



**Dr Michael Spence**  
Vice-Chancellor and Principal

21 January 2015

By email: [international.education@pc.gov.au](mailto:international.education@pc.gov.au)

**International Education Services: Commission research project**

Thank you for the opportunity to provide the attached late submission to the Productivity Commission's research project on international education services.

In general, the University of Sydney is concerned over the significant administrative burden imposed by regulation in this area. In addition to providing the attached comments on the objectives of your research project ([Attachment A](#)), I have included our recent submission to the Reform of the Education Services for Overseas Students (ESOS) Framework for your information ([Attachment B](#)).

Should further information be required from the University in relation to any of the matters raised, please do not hesitate to contact Mr Tim Payne, Director, Higher Education Policy & Projects in my office

Yours sincerely,

*(Signature removed for electronic distribution)*

**Professor Stephen Garton**  
*Acting Vice-Chancellor and Principal*

**Attachments**

Attachment A: Comments on Productivity Commission Research Project Objectives  
Attachment B: University of Sydney submission to the Reform of the ESOS Framework

## Comments on Productivity Commission Research Project Objectives

The University is a key contributor to the international education industry and in recent years has invested significant resources in response to legislative and policy changes to the Education Services for Overseas Students (ESOS) Framework and the Streamlined Visa Processing (SVP) system. Whilst acknowledging that both have had the effect of enhancing the quality of higher education in Australia, some recognition should be made of the costs imposed on education providers as a result of increased regulatory compliance and reporting, where previously such responsibilities were the function of the Department of Immigration and Border Protection (DIBP). This cost burden has resulted in the need for increased staffing and resources particularly for institutions such as ours where international student numbers are significant and the SVP risk index rating is low.

### *Streamlined Visa Processing System (SVP)*

The SVP system is premised on education providers bearing the risk attached to student visas issued for enrolled students. Concern exists when students transfer to a second education provider, as the initial provider is expected to carry the ongoing risk for the life of the student visa issued under this scheme. We propose that a limited time frame be attached to an initial provider's responsibility for risk and that a new provider inherit this risk at some point in the student life cycle.

## Design and Enforcement of Student Visa Conditions

### *Completing 'on time'*

ESOS currently emphasises the need for international students to complete their studies 'on time'. In practice, this requires education providers to formally report on each and every instance of an enrolment change in the event that the change alters the end date of study. This creates a significant administrative burden as many students seek to make amendments to study dates particularly in their first year of study whilst transitioning to a new language, culture and academic system.

Further, the timeframe attached to those report notifications is relatively short and inconsistent depending on the nature of default. It is our understanding that the ESOS legislative committee is considering a uniform reporting time frame for these default notifications so as to assist providers, though this is unlikely to address the need to report on each and every instance affecting the end date of study.

From a qualitative perspective attached to the student experience and as a means of addressing institutional regulatory burdens, the definition of completing 'on time' could be broadened to a maximum but generic time frame (eg. 5 years for undergraduate study) as is the case in the UK and other countries.

### *Appeals process abuse*

The inability of providers to cancel the enrolment of international students following an extensive internal appeals process, while an appeal to the Ombudsman's Office is in progress has also resulted in some instances of systems abuse. Currently, ESOS provisions prohibit the cancellation of enrolment if a student advises of an intention to access external appeals mechanisms. Some students elect to utilise this as a means of maintaining their student visas, all whilst applying to alternate institutions for study (at which point the appeal is withdrawn).

The University of Sydney provides a very comprehensive mechanism for students to show cause and for exclusions to be reviewed. In instances where explicit fraud exists, major misconduct or criminal activity, the external appeals process may only serve to undermine existing efforts. Some policy flexibility might need to exist for instances where external appeals processes should not be available.

#### *Reporting of 'early' completion of study*

The Department of Education currently requires providers to report on the early completion of students when studies end more than one month beyond the date specified on a student's electronic confirmation of enrolment (eCoE). By contrast, the DIBP's enforcement strategy is triggered when a student completes their course three months earlier than expected. This poses a mismatch between policy and enforcement. It has also resulted in regulatory reporting variances by providers, the majority of whom have opted in favour of regulatory reporting consistent with DIBP's three month enforcement strategy.

### **Impact of Changes to Visa Conditions and Processing**

#### *Offshore visa processing*

The requirement for students to depart Australia whilst their visa changes are in progress is too rigid. Students are required to physically depart Australia and apply for visas offshore when:

- administrative errors are made by providers on an eCoE in rare instances where a visa may have lapsed;
- a gap in study exists of more than 3 months;
- a leave of absence exists (this may apply for one semester suspensions and most certainly for two unless an alternate visa is approved). Forced suspensions sometimes arise when the structure of course necessitates a suspension due to sequential unit enrolment. As a result of these, a student may be required to return to home country through no fault of their own, nor as a result of any default by the provider;

#### *Helpline for Providers*

At present, provider training in relation to eCoEs and student visa processing takes place via bi-annual presentations from the Department of Immigration and Border Protection. Further assistance throughout the year is only provided via a generic email address. A provider help line for compliance staff and those issuing eCoEs would greatly assist institutions who form the interface with students and provide the eCoEs that are essential for student visa processing.

Ends/

**January 2015**

31 October 2014

By email: [ESOS-Policy@education.gov.au](mailto:ESOS-Policy@education.gov.au)

**Reform of the ESOS Framework: Discussion Paper**

Thank you for the opportunity to provide the attached submission to the review of the ESOS framework.

The University of Sydney is strongly supportive of measures that would reduce duplication and regulatory burden on providers, while ensuring rigorous standards are maintained.

Should further information be required from the University in relation any of the matters raised, please do not hesitate to contact Mr Tim Payne, Director, Policy Analysis & Communication in my office

Yours sincerely,

***Dr Michael Spence***  
*Vice-Chancellor and Principal*

## **REFORM OF THE ESOS FRAMEWORK: DISCUSSION PAPER, OCTOBER 2014**

The University of Sydney strongly supports the objectives of the reforms proposed in the Discussion Paper. Recent regulatory reforms including the establishment of the Tertiary Education Quality and Standards Agency (TEQSA) and the Australian Skills Quality Authority (ASQA) have created duplication, complexity and reporting overlaps in relation to the regulation of providers' international education activities. The Education Services for Overseas Students Act and the *National Code* need updating to ensure better alignment with the new national regulatory framework for Australia's post-school education system, as well as with leading international approaches to quality assurance for foreign students.

We are therefore pleased to provide the following comments in response to some of the Discussion Paper's questions. We look forward to receiving detail from the Department about the reforms that are to be made following these consultations, and about the process and timetable for their implementation.

### **Simplifying administrative arrangements (p.7)**

The University of Sydney agrees with suggested reforms 1-6. We are particularly supportive of the change suggested in reform 3 as a single registration timeframe would maximise efficiency. On reform 2, our current experience is that the biggest difference between the domestic and international standards is the restriction for international students to 25% of their course being online learning.

### **Reviews of decisions by quality assurance agencies (p.8)**

The University of Sydney is in agreement with the proposed reforms 7 & 8.

### **Reducing the reporting burden (p.9)**

We welcome the reforms suggested in 9-12. On reform 9 – streamlining the student default reporting process by moving it to a 14 day timeframe is very welcome. A standardised approach would assist in easing the pressure and resource burdens attached to very short turn-around times. It will also minimise the confusion and potential for breaches in reporting.

Reform 10 is very much welcomed and long overdue. Currently, the University is duplicating information detailed in PRISMS onto its student record system and local databases for the purpose of compliance checking. This is time consuming, costly and increases the potential for human error. We anticipate that such facilities will therefore benefit workflows, resourcing, and assist with accurate compliance checking.

Reform 12 - removing redundant data items from PRISMS and CRICOS - would also be very welcome as we are currently finding that reports obtained from PRISMS are far too large, and require excessive filtering.

### **Minimising Tuition Protection Service requirements (p.9)**

In relation to reform 13, the 50 per cent limit has not affected the University of Sydney as business processes have been established to allow the collection of semester-based tuition fees. Whilst it is appreciated that students may want to take advantage of currency exchange rates in paying their fees up front, the University has some concerns regarding the collection of large sums of money, which then result in claims for refunds. We are particularly concerned when these refunds are sent to a separate

account, escaping the scrutiny that the import of such sums would normally attract from the Australian Tax Office or the Federal Police.

Reform 14 does not currently affect the University so we are not in a position to comment.

Reform 15 is a welcomed move. Study periods can be easily manipulated by students who accelerate studies within summer/winter schools. Removing the requirement to identify study periods would accord with the fluid nature of study. While we are supportive of the reforms suggested here, the University questions the need to maintain the Tuition Protection Service (TPS). At present, the TPS costs the University up to \$87,000 per year and we note that only one action has ever been taken under this service. We do not see that the current cost of this service to reputable providers is fair, or even proportionate to the risk to students from the higher education sector.

Assuming the TPS will be retained, we would also like to suggest some other reforms. At present, there is some vagueness in the National Code as it refers to the TPS. One example is in relation to the steps an institution needs to go through when it can no longer offer a program and needs to refund students' investments. There is also no definition of the time period in which a provider can default. This can, at present, occur after the point a student is enrolled. We are also concerned that variances can only be made through defaults – either of the provider or of the student – as there are cases when neither of these apply yet a variance must still be sought. A more explicit definition of provider default, with specific reference to when a default is considered to have occurred, would be helpful.

#### **Increasing flexibility in education delivery (p.10)**

We agree in general agreement with reforms 16-19, though noting that the University does not currently monitor attendance for domestic or international students. Reform 16 is a very much welcomed response to changes in pedagogy and delivery modes for both intensive and self-directed learning. Additionally, the administrative burden to monitor distance learning may be reduced.

We feel further detail is needed on reform 18 to be able to comment meaningfully. Similarly, for reform 17, further detail would be helpful, particularly on what percentage of work-based training, clinical placement or work-integrated learning is to be allowed and how these are defined. Further clarity about the limits here is desirable.

#### **Transfer of students (p.11)**

The University agrees to reforms 20 and 24. Reform 24 would avoid duplication of training by providers and demonstrate formal recognition by the government of the role of agents in contributing to Australia's export education industry. Government assistance in regulation and training would be welcome.

We believe online training should also be included in reform 25.

The University already complies with reform 22, and would further like to suggest that either the Department of Immigration or TEQSA maintain an up to date list of approved, well-respected, agents in-country whom education providers might engage. However, we note that currently standard 4.4 refers to the use of 'sub-contractors' (sub-agents) for which the University does not have a direct agreement, but who must be approved. Any requirement to formalise a written agreement with each education agent may pose an increased resource burden.

The University does not agree with reform 21, insofar as the amendment seeks to increase the period from 6 months to 12 months in the principle course of study. We believe this has the potential to increase the administrative burden to the University, and restrict the choices of students as consumers.

Currently, the University's compliance team is required to consider release requests for large numbers of students. An extension to the restriction of students' ability to transfer to another provider will further exacerbate resource and workload allocations. The University seeks to recruit high calibre candidates. Teaching standards and assessments are also high and whilst very strong students are recruited, they can be somewhat unprepared for the challenges attached to our assessment methods. Many international students seeking release tend to base their requests on the academic challenges attached to successful completion.

While smaller providers may consider this extension necessary to protect and recoup income associated with recruitment, the University is concerned that binding students to one provider for 12 months is particularly restrictive and a substantial departure from the consumer choice provisions available to domestic students. In delaying students the opportunity to undertake studies at an alternate institution, providers may be favouring institutional revenue over a student's chances of achieving a successful completion.

#### **Welfare of students aged under 18 (p.13)**

The University strongly supports reform 26 to clarify responsibilities and requirements for international students under the age of 18. Clearer terminology that identifies what 'adequate and appropriate' constitutes would be very useful as current references are far too broad and subjective. 'Catch-all' clauses such as these leave providers open to litigation by parents of under-18 students.

There are at present no clear industry standards for homestay accommodation. The homestay industry is currently unregulated, and there is prescribed set of welfare arrangements for caregiver/guardianship companies. Providers have been forced to develop their own set of standards in relation to both, which industry stakeholders may or may not respect. There is also a need to consider what sort of protection is given to providers in the event that a student leaves his or her approved accommodation.

The University agrees with reform 27, noting that explicitly stating this level of responsibility within the ESOS framework would be very useful.

#### **Working with stakeholders to produce a practical and accessible National Code and explanatory guide for ESOS (p.14)**

The University welcomes reforms 28-30. It would be particularly useful to ensure that there are sector-specific examples provided in that National Code.

#### **Registration charges (p.14)**

The University would not be affected by this reform and so has no comments.

**Other comments**

The University would like to suggest that another aspect of the current system the review could usefully address is that of Electronic Confirmation of Enrolment (eCoE) cancellation and its relationship to visas. If a provider has occasion to cancel an eCoE it does not trigger a visa cancellation. This situation is problematic in cases where the University cancels an eCoE because it believes some aspect of the enrolment has been subject to fraud. Under the current system the eCoE cancellation does not trigger a visa cancellation, which is instead at the discretion of the Department of Immigration. In addition, the applicant subject to the cancellation must have access to the internal appeals process, which is also assessed by the NSW Ombudsman. In cases such as these, where fraud is confirmed and the case has been referred to law enforcement, this process appears to be inappropriate, administratively burdensome for providers, and open to manipulation by students. We see a need for engagement between the Department of Education and the Department of Immigration to address this issue.

Ends/

**October 2014**