

Our Ref: K-01-004

Wednesday 28 July 2010

Dr Shona Batge
Committee Secretary
Education, Employment and the Workplace Relations Legislation Committee
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Parliament House
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Dear Dr Batge

Education Services for Overseas Students Act 2000 and the Ombudsman Act 1976

As the peak industry body, Universities Australia represents all Australian universities in the public interest both nationally and internationally. Universities Australia welcomes the opportunity to provide comment on the Education Services for Overseas Students (ESOS) Legislation Amendment 2010. The ESOS Amendment 2010, introduced into the House 23 June 2010, was referred to the Senate Committee for Education, Employment and Workplace Relations, to report by 24 August.

Universities Australia supports the policy to strengthen the ESOS Act and its Regulations so as to increase the quality of Australia's international education system. However, it is vital that any proposed changes to the existing system allow for a balanced approach to costs and benefits, and universities as low risk providers are not unduly burdened by administrative load and potential commercial disadvantage.

What began as serious concerns about student safety particularly involving Indian students in key metropolitan areas in Australia has grown to a much larger list of concerns about the quality of education being provided to some groups of students and the nature of the international student experience being offered to them. The ESOS Review has sought to meet these concerns.

Universities Australia is keen to ensure that any legislative amendment does not result in the imposition of further levels of regulatory burden on universities who manifestly comply with their existing responsibilities but rather, for it to maintain a focus on where risk has been evident in relation to poor compliance with and enforcement of the existing regulations.

Risk Management

We note that these amendments build on earlier ESOS amendments enabling the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) re-registration process for international education providers. Universities Australia has been pleased with the risk management process used in the CRICOS re-registration process and endorses similar approaches in these subsequent ESOS amendments.

The government's demonstrated understanding of and commitment to introducing quality standards for new education provider entry to the industry is essential for the ongoing security of the industry. The corresponding requirement not addressed within the legislation is an assurance that state regulatory bodies will be adequately resourced to effectively implement and enforce regulatory responsibilities.

It is manifestly apparent that there has been insufficient ESOS compliance and enforcement in high risk areas of the industry and that this is directly responsible for many of the problems arising over the last six to twelve months.

When negotiating with government during the most penultimate review of the ESOS Act and its National Code, Universities Australia (then the Australian Vice-Chancellors' Committee) argued strongly for a transparent and accountable division of government responsibilities to be included in the National Code. Part B of the National Code is supposed to list the roles and responsibilities of State and Federal governments, however it lacks any enforcement measures or obligations on governments to meet their stated obligations. Given the lack of enforcement of regulatory obligations in the legislation or its instruments, the regulatory functions of a number of key states have been under resourced and therefore ineffective.

Commonwealth Ombudsman

While the responsibilities of the Commonwealth Ombudsman will not extend to university students, Universities Australia supports the intention of these amendments to ensure students of private providers have access to a suitable external complaints body.

Universities Australia welcomes the opportunity to discuss this submission with members of the Committee. Please feel free to contact me on 02 62858104 for further comment as required.

Yours sincerely

Dr Glenn Withers AO
Chief Executive Officer