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Senator Trish Crossin
Committee Chair
Senate Standing Committees on Legal and Constitutional Affairs
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Dear Senator Crossin

Inquiry into Bills referred 22 March 2012: Migration Legislation Amendment (Student Visas)

Universities Australia welcomes the opportunity to comment on the Migration Legislation Amendment (Student Visas) Bill 2012 which was referred to the Senate Standing Committees on Legal and Constitutional Affairs. This Bill addresses two aspects of the Knight Review Recommendations; that of automatic visa cancellations and education providers informing government of changes to student contact details within 14 days of becoming aware of a change.

Universities Australia supports the amendments in the proposed Bill relating to automatic visa cancellations (Item 1). In our view, these cancellations were ineffective and detracted from strategic targeting of integrity resources by the Department of Immigration and Citizenship (DIAC).

The Bill requires registered providers to update DIAC with any changes to a student's current residential address, mobile phone number or email address within 14 days of the provider becoming aware of the change (Items 2 and 3). The aim is to enable relevant government agencies to access the most up-to-date contact information held by education providers given that following implementation of item 1 of this Bill, universities will no longer be responsible for communicating with students regarding automatic visa cancellations. Consequently DIAC will need access to accurate contact information for the purposes of resolving a student's visa status in the event of reported non-compliance.

While we understand the objective of the proposed amendment, this legislation increases the administrative burden of universities and takes resources away from the core business of teaching and learning. The lack of consideration given to university administrative and reporting loads is reflected in the absence of any mention of the regulatory burden on providers in the Regulatory Impact Statement (RIS) for the Bill.

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The on-the-ground implication of this change not stated in the RIS is that universities will have to manually update the Provider Registration and International Students Management system (PRISMS) with the details of each accepted student on enrolment (which will often mean giving the student's home address as they haven't arrived in Australia) and when updating student contact details following the initial entry. This will mean thousands of notifications for little or no purpose, including multiple notices for the same students who may move several times before settling on a permanent address and change their email and mobile numbers numerous times. As PRISMS is not updated automatically when changes are made to university records, this will require manual entry into PRISMS for each and every change. This is an arduous and time-consuming task that fails the test of proportionate risk based regulation given alternatives exist.

Currently, universities are obliged under the ESOS Act to maintain their own up-to-date records for each student. As part of their routine admissions processes, providers confirm these details with students and update their records accordingly. Providers also update PRISMS when current students do not commence their courses, terminate their studies, change their courses, or whose studies have been deferred or suspended. In practice, providers have emergency contact details for their students as part of their duty of care protocols. The information that DIAC is seeking by way of these amendments is already being captured by providers; this proposed amendment requires universities to divert already scarce resources to duplicate reporting requirements.

Universities Australia proposes that rather than update PRISMS within 14 days of a change in student contact details, each university provide this information when students breach their visa conditions (or any other prescribed matter) and at the specific request of any of the relevant government agencies. This proposal provides for proportionate risk based regulation in that the information required by government will be available at those times it is typically required, as well as when specifically requested should DIAC need to contact a student for whom their contact details are no longer current.

Universities Australia urges the Committee to consider amending the draft provisions in the Bill relating to subsection 19(2) of the ESOS Act (clause 1A) as below.

“A registered provider must give the Secretary particulars of any change in the contact details or other prescribed details of an accepted student within 14 days after the provider becomes aware the student has breached their visa conditions or for any other prescribed matter.”

Prescribed matters could be defined to include all examples of visa breaches and where students do not commence, terminate or change their course or following a specific request by DIAC.

The proposed notification provisions in the Bill may be unnecessary if existing, more effective administrative solutions are utilised. This could include using information repositories (or interfacing them better with PRISMS) such as the Higher Education Information Management Systems (HEIMS) which already collect, from universities, the student data necessary for the administration of the Higher Education Services Act.

Universities Australia is committed to working with Government to ensure we achieve the best possible outcomes for international students and international education providers. We are happy to appear before the Committee to provide more detail on our arguments above, if required.

Yours sincerely

Belinda Robinson
Chief Executive