

Ref: N4.8.12 – 6 January 2025

Senator Nita Green
Chair, Senate Standing Committee on Legal and Constitutional Affairs
PO Pox 6100 – The Senate
Parliament of Australia
CANBERRA ACT 2600

Dear Senator Green

RE: Oversight Legislation Amendment (Robodebt Royal Commission Response and Other Measures) Bill 2024

The Independent Tertiary Education Council Australia (ITECA) is the peak body representing independent skills training, higher education, and international education providers. As businesses with a longstanding reputation for delivering high-quality education services to Australian students and to student visa holders studying in Australia, ITECA Members welcome the opportunity to respond to this Inquiry and engage with the Committee.

ITECA shares the Australian Government's commitment to genuine and considered reform that enhances the integrity and quality of Australia's tertiary education sector, a sector which plays a critical role in our society, our national economy and in supporting Australia's positive global standing.

At the same time, however, ITECA is conscious that on occasion, governments may inadvertently seek to unnecessarily over-extend their regulatory reach in a context where *perceptions* of threat or risk appear. Occasionally this may happen despite there being no genuine attempt to develop an evidentiary basis for such regulatory powers to be established, let alone used within a particular sector. Further, in instances such as these it is rarely made clear that such additions to an existing regulatory architecture – or even the creation of an entirely new regulatory structure – would definitely be used and are therefore essential to the necessary and effective functioning of the relevant sector.

It is in this context that ITECA raises issues for the Committee's consideration regarding amendments to the **Ombudsman Act 1976** (the Act) that are proposed by **Oversight Legislation Amendment (Robodebt Royal Commission Response and Other Measures) Bill 2024** (the Amendment Bill).

The Amendment Bill would amend the functions and powers of the **Overseas Students Ombudsman** (OSO) and also to the **VET Student Loans Ombudsman** (VSLO) and it is on these aspects that ITECA's comments are focussed.

Independent Tertiary Education Council Australia Limited
ABN 63 054 953 758

Street Address: Level 7 – 10 Hobart Place, Canberra, ACT, 2600
Postal Address: GPO Box 450, Canberra, ACT, 2601

t: 1300 421 017 f: 1300 421 018

e: ceo@iteca.edu.au

www.iteca.edu.au

1. Overseas Students Ombudsman – amendments to functions

ITECA notes the proposed amendments to the functions of the OSO and that these amendments would appear to ensure a degree of consistency with other aspects of the Act. The role of the OSO is:

- i. to assess and investigate complaints regarding actions taken or not taken by private providers that are registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) in relation to student visa holders;
- ii. provide advice and guidance to those private providers (which may include training) in relation to complaint handling in respect of handling complaints from student visa holders; and
- iii. to report on any trends and any systemic issues that may be evident as a result of investigations the OSO may undertake

It is noteworthy that governments have not seen fit to empower the OSO to receive any complaints made by students studying at public schools (70.8% of international student enrolments in schools for the year to September 2024), or public universities (79% of international higher education enrolments over the same period). In those two sectors alone, that is almost 398,000 international student enrolments over that period that are excluded from the remit of the OSO.

According to the 2022-23 Annual Report of the Commonwealth Ombudsman, the OSO received 961 complaints over the 2022-23 reporting year, and commenced 125 investigations in the same period. ITECA reminds the Committee that the work of the OSO is focussed only on private providers, and highlights the fact that according to this Annual Report, in 2022-23, there was 1 single request made by the OSO under the Act to require the provision of information and/or the production of documents in order to assist the investigation. This amounts to 0.8% of investigations undertaken by the OSO in the reporting period.

Despite this, the Committee is now considering the Government's apparent desire for additional regulatory reach into the operation of all private entities, while ignoring the potential complaints and difficulties being faced by students at public providers.

2. VET Student Loans Ombudsman

Following from the proposed amendments noted in the context of the OSO, ITECA notes similar amendments to the functions of the VSLO are proposed in the Amendment Bill.

ITECA urges caution regarding a proposal to grant both the OSO and the VSLO an **additional capability for remote access to potentially confidential business information, student records, and other documents** in the absence of any context, purely because they may be potentially relevant to a complaint (which may or may not lead to an investigation). Such records may prejudice an investigation rather than assist it and in cases where students have genuine and well-founded complaints, may be more likely to harm any subsequent investigation than assist it.

The notion that potentially confidential student records or business information would potentially be accessed not by appropriated warranted Government officials, but by employees of services firms contracted to the Ombudsman as a service provider for such a purpose is something ITECA strongly opposes.

This is a concept that raise many questions which deserve full examination; for example would such a service provider be engaged by tender? And if so, how would value for money be assessed? If not, would there be a standing Australian Government Supplier arrangement established for such work and in such a case, what specialist skills would those suppliers be required to have? In that case, how would this be advertised to potential suppliers?

ITECA also urges this Committee to take note of the **findings of the recent Senate Standing Committee on Finance and Public Administration Inquiry into Management and Assurance of Integrity of Consulting Services** and that the Committee ensure it is satisfied as to the appropriateness of a third-party provider being contracted in the terms proposed in this Amendment Bill.

It is difficult to fully understand the rationale for the proposed amendment to the Act and consequently, to the OSO functions, as **there has been no consultation on these measures with the sector**. The lack of consultation is very disappointing, and when viewed in the broader legislative and policy context, appears to the sector as though it is another attempt to damage their businesses and livelihoods.

ITECA is proud of our members' commitment to excellence. ITECA members have made an indelibly positive contribution to Australia's reputation as a world-leader in providing higher education and skills training of the highest quality.

ITECA looks forward to continuing to work with this Committee and the Australian Government to bring a more coordinated, consistent and transparent policy approach that supports this reputation and the sector's sustainable growth.

ITECA looks forward to the opportunity to discuss these issues with you and the Committee and in this context would welcome the opportunity to provide evidence before any hearing.

Yours faithfully

Troy Williams FIML MAICD
Chief Executive