international students are predominantly in the capital cities, and we aim to give regional providers scope to grow their international student numbers.

Senator BILYK: I want to go back to this issue around caps. Could that provider seek to enrol as many students as they wish without student caps?

Ms Faithfull: Providers can enrol as many domestic students as they wish. With the caps, it's enrolling the international students to the level of the caps they've been provided. So, yes, there's no limitation on how many domestic Australian students they can enrol.

Senator BILYK: What power does the department have to prevent providers from enrolling more students?

Ms Faithfull: There's no power in relation to the domestic students.

Senator BILYK: Just the international students?

Ms Faithfull: Yes.

Senator BILYK: Do you think these caps are necessary to bring down the net overseas migration?

Ms Faithfull: I refer to my colleague's comments before. The policy intent that is underpinning this is about increasing the quality and integrity, ensuring greater diversity in the VET sector and greater diversity within each provider, particularly that mix of international and domestic—we know that is also a characteristic of high quality and integrity—and ensuring sustainable growth, picking up on Mr Rimmer's point about predictability as well.

Senator BILYK: You've published the methodology for how the student caps were created for VET providers. Can you briefly explain this methodology to me?

Ms Faithfull: I will ask my colleague Ms Angus to talk you through that.

Ms Angus: We published the distribution methodology on our website. If you look on there, it talks about some of the things Ms Faithfull has already referred to. There are classes of VET providers that will be identified for the purposes of the allocation process. A specialist international provider is defined as a for-profit provider for whom international students accounted for 80 per cent or more of the total enrolment in 2023. Nonspecialist international providers are for-profit providers for whom international students accounted for less than 80 per cent of their total enrolment in 2023. Public providers include TAFEs and other providers delivering publicly funded training.

The methodology applies lower limits, including any year-on-year reductions, to specialist international providers or those delivering wholly or overwhelmingly to international students. This is to more evenly balance the international domestic profile that we would see set into the future. Ms Faithfull referred recently to the intention of getting greater diversity, because with greater diversity comes, generally speaking, a higher-quality experience for those international students.

In addition to that, there were some reductions made underneath the overarching limits on student commencements; that saw roughly a 40 per cent reduction for those specialist providers I referred to and a 30 per cent reduction for those that were generalist, and public providers maintained their levels at the 2023 level—so all the baselines were calculated off 2023. For those providers that were recently registered, there was also an assumption made if they hadn't had students in 2023 or 2024, and there was an allocation made to those, and those that hadn't had students for a couple of years were also given an allocation of 30.

Senator BILYK: Thank you. Why are providers who have had an ASQA sanction and are appealing to the AAT permitted a student cap?

Ms Angus: I think Ms Faithfull referred to that in her previous answer. It's because it's a procedural fairness matter under administrative law, where the assumption is that, until the final decision is made by the AAT, the service remains potentially capable of being able to conduct its business. Therefore, the allocation is to ensure that's able to happen, because if we didn't allocate an amount to that provider and then, subsequent to that, the AAT found the suspension or cancellation to be not sustainable then that would lead to the provider not being able to do anything, because they wouldn't have an allocation in 2025 to work with. Of course, if it is sustained, those positions would then be, as I think Ms Faithfull mentioned, returned to the reserve.

Senator BILYK: Did you work with ASQA on that matter?

Ms Angus: We have worked with ASQA. In fact, we meet with them very regularly and have done so throughout the development of this process and its implementation.

Senator BILYK: Ms Faithfull, did you have anything?

Ms Faithfull: No, I was just going to say that. We've been in very close contact through the entire process, and we will continue to work really closely with our colleagues, particularly in relation to that category of providers who are going through that review process, in the context of what that means for the application of their NOSC.

Senator BILYK: Thanks. My last question is: am I correct in understanding that the caps provided to VET providers are interim in nature at the moment?

Ms Angus: They are indicative.

Senator BILYK: Do you expect that there will be changes to the caps between interim and final?

Ms Angus: I think it goes to the question of consultation. In fact, one of the reasons for providing indicative numbers to providers was to enable an opportunity for any issues or concerns to be aired and raised with us. They can't become finalised until the passage of the bill, because there's no legal remit at the moment to make them finalised, but we are taking on board the consultation and the issues that are raised with us, and we'll consider that ahead of finalisation of the allocations post the legislation passing.

Senator BILYK: Okay. Thank you all for your time.

CHAIR: Senator Henderson.

Senator HENDERSON: I just want to start off on the issue that Ms Field raised this morning. You're concerned about procedural fairness—is that correct?

Ms Faithfull: Yes.

Senator HENDERSON: Mr Rimmer made the comment that Ms Fields got this wrong. I would put it to you that Ms Field has not got this wrong and that, as Senator Faruqi has also raised, there were more than 1,400 places—1,429, to be exact—allocated to 12 providers which have been cancelled by the regulator. I appreciate that that is subject to appeal in the AAT. You've done that on the basis of procedural fairness, have you?

Ms Faithfull: Yes.

Senator HENDERSON: Have you considered the procedural fairness to many other providers who are facing catastrophic collapse, bankruptcy and insolvency? My point is that you are considering procedural fairness—I'll put this to you, Secretary, because the buck stops with you; you are the most senior person in the department. The minister is considering procedural fairness for providers that the regulator has cancelled, yet you will not regard procedural fairness for many other businesses that are facing catastrophic collapse. Can you explain that, please.

Mr Cook: Senator, thank you for the question. The issue that you're raising in relation to ASQA is not in my responsibility.

Senator HENDERSON: I'll tell you what, Mr Cook: if you're going to play these games—

Mr Cook: Senator, I can't talk on behalf of other ministers or other departments.

Senator HENDERSON: we will be back for another hearing.

Mr Cook: That's a decision of the committee, Senator. I can't answer—

Senator HENDERSON: This is your bill. These are your caps. So I'm asking you, Mr Cook: how can you regard the procedural fairness in relation to cancelled providers when you have not taken into account the catastrophic consequences for many businesses which are facing insolvency, collapse and bankruptcy?

Mr Cook: Senator, as I indicated, the issue that you've raised in relation to cancelled providers relates to ASQA. That's my understanding.

Senator HENDERSON: No, that's not the issue I'm raising. The issue I'm raising is that your department—

Mr Cook: Sorry, can you repeat the question, then.

Senator HENDERSON: Mr Cook, please don't play games with me. Your department has allocated 1,429 foreign student places to cancelled providers. You've done that on the basis of procedural fairness. So my question is: in the allocation of student caps, why has the department failed to regard the procedural fairness in relation to the catastrophic consequences faced by many other providers?

Mr Cook: Senator, you are incorrect.

Senator HENDERSON: So you haven't heard the evidence this morning, Mr Cook?

Mr Cook: My department has not allocated 1,400 places to providers in relation to cancellation.

Senator HENDERSON: I am asking you, Mr Cook: how can you regard the procedural fairness in regard to allocating caps to providers that have been cancelled, obviously for integrity reasons? Maybe they're dodgy; who knows? Those cancellations are now under appeal. How can you regard the procedural fairness for those providers and not take into consideration the procedural fairness for other providers which are facing catastrophic collapse, bankruptcy or insolvency?

Mr Cook: Senator, just to help me when you say we haven't taken procedural fairness into consideration: all these numbers are indicative. Where providers have contacted us and asked us to look at those numbers, those conversations are happening. So we are continuing to talk to providers in relation to those numbers.

Senator HENDERSON: Okay. How many providers are you talking to, and how many provider allocations are now under review?

Mr Cook: My understanding is that we have over 100 pieces of correspondence from providers, and we're working our way through those. That is in relation to higher education. I'm not sure what the numbers are for VET, but those are the numbers for higher education.

Senator HENDERSON: What changes to indicative allocations have you made to date?

Mr Cook: That'll be a matter for the minister and the government when the bill's passed. We're continuing the conversation with the providers at the moment.

Senator HENDERSON: Hang on a minute. Mr Cook, you've already indicated to providers what their indicative allocation is.

Mr Cook: That's correct.

Senator HENDERSON: So are you suggesting that the final allocation will not be provided until after the bill is passed, if the bill is passed?

Mr Cook: It also depends on what changes there are to the bill. If there are changes to the bill, we can't give a final number.

Senator HENDERSON: Are you intending, in the review that you're conducting because of the catastrophic and discriminatory way in which you've imposed student caps by reason of the government's flawed methodology, to provide providers with that advice as to their final proposed cap in the coming weeks?

Mr Cook: After the legislation passes.

Senator HENDERSON: After the legislation passes. So you're going to hang them out to dry, are you? Is that what the government's position is—no certainty?

Mr Cook: Senator, I'm a bit lost on the question.

Senator HENDERSON: Well, that's a shame.

Mr Cook: If the parliament makes decisions in relation to the allocations—

Senator HENDERSON: It's a shame that you don't understand what the terminology is.

Mr Cook: Chair, I would appreciate—

CHAIR: Mr Cook.

Mr Cook: I guess where I'm stuck, Senator, is that, if we give final data or allocations but those allocations are changed as a result of the legislation changing, I'm not sure what you would propose that we would do.

Senator HENDERSON: No, Mr Cook. Please don't mischaracterise the legislation.

Mr Cook: I'm seeking clarity, Senator.

Senator HENDERSON: You are well aware that the legislation does not include individual student caps.

CHAIR: Senator, just to assist with the question, I did understand—

Senator HENDERSON: Sorry, Chair. I would like to finish my question.

CHAIR: I got a little bit confused on the question, and Mr Cook was trying to get clarity on what the question was.

Senator HENDERSON: Thank you, Chair, but I'm quite okay. I don't need your assistance.

CHAIR: I don't think saying something disrespectful about Mr Cook is appropriate.

Senator HENDERSON: I didn't say anything disrespectful.

CHAIR: He was actually trying, very politely, to ask for an explanation of the question.

Senator HENDERSON: What I'm saying to Mr Cook, who is the secretary of the department, is that the bill does not include individual allocations for student caps. That's at the minister's discretion, as we know. So, given the indicative limits that have been provided, can I confirm, Mr Cook, that it is the government's intention not to provide final limits or final allocations until after the bill is passed, presuming the bill is passed?

Mr Cook: I don't know what amendments the parliament may consider in relation to the bill.

Senator HENDERSON: Do you think the bill should be amended?

Mr Cook: You're asking an opinion, Senator. It's not my view about opinions in relation to that.

Senator HENDERSON: Well, you're the one who's raised amendments. I'm wondering why you've done that.

Mr Cook: Because I've seen many cases where bills go through parliament and amendments are made and accepted.

Senator HENDERSON: Can I just turn you back to the question: is it the intention of the government to not provide a final allocation prior to the bill being considered by the Senate?

Mr Cook: That is my understanding, on the basis that, until the bill is passed, the minister doesn't have the power to actually make determinations in relation to international student profile numbers. That's what the purpose of the bill is.

Senator HENDERSON: Well, the government has already indicated and provided indicative allocations.

Mr Cook: That's correct.

Senator HENDERSON: Do you know that there is one provider in hospital right now; he's had a breakdown as a result of the catastrophic situation he is facing with his business. We heard this morning that pilot training in this country is under threat. In relation to pilot training—and I've already tabled this article, 'Caps "risk flight school disaster"'—as a result of the work of the Albanese government, what changes will be made to flight training schools? Can you provide me with that information in relation to their caps? At the moment, as we heard this morning, flight training in this country is on the verge of collapse.

Ms Faithfull: Those aviation schools come under VET—vocational education and training. We have been in contact with a range of flight schools who have raised concerns around the impact this will have. We have had multiple conversations, and we are currently compiling those in order to brief the government on the implications.

Senator HENDERSON: That is under review now?

Ms Faithfull: Yes.

Senator HENDERSON: What other providers' allocations are under review?

Ms Faithfull: That is the key one that has been raised with us by providers and by industry representatives. It is a sector and a training set of schools that are reliant on that international student cohort particularly in terms of supporting international flight carriers with their training here. It has unique aspects to it. We're very cognisant that there may well be other sectors that have similarly unique aspects, but there is a set of particular characteristics that really—

Senator HENDERSON: Okay. On notice, to both departments: can you provide a list of providers whose allocation is under review as a result of their representations, and can you provide the correspondence to the committee.

Mr Cook, are you aware that TEQSA has written to providers suggesting that they will be forced to go through financial compliance obligations as a result of their indicative cap?

Mr Cook: No.

Senator HENDERSON: Has there been any discussion with the minister's office or your department and TEQSA in relation to that?

Mr Cook: No discussion with me.

Senator HENDERSON: With anyone in the department?

Mr Cook: I'm not aware of it.

Senator HENDERSON: I will go to TEQSA. Dr Russell, given the government has indicated proposed caps only—and I look at a letter you've written to one provider, basically alerting that provider; you've stated, 'You may be aware the Australian government is reducing the number of overseas students.' In this particular letter I'm looking at, you've warned this provider that they may be at significant risk regarding their financial sustainability. At no point in this letter have you indicated that this is subject to legislation yet to be passed by the parliament. Can you explain why you have sent what I regard as a quite threatening letter under such circumstances?

Dr Russell: I can't comment on a particular letter without the particulars of the letter in front of me. I can say that we have written to and are dealing with a number of providers to confirm that they continue to meet the requirements, including financial viability requirements, that are relevant to their overall registration and to their ESOS registration; that is part of our normal regulatory activity. We have also ensured that providers making new applications to become registered as a higher education provider are aware that these changes are being contemplated as part of this legislation that is under consideration—

Senator HENDERSON: Sorry, Dr Russell—

Dr Russell: and we have directed them to the department's information so they can make fully informed financial decisions.

Senator HENDERSON: Dr Russell, I apologise for cutting in, but I just want to draw you back to the question because, in the letter that I'm looking at, you state that, by reason of the proposed reduction in international student numbers, you have identified this provider at risk of not being compliant with the obligations under the regulators regime. That is as a result of a reduction of overseas students.

Could I ask you how many of those letters have gone out, how many providers have received those letters, and why didn't you make it clear that the proposed reduction in student numbers is subject to legislation passing? This is a very frightening letter that's been sent to these providers.

Dr Russell: I would need to see that letter to provide you with a proper answer to that. If you're happy to provide us the letter, we'll give you a response on notice.

Senator HENDERSON: Well, it's your agency that sent these letters out, Dr Russell. So I would ask you to look at your own records. I'm not going to table this letter because it's got private and confidential information in it, but your agency has sent these letters out, so I would ask: how many of these letters have gone out?

Dr Russell: Without being able to understand the context and the nature of the letter, I'm not able to answer that for you.

Senator HENDERSON: It's called 'TEQSA concern: action requested'.

CHAIR: Can I just make a point of order here. It was raised about some general comments that I made earlier in the day regarding the opposition leader which were widely publicised, and people were demanding—

Senator HENDERSON: I do have the call, Chair—

CHAIR: If there's a letter that you're referring to, it would be of assistance to the people that are being asked questions about it to receive it. You're asking about details in a letter; it's not one highly publicised piece of media coverage. It's a letter.

Senator HENDERSON: The reason I'm asking about this letter is that it's a very specific letter sent by TEQSA last week. I'm asking for—

CHAIR: That's my point. It would be appropriate for the person that's being cross-examined and asked about this letter that they receive a copy of it. Quite frankly, the Senate committee should be receiving a copy of it, as well, so we can also assess it.

Senator HENDERSON: I'm very happy to table my copy of the letter once it's redacted, but I'm not in a position to table it with confidential information. But I would ask—

CHAIR: Then what I would suggest is that, until it is redacted, maybe you should put it on notice.

Senator HENDERSON: Chair, I do have the call, so I'd ask that you just allow me to continue to ask questions.

CHAIR: I'm not interrupting. This is actually—

Senator HENDERSON: Can I just continue as I have limited time.

CHAIR: If you're moving on to another matter.

Senator HENDERSON: That's right. Dr Russell, has TEQSA discussed, with the minister's office or with the department, the need to write letters warning providers that they may be in breach of their obligations?

Dr Russell: We have communicated regularly with the department as this bill has been contemplated and the policy has been worked out. We have, in particular, asked the department what's the appropriate information that we should direct providers to, to ensure that they receive the most accurate and recent information that the department has published.

CHAIR: We need to circulate the call now. I just want to go to Department of Employment and Workplace Relations. There's been a lot of publicity and assertions regarding potential negative effects on the VET system. Can you take us through what is actually happening in the VET system in the sense of: can the department provide a figure of the total investment in the 2024-25 budget for the TAFE sector as part of the National Skills Agreement? Is that an increase from previous years?

Ms Faithfull: Thank you, Chair, for the question. Overall, we've seen a significant increase in investment in the skills and training sector, through the National Skills Agreement, which is a \$12.4 billion agreement over the next four years, and that's matched by state and territory governments in terms of their contributions, so it will be up in the order of \$30 billion.

We've also had a significant investment in fee-free TAFE, which has seen a general increase of TAFE participation, particularly in those courses that go to national skills priorities. The government certainly has a policy objective around having TAFE at the centre, but also a lot of the policies are directed at lifting the entire sector—so that's the private sector as well. When we look at the skills challenges that we have, we need the whole sector. We are quite focused on that, through a range of other initiatives including looking at the VET workforce; streamlining our regulatory environment to go to a standards based regulatory environment; and supporting that through various collaborations around particular initiatives, including the different capital investment funds as well.

More broadly, I think it's important to acknowledge—to Senator Bilyk's question before—that the caps don't prohibit providers from enrolling domestic students, and so there is an opportunity to broaden business

approaches to enable enrolments of domestic students, and there's no limitation or prohibition on that through this bill.

CHAIR: Can you compare this against this question about what's happening in the VET system, as to the potential impact? What do we see going forward if the legislation is passed? And what is the environment for VET? Compared to the last budget of the previous government in March 2022, what have been the additional investments since then to 2025-26? Are you able to give us, again, some more examples of those investments and the difference?

Ms Faithfull: If I can, I will take on notice those exact numbers—

CHAIR: Yes, absolutely.

Ms Faithfull: in terms of investments. Particularly in the last budget, we saw investments around capital equipment funds—so investing particularly around equipment and capital that are required in both TAFE and VET providers, focused on Future Made in Australia and the transition to net zero. We've also had investments in workforce, as we need those trainers in order to increase the number of students going through; we need trainers to teach those students, so there has been an investment there. There is a continuation of fee-free TAFE with a focus on construction and the centres of excellence and investment auspiced by the NSA but separate from the NSA and really focusing on areas of national skills priorities, with TAFEs investing in concert with universities and with industry, and then investing in best practice in those particular areas, whether that's batteries or care—across the country, there are different areas of focus—and then sharing that across the country with the TAFE network, and then beyond, with the broader VET ecosystem.

CHAIR: You said, if I remember correctly, that there is a national TAFE leadership network program as well, and, as to the VET completions, improving that space—particularly for women and others who face completion challenges? And then maybe just talk to the importance of those policy areas as well.

Ms Faithfull: Within the National Skills Agreement, we have the focus on completions, with—sorry—

Ms Angus: Foundation skills.

Ms Faithfull: foundation skills and the focus on closing the gap. They all have dedicated funding amounts. I will take those on notice and bring them to you; I should know off the top of my head. There are those with Commonwealth investment as well as matched investment from states and territories. So there is a deep investment in those particular areas, in addition to the broader investment in creating training places and ensuring the ongoing sort of business as conducted by states and territories of running the TAFE and the broader VET system. You referenced that as part of the last budget we had an investment in building women's careers of, I think, around \$50 million. That is a grant program that will work with all social partners, such as business, employers and community groups—potentially opening to ACCHOs—and not-for-profits to come together to look at where those barriers are for women, particularly in participating in traditional trades, with a focus on those industries through Future Made in Australia and through the net zero transition. It's looking at those systemic barriers to women. This was an issue that came up through the Jobs and Skills Australia clean energy capacity study, with a view to trialling innovations to overcome those barriers and then sharing that insight, that experience and that best practice across their sectors so that you get that amplification of the value for money, in terms of that investment in that innovation trial.

CHAIR: I want to turn to the Australian Skills Quality Authority. The Australian Universities Accord measure in the 2024-25 budget includes \$2.6 million to implement changes to PRISMS. What changes are required for ASQA to balance your existing workload and the new powers and responsibilities given to you by this bill? Is that getting on track for that question?

Ms Rice: I might actually direct the question to the Department of Education, who administers PRISMS.

Ms Sandercock: The funding that you refer to is to make system changes to PRISMS to enable providers to manage to the enrolment limits. It will work towards a series of technical measures. In the first phase, we're looking at ensuring that provider limits are enabled, exemptions are enabled, user interfaces are in place and providers can identify their levels of new overseas student commencements and see how they're tracking towards that limit. We anticipate a late October trial release for engagement with the sector ahead of full release before the end of the year. That will address other issues that are going to be managed through the system, such as where we may need to re-credit a new overseas student commencement to a provider following the departure or withdrawal or non-commencement of a student, and will make sure providers have that close tracking of their limits and we give them a series of notifications. The funding that was enabled in the 2024-25 budget is being used to make changes to PRISMS now. We are working closely with the Department of Employment and Workplace Relations,

which is our IT service provider, to enable that build to the scheduled timeline of late October and then before the end of the year.

CHAIR: The submission discusses recent investment in an integrity unit, which includes multi-agency operations and the establishment of a tip-off line. I know this has been a matter of questioning in previous hearings with various witnesses. Can you talk us through the need for this integrity unit and how it would work with other authorities to support that work.

Ms Rice: I might take that question. The investment was around \$33.3 million at MYEFO to ASQA. That investment was threefold. The first component was to establish a tip-off line, as you said, so that providers, students and members of the community could make tip-offs to ASQA anonymously if they wished. I can touch on some of the detail in relation to that in a moment. The second component was the establishment of an integrity unit, which was very much an uplift in ASQA's intelligence, data and investigative capacity. The third component is a significant investment in a digital transformation program that will be rolled out over the next three years or so and will, again, really go to that uplift in our digital and data capability and our connectivity with other government departments in relation to those areas.

What we've been focused on since the establishment of the tip-off line and the integrity unit has been a significant increase in activity. That addresses some of the recommendations of the Nixon review in terms of us undertaking compliance blitzes, specifically in the CRICOS space. I touched on some of that information for the committee at our last appearance, but, at the moment, I can tell you that the integrity unit has more than 210 serious matters on hand. That relates to the conduct of around 174 providers. Approximately 70 per cent of those providers, or 121, are CRICOS provider, so we have a significant body of work being undertaken there by way of investigations into providers that deliver to international students. Some of the concerns relate to alleged fraud, including bogus qualifications, cash for qualifications, fabrication of assessments and evidence, and funding fraud or visa migration risks.

More than 50 per cent of that work—you asked the question about the multijurisdictional work. We continue our work in Operation Inglenook, and we're also now a full member of the Fraud Fusion Taskforce. A lot of that work involves significant agencies across the Commonwealth, particularly as it relates to the disruption of criminal networks. We've been undertaking a number of activities, specifically with Home Affairs and Border Force, and we're working with a number of state government departments as well.

Our tip-off line has had more than 2,600 tip-offs since its establishment in October last year. That has produced considerable amounts of actionable intelligence and supported and facilitated a lot of the activity that we've been undertaking in that space, including significant numbers—more than 200 now—of site visits of international providers. Many of those are unannounced site visits. In the last financial year, we undertook 156 site visits of international providers. Sixty-one of those were unannounced, including on 22 providers being considered for the section 97 suspension by the Minister for Home Affairs, and 10 of those site visits were in response to tip-offs. As a result of all of that work, 92 of those providers that we undertook site visits on are now subject to further regulatory scrutiny. We've also increased the number of sanctions that we've ultimately applied to providers, with all of that work.

CHAIR: This may be a figure you have to take on notice, if you're able to find it for us. You may be able to give us some insight. With regard to the number of providers under extra scrutiny, I think of the number of individual students that are with those providers. You said there were how many providers?

Ms Rice: All of those site visits generated further regulatory activity for 92 providers.

CHAIR: Of the 92 providers, would you be able to give us the total number of students that are engaged as students within those operations? The number of tip-offs that you consider to be of a serious nature—I appreciate there are still actions being investigated, but could you see if you can do the same thing with the 162? How many students are there in operations that are actively under investigation? To me, that's an indicative figure—I appreciate they're still being investigated—of those that have been found so far that might be at risk.

Ms Rice: I can certainly take that on notice and see what we can provide to you.

CHAIR: An article in the ABC on Tuesday 17 September, headed 'Scams shattering Indian students' dreams of studying in Australia', reported serious allegations of visa fraud and the exploitation of international students. The report said a family in India took out a \$13,000 loan against their farm to pay for their 19-year-old daughter's business course and agent's fees. Right before she was ready to leave for Australia, the family found out that all the documents they had paid for, including the offer letter from Willows Institute and the certificate of enrolment from the Australian Department of Education, were fake. I note that you won't provide details about any case studies, but can you just discuss what you can do as a regulator? Is it correct that you have a process in place to

audit these kind of dodgy providers? I'm not talking about this particular provider, because it's under investigation, I suspect.

Ms Rice: I'm happy to talk about that provider, because it is a provider in relation to which we had in fact done exactly that. We had worked very closely with Home Affairs in relation to that provider initially. We undertook a very thorough investigation and moved to cancel the registration of that provider. That provider has sought merits in the AAT and is currently seeking to have that decision reviewed, but it is certainly a decision we stand by, specific to that particular provider.

That is very much in line with a lot of the work that we have been undertaking more broadly. For example, in the last financial year, we undertook 83 cancellation decisions or decisions not to renew a provider. That related to 52 CRICOS decisions. So we have been actively working in that space. Those kinds of decisions will inevitably relate to serious and significant concerns. We don't take a cancellation or a decision to not renew a provider's registration lightly. We have certainly been increasing our activity in that space.

An example of some of the more recent legislative changes that have occurred is that in one other case—I won't name the provider—we had moved to cancel the provider's registration. We had identified that that provider had the same CEO and ownership as another provider that was currently dormant, so we moved to immediately suspend the registration of the second provider so that we wouldn't have that impact for students with those students just being moved to another provider that was otherwise dormant. That provider's registration ultimately lapsed following the recent changes to the NVETR Act.

CHAIR: Thank you, Ms Rice. We will now go to Senator Brockman. Is it—

Senator HENDERSON: I would like the call, thanks, Chair.

CHAIR: Senator Henderson.

Senator HENDERSON: Secretary, 270,000 places are allocated at the national planning level. What is the estimated total number of new overseas student commencements, taking into account the exemptions set out in the bill?

Mr Cook: So the question is: of the 270,000, what's our assumption on how many will arrive next year? Is that the question?

Senator HENDERSON: What's your estimate of the total number of new overseas student commencements, taking account the exemptions—so schools, higher degree by research, non-award students, foreign government scholarship holders and the like? All of those categories are exempt.

Mr Cook: For next year? Is it 2025 you're asking for?

Senator HENDERSON: That's right.

Mr Cook: Okay.

Mr Rimmer: By definition, if something is exempt, it's not a new overseas student commencement, and we haven't been tracking that data through our systems in the same way. There is Home Affairs information which I believe was tabled in response to a QON about visa numbers for, for example, school students. We can look on notice at what information we do have about the exemptions, but for some of them we don't have perfect information, because they're not currently tracked in the system. But, on some of the clear categories like schools and higher degree by research, we can probably give you some information.

Senator HENDERSON: That's my concern. My concern is that universities in particular will use the exemptions to try and bring lots of students into the country and get around the cap. I'm particularly referring to foreign government scholarship holders and transnational education students. I asked you last time whether you had a definition for those students. Are you able to inform the committee of how you define transnational education students and foreign government scholarship holders?

Mr Rimmer: As I think we talked about last time, there's a process within government to resolve some of those questions. There are now two fact sheets published on our website in relation to some of the matters that you've raised—one about foreign government scholarship holders and one about the Pacific and Timor-Leste. There are just very basic details of what counts as the Pacific and suchlike. The TNE one is not currently on the website, but it's a matter of some urgency for us to get that resolved, and I imagine that we will be resolving that with government over the next few days to a week.

Senator HENDERSON: If you can provide all the relevant information in relation to those exemptions, particularly those two exemptions. Does that mean that a foreign government scholarship holder can include a scholarship holder from any other country?

Mr Rimmer: No, it does not.

Senator HENDERSON: What does it mean, then?

Mr Rimmer: There are three criteria for foreign government scholarship holders, one of which is effectively a prohibition on foreign government scholarship arrangements from countries which would cause damage to Australia's national interest. There are some countries that we currently have sanctions in place for. Ms Sandercock might be able to update us.

Ms Sandercock: The advice that's been settled by government in relation to foreign government scholarship holders provides that those scholarship holders must meet the following criteria: they have to meet university admission requirements and they must meet eligibility for a student visa—

Senator HENDERSON: Because I've got such limited time, I might ask you to put the rest of that answer on notice, please.

Ms Sandercock: Certainly.

Senator HENDERSON: I am looking at the visas granted in 2023-24 by sector not included in the proposed national planning limits. They total 83,885. Do you have any sense as to what the numbers will be for the scholarship holders and the transnational education students?

Ms Sandercock: As Mr Rimmer said, the government hasn't yet settled arrangements for transnational education exemptions. In relation to Pacific and Timor-Leste students, the number is some 3,000; I can give you the exact number of those students on notice. In relation to foreign government scholarship holders, we don't have precise numbers but the numbers are understood to be very small. There are a number of key government partners that fund scholarships, such as Indonesia and others, but these are not large numbers of students. We can provide that on notice, and, once arrangements for the TNE sector are made, we'll come back to you.

Senator HENDERSON: The government is asking the parliament to pass a bill where so much in this respect is unknown. What if a foreign government was to decide they were going to offer a scholarship program to every student seeking to study in Australia? I put to you that the minister is proposing legislation which is wracked with not only, frankly, incompetence but also uncertainty.

Mr Cook: We can't respond to a hypothetical.

Senator HENDERSON: It's not hypothetical.

Mr Cook: It is a hypothetical.

Senator HENDERSON: It's not hypothetical because I've asked for certainty in relation to—this bill could be up in the parliament next week. You are asking the Senate to pass the bill—the government is asking the Senate to pass the bill—and critical parts of this bill are not known, including for the providers. How can the government expect the parliament to pass this bill when we are not going to be able to assess the impact on higher education providers, given we now know that so many of these allocations are under review? Therefore, Secretary, I would say that this is not a matter of being hypothetical; there is enormous uncertainty, including in relation to the definition of these exemptions.

Mr Rimmer: I'm not sure officials from the department have given evidence that there are a large number of allocations under review. That's not evidence we've provided, just for the record.

Senator HENDERSON: That's probably a matter for the committee to determine. I don't want to argue with you. We've just heard that evidence, that correspondence from around 100 providers—

Mr Cook: Has been received; that's correct.

Senator HENDERSON: Mr Rimmer, please let us be the judge of that. That's a very significant number of higher education providers which have written to you, raising serious concerns about the cap they've been given. We've sought that information on notice. I put to you that to understate the seriousness of this issue that confronts the parliament right now is most inappropriate.

Chair, I have this letter, which is now redacted.

CHAIR: Yes.

Senator HENDERSON: I'm just going to ask that it not be made—I haven't had a chance to read it. It looks good. It looks like everything has been redacted. I do need it, though.

CHAIR: We have to circulate it first. If the deputy chair wants to have a look, I'm happy for that to happen before I have a look.

Senator HENDERSON: Yes.

Mr Cook: How will we get it to TEQSA? We'll have to get it to TEQSA. I think that's the challenge, because TEQSA will have to answer the question.

CHAIR: That's probably going to be the obvious answer.

Senator HENDERSON: I'm pretty sure that that is—sorry. I just can't read it on the fly. The deputy chair is just going to check that it's in order, but it looks in order.

CHAIR: It would be of assistance—this is how we can manage it—if you want to ask questions whilst we're just checking that letter, and then we can obviously hand it up and give you the copy back.

Senator HENDERSON: It's difficult, because of course TEQSA is appearing remotely. We do have a soft copy of this letter.

CHAIR: Yes, that is making it extremely difficult. We can just suspend for a moment.

Proceedings suspended from 15:55 to 15:56

Senator HENDERSON: Mr Cook, we've heard over four hearings a lot of deep concerns from providers about student cap allocations they have received. What action is the department taking to review those caps, and what concerns do you hold about the financial viability of businesses, including those who are facing potential collapse and insolvency?

Mr Cook: Senator, thank you for the question. I think we indicated a little earlier some of the actions that we're taking. We have met with many, many providers face to face. A number of the providers have written to us as well, and that's what we've taken on notice in relation to that. So we're working through issues that providers have raised with us, including any issues in relation to data or things that haven't been considered as part of the process. We're in the process of doing that.

As to your second question, no-one has given me advice about financial sustainability. Is that the question you're asking me?

Senator HENDERSON: Well, we've had a lot of evidence, including today, from providers who are facing closure of campuses and the like across the board—VET and also higher education. So what response is the government considering in relation to businesses facing financial collapse?

Mr Cook: I don't think there's a response per se. The legislation is the legislation. In relation to VET—sorry, Ms Faithfull. Did you have something you wanted to add?

Senator HENDERSON: Just to be clear, for those listening or reading *Hansard*, it's a bit complicated. We've got two different departments here, dealing with both the VET sector and the higher education sector. Obviously, the Department of Employment and Workplace Relations looks after the VET sector. How many complaints or pieces of correspondence have you received from providers in total, and how many providers have their allocations under review?

Ms Angus: I might take the question. We've received more than 160 letters, emails or phone calls in relation to the issue. They've covered a variety of concerns or issues that they want to raise with us. Sometimes they've been an expression of their support or lack thereof for the policy. Sometimes they've been more specific to the individual business circumstances.

Senator HENDERSON: So what's been done in relation to reviewing the caps that have been allocated?

Ms Angus: When someone has written to us and raised an issue of concern about whether or not the cap's correct, we have reviewed the way the methodology was applied. As we respond to people, we're confirming for them the accuracy of those numbers and then how we got to that, because there's clearly some confusion. For example, people sometimes get confused between enrolments and new overseas commencements. I think we talked earlier about the fact that you can have ongoing enrolments. That has nothing to do with your new overseas student commencements year on year. We are endeavouring to explain that to people, to help them get greater clarity about what it means for them as a business.

Senator HENDERSON: The issue that many providers have is that this is all happening behind closed doors. There are no clear rules. The methodology is blurred. If your department and the Department of Education are looking to review allocations, these can be done on a whim. Are you looking to apply a different methodology?

Ms Angus: I would challenge some of what—

CHAIR: Sorry to interrupt, but this is actually to assist. We are finishing in five minutes. I'm mindful that you might want to table this, at least to—

Senator HENDERSON: I do.

CHAIR: We've agreed to table it. On the bottom, on the second page, there is an identifying name. That will be taken off the published document—just so you're aware. If people don't identify the individual, that would be appreciated. It's normal practice—we would not identify an individual from the agency.

Senator HENDERSON: From the agency—yes. Could I ask you on notice to provide details of those 160 providers, including the correspondence or notes in relation to the concerns they've raised? And to both agencies: are you considering adopting an alternative methodology in relation to student caps? How are you proposing to resolve these issues?

Ms Faithfull: Perhaps I'll answer first. The methodology is a decision for government, for the minister. We are engaging with each of the providers to ensure we've got clarity. To your point, the methodology is published on the website. We have been holding webinars, taking people through that.

Senator HENDERSON: I've got only a couple of minutes left.

Ms Faithfull: In the context of, for instance, aviation schools, we are focusing effort on that particular sector.

Senator HENDERSON: My question to both departments is: yes or no, are you looking to adopt or apply a different methodology in relation to certain providers?

Ms Faithfull: At this stage we're looking at where there are exceptional circumstances that lead to an exemption.

Senator HENDERSON: How do you define 'exceptional circumstances that lead to an exemption'?

Ms Faithfull: We've got principles that we are working through—for instance, where a sector relates to national significance—but that's a process we're putting together to brief government.

Senator HENDERSON: On notice—because I've got only a couple of moments left—could you please provide all relevant documents in relation to the exceptional circumstances test that you're applying? Also, Mr Cook, could you do that with the Department of Education, to the extent—

Mr Cook: We're not changing methodology—just to be clear.

Senator HENDERSON: Are you applying an exceptional circumstances test?

Mr Cook: We're looking at any updated data. Some providers have provided us with some updated data, and we're taking that into consideration.

Senator HENDERSON: You'll also provide those letters, on notice, that we've received?

Mr Cook: Sure. I'm happy to do so. We've taken that on notice.

Senator HENDERSON: I table a letter from TEQSA to a provider—the details have been redacted—dated 26 September 2024. It says: 'TEQSA has recently been conducting sectorwide analysis on the impact of reductions of overseas students on providers from a financial perspective. During this analysis, TEQSA identified'—provider name—'as being at significant risk regarding financial sustainability and/or financial viability.' Dr Mary Russell, I put to you that these are very threatening letters. Many providers have been placed in a horrific position in relation to their financial viability as a result of the government's actions. Again, I ask you: on what basis have you sent this letter, without disclosing at the very minimum that this proposed reduction in overseas students is subject to legislation passed in the parliament?

Dr Russell: Senator, I will provide you with a fuller response on notice, but it appears that this is a letter that was sent to 10 providers that have been identified as high risk. What you've provided is the beginning of the letter, but there's also a relevant appendix setting out in more detail the basis for that, including that the providers that received the letter have been issued a warning letter by the Department of Home Affairs under section 97 of the ESOS Act, asking the providers for specific information to understand their circumstances and their response to the issues raised by the Department of Home Affairs that go to their risk as a higher education provider.

Senator HENDERSON: Dr Russell, you realise that I'm not going to identify this provider, but there are providers which have been given almost no student cap, so they've now gone from running a business where they had some international students, or a substantial number of international students, to now having a very limited student cap. How can—

CHAIR: Can I just raise some concerns: there's an attachment that's very relevant to the questions you're asking, and I'm deeply concerned that that hasn't been provided to the Senate.

Senator HENDERSON: Well, I'd like—

CHAIR: I don't know if you want to keep pursuing this question or you want to give it some more consideration, because it is a bit of an own goal.

Senator HENDERSON: Well, actually, Chair, I don't have a copy of the attachment. I'm very happy for TEQSA to provide a copy of the attachment—obviously on a redacted basis.

CHAIR: It's now well over time to finish.

Senator HENDERSON: Can I just finish up?

CHAIR: No. If you have further follow-up questions you want to ask, you are welcome to put them on notice, and then they'll be dealt with appropriately. I now close the hearing.

Committee adjourned at 16:06