

## Chapter 3

### Support services and the well-being of international students

3.1 The committee recognises the particular difficulties encountered by overseas students as they prepare to live in another country, by themselves, where the culture as well as the language may be very different. On arrival in this country, students face the tasks of securing suitable accommodation and finding employment. They are in need of help and advice, even in doing simple, daily chores. The committee is concerned to ensure that credible information and appropriate support services are available to assist students in their studies and in everyday life in a foreign culture.

#### Student safety - background

3.2 This inquiry was initiated following a series of attacks upon Indian students in Melbourne and Sydney (the incidents). These incidents damaged Australia's reputation as a safe destination for overseas students. The reporting of the incidents made headlines in the Indian press and were met with a rapid response by relevant authorities in Australia.

3.3 In response to the attacks on students, delegations have travelled to India to meet Indian government ministers, officials, prospective students and their families to hear concerns and offer reassurance that Australia is a safe destination for Indian students. These delegations have included the Minister for Education, Hon Julia Gillard MP; representatives from the Commonwealth, New South Wales and Victorian governments; Victorian Police and representatives of the vocational and higher education sectors.<sup>1</sup>

3.4 The committee believes that it is important to protect and strengthen our reputation as a safe destination for international students. Despite the recent attacks and adverse media attention, Australia is still viewed by most overseas students as a safe and most rewarding place to study.<sup>2</sup>

#### Lack of personal safety awareness

3.5 The majority of the evidence given to the committee indicated that the incidents were more likely to be opportunistic robberies, with the attackers targeting

---

1 DEEWR, *Submission 112*, p. 27.

2 IDP, 'The Buyer Behaviour of International Students – How they decide,' Preview Results presented at *Transitions and Transformations*, the Australian International Education Conference, Sydney, 14–15 October 2009.

owners of laptop computers who did not have an appropriate level of personal safety awareness, as opposed to attacks based on race.

3.6 Dr Felicity Fallon, President, ISANA, gave evidence regarding the lack of awareness regarding personal safety:

Safety is about more than being attacked on the train or at the railway station. I do have to say that I had a student who was attacked on a railway station a couple of years ago. I think he was from Hong Kong; he certainly was not Indian but he did what the Indian students did. He stayed late at a friend's place, he came home, he was carrying his laptop obviously and he was jumped at the local railway station on his way to his home stay. But I do not think it was because he was an international student. I think he was there at a bad time; he did not understand local conditions...As one of our ISANA members who work at Victoria University said to me, 'Would you travel on a train to Sunshine at one o'clock in the morning?' I said, 'No, I wouldn't.' But these students are doing it and they are doing it alone because they have been working in the convenience store or something until that hour of night and then there is the whole time difference. Asian young people do not go to bed before midnight and they do not think it is time to go home until somewhere around there whereas most Australians are home, and their kids would be home and in bed or at least up in their room studying by then. That is not there. There are cultural issues about that sort of thing.<sup>3</sup>

3.7 Chee Lai, President, Curtin University Student Guild and the International Students Committee, gave evidence that attacks on students were not racially motivated but based on opportunism:

Curtin University has experienced violence against international students in and around its Bentley campus. The Guild does not believe that these attacks are racially motivated, but are based on opportunism that has largely arisen due to a lack of awareness about security issues from relatively new arrivals to Australia.<sup>4</sup>

3.8 International Students Online also noted the lack of personal safety awareness:

Personal safety of International students is of great concern, I believe from first hand experience that any international students are not educated sufficiently on arrival to Australia by their education provider. This leads to students carrying laptops, ipods, valuables on public transport and travelling alone late at night...It is certainly apparent that international students do not know how to perform basic tasks and undertake safety measures in our society.<sup>5</sup>

---

3 Dr Felicity Fallon, *Committee Hansard*, 1 September 2009, pp 59–60.

4 Curtin University Student Guild, *Submission 27*, p. 2.

5 International Students Online, *Submission 12*, pp 4-5.

## **Lack of adequate personal safety information**

3.9 Evidence was given by the National Union of Students (NUS) concerning a lack of the provision of adequate safety information to international students:

However by its own admission there are still many universities and VET education providers that do not provide adequate information to students about life and safety in Australia. Therefore, there is a clear lack of broad level best practice in this area throughout Australian education institutions.<sup>6</sup>

3.10 Ms Christine Bundesen, English Australia, also noted the lack of adequate information on safety:

...There needs to be a more cohesive, nationally coordinated approach to provision of that information, and about their safety as well. Australia is a relatively safe country, but over the past few decades, Australia has, like a number of other countries, changed slightly, and it is very important that we ensure that students have the appropriate type of information about the way in which they should live, the way in which they should behave to protect their own safety in Australia, the same way that domestic students would have that innate knowledge as to how they should be protecting themselves. There is a variety of information services, and instead of being piecemeal—through an agent, through state network offices, through national network offices, and then the providers themselves—a more holistic and nationally strategic approach to information would be suitable.<sup>7</sup>

3.11 Dr Felicity Fallon noted the difficulties in this area due to the vagueness of the standard in the National Code:

It should not be left to the education provider to decide what is 'sufficient'—and that is the word in standard 6.6, 'sufficient'—support for international students. We want some benchmarks about safety issues at pre-departure and at orientation. It says that information needs to be provided, but safety issues are not in there.<sup>8</sup>

## **Failure to report incidents to police**

3.12 Evidence was given to the Committee that many international students are reluctant to report safety incidents to the police, partly because of false perceptions about police in Australia<sup>9</sup> and fear that it could lead to the cancellation of students' visas.

3.13 DIAC in its submission to the Committee stated that it 'encourages international students to report criminal activity to the police' and that 'reporting a

---

6 NUS, *Submission 29*, p. 11.

7 Ms Christine Bundesen, *Committee Hansard*, 2 September 2009, p. 4.

8 Dr Felicity Fallon, *Committee Hansard*, 1 September 2009, p. 54.

9 Ms Anna Cody, *Committee Hansard*, 2 September 2009, p. 14.

crime to the police has no adverse impact on an existing visa or on future visa applications.<sup>10</sup>

### ***Committee comment***

3.14 The committee acknowledges that with a lack of understanding regarding personal safety, the circumstances in which international students often find themselves may give rise to fears of racism and they may interpret a negative experience as motivated by racism even though no such motive exists.

3.15 The committee believes that it is important for Australia to protect and strengthen its reputation as a safe destination for international students. It should be noted that evidence was given to the committee that more than 80 per cent<sup>11</sup> of international students return home satisfied with their experience of living and studying in Australia and are happy to recommend studying here to others.<sup>12</sup>

3.16 The committee is concerned at the evidence surrounding the lack of personal safety awareness by some international students and the reluctance to report safety incidents to the police.

### **Recommendation 1**

**3.17 The committee recommends that international students be provided with personal safety information including reporting requirements, prior to coming to Australia. This should be reinforced at the orientation session provided by the relevant provider.**

3.18 The committee notes that safety is a broad issue and incorporates factors such as fire<sup>13</sup> and beach safety.<sup>14</sup> The committee was told that there are initiatives and partnerships underway to provide this information to international students<sup>15</sup> and these areas are included in the discussion of the provision of information below.

### **Travel concessions**

3.19 Travel concessions are available to international students in all state and territories in Australia except for New South Wales and Victoria.

---

10 DIAC, *Submission 111*, p. 9.

11 DEEWR, *Submission 112*, p. 5.

12 Australia Education International, *2007 Follow-up International Student Survey*, May 2008, p. 4.

13 See Metropolitan Fire and Emergency Services Board, *Submission 123*.

14 Dr Felicity Fallon, *Committee Hansard*, 1 September 2009, pp 59-60.

15 Metropolitan Fire and Emergency Services Board, *Submission 123*, pp 4-6.

3.20 Evidence was given to the committee that one of the factors affecting the safety of international students is the cost of public transport and the unavailability, in some states, of fare concessions.

3.21 Lack of transport options can lead to students being in potentially unsafe locations late at night when they are returning home from night or shift work. Ms Hardeep Kaur, Federation of Indian Students of Australia, gave evidence concerning public transport and the associated safety issues:

If the students have to pay a large amount of money then they would not prefer to go by the public transport. They would be ready to walk along the way in Harris Park, Parramatta or the city. We know that the city is safer than other places like Parramatta or Harris Park and people cannot go alone. When they go alone then the government or the police say they are soft targets. Why are they soft targets? Because they have to walk because there are no public transport concessions for international students.<sup>16</sup>

3.22 The committee also heard evidence that overseas students felt that the issue of concession fares was an important one in its own right. The lack of travel concessions in Victoria and New South Wales was raised by many witnesses and described by some as discrimination.<sup>17</sup>

3.23 Ms Wesa Chau, Australian Federation of International Students, in her evidence said:

The other thing I also want to mention is transportation for international students. In Victoria and New South Wales there are no concession cards for transport concessions. This means that a lot of international students feel there is systemic discrimination by the government against them, because they feel that they are not getting the same rights as other students in Australia. I know that is not the jurisdiction of the federal government, but I think it needs to be looked at by the federal government.<sup>18</sup>

3.24 Inequity was also highlighted by Mr David Barrow, NUS:

If you are on the ground as a student, it is a daily reminder that you are not treated the same as local students, and when these other issues are put in place in compounds the problem. It means that students are trying to get off-peak fares. They are travelling at odd times. The actual cost of the travel is very expensive in Sydney and Melbourne. The situation does not reflect the fact that, while international students may have a lot of money upfront for their tuition costs, the ongoing money is the issue for them, and that compounds the other issues.<sup>19</sup>

---

16 Ms Hardeep Kaur, *Committee Hansard*, 2 September 2009, p. 30.

17 North American Medical Students' Association, University of Sydney, *Submission 22*, p. 3; Cabramatta Community Centre, *Submission 41*, p 3.

18 Ms Wesa Chau, *Committee Hansard*, 1 September 2009, p. 48.

19 Mr David Barrow, *Committee Hansard*, 1 September 2009, p. 38.

3.25 Ms Anna Cody, Kingsford Legal Centre, gave evidence that the disparity between domestic and international students caused confusion:

International students pay a lot of money to come to Australia. As the previous speaker mentioned, it is a huge export earner for Australia. It seems to me a very small measure that could be granted, because they are paying large amounts of money in fees, to recognise that they also need a concession card. They are certainly going to be on a budget. It just seems to create another area where they are going to come across offences and be in need of legal advice. We do see a large number of students who are charged with not travelling with a proper concession card, either through lack of understanding, because they assume that they are able to travel in the same way other students are, or because they want to pay less money on their public transport. For those reasons I think there should be a lifting of that ban on concession cards for international students.<sup>20</sup>

3.26 In addition to the issue of concessions in New South Wales and Victoria, the committee was told that overseas students in the same state may not necessarily have the same access to fare concessions. For example, in some states, students attending TAFE and higher education courses are eligible for concessions while those attending VET courses offered by private colleges are not eligible.<sup>21</sup>

3.27 Ms Christine Bundesen, English Australia, suggested that travel concessions would help integration and community engagement as students could travel to and participate in more community activities.<sup>22</sup> This view was supported by Monash City Council which indicated to the committee that the lack of public transport fare concessions could be a contributing factor in the isolation of overseas students. Reducing the cost of public transport through fare concessions would allow students to take part in activities outside university hours and more easily socialise in the broader community.<sup>23</sup>

3.28 Witnesses did not accept the arguments put forward to date that providing travel concessions would be too costly for the relevant state governments. Mr Sumit Purdani argued:

The hardest thing to justify till now is that if they have started giving a concession to international students they are going to run losses. But the situation will be completely different because a lot more people would take up public transport. Buses are running empty. A lot more people would take up public transport rather than walking alone. If a bus pass would be like

---

20 Ms Anna Cody, *Committee Hansard*, 2 September 2009, p. 15.

21 Ms Christine Bundesen, *Committee Hansard*, 2 September 2009, p. 12.

22 Ms Christine Bundesen, *Committee Hansard*, 2 September 2009, p. 12.

23 Monash City Council, *Submission 59*, p. 2.

---

\$20 a week, I would be happy to pay for it. Otherwise I can probably walk or cycle to university.<sup>24</sup>

3.29 Dr Glenn Withers, Universities Australia, provided detail on the arguments put forward by the states and work that has been done to show that introducing concessions would be budget-neutral:

...We understood the state arguments, and, indeed, were frequently provided with their evidence as to what it would cost state taxpayers. That is a reasonable point. What they often tended to forget, though, was that the students themselves are taxpayers—that is, those students are paying GST; their families are paying GST when they visit; when they work they pay income tax, just as domestic students are. So in a sense there is a simple equity. And they are not staying on to take pensions. If they do, they become citizens and they do so as an entitlement. They are paying a lot of money in taxes, so in that sense they are no different from domestic students.

But we also pointed out, as we spoke to our own experts inside the universities, our transport economists, that we thought the state governments actually were not doing their homework properly—that is, their transport advisers were not as proficient as they could and should be, because in economic terms this is probably a budget-neutral concession. If you afford travel concessions to allow a price reduction of 30 per cent, you are likely to get of that same order in increased traffic off-peak. Students would do much more travel to libraries at different times or go and visit friends at times that are not the peak travel times. They already have to travel at peak time and they are doing that anyway. But they would simply add more travel if they had lower prices to pay. So, in fact, the budgets of the transport agencies would not be reduced substantially. We were challenging them to go and have their own transport analysts look at this behavioural analysis—not just a spreadsheet which says, ‘If we gave concessions it would be this amount,’ and we got different amounts and they vary over time. Do the subsequent knock-on analysis as to what the subsequent behaviour of international students would be. Our advice from our professors of transport economics was that it would not be a significant net budget cost to state treasuries. So for the symbolism issue, this was a false economy.<sup>25</sup>

3.30 The NUS in its submission said:

The financial cost to the community is minimal in comparison to the economic contribution made by international students and it is the least the state governments of these states can do to demonstrate they value international students contribution to the economy but more importantly,

---

24 Mr Sumit Purdani, *Committee Hansard*, 2 September, 2009, p. 30.

25 Dr Glenn Withers, *Committee Hansard*, 18 September 2009, pp 24–25.

contribute to the social and cultural fabric of the communities and education institutions.<sup>26</sup>

### ***Committee comment***

3.31 The committee acknowledges that this was one of the most common issues raised by witnesses in submissions and at the hearings.

3.32 The committee agrees with the arguments put forward to introduce travel concessions in NSW and Victoria as it believes that this would improve levels of personal safety. The committee notes the work undertaken which shows this reform would be cost-neutral because international students would be encouraged to use public transport more.

3.33 The committee acknowledges that travel concession for international students is a state issue. However, based on the export revenue received by the states, it would be in the state's interest to review their positions with the intent of introducing travel concessions for international students.

### **Recommendation 2**

**3.34 The committee supports public transport concessions for international students. It recommends that the Commonwealth again recommend to the states of Victoria and New South Wales that they introduce such travel concessions for international students.**

### **Recommendation 3**

**3.35 The committee also recommends that all states undertake an audit of the travel concessions given to international students with the aim of standardising them.**

### **Adequate and affordable accommodation**

3.36 Evidence was given to the committee that a lack of adequate and affordable accommodation is a major concern of international students. Issues raised included difficulties with the availability, accessibility, cost and location of suitable accommodation as well as with tenancy disputes.

3.37 NUS in its submission referred to the recent housing shortage and the issues this had raised:

The housing shortage experienced in 2008 and the large increase in property prices and therefore rental accommodation availability and access has led to logistical problems for all institutions in meeting housing needs in the residential areas surrounding many education providers. This is most

---

26 NUS, *Submission 29*, p. 61.



---

apparent in the larger inner city campuses in Melbourne and Sydney, although smaller cities, Adelaide, Perth and Brisbane have also been affected and have been active in developing initiatives to try to meet housing needs.<sup>27</sup>

3.38 Evidence was also given that a lack of detailed information regarding the different prices and accommodation options has led to many students experiencing difficulty in securing affordable and appropriate housing.<sup>28</sup>

3.39 The committee heard that many students were living away from home for the first time and therefore faced the challenges that come with developing independence. Mr Warwick Freeland, IDP Education Pty Ltd, gave evidence to the committee that in one survey they conducted, 76 per cent of Indian students had never lived away from home.<sup>29</sup>

3.40 Students who are in Australia with their families also find it hard to find suitable accommodation. This is in part due to their specific requirements which reduces the pool of available rental accommodation.<sup>30</sup>

3.41 The lack of suitable accommodation affects student safety. International students may find it difficult to secure accommodation close to their education institutions, particularly in cases where they are studying in inner city areas. As a result, they may find themselves travelling long distances at irregular hours.

### **Accessibility and availability**

3.42 International students live in various types of accommodation including:

- accommodation affiliated with education providers;
- homestays;
- private rental housing; and
- 'rooming' houses where individual rooms of a house are rented out to students.

3.43 Witnesses gave evidence to the committee that while availability of suitable accommodation in some major cities such as Melbourne or Sydney is a general problem, there are added complexities for overseas students.<sup>31</sup>

---

27 NUS, *Submission 29*, p. 15.

28 Mrs Sharon Smith, *Committee Hansard*, 1 September 2009, pp 34–35.

29 Mr Warwick Freeland, *Committee Hansard*, 1 September 2009, p. 13.

30 Mr Anwar Shah, *Committee Hansard*, 1 September 2009, p. 5.

31 Mr Warwick Freeland, *Committee Hansard*, 1 September 2009, pp 12–13.

3.44 International students face extra challenges when trying to secure suitable housing because of language problems as well as lack of awareness or understanding of tenancy rights and obligations. Sydney University Postgraduate Representative Association (SUPRA) claimed that international students are disproportionately represented in their case work on accommodation issues. Of SUPRA's total case files relating to accommodation since July 2007, more than 70 per cent were for international students.<sup>32</sup>

3.45 Suitable accommodation is essential for the well-being of international students, and dramatically affects their overall study experience. Southern Cross University elaborated upon the difficulties international students faced in relation to accommodation:

The world of real estate agents, lease agreements, house sharing, and securing housing in close proximity to the student's campus create an enormous level of stress to a newly arrived student if not effectively guided.<sup>33</sup>

3.46 The NUS gave evidence that under the current system there is no requirement for institutions to ensure that adequate accommodation is available for those they enrol.<sup>34</sup> International students who cannot access the mainstream private rental market are turning to accommodation in overcrowded and unsafe houses.

3.47 The President of the Federation of Indian Students of Australia told the committee of instances where single rooms in poor condition were occupied by seven or eight students.<sup>35</sup>

3.48 The Tenants' Union of Victoria (TUV) reported receiving a growing number of complaints from international students regarding severe overcrowding in rental properties. In one complaint received by the TUV, 48 Nepalese students were living in a six bedroom property; and in another, 12 international students were living in a single room.<sup>36</sup>

3.49 The submission from the Curtin University Student Guild and the International Students Committee (ISC) said that 'it is not uncommon of [sic] for students to be living in overpriced and overcrowded conditions provided by unscrupulous landlords. The ISC believes that this occurs because the accommodation promised to students before their arrival in Australia is not monitored closely enough'.<sup>37</sup>

---

32 Sydney University Postgraduate Representatives Association, *Submission 93*, p. 5.

33 Southern Cross University, *Submission 17*, p. 3.

34 Mrs Sharon Smith, *Committee Hansard*, 1 September 2009, p. 31.

35 Mr Amit Menghani, *Committee Hansard*, 1 September 2009, p. 25.

36 Tenants' Union of Victoria, *Submission 104*, p. 4.

37 Curtin University Student Guild, *Submission 27*, p. 2.

## Tenancy rights and disputes

3.50 Mr Nigel Palmer, President, Council of Australian Postgraduate Associations (CAPA), gave evidence to the committee that international students are not necessarily afforded the same tenancy rights as others in the community. Those students who live in accommodation supplied by the education provider, typically on-campus accommodation, were bound by a set of tenancy rights separate from the usual legislation. These students do not have access to the same complaints authority and procedures which apply in the general rental market.<sup>38</sup>

3.51 The NUS argued that there should be standard legislation that applies to all landlords, including student accommodation providers.<sup>39</sup> Mrs Sharon Smith, NUS, gave evidence to the committee that housing providers are protected by out-of-date legislation and that 'students are extremely vulnerable because they do not understand the legislation within the residential tenancy acts in every state'.<sup>40</sup> According to NUS, in most state government tenancy laws, student accommodation which is affiliated with an education provider is exempt from the Residential Tenancies Act (RTA). NUS argued that as a consequence international students are often exploited by accommodation providers, and are not aware of the finer distinctions that exist in tenancy law.

3.52 According to the Tenants' Union of NSW, 'the current exemption is not well-defined and is open to an interpretation that is too wide'.<sup>41</sup> In their submission, the Tenants' Union of Victoria (TUV) elaborated on the problems posed by this exemption, and commented on the minimal influence education providers have on student accommodation:

The RTA specifically excludes accommodation affiliated with educational institutions. This is despite many universities having little direct role in the management of affiliated housing and the persistence of conditions which would be considered unlawful under the RTA. Further, universities do not guarantee the appropriateness of accommodation nor do they have adequate dispute resolution processes in place to deal with problems when they arise.<sup>42</sup>

3.53 Differing rental practices mean that international students do not have sufficient knowledge regarding the correct rental application procedures or their basic tenancy rights.<sup>43</sup> The TUV indicated the existence of a number of online rental scams.

---

38 Mr Nigel Palmer, *Committee Hansard*, 1 September 2009, pp 5–6.

39 Mrs Sharon Smith, *Committee Hansard*, 1 September 2009, p. 31.

40 Mrs Sharon Smith, *Committee Hansard*, 1 September 2009, p. 30.

41 Tenants' Union of NSW, *Submission In Response to the NSW Office of Fair Trading, Residential Tenancy Law Reform Report: A New Direction*, September 2007, p. 50.

42 Tenants' Union of Victoria, *Submission 104*, p. 2.

43 Mr Anwar Shah, *Committee Hansard*, 1 September 2009, p. 5.

International students, lured by the promise of cheap inner-city rent, deposit the first month's rent and bond into an international bank account of the owner in order to view the property. A lack of understanding of the rental system, and keenness to secure accommodation has seen some students exploited.<sup>44</sup>

3.54 Another issue for international students is that they have no relevant rental histories. Landlords may be reluctant to enter into rental agreements with such prospective tenants, even when references can be provided.<sup>45</sup> It is now common for landlords to require references covering the previous two or three months.<sup>46</sup> There is also a perception that landlords prefer not to rent properties to overseas students.<sup>47</sup>

3.55 It was put to the committee that students can be greatly assisted in their endeavours to find accommodation by their education provider. TAFE Directors Australia told the committee that most TAFE institutions either provide accommodation for their students, or they arrange a homestay. Mr Bruce Mackenzie explained that TAFE organisations place an emphasis on accommodation services for their students, as it is an 'essential part of providing a quality learning environment for students'.<sup>48</sup> Mr Mackenzie also called for resources from the Education Investment Fund to be made available for student housing, for both local and international students.<sup>49</sup>

### **Accommodation assistance and support**

3.56 The committee heard that some education providers provide inadequate support to students to assist them in finding suitable accommodation.<sup>50</sup>

3.57 Mr Anwar Shah, CAPA, noted that university administrations have no authority to advocate with landlords on behalf of international students. Even in situations where providers can assist, they often fail to provide such support. Mr Shah also gave the example of a university refusing to provide written documentation stating that a particular international student was a scholarship recipient studying at that university, although such documentation may have assisted the student to secure accommodation. Mr Shah pointed out that international students are left to fend for themselves in the accommodation market, despite the extra difficulties that they face:

---

44 Tenant's Union of Victoria, *Submission 104*, p. 5.

45 Mr Anwar Shah, *Committee Hansard*, 1 September 2009, p. 5.

46 Mr Amit Menghani, *Committee Hansard*, 1 September 2009, p. 28.

47 Mr Robby Singh, *Committee Hansard*, 1 September 2009, p. 52.

48 Mr Bruce Mackenzie, *Committee Hansard*, 1 September 2009, p. 18.

49 Mr Bruce Mackenzie, *Committee Hansard*, 1 September 2009, p. 18.

50 Mr Amit Menghani, *Committee Hansard*, 1 September 2009, p. 24; Ms Wesa Chau and Mr Douglas Tsoi, *Committee Hansard*, 1 September 2009, p. 49.

---

At the same time the service is like, as soon as an international student arrives here, he is left under free market forces. 'It's your job to find the house, it's your job to do whatever you want, to find a place'.<sup>51</sup>

3.58 As an example of the demand for assistance with accommodation, the University of New South Wales (UNSW) has received requests for a temporary accommodation service for newly arrived international students. Before 2008, the university ran an airport pick-up and temporary accommodation service for students at a standard fee of \$50.00, but the service was 'phased out due to fewer students utilising it'.<sup>52</sup> Requests for this service have been driven by the 'current shortage of readily available, reasonably priced accommodation in Sydney'.<sup>53</sup> Reintroduction of the service is currently being considered by the university.

3.59 SUPRA argued that temporary accommodation should be available for all newly arrived international students and called on state and territory governments to implement practices which assist in securing initial temporary accommodation for international students. SUPRA suggested booking blocks of rooms at hostels for three to four weeks. It also suggested that governments could make funds available to education providers so that they could establish a temporary accommodation scheme:

The Federal Government, through both the requirements that apply to CRICOS providers and COAG, could take a more pro-active role in encouraging all State/Territory Governments to implement policies and practices which assist in managing student access to initial temporary accommodation upon arrival.<sup>54</sup>

### ***Committee View***

3.60 The committee believes that international students should be provided with more detailed information regarding their accommodation options prior to arriving in Australia. Without adequate knowledge of the rental market and housing options available, international students are likely to continue to experience difficulties.

3.61 Although international students face particular difficulties in finding accommodation, the committee notes the issue of housing shortages is a problem that affects domestic students as well.

3.62 The committee understands that accommodation information is available on the *Study in Australia* website, but believes that information relating to tenancy rights and links to state and territory tenancy unions, should be provided as well so that students are aware of where to turn for advice and with complaints.

---

51 Mr Anwar Shah, CAPA, *Committee Hansard*, 1 September 2009, p. 5.

52 University of New South Wales, *Submission 30*, p. 10.

53 University of New South Wales, *Submission 30*, p. 10.

54 SUPRA, *Submission 93*, p. 5.

3.63 Regarding providers, the committee understands the varying capacity of providers to offer accommodation for students. Smaller providers may be unable to appoint a housing officer. As a minimum standard, the committee believes that every provider should provide a link on their webpage to information on housing options, tenancy rights and obligations and where to go for assistance from a reputable website such as the *Study in Australia* website. This could be supplemented by more local information as resources permit. Minimum standards for providers are discussed in chapter three.

#### **Recommendation 4**

**3.64 The committee recommends that education and training providers should be required to provide up to date information on their website regarding accommodation in Australia, including information regarding tenancy rights and responsibilities. This may be via a link to the *Study in Australia* website, however, it may also include more localised information.**

#### *Homestays*

3.65 The committee heard that homestays are a popular form of accommodation for international students. Many international students have never lived away from home before, making homestays a convenient accommodation option for students which avoids the challenges of navigating the private rental market.

3.66 The committee received evidence from a number of organisations that use or promote homestay networks to their international students. TAFE Directors Australia informed the committee that where TAFE Institutions were unable to house international students, they use a network of local homestays. Ms Virginia Simmons told the committee that TAFE institutions are in regular contact with students and assist them to change homestays if they are not happy.<sup>55</sup> Ms Christine Bundesen, English Australia told the committee that around 40 or 50 per cent of ELICOS students live in homestay accommodation, as 'part of the learning experience for language is actually using language in a living experience'.<sup>56</sup>

3.67 However, concerns were expressed regarding a lack of regulation of the homestay industry. Dr Felicity Fallon, ISANA, told the committee that there needs to be more regulation of the industry:

We believe there needs to be some sort of regulation of the homestay industry...Those who work on the ground and actually deal with what goes on know that, even with homestays, you spend a lot of time sorting out problems to do with those homestays.<sup>57</sup>

---

55 Ms Virginia Simmons, *Committee Hansard*, 1 September 2009, p. 18.

56 Ms Christine Bundesen, *Committee Hansard*, 2 September 2009, p. 7.

57 Dr Felicity Fallon, *Committee Hansard*, 1 September 2009, p. 55.

3.68 The Australian Homestay Network (AHN) is the only national network of homestay supervisors, and is responsible for the largest trained homestay host pool and homestay placements in Australia. The AHN recognised the need for minimum standards to be met by the sector, and suggested a number of measures to guarantee positive outcomes for students. AHN remarked that many homestay hosts are being recruited and provided with students, with no guidelines, supervision, training or support. In such instances, AHN argued that this creates:

...a higher risk of an incident which damages the reputation of Australian education. Cultural exchange is a high priority for students and hosts and direction and support are essential.<sup>58</sup>

3.69 AHN identified two homestay websites that fail to ensure satisfactory quality control. This presents opportunities for unscrupulous hosts to participate and take advantage of the vulnerabilities of international students.<sup>59</sup> AHN argued that successful homestay programs cannot be conducted through an unsupervised program, and that house inspections and minimum standards are essential. As such, AHN recommended that government introduce legislation to ensure that all homestay managers meet minimum standards in their training, support and operating procedures for hosts and international students.<sup>60</sup> In order to encourage potential homestay hosts, AHN argued for increased promotion of the tax-free status that is attributed to homestay revenue.<sup>61</sup>

3.70 International Education Services commended the work of the AHN, and argued that increased homestay accommodation would be useful to address the general housing shortages being experienced. Mr Christopher Evason told the committee:

IES maintain that further promotion of quality homestay is the only viable solution. Homestay aids social inclusion and the interaction of international students with mainstream Australian society. The industry itself is making valuable improvements in the management of homestay services. IES use an innovative system offered by the Australian Homestay Network...The Darebin Council have also recognised the substantial quality assurance measures provided by the AHN.<sup>62</sup>

### ***Committee View***

3.71 The committee accepts the evidence that homestay accommodation is beneficial to international students, the host family as well as the community at large. The committee supports calls for more homestay arrangements for international

---

58 Australian Homestay Network, *Submission 32*, p. 5.

59 Australian Homestay Network, *Submission 32*, p. 5.

60 Australian Homestay Network, *Submission 32*, p. 4.

61 Australian Homestay Network, *Submission 32*, pp 7–8.

62 Mr Chris Evason, *Committee Hansard*, 18 September 2009, p. 43.

students as part of the solution to accommodation shortages, although the committee recognises the need to ensure minimum standards are met. The committee commends the Australian Homestay Network for ensuring that it meets the appropriate standards. The introduction of mandated industry standards should involve appropriate industry consultation and a careful assessment of the costs and benefits.<sup>63</sup>

## **Employment rights and employee protections**

### *Understanding employment rights and obligations*

3.72 International students are able to work while they are studying in Australia. Under the *Migration Regulations 1994*, work is defined as ‘an activity that, in Australia, normally attracts remuneration.’ Student visas include a visa condition (condition 8105) that allows visa holders to work for up to 20 hours per week while their course is in session and for unlimited hours during course breaks.<sup>64</sup>

3.73 All student visa work conditions require that work rights only apply after the commencement of the course of study for which the primary visa holder was granted a visa. The work limitation does not include work that is a registered component of the student's course of study or training for the award to be obtained.<sup>65</sup>

3.74 Under policy, the work limitation does not include volunteer work. Work is considered to be volunteer work if:

- the main purpose is to study in Australia and any voluntary work remains incidental to this;
- the work involved would not otherwise be undertaken by an Australian resident; and
- the work is genuinely voluntary for a non-profit organisation and that no remuneration is received in return for the activities.<sup>66</sup>

3.75 The limitation imposed by the visa conditions relating to work reflect the fact that the purpose of a student visa is to allow entry to Australia in order to study, not to work.<sup>67</sup>

3.76 Evidence was given to the committee that international students generally have a low understanding of the legal basis for employment rights, industrial awards and mechanisms for review.

---

63 Auzzie Family Homestay Care, *Submission 142*, p. 2.

64 DIAC, *Submission 111*, p. 23.

65 DIAC, *Submission 111*, p. 23.

66 DIAC, *Submission 111*, p. 23.

67 DIAC, *Submission 111*, p.24.



3.77 There was a view expressed that there is a need to build awareness of employment rights and obligations and that this could potentially be a role for education agents and the government could reiterate this advice once the student had arrived.<sup>68</sup>

3.78 Evidence provided to the committee suggested that this lack of knowledge results in students being vulnerable to exploitation by employers. An example given to the committee outlined the case of an international student, paid \$1.26 per hour by a security firm during the Australian Open in 2008, who was awarded nearly \$120 000 in penalties and back pay.<sup>69</sup>

3.79 Following the discovery of underpayments, on 30 July 2009, the Fair Work Ombudsman announced that security companies would be randomly audited to ensure workers were being paid properly. This action follows three other campaigns which also identified underpayments in the following areas:

- \$634 135 for 1707 young people aged between 15 and 24 from the National Young Workers' Campaign completed in January 2009;
- \$1.102 million for over 3863 hospitality staff from the National Hospitality Campaign completed in March 2009; and
- \$786 742 for 1075 workers from a National Food Services Campaign completed in July 2009.<sup>70</sup>

3.80 Mr Amit Menghani, President, Federation of Indian Students of Australia, gave examples to the committee of students being taken advantage of:

The 20-hour work restrictions needs to be looked at again. That rule was made in 1991, if I am correct. Since then, there has been nothing done to evaluate that whole system again. Right now, the problem is that most of the employers are taking advantage of this particular fact and forcing students to work in unhealthy conditions, which means that those students are going through a lot of problems right now. They get traumatised. If they get injured while working, they do not have any insurance, because the employers are forcing them to work beyond 20 hours and after 20 hours they do not have any liability for the students...<sup>71</sup>

3.81 Ms Anna Cody, Director, Kingsford Legal Centre, told the committee of her experiences in this area

...One of the key issues with this one is the lack of knowledge, again, about people's rights to be paid a regular wage and to be told how much you

---

68 Tasmanian Government, *Submission 105*, p. 7.

69 Ben Schneiders, 'Justice secured for underpaid guard', *The Age*, 14 August 2009, p. 3.

70 Fair Work Ombudsman, 'Security industry in spotlight as watchdog launches national campaign', *media release*, 30 July 2009.

71 Mr Amit Menghani, *Committee Hansard*, 1 September 2009, p. 25.

should be paid. There is the system of awards, which students do not have an understanding of...One of the case studies which we referred to in our submission which was of particular concern to us was where a student was required to work as a part of his course in the food industry and was then injured quite substantially by a fairly malicious act by one of his co-workers. Again, there was no understanding of what his rights were in relation to that...<sup>72</sup>

3.82 The committee acknowledges the evidence given to it that there has been an incorrect perception amongst international students that making a complaint about an employer could adversely affect current and future visa arrangements.

3.83 Dr Felicity Fallon, President ISANA, told the committee of the need to provide students with more information:

In the area of employment we realise that there is material up on a website that students could be directed to, but it is not necessarily in the language that the students would understand and it is not necessarily in the form which would grab their attention. Last year we developed...some animations to sit on our website about the rights and responsibilities of students under the ESOS Act. We would like to see something similar to that developed about employment issues, something that will grab people's attention in a short thing and tell them some of the problems that exist around employment, because they come from very different cultures where they do it differently and so they do not understand our laws well at all.<sup>73</sup>

3.84 The need to make students more aware of their employment rights was reinforced by Ms Michelle Bissett, ACTU, who told the committee:

We believe that international students need to be provided with more information about their rights as workers so that they are not exploited in the work that they are undertaking, that they are not being exploited by employers, that they be given information about their right to complain about back [bad] work practices and unscrupulous employers and that they be given confidence that, in complaining, they are not going to lose their education student visa. That often is the concern...The reinforcement of their rights and knowledge of their rights are critical in that respect.<sup>74</sup>

### ***Committee view***

3.85 The committee notes work underway by the Fair Work Ombudsman to address awareness<sup>75</sup> and undertake targeted audits in particular areas of concern. An example is the education and compliance campaign started in August 2009 for

---

72 Ms Anna Cody, *Committee Hansard*, 2 September 2009, pp 13–14.

73 Dr Felicity Fallon, *Committee Hansard*, 1 September 2009, p. 55.

74 Ms Michelle Bissett, *Committee Hansard*, 18 September 2009, p. 4.

75 See <http://www.fwo.gov.au/Workplace-rights-and-rules/Pages/default.aspx> accessed 4 November 2009.

international students in the NSW Hunter Region. This has included an information session at the University of Newcastle. It aims to educate both employers and employees on their rights and obligations and will include random audits of employers.<sup>76</sup>

3.86 There seems merit in building awareness of employment rights and obligations among the international student community, with this information being provided by education agents prior to departure and reinforced once students arrive.

### *Working limits*

3.87 Student visas include a condition that allows visa holders to work up to 20 hours per week while their courses are in session and for unlimited hours during course breaks. Dependents of student visa holders may also work 20 hours per week and dependents of postgraduate students have no limitation on their work rights.<sup>77</sup> These facts do not appear to be well understood.

3.88 A number of witnesses raised the issue of the 20-hour limit on students working and opinions varied considerably. Some witnesses argued for a slight increase to extend the hours to 24 to cater for three eight-hour shifts. Mr David Barrow, President, NUS, told the committee:

...The rationale behind 24 was put together by the Australian international students association who basically said that students are here to study and not to work. Full-time study is considered to be four days a week, so you should be able to work the other three. It is difficult finding jobs that fit in with the 20-hour frame, so 24 hours means that you can work three 8-hour shifts, for example. That would mean that a lot of those students would not be in the situation where they have their visas cancelled. I believe that 15 per cent of the cases brought before the Migration Review Tribunal, the MRT, are student cases. There are an awful lot of students in this position. The other thing that you can look at is making it more flexible in terms of when those 20 hours are per week.<sup>78</sup>

3.89 Some witnesses countered that the eight-hour working day is outdated.<sup>79</sup> Witnesses had trouble nominating an alternative limit. Mr Angelo Gavrielatos of the Australian Education Union (AEU) told the committee that it is not about whether it is 20 hours or 28 hours; it is about what an employee's take-home pay is.<sup>80</sup> Mr Gavrielatos also told the committee about high school studies which show a tipping

---

76 See <http://www.fwo.gov.au/Audits-and-campaigns/Pages/Current-and-upcoming-campaigns.aspx> accessed 4 November 2009.

77 DIAC, *Submission 111*, p. 23.

78 Mr David Barrow, *Committee Hansard*, 1 September 2009, p. 33.

79 Mr Angelo Gavrielatos, *Committee Hansard*, 2 September 2009, p. 68.

80 Mr Angelo Gavrielatos, *Committee Hansard*, 2 September 2009, p. 69.

point where work affects their education and well-being. He added that it is not simply about the number of hours worked; it is also about when those hours are worked:

If you are working between midnight and 8 am, it has a different impact on your quality of life. So it is not as simple as whether it is 20 hours or 28 hours. There is a whole range of factors at play.<sup>81</sup>

3.90 Some witnesses argued that the limit should be lifted completely and that academic progress of the student should be the guide to whether the number of hours being worked is excessive. Ms Ekaterina Pechenkina, CAPA, told the committee:

According to our statistics, a lot of students work over the limits. It is unfortunate that they do that, but how do we monitor that and who has the responsibility to monitor it? Our perspective is that as long as the international students who come to this country study, fulfil all their student requirements, perform well academically, and do not fail their courses that is all that should concern us. If they choose to work and they work an extra 20 hours but they still perform as a student, I do not see the problem there. By imposing limits on work hours we only create extra tension and give employers unnecessary power over students.

What we propose is to lift limitations, not to have any limitations on work hours. If a student is a responsible adult who comes here to study, they have to study. If they do not, if they choose to work and they abandon their studies, it is the responsibility of an education provided to monitor their academic performance and, if the student does not fulfil those requirements, they lose their student visa and should be reported by the provider. What CAPA proposes is not to have the limitation on work hours, to allow students to work as much as they want to, knowing that they will be reported if they do not fulfil their academic duties.<sup>82</sup>

3.91 Ms Anna Cody, Director, Kingsford Legal Centre, agreed with lifting the restrictions and leaving academic progress as the monitoring mechanism:

I do not see any benefit in lifting it to 24 hours. That assumes that people are working a regular eight-hour shift, and I do not think that is the case. Certainly they would be working longer shifts. Flexible work hours are what we all hear about, and that is what is expected of the students as much as anyone else. So I do not see how that would in any way benefit the students, and also it would just mean that employers would be conscious of the 24-hour limit rather than the 20-hour limit. I think it is more that the environment that is created by having any limitation means that the employers can then use that to threaten the student's ability to maintain their visa and comply with its conditions, so it becomes a bargaining power tool that they can use against a student. I think having that limit and removing it—I am not sure that it would necessarily be taken up by a huge

---

81 Mr Angelo Gavrielatos, *Committee Hansard*, 2 September 2009, p. 69.

82 Ms Ekaterina Pechenkina, *Committee Hansard*, 1 September 2009, p. 4.

---

number of students, but I think it would ease some of the grounds for abuse that exist currently in the system.<sup>83</sup>

3.92 However, Mrs Sharon Smith, NUS, noted the possible effect on academic progress and the difficulty of monitoring this:

It is really about the debate on what the impact of working a lot of hours will have on a student's ability to achieve academically. I am not absolutely certain but I think that there was a limit put on the amount in the first place because of that, so it is really based on education outcomes. However, if you left it up to the education provider to monitor the academic progress and a student could work as many hours as they liked, I think that you would need to be very clear that the education provider was actually monitoring the academic progress. From what I know of how much education providers are being monitored on what they actually do, that may be a little problematic.<sup>84</sup>

3.93 Mrs Smith also noted the need for flexibility with working hours:

We also need to take into consideration what students actually need to live on. Flexibility is the key point to it. If it was 20 hours, 30 hours or unlimited hours, there needs to be flexibility in how a student can work, realising that there are times in the academic year that are very quiet and students could work 35 hours and only attend three lectures whereas at other times of the year they just cannot because they have to be at university, TAFE or college the whole time. The VET and secondary sector students have set attendance requirements so you would not even need to put a limit on it because they just could not work those hours anyway. I have not really thought about taking the limitation way. I know that other organisations have.<sup>85</sup>

3.94 On this issue, the committee notes the ability for students to work unlimited hours during course breaks.

3.95 Ms Bissett, ACTU, told the committee of her concerns in lifting the 20-hour limit:

...it is not an easy problem to solve because primarily the students are here to study and we need to be careful that we do not inadvertently open up another work migration program, a temporary migration program that is associated with work. Our concern would be that if you limited [lifted] the 20-hour limit and did not have a limit on the number of hours that could be worked, what we will find is another pathway for temporary migration where those people are actually working and not doing what it is they are here for, which is studying. Having worked to try to overcome the problems of exploitation in the 457 visa system, we would be very nervous about

---

83 Ms Anna Cody, *Committee Hansard*, 2 September 2009, pp 14–15.

84 Mrs Sharon Smith, *Committee Hansard*, 18 September 2009, p. 33.

85 Mrs Sharon Smith, *Committee Hansard*, 18 September 2009, p. 33.

opening up another pathway that would enable exploitation. There is a question about whether you lift the hours that an international student can work from 20 to 24 hours, for example. I think that was proposed by the National Union of Students. Twenty or 24 hours, I do not know where you draw the line, except that the line has to be drawn somewhere.<sup>86</sup>

3.96 Ms Bissett further stated:

We would not support no cap on the hours. As I said before, whether it is 20, 24 or 25 hours, it is an argument over a couple of hours. The issue is balancing their study with work. We recognise that many students need to work to support themselves. The issue with work always is ensuring that they are completing the study requirements for the training. We note it is an obligation of the training providers to monitor students to ensure that they can complete. I do not know that there is any argument for lifting it to 24 hours. But are we going to quibble over whether it is 20 or 22 hours? No. What we do say is you have to balance the study requirements and you have to recognise that the purpose of being here is study and not to work. We also need to be careful that they are not seen as fodder for bad jobs.<sup>87</sup>

3.97 Mr Paul Kniest, NTEU, also expressed concerns about lifting the number of hours able to be worked:

We need to be conscious of the fact that the students are here on a student visa and not a working visa, therefore it may in fact be appropriate that some limit on the number of hours that students are allowed to work is imposed upon them. In a sense that does apply to domestic students anyway, particularly those domestic students who might be in receipt of some form of student income support, as there is a limit to how much they can earn. I do not think we have given a great deal of thought about whether it should be 20 hour[s] or 24 hours...<sup>88</sup>

3.98 DIAC told the committee that the primary purpose for international students is study and that the working hours are already among the most generous when compared to other countries and are very flexible:

The department's position on this matter is that the primary purpose of an international student in Australia is to study, not to work. As such, a visa condition which provides limited work rights to student visa holders is appropriate. In terms of where that limit should be set and whether that limit has any impact on welfare issues, I would note that at 20 hours per week—and longer during vacation periods—Australia is already among the most generous of the major destination countries for international students...<sup>89</sup>

---

86 Ms Michelle Bissett, *Committee Hansard*, 18 September 2009, p. 4.

87 Ms Michelle Bissett, *Committee Hansard*, 18 September 2009, p. 7.

88 Mr Paul Kniest, *Committee Hansard*, 18 September 2009, p. 7.

89 Mr Peter Vardos, *Committee Hansard*, 18 September 2009, 18, p. 70.

3.99 DIAC emphasised that an increase in the work component allowed on a student visa would make it more likely that an individual whose main intention is to work will apply for a student visa, and in doing so, circumvent the assessment for an appropriate work visa.<sup>90</sup>

### *Committee view*

3.100 The committee accepts the evidence presented by DIAC that the primary purpose of students is for them to study and that extending the number of hours would negate this purpose and may inadvertently open up another work migration program. However, it notes the arguments for a slight increase to assist with shift work. The committee notes that the \$12 000 amount recommended for living expenses has recently been reviewed and will be raised to \$18 000 (discussed below) and the committee believes a review of the 20-hour limit is also appropriate.

### **Recommendation 5**

**3.101 The committee recommends that DIAC undertake a review of the appropriateness of the 20-hour limit on working hours for international students.**

### *Voluntary work*

3.102 Witnesses appeared confused over whether voluntary work is included in the 20-hour total. Mr Neraj Shokeen, Federation of Indian Students of Australia, told the committee that voluntary work should not be part of the 20 hours' work.<sup>91</sup>

3.103 At the hearing, DIAC provided clear advice that voluntary work was not counted<sup>92</sup> (with certain exceptions) and this advice is available on their website.<sup>93</sup> However, the committee notes that a booklet produced by DEEWR, being handed out as recently as October 2009, says that voluntary work is counted. The committee notes that this booklet may be the primary source of information for many providers and that it must be clarified as soon as possible.

### **Recommendation 6**

**3.104 The committee recommends that the issue of voluntary work not counting towards employment hours be clarified in material provided by DEEWR.**

---

90 DIAC, *Submission 111*, p. 25.

91 Mr Neraj Shokeen, *Committee Hansard*, 2 September 2009, p. 31.

92 Ms Christine McPaul, *Committee Hansard*, 18 September 2009, pp 87–88. See p. 16 of this chapter.

93 DIAC, *Submission 111*, p. 23.

## **Penalties**

3.105 DIAC advised that, under the *Migration Act 1958*, it is a general principle that if a person fails to comply with a condition of their visa, it is liable for cancellation. The student visa program contains provisions that allow for both automatic and mandatory cancellations. The mandatory and automatic cancellation powers apply to breaches of the condition that relates to study. Mandatory cancellation also applies to breaches of work conditions. For these breaches, delegates have no discretion to take exceptional, compassionate or compelling circumstances into account. However, DIAC noted that in all cases the student is entitled to seek MRT review of that decision and judicial review of the MRT decision may also be open to the student.<sup>94</sup>

3.106 Witnesses raised what they saw as the extreme penalty of visa cancellation if students breached employment conditions by working more than 20 hours, describing this as highly inflexible and inappropriate. There is no discretion to take action other than cancelling the visa. This was compared with students who hold visas that do not allow work rights. When students breach these visas by working, discretion may be exercised and students given the opportunity to explain any exceptional circumstances. Mr Andrew Bartlett explained to the committee:

One of the real problems with the immigration side of how student visas are administered is that there is not a lot of flexibility when people start going down the wrong path. If they have worked too many hours, there is almost no discretion—that is automatic cancellation. If they are having trouble with their course, they have a little more flexibility for raising special considerations, but it is still pretty hard, and most students that end up running into visa trouble do not get out of it. When you look at the extent of the penalty they wear, if you have a visa cancelled, it is not just like getting a parking ticket: you are tens of thousands of dollars down the drain and often in a lot of trouble when you get back home as well. To some extent it goes to that, I guess: people having access to support straight away that can assist them through that. What form it takes, I do not especially have a strong opinion. The main thing is the principle. I have noticed in a number of the different submissions that I have scanned through people have raised things like a student ombudsman or things like that. Something along those lines: someone who is independent that people can go to for support, assistance and basic information to help deal with issues that might arise.<sup>95</sup>

3.107 Mr Paul Kniest, NTEU, also supported increased flexibility in this area.

We need to be conscious of the fact that the students are here on a student visa and not a working visa, therefore it may in fact be appropriate that some limit on the number of hours that students are allowed to work is imposed upon them...[but]...[i]t is apparent from discussions earlier today that we would support any idea that a simple breach of the working hours

---

94 DIAC, *Submission 111*, pp 19–20.

95 Mr Andrew Bartlett, *Committee Hansard*, 18 September 2009, p. 12.



leading to a cancellation of a visa almost automatically is highly problematic, which needs some flexibility, and students need to be given some too...[being deported for a breach of one hour] is highly inflexible and inappropriate, and students should be given a chance. I suspect some students have had this explained to them, but probably would not fully understand the implications of working that extra hour when the boss has said that they really need them to do a bit extra.<sup>96</sup>

3.108 Mr Bartlett made the following suggestion regarding more discretion in dealing with breaches of employment conditions.

The other thing is for there to be a little bit more discretion or maybe even a two-warning type system or something so that the consequence—if you do breach that visa condition, the punishment is really quite extreme. If you look at the overall consequences across the board—they lose all the money they have put in their education to date, they have a black mark on their visa for being cancelled, they have all of the problems that might apply with having borrowed money back home et cetera—to some extent that is their obligation and responsibility, but it is still far too large a consequence or cost to them if that breach has no discretion at all, and that is even without issues like people ending up in detention. That does not happen as much as it did, but it still does, and obviously that also has longer and broader problems.<sup>97</sup>

### *Committee view*

3.109 The committee notes that departmental delegates have no discretion to take into consideration exceptional, compassionate or compelling circumstances for international students who breach, sometimes inadvertently, the work rights of their visas. The committee further notes that departmental officials can exercise discretion for students with no work rights attached to their visas.

3.110 Although the committee acknowledges that it did not receive a great deal of evidence on this issue, in order to assess any unintended consequences of changing the current arrangements, the committee believes that DIAC should undertake a review of this difference to see if it is appropriate for the discretion to be available for those who breach their employment conditions.

### **Recommendation 7**

**3.111 The committee recommends that DIAC undertake a review of the ability to use discretion or a compassionate exemption for students with work rights who breach their visa conditions in relation to work.**

---

96 Mr Paul Kniest, *Committee Hansard*, 18 September 2009, pp 35–36.

97 Mr Andrew Bartlett, *Committee Hansard*, 18 September 2009, p. 16.

## Living expenses

3.112 Witnesses raised the issue of the \$12 000 figure for living expenses which was described as outdated and not reflective of the real costs associated with living and studying.<sup>98</sup> DIAC gave evidence that work is currently underway on this issue:

I think it would be fair to say that the amount of \$12,000, which is the current figure, has not been reviewed for some time. Some work is being done on that. I would like to point out that the figure of \$12,000 is not a stand-alone figure. That is the minimum amount. There are add-ons beyond that which students have to satisfy they have covered—tuition fees et cetera. I can confirm your understanding: the last review of the figure of \$12,000 was in 2001.<sup>99</sup>

3.113 The committee notes the government's announcement on 9 November 2009 of a \$6000 increase in the minimum funds required by international students to cover their living costs. Commencing 1 January 2010, international students must provide proof of access to \$18 000 per year.<sup>100</sup>

## Social inclusion

3.114 Most international students wish to study in an English-speaking country, not only to gain a quality education but to learn the language, which is the lingua franca of the business world. The cultural and social opportunities offered by an education in English are extremely valuable. There are many benefits to be gained from international education for the students themselves as well as society in general. The Minister has acknowledged:

International students enrich our society. They help to provide a diverse and rich education experience for Australians...People coming to Australia to study...promote cross-cultural experiences that benefit us both now and in the future, building understanding that underpins tolerance and stability here and abroad.<sup>101</sup>

3.115 The committee heard evidence regarding the varying degrees of opportunity experienced by foreign students in integrating themselves into the community. Mr

---

98 Ms Sharon Smith, NUS, *Committee Hansard*, 1 September 2009, p. 31; Ms Wesa Chau, *Committee Hansard*, 1 September 2009, p. 48; Dr Felicity Fallon, *Committee Hansard*, 1 September 2009, p. 55; Professor Paul Rodan, *Submission 14*, p. 2; Mr Andrew Bartlett, *Committee Hansard*, 18 September 2009, p. 11; Dr Glenn Withers, *Committee Hansard*, 18 September 2009, p. 30.

99 Mr Peter Vardos, *Committee Hansard*, 18 September 2009, p. 74.

100 Senator Chris Evans, 'New Visa Measures to Assist International Students', *Media Release*, 9 November 2009.

101 Hon Julia Gillard, Minister for Education, 'International Education', *House of Representatives Hansard*, Ministerial Statements, 26 May 2009.

Peter Vardos, DIAC, told the committee that '[s]ome providers do it brilliantly and some providers do not do it at all, and there is a range in between.'<sup>102</sup>

3.116 The committee heard evidence that some private institutions fail to facilitate integration and this can contribute to misunderstandings and lack of knowledge about Australian society.<sup>103</sup> There are anecdotal reports of students' English language skills declining as a result of their learning immersion in a totally non-English-speaking background (NESB) environment. This occurs when all or nearly all students in a cohort are international students.

3.117 The committee also heard evidence of the care taken by institutions to integrate students into the local community. Ms Dianne Murray, Institute Director, TAFE NSW Illawarra Institute, told the committee:

The other thing that is a focus for us when we are working with our international students is that, as a regional institute, we think it is an opportunity for them to participate in and get a much broader experience of Australian life. We have a fairly significant investment in working in our community to welcome students into the community. The Wollongong area, in conjunction with its local council, has a welcome-to-Wollongong function each year, where both TAFE and the university participate to welcome students into the community, link them up with organisations and link them up with support services in the community so that their experience of education in Australia is more than just their on-campus experience. We think that this is good for students, including our domestic students because of their engagement in supporting the general lifestyle of our international students. It ensures students' diversity of experience, so that when they return to their country of origin and utilise their qualification they have a positive view of living in Australia as well as studying in Australia.<sup>104</sup>

3.118 The committee heard evidence that most universities have a comprehensive orientation program. Included in the evidence was information about a number of initiatives to integrate students into the local communities. The City of Darebin, Victoria has the 'Fair Go for International Students' program underway. It was developed in consultation with international students and has as one of its aims to ensure students are included as part of the wider community.<sup>105</sup>

3.119 The committee notes other initiatives underway such as the 'Guide to Melbourne' for international students, developed by the City of Melbourne.<sup>106</sup> A

---

102 Dr Felicity Fallon, *Committee Hansard*, 1 September 2009, p. 59.

103 Mr Neeraj Shokeen, *Committee Hansard*, 2 September 2009, p. 33.

104 Ms Dianne Murraray, *Committee Hansard*, 18 September 2009, p. 56.

105 City of Darebin and Darebin Overseas Student Advisory Council, *Submission 66*, pp 4–5. See also Councillor Tim Laurence, *Submission 48*, p. 2.

106 <http://www.melbourne.vic.gov.au/info.cfm?pg=2293&top=43> accessed 4 November 2009.

program in this area won an excellence award. A four-year project by the Melbourne School of Land and Environment with the City of Melbourne looked at the feelings of isolation reported by students living in central Melbourne. The project examined issues such as housing, the provision of public spaces and how the policies and practices in the administration of students at universities affect their sense of well-being and participation in society.<sup>107</sup> The committee also notes the 2009 International Education Awards for Excellence, won by the City of Melbourne for its welcome to international students, and that this is complemented by the orientation activities run by other institutions.<sup>108</sup>

### **Provision of information**

...[T]he information available to international students to make informed choices is a key aspect of setting up a positive experience that meets both students' and families' expectations.<sup>109</sup>

3.120 The committee notes that ensuring that international students have access to comprehensive and reliable information allows students to form realistic expectations of their learning experiences and life in Australia. It also assists families to appropriately budget for the cost of sending students overseas.

3.121 Provision of information at all stages of the study experience is therefore one method of addressing any existing lack of information in the system. A representative of the Australian Council for Private Education and Training (ACPET), Mr Andrew Smith, recommended working towards more informed potential consumers who are able to make informed choices regarding study options as well as life experiences while in Australia.<sup>110</sup>

3.122 Mr Smith stressed to the committee that many international students have very positive experiences while studying in Australia but that instances of poor practice needed to be addressed.<sup>111</sup>

3.123 There was also evidence presented to the committee which indicated that some students will continue to hold somewhat misguided perceptions, despite many attempts to provide accurate information and assistance. Ms Desma Smith, ISANA International Education Association, stated in her evidence:

[t]here is also sometimes a desire on the part of the students to accept what looks like a rosier picture rather than the reality. As an international student

---

107 <http://newsroom.melbourne.edu/news/n-144> accessed 4 November 2009.

108 [http://www.ieaa.org.au/Downloads/B3929A2E-3CBB-4850-B078-F0D296681030-Winners\\_Awards\\_Best\\_Practice.pdf](http://www.ieaa.org.au/Downloads/B3929A2E-3CBB-4850-B078-F0D296681030-Winners_Awards_Best_Practice.pdf) accessed 4 November 2009.

109 Hon Bruce Baird, *Review of the Education Services for Overseas Students (ESOS) Act 2000 – Issues paper*, DEEWR, September 2009, p. 8.

110 Mr Andrew Smith, *Committee Hansard*, 1 September 2009, p. 39.

111 Mr Andrew Smith, *Committee Hansard*, 1 September 2009, p. 39.

adviser I would send students an electronic booklet that had accommodation in Melbourne and it would go from hostels through to top of the range accommodation with estimated prices. It was like a spreadsheet. It had whether food was provided, whether you pay your own utilities and all of those sorts of things. The students would still write back and say: 'Thank you, madam. Can you please find me somewhere for \$70 a week? That is the belief they come with. I dealt with a student just this morning who has failed units and has been excluded from his course. As he told me—and we spoke for a long time—this was because he came here last year with enough money for his first semester and thought he would get a job so that he would not have an ongoing problem. He got a job in January and lost it after a month. His friends were paying his bills for him, he was not concentrating on his studies and he failed all his units. He now has a job and wants to continue in the course, but he has already gone through all of these internal processes where they have said, 'I am sorry; you have not given us anything to show us that you have something in place to move on'. But he had literally come knowing that he could support himself for his first semester and thinking he would then get a job and be able to support himself for the rest of the three-year course.<sup>112</sup>

### ***Availability and accuracy of information***

3.124 The committee heard evidence regarding the need for accuracy in the information available to students. A Research Fellow with the Migration Law Program at the Australian National University stated that access to 'independent information' is essential to avoid situations where providers simply 'emphasise the positives and not necessarily emphasise some of the difficulties'.<sup>113</sup> Similarly, the committee heard from a representative of the ACTU that, although there should be some responsibility upon education providers and agents to provide information, the government must also play a role to ensure that students receive this information and to ensure its reliability.<sup>114</sup>

3.125 Witnesses in Melbourne gave evidence to the committee that it is important to provide information not only to students but also to their families because, in many cases, decisions regarding study in foreign countries are made or supported by the parents of the student.<sup>115</sup> Similarly, representatives of the New South Wales Department of Education and Training pointed to the need for relevant information to be available in other languages.<sup>116</sup>

---

112 Ms Desma Smith, *Committee Hansard*, 1 September 2009, p. 60.

113 Mr Andrew Bartlett, *Committee Hansard*, 18 September 2009, pp 10–11.

114 Ms Michelle Bissett, *Committee Hansard*, 18 September 2009, p. 5.

115 Ms Wesa Chau, *Committee Hansard*, 1 September 2009, p. 50.

116 Mr David Riordan, *Committee Hansard*, 18 September 2009, p. 64.

3.126 The committee heard evidence that some of the information being provided to international students is misleading or inaccurate. The committee heard from the International Student Legal Advice Clinic that even the names of many of the private VET colleges were potentially misleading because they suggested that such colleges were national institutions 'in some way connected with the State or Federal government'.<sup>117</sup> Misleading information may come from the providers themselves or the agents. The NUS stated that students often felt lied to by education and migration agents. The President of NUS stated that:

[a]s an on-the-ground observation about students, they often say things like, 'Everything you hear in India is a complete lie.' They say, 'It is all lies; when we got here, it was completely different to what we were told. We had the wool pulled over our eyes.' That has come up again and again.<sup>118</sup>

3.127 Representatives of the Australian Federation of Indian Students spoke about an example of misleading information supplied by an agent. Before arriving in Australia, one student expected to be able to rent on his own or with one friend based upon information provided by the education agent. However, once in the country, the student was forced to share with about five other people. The Honorary President of the Federation noted that 'information provision before students come' is of prime importance and that much of the information that is provided 'is misleading and is not representative of actual living in Australia'.<sup>119</sup>

3.128 The NUS gave evidence of 'glossy brochure syndrome' noting that some international students, prior to arriving in Australia, received pamphlets that inaccurately represented campus facilities as well as the typical experiences that students are likely to have. A representative stated that:

[m]any students have received a glossy brochure, when they have been overseas, and they have seen a lovely campus and thought that that was what they were coming to. Then they have arrived and apparently there was not a fountain in the middle of the yard...students have been advised to do particular courses or they want to do particular courses and then the education provider has said, 'No, you are now going to do this course.' So they are in a course totally irrelevant to their previous training...students are often not told how easy it will be for them to gain employment. I ran a booth, in my other role of employment, out at Melbourne airport in February and again in July this year greeting international students. I was amazed at how many students came up to me and asked me to help them find a job. They had just arrived. It was pretty astounding. So I guess that type of thing is also of concern—what they hear overseas or what they are told.<sup>120</sup>

---

117 International Student Legal Advice Clinic, *Submission 76*, p. 13.

118 Mr David Barrow, *Committee Hansard*, 1 September 2009, p. 34.

119 Ms Wesa Chau and Mr Douglas Tsoi, *Committee Hansard*, 1 September 2009, p. 52.

120 Ms Sharon Smith, *Committee Hansard*, 1 September 2009, p. 33.

### ***Wide range of information needs***

3.129 The NUS noted in evidence to the committee that, while most universities provide some type of accommodation information service, many offer only a limited range of information, often listing only on-campus housing and a small number of other providers.<sup>121</sup>

3.130 Evidence given to the committee by the Director of a legal centre suggested that international students also require comprehensive information to overcome misunderstandings or miscommunications. The committee was informed that many overseas students are caught travelling on public transport without full-fare tickets or concession cards. This is often a misunderstanding by the students who assume that they are eligible to travel under the same conditions as other students.<sup>122</sup> In the Director's opinion, the availability of comprehensive and accurate information as well as adequate support services would help to alleviate such misunderstandings.

3.131 Evidence to the committee regarding information required by international students comprised a wide range of topics. These include course-related and academic information (e.g. extra fees and costs, study loads, assessment practices); campus facilities and services and details about the education provider; cultural information; accommodation and tenancy rights; living expenses (accommodation, food, clothing, health, entertainment and transport); transport (availability, timetabling, concessions available); personal safety (at night, while on campus or travelling on public transport and in other locations such as particular suburbs) and general safety issues (such as fire safety and beach safety); and employment rights and availability of employment.<sup>123</sup> A representative of English Australia gave evidence that:

[s]tudents coming through that network of non-receipt of adequate information are the students who experience significant difficulties. Information is power, and power is important to the students. Before they come here they need information about their education institution, about their course and their program, but they also need information about the cost of living in Australia. What will be their financial requirements in Australia? Not just for their study and their tuition, but also for their living costs. There needs to be a more cohesive, nationally co-ordinated approach to provision of that information, and about their safety as well. Australia is a relatively safe country, but over the past few decades, Australia has, like a number of other countries, changed slightly, and it is very important that we ensure that students have the appropriate type of information about the way in which they should live, the way in which they should behave to protect

---

121 Mrs Sharon Smith, *Committee Hansard*, 1 September, p. 35.

122 Ms Anna Cody, *Committee Hansard*, 2 September 2009, p. 15.

123 See, for instance, IEAA, *Submission 18*, p. 6; Group of Eight, *Submission 38*, pp 6–9; Chinese Community Council of Australia, *Submission 34*, p. 4; CAPA, *Submission 53*, pp 25–26; Dr Felicity Fallon, *Committee Hansard*, 1 September 2009, p. 60; Mr Douglas Tsoi, *Committee Hansard*, 1 September 2009, p. 51.

their own safety in Australia, the same way that domestic students would have that innate knowledge as to how they should be protecting themselves. There is a variety of information services, and instead of being piecemeal – through an agent, through state network offices, through national network offices, and then the providers themselves – a more holistic and nationally strategic approach to information would be suitable.<sup>124</sup>

3.132 The NUS submitted that the main topic upon which international students required information following their arrival was accommodation. Yet, the Union confirmed that some providers, typically VET providers not universities, offered little information and support to students in securing accommodation. Further, NUS pointed out that many international students were unaware of their tenancy rights and were therefore 'extremely vulnerable'.<sup>125</sup>

3.133 Redrafting tenancy rights in plain English was suggested as one method of supporting international students. Ms Christine Bundesen of English Australia submitted in evidence to the committee:

I remember that the Queensland rental tenancy authority took the rental tenancy documentation in the act and we worked with them to make it into plain English so that the international students could understand it. That is a small initiative in Queensland; I do not know about the other states. That is what I am saying about national strategies. Students have rights and they also have responsibilities when they are renting, and I think all of those things, collectively, need to be looked at in a national strategy.<sup>126</sup>

3.134 Ms Anna Cody, Director of Kingsford Legal Centre, gave evidence about key information regarding accommodation and tenancy rights required by international students. She stated that:

...some of the key issues that we are dealing with through our advice sessions with international students are housing: the poor quality of housing; the lack of knowledge of international students of their rights in relation to housing; abuse by landlords in relation to their status, where they are treated as boarders and lodgers rather than being treated as tenants; rent increases; overcrowding in housing; repairs not being done; and no general provision of information around people's rights.<sup>127</sup>

3.135 This evidence appears to indicate that students also need information regarding dispute resolution processes and need to be informed of appropriate organisations which can offer assistance. Witnesses suggested to the committee that students should be informed of their (state-specific) rights, through 'neutral sources and material'; students should also be aware of organisations such as legal aid

---

124 Ms Christine Bundesen, *Committee Hansard*, 2 September 2009, p. 4.

125 Mrs Sharon Smith, *Committee Hansard*, 1 September 2009, pp 31, 35.

126 Ms Christine Bundesen, *Committee Hansard*, 2 September 2009, p. 8.

127 Ms Anna Cody, *Committee Hansard*, 2 September 2009, p. 13.



commissions which are available in each state to offer assistance when difficulties arise.<sup>128</sup>

### ***In what form should information be provided?***

3.136 Following on this theme of evidence, the representative of the legal centre acknowledged that such information, regarding rights conferred by law and support organisations such as legal aid commissions, should be delivered in hard copy, in addition to being available electronically.<sup>129</sup> The Federation of Indian Students of Australia submitted that not all aspiring students have adequate access to computers and the internet to gather all the necessary information from websites. This organisation concluded that:

[a] single document (in electronic and hard copy format), with relevant links and standardized information should be provided by the Australian government...<sup>130</sup>

3.137 Further evidence was presented by a representative of the Federation of Indian Students of Australia that international students, when making enquiries, are usually directed to websites. Although the websites may contain the required information, this can be difficult to locate or understand, especially for students new to the language. Furthermore, the representative pointed out that, while websites and databases are not the only available options, students are not usually directed to manned support services, even when those services are available.<sup>131</sup>

3.138 Mr Warwick Freeland, IDP Education, gave evidence that his organisation preferred to deal 'one-on-one' with students because it was a more effective way of communicating and ensured that the information delivered was individually suited:

...our primary focus is actually to get the students to come and talk to us, because there is only so much you can get from websites.<sup>132</sup>

### ***When should information be provided?***

3.139 The committee also heard evidence that information can be most effectively provided at particular stages of the education experience. Representatives of Kingsford Legal Centre recommended in their evidence that the point at which the government delivers visas to students is a valuable opportunity to distribute reliable and standardised information but information from providers should be available prior to this point.<sup>133</sup> CAPA concurred, with its evidence stating:

---

128 Ms Anna Cody, *Committee Hansard*, 2 September 2009, pp 15–16.

129 Ms Anna Cody, *Committee Hansard*, 2 September 2009, p. 16.

130 Federation of Indian Students of Australia, *Submission 69, Attachment 1*, p. 9.

131 Mr Amit Menghani, *Committee Hansard*, 1 September 2009, pp 24–25.

132 Mr Warwick Freeland, *Committee Hansard*, 1 September 2009, p. 14.

133 Ms Anna Cody and Ms Nadia Miranti, *Committee Hansard*, 2 September 2009, p. 16, 20.

[t]he international student experience with a higher education provider does not begin on arrival at an onshore university campus. It begins with the information available to the student 'pre-departure' while still in the home country.<sup>134</sup>

3.140 Witnesses also gave evidence of different orientation programs offered by providers and the different opportunities that these presented to provide relevant information. The President of the La Trobe University Postgraduate Association noted in her evidence that its orientation program for international students comprised a pre-departure information package and orientation week on campus. Pre-departure information included tips on how to pack and the things to which students should pay attention. During orientation week, students can gain information on issues such as safety and public transport.<sup>135</sup>

3.141 The Australian Federation of International Students submitted that pre-departure information should include general information about life in Australia and will often be of more interest to parents than students. Information requirements following arrival in Australia are broken into two stages – early and late. Early arrival information concerned enrolment, environment familiarisation and securing accommodation. Late arrival information applied to the period after students have settled in and related to issues such as finding employment and engaging with the community.<sup>136</sup>

### ***Committee view***

3.142 The committee notes the calls for more reliable and standardised information being provided to international students and their families at all stages of the education process. Further, the committee notes the improvements in the information regarding 'education and living conditions in this country' being provided to students offshore by education agents.<sup>137</sup>

3.143 The committee is also aware of the recent announcement that the government, along with state and territory governments, will develop 'an up-to-date online manual', providing international students with accurate and comprehensive information on studying and living in Australia. This is in addition to information already provided through other sources such as the *Study in Australia* website.<sup>138</sup> However, the evidence given to the committee over the course of the inquiry suggested that the same

---

134 CAPA, *Submission 53*, p. 26.

135 Ms Dongping Huang, *Committee Hansard*, 1 September 2009, pp 6-7.

136 Australian Federation of International Students, *Submission 24*, pp 3-11.

137 Hon Julia Gillard MP, Transcript of ABC Radio National *730am* interview with Fran Kelly, 29 July 2009.

138 Hon Julia Gillard MP, Minister for Education, 'Address to the International Education Conference', 15 October 2009.

information should be provided both in hard copy as well as in several major foreign languages as soon as possible.

3.144 The committee also heard evidence regarding an information resource which was developed by ISANA International Education Association Inc., under a project funded by DEEWR. An ISANA representative described the Rainbow Guide as 'a template for pre-departure orientation' for international students.<sup>139</sup> It is available for use by education providers as 'a suggested best-practice template'.<sup>140</sup>

## Recommendation 8

### 3.145 The committee recommends that:

- **students receive information packs, based upon resources such as the *Study in Australia* website and the Rainbow Guide, in hard copy and preferably in the language of the country of departure at the time their visas are granted. The information packs should include comprehensive information regarding tuition and extra fees; living costs including all relevant expenses such as accommodation and health; employment opportunities; rights conferred by law (including tenancy rights and employment rights); dispute resolution procedures and relevant contact organisations; and support services and amenities.**
- **both the online manual and hard copies should include state-specific information, detailing the various rules, laws and rights applicable in each state and territory.**

### *Dealing with complaints*

3.146 The committee welcomes the international student hotline established in September 2009<sup>141</sup> to help students with problems, and to record trends in the nature of complaints. However, the committee has received no evidence as to how long this initiative will last and notes that, without proper and sustained resourcing, students may be left without this potentially important service.

---

139 Dr Felicity Fallon, *Committee Hansard*, 1 September 2009, p. 54. See also ISANA International Education Association Inc., *Orientation and Pre-Arrival Handbook - The rainbow guide*, available at [http://www.isana.org.au/index.php?option=com\\_content&task=view&id=246](http://www.isana.org.au/index.php?option=com_content&task=view&id=246).

140 ISANA International Education Association Inc., *International Student Handbook – Template*, p. 3. Available at [http://www.isana.org.au/files/cppfiles2/Full\\_template\\_document%20FINAL.pdf](http://www.isana.org.au/files/cppfiles2/Full_template_document%20FINAL.pdf).

141 <http://studyinaustralia.gov.au/Sia/en/pastoralcare/StudentHotline.htm> accessed 6 November 2009. See also Hon. Julia Gillard, Minister for Education, Opening of International Student Roundtable at the Senate Alcove, Parliament House, 14 September 2009.

3.147 The Australian Immigration Law Services submitted that 'students had no where [sic] to go for anyone to listen to their concerns'.<sup>142</sup> Ms Sharon Smith from NUS described an incident where the students approached NUS for assistance with their complaints as a last resort:

...going back to that case quite a number of years ago, the students were reported because they wanted to change education providers. They had done their first 12 months, so legally, according to their student visas, they were allowed to change courses and change institutions. The education provider did not want them to and wanted to charge them money to give them their academic transcripts and told them they had to pay another semester's fees because it was too late for them to withdraw. It was really ridiculous. Under normal circumstances they should have just been given their academic records and been able to change providers, but they were not. That is when they came to NUS, because before they even got their academic transcripts this education provider gave them their section 20, which is notice to say, 'You are going to be deported in 28 days if you do not go to Immigration.' They reported them to Immigration before they gave them their academic transcripts. So the students came to me and it turned out that the education provider had falsified their attendance records and academic transcripts and given that false documentation to the immigration department. I went to the immigration department with them and we managed to get their student visas back. That was horrendous. And the education provider was not penalised.<sup>143</sup>

3.148 Witnesses spoke at the public hearings about the need for a 'one stop shop' for students. This suggestion was supported by the Federation of Indian Students of Australia<sup>144</sup>, the Australian Federation of International Students<sup>145</sup> and the NTEU.<sup>146</sup> Mr Amit Menghani, President, Federation of Indian Students of Australia, spoke about the need for such a contact point for students:

I am talking about Indian students out here. Most of the Indian students think that the system that is in place is not able to help them out in certain matters. It might be because of the social or cultural boundaries. What we need to do in terms of helping them out would be to come up with a one-stop shop, somewhere that they can go to knowing that once they enter that shop their questions will be answered. We need to make sure that the system that is in place, the environment, is culturally friendly so that they can go there, approach people and come away with their questions having been answered. ...It can be a one-stop shop for all the international students out here, so that at least they know that once they enter the shop their questions will be answered or the shop can at least advice them of the right

---

142 The Australian Immigration Law Services, *Submission 9*, p. 1.

143 Ms Sharon Smith, *Committee Hansard*, 1 September 2009, pp 36–37.

144 Mr Sumit Purdani, *Committee Hansard*, 2 September 2009, p. 32.

145 Ms Wesa Chau, *Committee Hansard*, 1 September 2009, p. 53.

146 Mr Paul Kneist, *Committee Hansard*, 18 September 2009, p. 35.

people to go to. That would eliminate all the boundaries between networks that are there.<sup>147</sup>

### ***The need for independent review***

3.149 Evidence given by a representative of Service Skills Australia told the committee that students (or their parents) often received no adequate response when concerns about regulatory bodies were reported to state training authorities.<sup>148</sup> This evidence was supported by the Australian Immigration Law Services who indicated that international students want their concerns investigated by an authority which is independent of 'government and private sector influence'.<sup>149</sup>

3.150 Dr Felicity Fallon, President, ISANA International Education Association, also gave evidence to the committee about the need for independent review:

I would like to say that the international student adviser is always the first line of call for a student with a problem. I know Dr Michael Wesley said in his Lowy Institute report recently that international student advisers are intimidated within their institutions and will not advocate for students. I think a lot of ISANA members would take issue with that. We are very prepared to advocate for our students. But there are some situations that we cannot deal with and there are some providers who do not adequately staff for people to do the advocacy, and therefore there needs to be something from outside.<sup>150</sup>

3.151 Mr Nigel Palmer from CAPA outlined in his evidence the benefits such an independent office could provide:

From our perspective, particularly with regard to international students, where they may not feel that the complaints resolution process of the education provider has been satisfactory, they are aware that there may be somewhere else to go, but it is very difficult for them to determine where or what that is ... There are so many overlapping obligations when it comes to state accreditation bodies and the Commonwealth department. I think different people will give you different answers about what the next step is. So, at the very least, having a national commission or a national ombudsman's office would be useful to give students a clear avenue for redress.<sup>151</sup>

3.152 An independent body could also discern systemic problems, as suggested by Mr David Barrow, President, NUS:

---

147 Mr Amit Menghani, *Committee Hansard*, 1 September 2009, p. 24.

148 Ms Catherine McMahon, *Committee Hansard*, 2 September 2009, p. 43.

149 The Australian Immigration Law Services, *Submission 9*, p. 2.

150 Dr Felicity Fallon, *Committee Hansard*, 1 September 2009, p. 55.

151 Mr Nigel Palmer, *Committee Hansard*, 1 September 2009, p. 8.

That also leads into the issue of student representation at private colleges. Our view has been that in private colleges student representation could act as the canary in the goldmine in a sense that, if there had been proper representative structures within private colleges, the Sterling College collapse may not have happened because, if the college had been doing what was in the best interest of the individuals, then they would not have been acting in the way they were. You could have caught out that college earlier before it got to the point where it was ready to collapse. We, as the office bearers in NUS, get three or four calls a week from students who are completely lost out in the ether of the private colleges without anywhere to go and that is why we see that an ombudsman's office or a complaints' office at the federal level would assist that.<sup>152</sup>

3.153 The advantages of having such a body were also explained in evidence by Ms Anna Cody, Director, Kingsford Legal Centre:

The advantage would be that there would be just the one place to go so that the students would know that that is the place to go with all their problems. The disadvantage is that it absolves all the other agencies from the responsibility of having to deal effectively with international students' issues. It is also about the level of funding that that sort of body is likely to attract. If you entrench it as core activities for each of the state or federal bodies that would otherwise be responsible, like the Fair Work Ombudsman, the Residential Tenancies Tribunal or the Consumer, Trader and Tenancy Tribunal, then to some degree you are spreading it out and therefore potentially making it more difficult for students, but it also means that perhaps it is more likely to be done more effectively because it will be funded as part of their core activities. My concern about that is that it makes it vulnerable to lack of funding.<sup>153</sup>

3.154 The Commonwealth Ombudsman noted in its submission the need for an external, as well as an internal, avenue for complaints to be made if internal mechanisms prove unsatisfactory. The most common model of this is the office of ombudsman which operates in banking, postal services, telecommunications, private health insurance and energy supply. The Commonwealth Ombudsman expressed the opinion that it would be appropriate that such an option exist in relation to the tertiary education sector by either creating a specialist education ombudsman or conferring jurisdiction upon an existing office such as the Commonwealth Ombudsman. It could also be combined with the Immigration Ombudsman and compliance auditing roles to 'address a range of systemic failures across the international student sector'.<sup>154</sup> Dependent on the development of relevant legislation and funding, the following services were envisaged:

---

152 Mr David Barrow, *Committee Hansard*, 1 September 2009, p. 31.

153 Ms Anna Cody, *Committee Hansard*, 2 September 2009, p. 19.

154 Commonwealth Ombudsman, *Submission 106*, pp 2-4.

- 
- receipt and investigation of complaints about government and non-government service providers;
  - receipt and investigation of complaints about government service delivery and regulatory agencies;
  - compliance audits of the exercise of regulatory and investigation functions by government agencies;
  - education advice and training to service providers and regulatory agencies on best practice complaints handling; and
  - agency specific and cross-agency own motion investigations into areas of complaint or where systemic problems begin to arise.<sup>155</sup>

### ***Committee view***

3.155 The committee notes the responsibility institutions have, in the first instance, to address complaints from their students and provide accurate and timely information.

3.156 The development of minimum standards for the National Code recommended in chapter three of this report, and better provision of information recommended above, are likely to improve access to information for international students if implemented as recommended by the government.

3.157 Notwithstanding these recommendations, the committee acknowledges that there are times when international students may need access to an independent complaints mechanism as per the evidence given.

3.158 Students could contact an independent body such as an ombudsman on issues such as study, safety, accommodation or employment after exhausting other complaint and assistance mechanisms available to them. This body would also be able to investigate complaints in relation to providers and regulatory bodies.

3.159 An independent body operating across jurisdictions and sectors would be able to discern any concerning trends or systemic problems and initiate action or bring the issue to the attention of the state regulatory authorities, DEEWR and/or the Minister.

3.160 Further to the submission from the Commonwealth Ombudsman's office, the committee accepts that the current infrastructure of that body would be an appropriate avenue to develop a new, independent, national complaint mechanism dependent on the development of relevant legislation and appropriate resources.<sup>156</sup>

---

155 Commonwealth Ombudsman, *Submission 106*, p. 5.

156 Commonwealth Ombudsman, *Submission 106*, p. 4.

**Recommendation 9**

**3.161 The committee recommends the jurisdiction of the Commonwealth Ombudsman be extended to cover the international education sector.**