

## Audit Report No. 46 2010–11

# Management of Student Visas

## Introduction

- 5.1 By 2009, the international education and training sector had grown to become Australia's third largest export industry, worth an estimated \$18.6 billion.<sup>1</sup> However, the ANAO Audit Report No. 46 2010–11 noted 2009–10 was the first year of negative growth in applications in a number of years.<sup>2</sup> The ANAO identified a number of compounding factors including: changes to policy settings; negative media coverage; strengthening of quality requirements for education providers; and the global financial crisis.<sup>3</sup>
- 5.2 According to the 2011-12 Budget Economic Outlook statement, the short-term outlook for services exports, which includes education-related services, is expected to remain muted due to the strong Australian dollar. The Statement also estimated that exports are unlikely to return to pre-global financial crisis levels in the next two years.<sup>4</sup>

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1 ANAO Audit Report No. 46, *Management of Student Visas* 2010–11, p. 13.

2 ANAO Audit Report No. 46 2010–11, p. 35.

3 ANAO Audit Report No. 46, 2010–11, p. 15.

4 Budget 2011–12 – Budget Paper No. 1 – Statement 2: Economic Outlook, pp. 2.26–2.27.

- 5.3 As manager of the student visa program, the Department of Immigration and Citizenship (DIAC) is a critical enabler of this significant export industry. DIAC's program objective is to balance supporting the expansion of the international sector while ensuring a high degree of immigration integrity.<sup>5</sup>
- 5.4 While there are a number of other Australian Government departments involved in the promotion and support of the international education sector, the ANAO's audit report and the Committee's review focuses primarily on DIAC and its relationship with the Department of Education, Employment and Workplace Relations (DEEWR).
- 5.5 DIAC is responsible for the entry of students to Australia through its administration of the *Migration Act 1958*. DEEWR is responsible for the *Education Services for Overseas Students Act 2000*, which sets out the legal framework governing the education provided to international students holding a student visa. The two Acts interact across a number of areas of the student visa program in both the visa application stage and the in ensuring compliance with visa conditions.<sup>6</sup>
- 5.6 In 2009–10, DIAC received 296, 558 student visa applications, of which 270, 499 were granted. The student visa population comprises students from 197 countries, with approximately one third emanating from China and India.<sup>7</sup>
- 5.7 DIAC assesses and manages immigration risk of this large caseload primarily through a process of setting and periodically reviewing the assessment levels (ALs) of each country. The designated AL determines the evidentiary requirements for applicants, with AL1 representing the lowest risk and therefore the least onerous evidentiary requirements.<sup>8</sup> Appendix four in the ANAO report provides details of each AL and the evidentiary requirements.<sup>9</sup>
- 5.8 There are seven subclasses of visa available to students. Each subclass responds to the different education sectors including higher education, English-language courses, and vocational education and training (VET). While the higher education sector continues to lead in terms of the number of visas granted, prior to policy changes in 2009–10, the VET sector had been the strongest area of growth. In February 2010, the

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5 ANAO Audit Report No. 46 2010–11, p. 17.

6 ANAO Audit Report No. 46 2010–11, p. 33.

7 ANAO Audit Report No. 46 2010–11, pp. 35–36.

8 ANAO Audit Report No. 46 2010–11, p. 14.

9 ANAO Audit Report No. 46 2010–11, pp. 154–156.

Government introduced changes to reduce the use of this class of visa as a pathway to permanent residence under the skilled migration program.<sup>10</sup>

## Policy context

- 5.9 In the not too distant future, Australia is expected to reach a situation where there are more people retiring than joining the workforce. According to DIAC's Secretary, immigration will be the only source of net labour growth.<sup>11</sup> Many international students remain onshore at the conclusion of their course, seeking permanent residency. These students continue to be significant contributors to Australia's long-term Net Overseas Migration (NOM).<sup>12</sup>
- 5.10 For the full benefit of the student to resident pathway to be realised, the supply of skills from the international cohort should ideally match the demand for skills from industry. DIAC observed an emerging issue whereby ready availability of this pathway led to an annual average growth in overseas student enrolments in the VET sector of 36 per cent from 2005 to 2009. However, major growth was in non-critical courses such as hospitality and hospitality management, cookery and hairdressing.<sup>13</sup>
- 5.11 These VET courses were shorter and cheaper than Higher Education courses but potentially yielded the same permanent migration outcome. DIAC's concern was that there would be a continuing increase in student visa applicants for permanent residence in the independent skills stream, adding both to a growing pool of ex-students living in Australia with relatively low value skills in a lengthening application pipeline, and to NOM.<sup>14</sup>

## Program integrity initiatives

- 5.12 To be granted a student visa, applicants must demonstrate that they have a genuine intention to study and return home afterwards. As noted above, the audit reported instances of the student visa program being used primarily as a means gaining a permanent residence outcome. Education

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10 ANAO Audit Report No. 46 2010-11, pp. 34-35.

11 A. Metcalfe, 'Migration as a policy tool to manage the global economic crisis', address to the Australian and New Zealand School of Government, 3 September 2009, p. 7.

12 ANAO Audit Report No. 46 2010-11, p. 39.

13 ANAO Audit Report No. 46 2010-11, pp. 38-39.

14 A. Metcalfe, 'Migration as a policy tool to manage the global economic crisis', address to the Australian and New Zealand School of Government, 3 September 2009, p. 9.

agents were also found to be playing a role in promoting student visas as a guaranteed permanent residence outcome and facilitated the applications of clients with that motivation.<sup>15</sup>

- 5.13 In 2009–10, a number of policy changes were introduced by the Government with the aim of strengthening the integrity of the student visa program and limiting the skilled migration pathway.<sup>16</sup>

### Review of the *Education Services for Overseas Students Act 2000*

- 5.14 Also during 2009–10, the Government brought forward the periodic review of the *Education Services for Overseas Students Act 2000* (ESOS Act). The Hon Bruce Baird was appointed to review ‘the regulatory framework and report back to the Government with changes designed to ensure Australia continues to offer world-class, quality international education’.<sup>17</sup>
- 5.15 Most of Baird’s recommendations related to DEEWR, however, one recommendation referred directly to DIAC’s management of student visas. Baird recommended that ‘the *Migration Act 1958* be amended to enable a more flexible approach to the current visa cancellation requirements for students who are reported for failing to maintain satisfactory course progress or attendance’.<sup>18</sup>
- 5.16 The Government has responded in stages. Stage one focused on legislative changes addressing risk management and more effective enforcement, as well as strengthening the registration process for approved international education providers. The Government also extended the jurisdiction of the Commonwealth Ombudsman to include complaints about private providers.<sup>19</sup> The next stages provide for stronger student tuition protections and changes to the national registration.<sup>20</sup>

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15 ANAO Audit Report No. 46 2010–11, p. 16.

16 ANAO Audit Report No. 46 2010–11, p. 16.

17 The Baird Review is available at <[http://www.aei.gov.au/About-AEI/Current-Initiatives/ESOS-Review/Documents/ESOS\\_REview\\_Final\\_Report\\_Feb\\_2010\\_pdf.pdf](http://www.aei.gov.au/About-AEI/Current-Initiatives/ESOS-Review/Documents/ESOS_REview_Final_Report_Feb_2010_pdf.pdf)>

18 B. Baird, Final Report February 2010, p. 29.

19 ANAO Audit Report No. 46 2010–11, p. 43.

20 For details see AEI, ESOS Review, <<http://www.aei.gov.au/About-AEI/Current-Initiatives/ESOS-Review/Pages/default.aspx>> viewed 3 November 2011.

## Strategic review of the student visa program (Knight Review)

- 5.17 In December 2010, the Government commissioned the Hon Michael Knight AO to undertake a strategic review of the student visa program and provide recommendations to enhance the competitiveness of the international sector and further strengthen the integrity of the program.<sup>21</sup>
- 5.18 Knight reported in September 2011 with 41 recommendations, including: new streamlined visa processing arrangements for those enrolling in bachelor level courses and above; reduced financial requirements for some applicants; a review of the risk level framework; and offers of two to four year post-study work visas for graduates. The Government announced support for Knight's recommendations and proposes 'to implement them with some modifications to enhance the performance of the sector and to further safeguard the integrity of the visa system'.<sup>22</sup>

## The ANAO audit

### Audit objective

- 5.19 The audit objective was to assess the effectiveness of DIAC's management of the student visa program. Three key areas were examined in the audit:
- the processing of student visa applications;
  - ensuring compliance with student visa conditions; and
  - cooperation between DIAC and DEEWR.<sup>23</sup>
- 5.20 The audit did not examine DEEWR's administration of the ESOS Act and the National Code. The ANAO indicated that such an audit would be considered once the Baird Review recommendations have been implemented and the resulting changes bedded down.<sup>24</sup> Likewise, the audit did not fully take into account the Knight Review, nor subsequent Government response, as these had not been released at the time of the audit.

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21 ANAO Audit Report No. 46 2010-11, p. 44.

22 Knight Review Fact Sheet <[http://www.immi.gov.au/students/\\_pdf/2011-fact-sheet.pdf](http://www.immi.gov.au/students/_pdf/2011-fact-sheet.pdf)> accessed on 4 November 2011. Details of the Knight Review and the Government response are available at: <http://www.immi.gov.au/students/knight/>.

23 ANAO Audit Report No. 46 2010-11, p. 17.

24 ANAO Audit Report No. 46 2010-11, p. 45.

## Audit findings

### Overall conclusion

5.21 By way of background, the ANAO found that:

Over the past decade, DIAC's management of the student visa program has successfully supported the growth of one of Australia's largest export industries and enabled over a million and a half students to access high quality education in Australia. However, the permanent residence pathway available to overseas students through skilled migration caused an unsustainable level of growth in the program and compromised its integrity. As a consequence, the Government introduced policy changes during 2009-10 to restrict this pathway.<sup>25</sup>

5.22 The ANAO concluded that a number of DIAC's key administrative structures and processes were not sufficiently robust to effectively meet the challenges involved in achieving the Government's objective for the student visa program of balancing industry growth and program integrity. Visa processing arrangements and compliance functions, as well as the relationship with DEEWR, had not kept pace with the demands of the dynamic program environment.<sup>26</sup>

5.23 With regard to the visa processing arrangements, the ANAO found:

There is considerable scope for the Department to strengthen its process for determining the risk-based assessment levels for countries and education sectors, to better align student visa requirements with contemporary program integrity risks. There would also be benefit in the Department evaluating the client service and processing efficiency benefits of eVisa for students... It will be important for DIAC to maintain a regular program of audits and evaluation of eVisa agent compliance...

5.24 The ANAO identified the rapid growth of the student visa program and a lack of an up-to-date plan outlining national compliance priorities were placing significant pressure on DIAC's compliance functions. The ANAO also noted problems with the enforceability of the mandatory visa conditions relating to students maintaining satisfactory course progress

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25 ANAO Audit Report No. 46 2010-11, pp. 17-20.

26 ANAO Audit Report No. 46 2010-11, p. 18.

and attendance, and the working rights allowance of 20 hours per week. The ANAO suggested this 'requires careful review'.<sup>27</sup>

- 5.25 The DIAC-DEEWR relationship was found to lack mechanisms to provide a shared strategic direction and agreed priorities. The ANAO acknowledged some steps have been taken to improve the relationship, but suggested that further collaboration is required.<sup>28</sup>
- 5.26 The ANAO also found that DIAC has 'instituted a number of organisational improvements, which 'once bedded down' can be expected to improve DIAC's management of the student visa program.'<sup>29</sup>

### ANAO recommendations<sup>30</sup>

- 5.27 The ANAO made six recommendations directed towards strengthening DIAC's management of student visa processing and compliance, as well as improving its collaborative relationship with DEEWR.

Table 5.1 ANAO recommendations, ANAO Audit Report No. 46 2010–11

1.	To improve DIAC's management of risk in the student visa program, and to better align student visa requirements and immigration risk, the ANAO recommends that DIAC undertake a review of its process for determining country and education sector assessment levels for student visa applications. <b>DIAC Response:</b> <i>Agreed</i>
2.	To confirm that the eVisa lodgement facility for students is meeting its objectives and the needs of the student visa program, the ANAO recommends that DIAC evaluate the facility with a view to: a) incorporating the findings in planning for the further development of eLodgement and eVisa; and b) formally resolving the status of the eVisa 'trial' for higher risk countries. <b>DIAC Response:</b> <i>Agreed</i>
3.	To effectively manage the performance of eVisa agents registered under the eVisa facility for higher risk countries, the ANAO recommends that DIAC maintain a program of audits and evaluation of eVisa agent compliance with the terms of the facility's Deed of Agreement. <b>DIAC Response:</b> <i>Agreed</i>

27 ANAO Audit Report No. 46 2010–11, pp. 18–19.

28 ANAO Audit Report No. 46 2010–11, p. 18.

29 ANAO Audit Report No. 46 2010–11, pp. 19–20.

30 ANAO Audit Report No. 46 2010–11, pp. 29–30.

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4.	<p>To improve the effective application of the mandatory conditions attached to student visas, the ANAO recommends that DIAC review:</p> <ul style="list-style-type: none"> <li>a) whether the student visa cancellation regime applying to the visa conditions for student course attendance and progress is achieving DIAC's integrity and compliance objectives; and</li> <li>b) the operation of the student work rights limitation in relation to evidentiary requirements, decision-maker discretion and compliance resources.</li> </ul> <p><b>DIAC Response:</b> <i>Agreed</i></p>
5.	<p>To better manage the flow of Non-Compliance Notices, and to assist in the better targeting of DIAC's compliance resources, the ANAO recommends that DIAC review the:</p> <ul style="list-style-type: none"> <li>a) necessity for each type of Student Course Variation to be reported by DEEWR to DIAC; and</li> <li>b) appropriateness of each type of Student Course Variation converting automatically to a Non-Compliance Notice.</li> </ul> <p><b>DIAC Response:</b> <i>Agreed</i></p>
6.	<p>To improve collaboration arrangements, the ANAO recommends that DIAC establish, in conjunction with DEEWR, an appropriately high-level forum to:</p> <ul style="list-style-type: none"> <li>a) develop an agreed strategic approach to the interaction of the student visa program and international education; and</li> <li>b) establish priorities for cooperative activity between the departments relating to overseas students.</li> </ul> <p><b>DIAC Response:</b> <i>Agreed</i></p>

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## The Committee's review

5.28 The Committee held a public hearing on Wednesday 12 October 2011 with the following witnesses:

- Australian National Audit Office; and
- Department of Education, Employment and Workplace Relations.

5.29 The Committee took evidence on the following issues:

- the changing environment
- implementation of recommendations
- post-study work rights
- visa processing
  - ⇒ eVisa
  - ⇒ the role of universities
- compliance
  - ⇒ non-compliance notices (backlog, categories, new system)



- collaboration between departments
  - ⇒ unique student identifiers.

## The changing environment

- 5.30 In their respective opening remarks, both DIAC and DEEWR commented on the considerable change taking place in both in the international education sector and the broader global environment. DIAC detailed the pressures on the international education sector including the global financial crisis, rapid growth in the value of the Australian dollar, increased international competition, and negative publicity around in-country safety.<sup>31</sup>
- 5.31 The Committee stressed the high value of the international education sector to the Australian economy and the importance of getting the policy settings right. The Committee raised concerns around earlier reports of cultural and xenophobic issues or perceptions, as well as the recent media suggesting the use of student visas to supply workers for the sex trade.<sup>32</sup> The Committee asked for the witnesses for any comments on these issues.
- 5.32 DIAC noted the seriousness of the recent media allegations, indicating that the Department works closely with relevant law enforcement bodies where there may be issues of criminality, such as human trafficking. However, DIAC also advised that with regard to working in the sex industry, 'in many jurisdictions it is decriminalised and a person with permission to work has permission to work'.<sup>33</sup>
- 5.33 Further, DIAC added that it is not just the sex industry where these types of problems occur. According to DIAC issues have arisen with employment rules more generally:

This is why the integrity is absolutely crucial for maintaining the quality student visa program in the international education sector. When you have the situation where there are strong pull factors and also push factors from the region in terms of many people

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31 Mr Kruno Kukoc, First Assistant Secretary, Department of Immigration and Citizenship, *Committee Hansard*, Canberra, 12 October 2011, p. 2; and Mr Colin Walters, Group Manager, Department of Education, Employment and Workplace Relations, *Committee Hansard*, Canberra, 12 October 2011, p.3.

32 For example see 'Visa to Vice' *Sydney Morning Herald* 12 October 2011, which can be viewed at <<http://www.smh.com.au/national/visa-to-vice-migration-agents-linked-to-sex-workers-20111011-1lj80.html>>

33 Mr Robert Illingsworth, Acting First Assistant Secretary, Department of Immigration and Citizenship, *Committee Hansard*, Canberra, 12 October 2011, p.4.

wanting to come to Australia and work instead of studying, it is important to get the balance right with the policy settings.<sup>34</sup>

- 5.34 A further pressure on the credibility of the Australian international education sector identified in DIAC's opening statement was the policy and legislative settings that allowed the use of the vocational education and training sector to be used as a doorway to permanent residence through the skilled migration program. DIAC confirmed that significant changes have been made to 'decouple the automatic link between studying in Australia and permanent migration'.<sup>35</sup>
- 5.35 According to DIAC and DEEWR, the reform program underway in the international education sector aims to balance the policy settings. DIAC emphasised the view that the objective of the student visa program should always be about education rather than labour market objectives.<sup>36</sup>

## Implementation of recommendations

- 5.36 As noted above, the ANAO made six recommendations directed towards strengthening DIAC's management of student visa processing and compliance, as well as improving its collaborative relationship with DEEWR.<sup>37</sup>
- 5.37 The Committee asked witnesses from DEEWR and DIAC to comment on whether implementation of the ANAO recommendations will be completed within 12 months. The Committee also expressed interest in progress on implementation of recommendations stemming from the Baird and Knight reviews.
- 5.38 Both DIAC and DEEWR expressed support for the recommendations. DIAC indicated that the release of the recent reviews and government responses, along with the ANAO report, provide a key opportunity to make well-informed, appropriate changes to the student visa program.<sup>38</sup>
- 5.39 While noting that the ANAO report addressed issues relating to only a small part of the international education sector 'jigsaw', DEEWR told the Committee that the recommendations suggested worthwhile improvements around visa processing arrangements.

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34 Mr Kukoc, DIAC, *Committee Hansard*, Canberra, 12 October 2011, p. 4.

35 Mr Kukoc, DIAC, *Committee Hansard*, Canberra, 12 October 2011, p. 1.

36 Mr Kukoc, DIAC, *Committee Hansard*, Canberra, 12 October 2011, p. 2; and Mr Walters, DEEWR, *Committee Hansard*, Canberra, 12 October 2011, p.3.

37 ANAO Audit Report No. 46 2010-11, pp. 29-30.

38 Mr Kukoc, DIAC, *Committee Hansard*, Canberra, 12 October 2011, pp. 2-3.

It is something we need to get right and it is an area which education providers watch carefully and are keen to make sure that our practice is up with the world's best, in particular with overseas competitors.<sup>39</sup>

- 5.40 DIAC highlighted 'synergies' between the ANAO report and the Knight Report, noting three of the six ANAO recommendations (No.1, No.4 and No.5) align with Knight's recommendations. DIAC provided a summary of the progress being made on these recommendations.

Michael Knight's report recommends a fundamental review of the assessment level framework. This review will allow the Department not only to respond to the ANAO's Recommendation No.1 but also to make recommendations on the entire student visa risk management framework with a view to enhancing the integrity of the program while at the same time supporting the competitiveness of Australia's international education sector.

Michael Knight's report also recommends the abolition of the automatic and mandatory cancellation regimes which aligns with ANAO Recommendation No.4. The Department is helping to have the required legislative and system changes scheduled in the legislative program for early 2012. This should allow the Department to more strategically target its student visas compliance and integrity resources.

Implementation of the Knight report recommendation that work limitation entitlements be measured as 40 hours a fortnight rather than 20 hours a week provides an opportunity to also review the operation of the work limitation requirement in relation to evidentiary requirements, discretion and compliance resources. Changes will be subject to legislative scheduling requirements and are expected to be completed by early 2012.

System changes will be made in December this year preventing the majority of student course variations converting automatically to a non-compliance notice, Recommendation No.5 in the ANAO report. Legislation to repeal automatic cancellation will be completed in 2012 at which point the remaining student course variations, two of them, will also cease to become non-compliance notices.<sup>40</sup>

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39 Mr Walters, DEEWR, *Committee Hansard*, Canberra, 12 October 2011, pp. 2-3.

40 Mr Kukoc, DIAC, *Committee Hansard*, Canberra, 12 October 2011, p. 3.

- 5.41 Responding to Recommendation No.2, DIAC informed the Committee that the Department's evaluation of the e-visa trial lodgement facility is expected to be completed by the end of 2011. The results of the trial will inform planning for further development of e-visas<sup>41</sup> and e-lodgement in relation to the student visa program.<sup>42</sup>
- 5.42 Addressing ANAO's Recommendation No.3, regarding eVisa agents, DIAC advised that the Department is 'conducting a statistical analysis of student visa applications lodged through the facility to determine whether e-visa agents are complying with their obligations'.<sup>43</sup>
- 5.43 In regard to Recommendation No.6, DEEWR pointed out that the ANAO's comments on DIAC-DEEWR relations represent a historical situation.<sup>44</sup> DIAC advised that in direct response to this recommendation, a DIAC-DEEWR strategic policy group was established to coordinate activity regarding international students and education issues.<sup>45</sup>
- 5.44 The Committee also had a number of related questions regarding implementation of these recommendations. These are addressed below.

## Post-study work rights

- 5.45 The ANAO noted in their audit report 'the limitation on work rights reflects the fact that the purpose of a student visa is to allow entry to Australia to study, not to work'. However, the report also noted that the purpose of work rights was to enhance the overall experience, in terms of community interaction and the development of language and professional skills.<sup>46</sup>
- 5.46 Further to DIAC's opening statement regarding the Knight Review recommendation on post study work rights, the Committee asked why the Government had accepted this recommendation, without linking it to the labour market requirements. The Committee also asked what measures will be put in place to ensure the work provisions are not abused by people trying to access the temporary labour market through the student visa program.

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41 According to ANAO Audit Report No. 46 2010-11, p.22, eVisa is an electronic lodgement and payment service for selected visa classes, including student visas.

42 Mr Kukoc, DIAC, *Committee Hansard*, Canberra, 12 October 2011, p. 2.

43 Mr Kukoc, DIAC, *Committee Hansard*, Canberra, 12 October 2011, p. 2.

44 Mr Walters, DEEWR, *Committee Hansard*, Canberra, 12 October 2011, p. 3.

45 Mr Kukoc, DIAC *Committee Hansard*, Canberra, 12 October 2011, p. 2.

46 ANAO Audit Report No. 46 2010-11, p. 113.

- 5.47 DIAC outlined the new system whereby the core integrity criterion is to determine that the applicant is a 'genuine temporary student'. In addition, DIAC noted that this recommendation relates to students in the university sector, which is considered the lowest risk group.

...the rationale that Michael Knight has explained in his report, and which the government has accepted, is that this additional work period for university students will give them another experience to top up their education that they gain in Australia. It will help them in the pursuit of their further career, be that in Australia or overseas.<sup>47</sup>

## Visa processing<sup>48</sup>

### eVisa

- 5.48 eVisa is an electronic lodgement and payment service for selected visa classes. The eVisa process can support: automated checks to ensure applications are valid; automated checks against departmental warning lists; automated referral to follow up health concerns; email notification of visa grants where all requirements are met; an online inquiry function to enable clients to check the status of their applications; and online credit card payment and receipting functions.<sup>49</sup>
- 5.49 The ANAO's report noted that on introduction DIAC claimed the eVisa system would allow for faster processing and savings as a result of reduced manual involvement by staff.<sup>50</sup> However, the audit found the performance information on eVisa take-up being published by DIAC was giving an incomplete picture of the efficiency impact. The ANAO found the regularly published figure of around 75 per cent related only to application lodgement, rather than the number of applications processed through eVisa to the automatic grant (autogrant) of a visa.<sup>51</sup>
- 5.50 The ANAO's report noted that DIAC does not measure the portion of eVisa applications that are autograned. The ANAO undertook some analysis, which provided results demonstrating use had dropped from

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47 Mr Kukoc, DIAC, *Committee Hansard*, Canberra, 12 October 2011, p.6.

48 The ANAO created flow charts outlining the student visa application lodgement process and decision making process. These overviews are available at Appendix 2 and Appendix 3 of ANAO Audit Report No. 46 2010-11, pp.152-153.

49 ANAO Audit Report No. 46 2010-11, p. 77.

50 ANAO Audit Report No. 46 2010-11, p. 22.

51 ANAO Audit Report No. 46 2010-11, p. 22. It is possible through this system to be granted a visa (autogrant) with no involvement by processing staff.

around 65 per cent in the years immediately following implementation, down to around 17 per cent over the last two financial years.<sup>52</sup>

- 5.51 The Committee asked how many of the selected categories are processed through electronic lodgement from start to finish, specifically without manual intervention. The Committee was also interested in strategies in place to encourage higher take-up rate for these processes.
- 5.52 During the hearing, DIAC commented on electronic lodgement numbers, indicating the take-up rate from the low risk AL1 countries was very high. Further, DIAC advised, the eVisa trial, operationalised through selected in-country agents in the higher-risk, large volume countries of China, India, Thailand and Indonesia had seen a take-up rate of around 55 per cent.<sup>53</sup>
- 5.53 DIAC provided additional information advising that the auto-grant rate was around ten per cent and the Department is not seeking to increase this percentage. DIAC stated that in order to deliver services more efficiently and effectively the Department was focusing on increasing the range of online products and seeking to increase the uptake of eVisa lodgement only.<sup>54</sup> Similar comments are reflected by Knight in his Review, where it's noted that DIAC's objective is to offer e-lodgement to all student visa applicants.<sup>55</sup>

### University involvement in visa processing

- 5.54 The Committee referred to a press release by the Minister for Tertiary Education, Skills Jobs and Workplace Relations<sup>56</sup> regarding the Government's intention to implement Knight's recommendation for streamlined visa processing arrangements for universities. The Committee asked for confirmation as to whether responsibility for the administration of the student visa program had been devolved to individual universities. The Committee was also interested in the proposed process and governance arrangements for this new system.
- 5.55 DIAC stressed that in two areas there will be no change - the Department will still issue the visa and education providers will continue to issue

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52 ANAO Audit Report No. 46 2010-11, p. 22.

53 Mr Kukoc, DIAC, *Committee Hansard*, Canberra, 12 October 2011, p. 7.

54 DIAC submission no.1, p. [6].

55 Strategic Review of the Student Visa Program 2010-11 (Knight Review) <<http://www.immi.gov.au/students/knight/>>accessed 4 November 2011.

56 The full press release is available at <<http://www.minister.immi.gov.au/media/cb/2011/cb172439.htm>>.

- 'confirmation of enrolment'.<sup>57</sup> What will change is that all university students doing a bachelor level or higher degree will be treated as AL1 students, regardless of the AL level of their country of origin.<sup>58</sup>
- 5.56 DIAC explained that while the evidentiary requirements for these students are reduced, they still have to meet the precondition of being a 'genuine temporary entrant' as well as all other criteria, including health, character, language proficiency and financial requirements. However, DIAC highlighted the reduced burden noting the university's confirmation of enrolment will be considered sufficient documentary evidence to support the latter two criteria.<sup>59</sup>
- 5.57 DIAC advised that universities will be invited to opt-in to the new arrangements, which requires them to provide a commitment on the public record to meet certain standards.<sup>60</sup> DEEWR expanded on DIAC's advice confirming for the Committee that rather than a standard template, universities will design their own processes to take into account their unique set of circumstances and student requirements.<sup>61</sup>
- 5.58 According to DEEWR, universities will be required to demonstrate the integrity of their processes to ensure they are recruiting genuine students and that they do not allow abuse of this migration pathway.<sup>62</sup>
- 5.59 Following the hearing, DIAC provided an update on progress with universities. The updated showed that on 3 November 2011 DIAC wrote to university Vice-Chancellors seeking their views on the proposed implementation of the streamlined processing arrangements. The letter canvassed proposed accountability arrangements and outlined ongoing performance assessment as well as punitive actions for failing to meet obligations.<sup>63</sup>

## Compliance plans

- 5.60 Active monitoring of the over 400,000 student visa holders in Australia is not feasible, the ANAO stated in their report. Therefore, prioritisation of the compliance workload is essential. The audit revealed that despite

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57 Ms Paula Williams, Assistant Secretary, Department of Immigration and Citizenship, *Committee Hansard*, Canberra, 12 October 2011, p. 7.

58 Mr Kukoc, DIAC, *Committee Hansard*, Canberra, 12 October 2011, p. 7.

59 Mr Kukoc, DIAC, *Committee Hansard*, Canberra, 12 October 2011, p. 7.

60 Mr Kukoc, DIAC, *Committee Hansard*, Canberra, 12 October 2011, p. 7.

61 Mr Walters, DEEWR, *Committee Hansard*, Canberra, 12 October 2011, p. 8.

62 Mr Walters, DEEWR, *Committee Hansard*, Canberra, 12 October 2011, p. 8.

63 DIAC submission no.1, p. [7].

commitments to do so, DIAC had not published an updated annual compliance plan since 2007–08. They did indicate to the Committee a plan was under development and due to be finalised by 2011–12.<sup>64</sup>

- 5.61 Noting the ANAO's criticism, the Committee asked why the Department had not updated its compliance and integrity plans. Further, the Committee wanted to know how DIAC had been reviewing priorities without a plan in place.
- 5.62 During the hearing, DIAC advised that a revised compliance priority matrix had been developed and consultation was taking place across the service delivery network. DIAC explained the challenges in designing advice when working in a statutory regulatory field where all breaches are important. DIAC assured the Committee that a significant amount of work went into ensuring that the revised advice would allow departmental staff 'to make sense of priorities of the organisation and deliver the best yield for the effort'.<sup>65</sup>
- 5.63 Subsequent to the hearing, DIAC provided additional information indicating that the Compliance Field Prioritisation Matrix 2011–12 had been in development since 2010 and was finalised for implementation in September 2011. Feedback from a workshop in October 2011 with compliance staff and managers from all states and territories indicated that the new matrix was working well and that further implementation support was not required.<sup>66</sup>

## Non-Compliance Notices

- 5.64 The growing backlog of Non-Compliance Notices (NCN)<sup>67</sup> for student visa holders was estimated by the ANAO to be in excess of 350,000 by the middle of 2010. Although most of these NCNs related to relatively minor administrative matters, ANAO was concerned that this large backlog potentially obscured serious cases of student non-compliance.<sup>68</sup>

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64 ANAO Audit Report No. 46 2010–11, pp. 24–25.

65 Mr Illingsworth, DIAC, *Committee Hansard*, Canberra, 12 October 2011, p. 4.

66 DIAC submission no.1, p. [5].

67 The ANAO (ANAO Audit Report No. 46 2010–11, p.19) defined a Non-Compliance Notice (NCN) as an internal notification within DIAC of a change to a student's circumstances that is automatically generated by reports received from education providers via DEEWR. NCNs attach to the student's data record within DIAC's processing system. Not all NCNs relate to breaches of mandatory visa conditions, which trigger visa cancellation action, but all NCNs prevent further visa grants to the student until the NCN has been examined by DIAC compliance staff and finalised.

68 ANAO Audit Report No. 46 2010–11, pp. 18–19.



- 5.65 While acknowledging Knight's recommendation to remove automatic cancellation will assist in addressing the massive NCN backlog, the Committee noted that this does not change the fact that non-compliance will still occur. The Committee asked DIAC to outline changes that are occurring, and what mechanisms have been put in place to prioritise non-compliance events.
- 5.66 The first point DIAC sought to clarify was that non-compliance is not an accurate description for some of the NCNs generated. The backlog consists of many NCNs that were a result of a system that turned any course variation into an automatic NCN. The sharp growth of the VET sector led to a comparable spike in automatically generated NCNs. DIAC estimated at the peak there were around 270,000 NCNs.<sup>69</sup>
- 5.67 DIAC advised that it would not be possible to overcome the backlog of NCNs without changing the system to ensure that only those NCNs representing 'serious non-compliance' turned into NCNs. This system change has been made prior to the next phase, which will be the introduction of the Knight recommendation.<sup>70</sup> Significant inroads have already been made against the backlog with 197,832 finalised as at 14 October 2011.<sup>71</sup>
- 5.68 Additional information was submitted by DIAC, which provides details of the current NCN codes and categorisation (Appendix C). In summary, there are 19 NCN codes, of which two codes can result in automatic cancellation if the student does not attend a DIAC office within 28 days of the notice: students who did not commence their course; and those who failed to meet course requirements. While representing a small percentage of NCNs, a large proportion of DIAC's resources are directed to resolving these cases.<sup>72</sup>
- 5.69 Students in other high risk codes may also be considered for visa cancellation, subject to additional supporting information being received. Such high risk codes include: did not attend class; ceased study and had their enrolment cancelled; or had their enrolment cancelled due to fees not paid.<sup>73</sup>
- 5.70 In addition to clearing the backlog and reviewing categorisation, DIAC noted they are also approaching ongoing compliance management from

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69 Mr Kukoc, DIAC, *Committee Hansard*, Canberra, 12 October 2011, p. 4.

70 Mr Kukoc, DIAC, *Committee Hansard*, Canberra, 12 October 2011, p. 4.

71 DIAC submission no.1, p. [2].

72 DIAC submission no.1, p. [2].

73 DIAC submission no.1, p. [2].

the front end. DIAC agreed with the ANAO's observations in the report, which outlined 'DIAC transformation plans' for closer integration of integrity and compliance and new Global management arrangements. DIAC confirmed the transformation is 'still a work in progress'.<sup>74</sup> One of the achievements to date, according to DIAC, has been the centralised 'marshalling' of operational student integrity resources. The result of this is 'a far greater capacity to prioritise and act against those areas of higher risk'.<sup>75</sup>

- 5.71 With these plans in place, DIAC advised the Committee that the Department has sufficient resources to meet current compliance requirements as well as clear the backlog. DIAC estimate that by mid-2012 the backlog will be fully resolved.<sup>76</sup>

## Collaboration between departments

- 5.72 ANAO's report acknowledges that while on a number of issues, international education is a whole-of government business, the particular interaction of the student visa program with the international education sector it services primarily concerns DIAC and DEEWR.<sup>77</sup>
- 5.73 At the time of the audit, the ANAO found that while there were extensive contact points between DIAC and DEEWR, there were also gaps in the structure of the relationship which were inhibiting fully effective collaboration.<sup>78</sup>
- 5.74 In response to the ANAO's recommendation relating to improving collaboration, DIAC advised the Committee that a DIAC-DEEWR strategic student visa policy group has been established.<sup>79</sup>
- 5.75 The Committee was interested in gaining assurance that this group had appropriate structure and processes in place, as well as suitably high level departmental representation. Noting that the ANAO considered working level relationships were adequate<sup>80</sup>, the Committee considered that the level of representation of this particular group was important in terms of representatives being able to provide input into high level departmental

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74 Audit Report No. 46 2010-11, p. 48.

75 Mr Todd Frew, First Assistant Secretary, Department of Immigration and Citizenship, *Committee Hansard*, Canberra, 12 October 2011, p. 5.

76 Mr Frew, DIAC, *Committee Hansard*, Canberra, 12 October 2011, p. 9.

77 ANAO Audit Report No. 46 2010-11, p. 124.

78 ANAO Audit Report No. 46 2010-11, p. 27.

79 Mr Kukoc, DIAC, *Committee Hansard*, Canberra, 12 October 2011, p. 2.

80 ANAO Audit Report No. 46 2010-11, pp. 137-138.

strategic planning and have influence within their own departments to implement any agreed outcomes.

- 5.76 DIAC confirmed that the policy group is currently meeting monthly and have a forward schedule in place for 2012.<sup>81</sup> Following the hearing, DIAC provided a document (at Appendix D) which outlines the background, objective and the terms of reference of the group, as well as departmental representation. In summary, the group is co-chaired by relevant Assistant Secretaries from each department, and aims to enhance cooperation through a greater understanding of common goals, establish shared priorities and progress relevant review outcomes.<sup>82</sup>
- 5.77 DEEWR confirmed strong support for the collaborative arrangements, but again reinforced that international education is broader than just a DEEWR-DIAC collaboration. Interest across government include:
- Department of the Prime Minister and Cabinet and the Department of Foreign Affairs and Trade;
  - Austrade, who are responsible for marketing;
  - Defence and AusAID in relation to scholarships as part of overseas aid; and
  - Department of Innovation, Industry, Science and Research for research visas.<sup>83</sup>
- 5.78 Accordingly, DEEWR noted the importance of the interdepartmental forum that brings together all the departments with an interest in international education, providing an opportunity to provide input into processes and discuss allied issues.<sup>84</sup>
- 5.79 In addition to these formal meetings, DEEWR and DIAC stressed the importance and occurrence of day-to-day interaction between the departments. The departments also provide mutual support, and citing the example of the secondment of a senior DEEWR staff member to DIAC for the duration of the Knight Review.<sup>85</sup>

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81 Ms Williams, DIAC, *Committee Hansard*, Canberra, 12 October 2011, p. 9.

82 DIAC submission no.1, p. [4].

83 Mr Walters, DEEWR, *Committee Hansard*, Canberra, 12 October 2011, p. 3.

84 Mr Walters, DEEWR, *Committee Hansard*, Canberra, 12 October 2011, p. 3.

85 Mr Kukoc, DIAC, *Committee Hansard*, Canberra, 12 October 2011, p. 9.

## Unique student identifier

- 5.80 While there are positive examples of the DIAC and DEEWR working together to streamline administration of the student visa program, the ANAO report outlined a long-standing issue inhibiting electronic exchange between the departments. DIAC and DEEWR currently use different information as identifiers for overseas students.<sup>86</sup>
- 5.81 DEEWR identified a number of benefits of moving to a single unique identifier including a significant improvement in data integrity and reliability, a reduction in duplicate records and improved compliance monitoring. DEEWR also found potential efficiencies in visa processing might also be realised, as the unique student identifier would support automatic validation of paper-based and eVisa applications.<sup>87</sup>
- 5.82 Consideration by DIAC and DEEWR of an option for a single, unique student identifier commenced as early as 2005, with in-principle agreement between departments reached in 2006-07. Subsequent funding bids were not successful. However, the ANAO notes that the Council of Australian Governments (COAG) gave in-principle support in December 2009 for the introduction from 2012 of a unique student identifier for the VET sector, and is considering the introduction of a national student identifier.<sup>88</sup>

## Committee comments

- 5.83 The Committee welcomed assurances from the respective departments that the recommendations of the ANAO were being acted upon as a priority. However, the Committee was concerned to note from the ANAO's report that a number of reviews and evaluations done across the student visa area over the years have not been finalised or fully implemented.
- 5.84 While the Committee is concerned about the multi-year time lag in updating compliance priority planning, the Committee notes that DIAC did meet the timeline for the implementation of a new compliance plan they provided to the ANAO during the audit. The Committee is reassured to see realistic timeframes and full implementation starting to be met.

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86 ANAO Audit Report No. 46 2010-11, p. 26.

87 ANAO Audit Report No. 46 2010-11, p. 128.

88 ANAO Audit Report No. 46 2010-11, p. 129.

- 5.85 With the new compliance plan in place and advice from DIAC that action to address the NCN backlog is well progressed, the Committee hopes to see DIAC achieve the timeframe outlined during the hearing to clear the remaining outstanding NCNs.
- 5.86 This massive backlog was a result of an unintended policy outcome. The Committee acknowledges policy is ultimately a government decision, but also believes it is the responsibility of agencies to provide robust advice to the relevant ministers identifying potential effects of those policies. The Committee considers it of particular importance that DIAC and DEEWR work together to closely monitor the relationship between the student visa program and the labour market.
- 5.87 Regarding collaboration between departments, the Committee welcomed the establishment of the strategic student visa policy group between DIAC and DEEWR. However, the Committee suggests that for such an important sector of the Australian economy the departments may wish to consider reallocating responsibility for the group to a higher level of senior executive.
- 5.88 Due to the importance of international education to the nation's economy, the Committee encourages DIAC to continue to pursue arrangements that provide for improved stakeholder communication and streamlined administration.
- 5.89 The Committee welcomes DIAC's intention to continue increasing the uptake rate of eVisa lodgement. However, the Committee notes the low autogrant rate, and that the Department was not seeking to increase this rate. There was no explanation provided as to why increasing the autogrant rate would not offer processing efficiencies.
- 5.90 More broadly, DIAC has advised the Committee that they are working to increase the range of online products to deliver services more efficiently and effectively. Responding to this the Committee suggests that online products should support enhanced multidirectional community engagement wherever possible.
- 5.91 The Committee strongly supports efforts to improve online services and communication as an opportunity to maximise national benefit for the Australian education system, and from the education system.

**Recommendation 4**

The Joint Committee of Public Accounts and Audit recommends that the Department of Immigration and Citizenship and the Department of Education, Employment and Workplace Relations report back to the Committee in six months from the tabling of this report on:

- implementation of recommendations (including those of the ANAO, the Knight Review, and the Baird Review);
- the rectification of the Non-Compliance Notice issues;
- the effectiveness of the new work arrangements between the Department of Immigration and Citizenship and the Department of Education, Employment and Workplace Relations; and
- an update on developments with eVisa arrangements and online products, including autogrant rate statistics.

Rob Oakeshott MP  
Committee Chair  
November 2011