

English Australia Submission: *Migration Legislation Amendment (Student Visas) Bill 2012*



Committee Secretary
Senate Legal and Constitutional Affairs Committee
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Key Points

The cumulative effect of recent legislative and regulatory reforms resulting from the Baird and Knight reviews is impacting significantly on the operations of education providers delivering courses to international students.

As such, consideration of this Bill warrants due attention to what the potential impact will be and whether the right balance has been achieved in delivering the desired reforms and yet not overly burdening the sector with compliance costs and other requirements that will ultimately make them uncompetitive internationally.

- ❖ English Australia welcomes the focus of the Bill on achieving a more targeted and strategic use of DIAC resources in dealing with non-compliance issues related to student visa holders.
- ❖ English Australia is concerned about the potential for an additional costly administrative burden to be placed on education providers who are already struggling to deal with the multitude of other changes coming out of reforms initiated by the Baird and Knight reviews. English Australia asks that the Department consider options to reduce this burden through improvements to PRISMS that will allow for the bulk transfer of data.
- ❖ English Australia has ongoing concerns about the level of consultation with the sector. Many of the reforms of the Baird and Knight reviews have not considered the impact on education providers at an operational and/or a business level. English Australia asks that the experience and expertise of the sector be fully utilised in developing legislative and regulatory change that is fit for purpose.

Background

On 22 March 2012 the Senate referred the Migration Legislation Amendment (Student Visas) Bill 2012 for inquiry and report.

The Bill amends the Migration Act 1958 and the Education Services for Overseas Students Act 2000 to abolish the automatic cancellation of student visas and create a new system in which information conveyed by student course variations more strategically analyses and targets non-compliance.

English Australia – introduction

English Australia welcomes this opportunity to provide input to the Senate Legal and Constitutional Affairs Committee's inquiry into the Migration Legislation Amendment (Student Visas) Bill 2012.

English Australia, formerly known as the ELICOS Association, is the national peak body and association for the English language sector of international education (or ELICOS¹ as it is known in Australia). English Australia was established in the early 1980s and incorporated in 1990. English Australia represents over 100 member colleges, operating over 130 accredited centres across Australia. English Australia has both public sector (eg attached to a university or TAFE) and independent language centres among its membership. More than 80% of all overseas students who study English in Australia do so with an English Australia member college.

Currently international education is Australia's fourth largest source of export income with the English language sector accounting for about ten per cent or \$1.5 billion per annum. Although representing only 10% of export earnings, the English language sector is the largest of all the sectors in terms of new students commencing courses each year. Over 134,000 new students commenced English language courses in 2011, down from a peak of over 160,000 students in 2008.

The ELICOS sector has a 100% international focus as it provides courses only to students from overseas and has no domestic education focus. Any factors impacting on the international education industry, whether domestic regulatory change or international market demand, are felt by this sector the most.

The ELICOS sector plays a critical role in preparing international students with the language skills they need for further study in Australia. As the first step in the educational 'pathway' for many international students, the ELICOS sector is the first to experience any shift in demand. The sector is highly vulnerable to changes in the external environment, with short courses (average course length is 11.2 weeks) and short lead-times for enrolments.

The purpose of the Bill under consideration is to cease the automatic cancellation regime currently in place for student visa holders who breach the academic progress or attendance requirements of their student visa.

This Bill follows on from a number of other Bills implementing the reforms recommended by both the Baird Review and the Knight Review. Each Bill needs to be considered not in isolation, but in its interaction with other Bills and their cumulative impact on providers.

The multiplicity of recent legislative and regulatory reforms resulting from the Baird and Knight Reviews is impacting significantly on the operations of education providers delivering courses to international students. As such, consideration of this Bill warrants due attention to what the potential impact will be and whether the right balance has been achieved in delivering the desired reforms and yet not overly burdening the sector with compliance costs and other requirements that will ultimately make them uncompetitive internationally.

¹ English Language Intensive Courses for Overseas Students

English Australia input to the inquiry

English Australia welcomes the intent of the Bill to apply the resources of the Department of Immigration and Citizenship (DIAC) in a more targeted and strategic way when dealing with non-compliance issues related to student visa holders. This was a clear recommendation coming out of both the Knight Review of the student visa program and the 2011 report of the Australian National Audit Office (ANAO) on the management of student visas.

The current requirements of the Migration Act and the Education Services for Overseas Students (ESOS) Act have required the investment of considerable resources by the education sector in establishing systems and procedures for monitoring and reporting on student non-compliance in relation to the conditions of their student visa. However the sector has felt that their considerable investment of resources has not led to appropriate outcomes in terms of serious cases of non-compliance being dealt with by DIAC. The sector therefore looks forward to seeing a more strategic and targeted use of resources that will deal with serious breaches and restore the sector's confidence that their efforts in this area are worthwhile.

English Australia has concerns, however, regarding the following aspects of the proposed changes and would like to bring these to the attention of the Committee.

- ❖ The most significant concerns raised by English language providers in relation to the Bill relate to some of the consequential amendments to the ESOS Act that are being proposed.

The primary concern relates to the proposal to amend section 19 of the ESOS Act to require a registered provider to give particulars of any change in the contact details or other prescribed details of an accepted student within 14 days after the provider becomes aware of the change.

The intent of this change is to enable relevant government agencies to access the most up-to-date contact information held by education providers for students. This is deemed to be important in the absence of notices issued by education providers to a student at their most recent address under section 20 of the ESOS Act. Requiring contact details to be updated by education providers within 14 days of being notified of a change will better enable contact with students, particularly for the purposes of resolving their visa status should they be subject to any report of non-compliance.

Whilst not seeming too onerous on paper, in fact this requirement will result in a significant impact on the administrative resources of education providers. Currently, providers are only required to enter the student address on PRISMS when reporting a change to a student's enrolment, or issuing a Section 20 notice. They do not currently enter on PRISMS the address for all students, although they would maintain this information in their own database.

One college predicted in its comments to English Australia that it would need to double, if not treble, the number of staff requiring access to PRISMS to enable this seemingly minor change.

English Australia believes that the only solution to this issue is for PRISMS to be modified to allow for bulk updates of information so that student details do not have to be manually added as individual items. English Australia asks that the Department consider options to reduce the administrative burden through improvements to PRISMS that will allow for the bulk transfer of data.

- ❖ The sector, along with the general public, expects there to be consequences if students are reported for breaching the conditions of their student visa. Education providers will continue to be required to invest significant resources into monitoring and reporting cases of non-attendance and lack of course progress and will need to have confidence that DIAC are dealing with these reports appropriately otherwise the sector will continue to feel that their efforts are being wasted.

English Australia asks that the Department review its communication strategies to ensure that the sector sees the impact in practice of the changes proposed by this Bill.

- ❖ English Australia notes that DIAC will be working with the Department of Industry, Innovation, Science, Research and Tertiary Education (DIISRTE) to develop targeted reports to assist in identifying all types of breaches associated with the student visa program and targeting those that represent the highest risk. English Australia would urge DIAC and DIISRTE to consult with the sector in this process. Providers of concern are very often those that do not report students for breaches of their visa conditions, whilst compliant providers are those that invest in their systems and do report students for breaches.

English Australia has ongoing concerns about the level of consultation with the sector. Many of the reforms of the Baird and Knight reviews have not considered the impact on education providers at an operational and/or a business level. English Australia asks that the experience and expertise of the sector be fully utilised in developing legislative and regulatory change that is fit for purpose.

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[submission authorised by the Council of English Australia]