



**Commonwealth Government Response to the Senate
References Committee on Education, Employment and
Workplace Relations' Inquiry into the Welfare of International
Students**

November 2011

Introduction

On 17 June 2009 the Senate referred the following matters to the Senate Education, Employment and Workplace Relations References Committee (the Committee) for inquiry and report:

- a) the roles and responsibilities of education providers, migration and education agents, state and federal governments, and relevant departments and embassies, in ensuring the quality and adequacy in information, advice, service delivery and support, with particular reference to:
 - i) student safety
 - ii) adequate and affordable accommodation
 - iii) social inclusion
 - iv) student visa requirements
 - v) adequate international student supports and advocacy
 - vi) employment rights and protections from exploitation
 - vii) appropriate pathways to permanency.
- b) the identification of quality benchmarks and controls for service, advice and support for international students studying at an Australian education institution.
- c) any other related matters.

The Senate Committee held public hearings in Melbourne on 1 September; in Sydney on 2 September; and in Canberra on 18 September 2009.

- The Committee tabled its Report into the Welfare of International Students on 26 November 2009.
- The Committee made 16 recommendations spanning a range of portfolio responsibilities.
- The Government Response (Response) supports nine recommendations, supports in principle three recommendations and notes four recommendations.
- Some of the recommendations presented in the final report are being addressed by the Government through:
 - the implementation of the Council of Australian Government's (COAG) International Students Strategy for Australia (ISSA)
 - responding to the recommendations made in the Hon Bruce Baird's review of the *Education Services for Overseas Students (ESOS) Act 2000*
 - new strengthened registration criteria introduced in March 2010 and re-registration of all education providers delivering services to overseas students completed on 31 December 2010
 - the establishment of the Tertiary Education Quality and Standards Agency (TEQSA)

- the establishment of the Australian Skills Quality Authority (ASQA), formally known as the National VET Regulator
- a joint strategic review of the Student visa program commissioned by the Department of Education, Employment and Workplace Relations and the Department of Immigration and Citizenship. The Hon Michael Knight AO conducted the review and presented his report to the Government on 1 July 2011 to which the Government responded on 22 September 2011
- the establishment of the International Education Advisory Council.

The International Students Strategy for Australia

On 29 October 2010 the Minister for Education, Employment and Workplace Relations, Senator Chris Evans, released COAG's International Students Strategy for Australia (ISSA). The Strategy outlines 12 initiatives to address four key areas: international student wellbeing; quality of international education; consumer protection; and the availability of better information for international students. Many of these initiatives address the Senate Committee's recommendations. These include:

- the establishment of an international student consultative committee and an annual International Student Roundtable to give international students a national forum to put forward their views in relation to their study and living experience in Australia
- a national community engagement strategy to facilitate connections between international students and the broader community, including increased understanding of rights and support services
- a Study in Australia information portal to provide a single source of authoritative, comprehensive, accurate and up-to-date information for students, including information on personal safety, student support services, and tenancy and employment rights and responsibilities
- establishment of Provider Closure Taskforces in each jurisdiction to ensure rapid and coordinated support for students in the event of provider closure
- the requirement for international students to provide evidence of health insurance cover for their proposed visa duration at the time of visa application. This will help guard against failure by students to renew coverage
- access for international students to an independent statutory complaints body, as international education providers will be required to use this as their external complaints and appeals process.

The Strategy has been developed collaboratively, and is being implemented by governments, the international education sector and international students. International students have offered valuable advice and input on issues related to studying, living and working in Australia.

The Strategy builds on efforts undertaken at all levels of government to improve the safety and wellbeing of international students and to ensure the ongoing quality and sustainability of the sector.

International Student Roundtables

The September 2009 International Student Roundtable called for better pre-arrival information about visas and studying, improved facilities, teaching quality, and better access to basic services.

The second International Student Roundtable was held in Canberra from 21–23 August 2011. The Roundtable brought together 30 international students, from all states and territories across all education sectors, to discuss the quality of their study and living experiences in Australia.

Students were nominated through the Joint Committee on International Education (JCIE), the Council of International Students and some were selected from the first Roundtable held in 2009. Participants were broadly representative of the international student population in Australia.

The Roundtable culminated in the presentation of a communiqué that acknowledged the significant progress made since the 2009 Roundtable and proposed further actions to address challenges in the key areas of: education experience; social inclusion; cost of living pressures; student safety and welfare; and visa related matters.

The recommendations of the International Student Roundtable are being considered by the Commonwealth and state and territory governments through the JCIE.

The Baird Review

The Baird review of the *Education Services for Overseas Students (ESOS) Act 2000* was conducted between August 2009 and February 2010 and involved consultations with over 200 stakeholders including students, education providers, peak bodies, state and territory government regulators and embassies.

The final report of the Baird review was released on 9 March 2010 and included 19 recommendations and findings related to student welfare and information, ethical recruitment, effective enforcement, risk management, and consumer protection.

The final report, *Stronger, Simpler, Smarter ESOS: Supporting International Students* sets out the issues facing the sector and makes a number of recommendations around two central themes:

- ensuring students are better supported through improved information, management of education agents, stronger consumer protection mechanisms and enhanced support to study and live in Australia, including having somewhere to go when problems arise
- improving regulation of Australia's international education sector to ensure Australia maintains its reputation as a high quality study destination.

Implementation of Baird review recommendations

On 21 March 2011 the first tranche of the legislative changes recommended by the Baird Review was passed through Parliament and enacted on 8 April 2011. The changes will strengthen the quality and integrity of the international education sector and include:

- further strengthening registration criteria, with a specific focus on business sustainability
- a risk management approach to registration both at entry and throughout the registration period
- limiting the period of provider registration
- allowing conditions to be placed on registration according to risk
- introducing financial penalties for a broader range of non-compliant behaviour
- publishing targets and regularly reporting on all regulatory activities undertaken
- expanding the role of the Commonwealth Ombudsman for external complaints relating to private providers.

On 7 December 2010 the Minister for Tertiary Education, Senator Chris Evans, released a consultation paper to inform the next phase of the Government's response to the Baird Review. The sector was asked to provide submissions by 21 January 2011 in relation to:

- risk assessment and management approaches to the registration and monitoring of education providers delivering to overseas students
- strengthening the tuition protection framework
- a range of recommendations arising from the Baird review of the *Education Services for Overseas Students (ESOS) Act 2000*
- the regulatory effect on providers of these proposals and recommendations.

A total of 52 submissions were received. Further targeted consultation with key stakeholders was held between January and September 2011 with a particular focus on strengthening the tuition protection framework.

On 10 May 2011, the Australian Government announced two broad measures to prepare for the Government's second phase legislative response to the Baird Review.

The first measure is a rebasing of the Annual Registration Charge (ARC) for all international education providers registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS). This was implemented by legislative amendments enacted on 26 September 2011 and will take effect from the next ARC collection in early 2012.

The second measure encompasses capital funding of \$3.25 million to be provided in 2011–12 to establish information technology systems for enhanced tuition protection arrangements for international students.

On 22 September 2011, three ESOS amendment bills were introduced into the Parliament to implement the second phase of the Government's response to the remaining recommendations from the Baird review. These bills include:

- (i) a universal single layer Tuition Protection Service (TPS) that will place or refund students when a defaulting provider does not meet its refund obligations. The TPS will replace the current Tuition Assurance Schemes and the ESOS Assurance Fund for more streamlined and timely placements and refunds. It will include enhanced accountability and representational governance arrangements and an online placement facility to give students greater choice in the placement process. A number of changes designed to complement the TPS include:
 - changing refund requirements, to include only the unspent portion of up-front fees paid by the student
 - limiting the collection of pre-paid fees to one study period at a time and a requirement that non-exempt providers keep initial pre-paid fees in a designated account
 - strengthening record keeping requirements.
- (ii) A national registration scheme to allow for the seamless registration of providers who operate across jurisdictions. This will enable more flexibility by the regulators to reduce unnecessary regulatory burden, however will not limit the existing ability of the regulator to impose conditions or take compliance action against any or all of a provider's operations.
- (iii) Various technical amendments including strengthening enforcement and monitoring options, strengthening definitions and repealing redundant provisions.

Re-registration of education providers

On 3 March 2010 amendments to the ESOS Act 2000 were enacted (the *ESOS Amendment (Re-registration of Providers and Other Measures) Act 2010*) including two new registration criteria and a requirement that all providers currently registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) be re-registered by 31 December 2010. The two new criteria are that an education provider seeking to deliver education to overseas students has the:

- principal purpose to provide education
- clearly demonstrated capacity to provide education of a satisfactory standard.

These measures were introduced to further protect and promote the quality of Australian education and enhance the reputation of the international education sector. Re-registration was conducted using a nationally consistent, risk managed approach that was developed in consultation with state and territory governments and agreed by the Ministerial Council of Tertiary Education and Employment in September 2009.

Re-registration was completed on 31 December 2010 and allowed for increased scrutiny of provider compliance and capacity. This has helped raise the quality of education and training delivered to overseas students. Re-registration was successful in encouraging a number of providers to address areas of concern in order to meet the new criteria as well as encouraging or requiring unsustainable providers not able to meet the new compliance standards to leave the sector. Approximately 200 providers were not re-registered.

The Australian Government worked with relevant jurisdictions to manage the re-registration process.

Review of the Student Visa Program

On 16 December 2010 the Minister for Education, Employment and Workplace Relations, Senator Chris Evans, and the Minister for Immigration and Citizenship, the Hon Chris Bowen MP, announced a strategic review of the Student Visa Program. The Government appointed the Hon Michael Knight AO to conduct the review and make recommendations on building a student visa framework that will reinforce the stability, quality and integrity of the international education sector into the future. Mr Knight presented his report to the Government on 1 July 2011 and on 22 September 2011 the Government announced its response.

The Government supports in principle all of the recommendations arising out of the Knight Review and will implement them with some modifications to enhance the performance of the sector and further safeguard the integrity of the student visa program. The response includes:

- streamlined visa processing for applicants who are accepted into a university course at bachelor or higher degree level
- post study work visas of two- to four-years duration for graduates from those courses
- more flexible work entitlements for all international students
- reductions in the financial requirements associated with Assessment Levels 3 and 4
- a fundamental review of the Assessment Level framework by mid 2012 to develop a more nuanced, targeted visa risk management system approach
- the establishment of an Education Visa Consultative Committee as a means of primary communication between DIAC and the international education sector.

The Government's response to the Knight Review complements other measures taken by the Government to strengthen the international education sector and support the Government's commitment to a high quality study and living experience for international students in Australia.

The International Education Advisory Council

Senator the Hon Chris Evans announced the establishment of the International Education Advisory Council during his address at the Australian International Education Conference in Adelaide on 14 October 2011.

The Advisory Council will provide high level advice about how the Government can, in partnership with stakeholders, encourage quality and sustainability in the international education sector.

The Advisory Council will initially provide feedback on trends in international education, and on current and proposed policies affecting the sector by March 2012. The deliberations of the Advisory Council will help inform the Government's development of a five year national strategy to support the sustainability and quality of the international education sector.

Membership of the Advisory Council comprises eminent people from Australia's education and business sectors. Mr Michael Chaney AO, Chairman of the National Australia Bank, will Chair the Advisory Council.

Response to the Inquiry Recommendations

The Commonwealth Government's responses to each of the 16 recommendations in the report on the Inquiry into the Welfare of International Students are detailed below.

RECOMMENDATION 1

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.

RESPONSE

The Government supports this recommendation.

COAG's International Students Strategy for Australia (ISSA), released in 2010, includes a Study in Australia portal to provide a single source of authoritative, comprehensive, accurate and up to date information, including on personal safety.

The Study in Australia portal, managed by Austrade, includes a Student Safety Guide available in 12 languages.

As part of broader consultations to inform the Government's second phase response to the Baird review, the Government is consulting on implementation details for the ISSA initiative that all providers develop student safety plans.

RECOMMENDATION 2

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.

RESPONSE

The Government supports this recommendation.

The Government supports a consistent approach to public transport concessions for international students. In June 2008 representations were made to the New South Wales and Victorian Governments, highlighting the benefits to those jurisdictions of international education and advocating that the states review their policies.

Further, on 14 October 2011 at the Australian International Education Conference, Senator the Hon Chris Evans, Minister for Tertiary Education, Skills, Jobs and Workplace Relations said: "It's now time for New South Wales and Victoria to critically re-examine their opposition to providing transport concessions for international students and recognise the benefits for their own states that change would bring". The Government will continue to make representations to NSW and Victoria on this matter.

COAG's International Students Strategy for Australia (ISSA), released in 2010, requires all governments to compile comparative information on the Study in Australia portal, outlining relevant government services to ensure students make informed decisions about where to study.

RECOMMENDATION 3

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

RESPONSE

The Government supports in principle this recommendation.

Travel concessions for international students are a state and territory responsibility. The Australian Government has consulted closely with states and territories during the development of the International Students Strategy for Australia (ISSA) and through Commonwealth, state and territory forums such as the Joint Committee on International Education (JCIE) established under the auspices of the Ministerial Council on Tertiary Education and Employment (MCTEE).

The ISSA requires all governments to compile comparative information on the Study in Australia portal, outlining relevant government services to ensure students make informed decisions about where to study.

International students will be able to search and compare government services on the Study in Australia portal, including comparative information on transport concessions available to international students, in 2012.

Further, the Government supports the agreement by state and territory ministers to establish an inter-jurisdictional working group to consider the reciprocal recognition of student concessions. This will be progressed through the Community and Disability Services Ministers' Advisory Council.

RECOMMENDATION 4

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.

RESPONSE

The Government supports in principle this recommendation.

The Study in Australia portal includes accurate, up to date information about accommodation and tenancy rights and responsibilities. It also contains hot links to individual Residential Tenancies Authorities by state and territory and a printable publication - *Guide to Studying and Living in Australia*.

A number of recommendations arising from the Baird review relate to improving information available to students and ensuring standards are objective and enforceable. Revisions to the National Code are being progressed as part of the Government's second phase response to the review with a view to implementing the changes together with amendments to the ESOS Act, subject to passage, in 2012.

RECOMMENDATION 5

The Committee recommends that the Australian Government's Department of Immigration and Citizenship (DIAC) undertake a review of the appropriateness of the 20-hour limit on working hours for international students.

RESPONSE

The Government supports this recommendation.

The Knight Review recommended that international student work visa conditions be measured as 40 hours per fortnight during any fortnight in the course of a study session, rather than 20 hours per week (see recommendation 28 of the Knight Review Report).

The Knight Review also recommended Higher Degree by Research Students be given unlimited access to work visas once their course has commenced (recommendation 7 of the Knight Review Report).

The Government accepted these Knight Review recommendations. The proposed changes are expected to be implemented by the Government in 2012.

RECOMMENDATION 6

The Committee recommends that the issue of voluntary work not counting towards employment hours be clarified in material provided by the Australian Government's Department of Education, Employment and Workplace Relations (DEEWR).

RESPONSE

The Government supports this recommendation.

The enhanced Study in Australia portal provides accurate and up to date information on international students' employment rights and responsibilities.

RECOMMENDATION 7

The Committee recommends that the Australian Government's Department of Immigration and Citizenship (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.

RESPONSE

The Government supports this recommendation.

The Knight Review recommended that the mandatory cancellation requirement for working in excess of the hours permitted be removed (see recommendation 25 of the Knight Review Report). The Government agreed with this recommendation.

This proposed change is expected to be implemented by the Government in the first half of 2012.

RECOMMENDATION 8

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.

RESPONSE

The Government supports this recommendation.

The Study in Australia portal provides authoritative, comprehensive, accurate and up to date information for international students, including information on personal safety, student support services and tenancy and employment rights and responsibilities. This information can be viewed electronically or students and agents can print a hard-copy version of the Guide to Studying and Living in Australia. The portal provides information in 12 languages. The portal is linked to state and territory websites which provide information specific to those jurisdictions.

RECOMMENDATION 9

The Committee recommends the jurisdiction of the Commonwealth Ombudsman be extended to cover the international education sector.

RESPONSE

The Government supports this recommendation.

In October 2010 the Government introduced amendments to the Ombudsman Act 1976 to extend the jurisdiction of the Commonwealth Ombudsman to include students of private registered providers. These amendments were enacted on 8 April 2011. All international students studying in Australia now have access to an independent external complaints body. The Overseas Students Ombudsman is now available to investigate complaints of a student against a private registered provider at no cost to the provider or student. An Overseas Students Ombudsman website is now available at <http://www.oso.gov.au/> and information about this change is also available from the AEI website.

RECOMMENDATION 10

The Committee recommends that TEQSA (Tertiary Education Quality and Standards Agency) and the national body to be developed for the VET sector adapt the registration process to develop a comparative information tool on education providers. This information tool should differentiate between the capacity of providers by comparing such things as the level and quality of support services available to students. The information tool would be made available on a relevant website.

RESPONSE

The Government notes this recommendation.

On 3 March 2010 amendments to the *Education Services for Overseas Students (ESOS) Act 2000* were enacted, including two new registration criteria and a requirement that all providers currently registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) be re-registered by 31 December 2010. The two new criteria are that an education provider seeking to deliver education to overseas students has the:

- principal purpose to provide education
- clearly demonstrated capacity to provide education of a satisfactory standard.

The Government will draw this recommendation to the attention of TEQSA and the Australian Skills Quality Authority (ASQA), formerly known as the national VET regulator, for consideration and advice.

RECOMMENDATION 11

The Committee recommends that, to improve enforcement, the National Code be reviewed by the new national regulatory authorities for higher education and the VET sector, in consultation with stakeholders, to provide clarity and specify details of minimum standards upon which registration would be dependent.

RESPONSE

The Government notes this recommendation.

The National Code establishes minimum standards for provider registration and behaviour. A number of recommendations arising from the Baird review relate to specific standards in the National Code as well as general recommendations for ensuring the standards are objective and enforceable and that the level of prescription in the standards is only that which is required to achieve the intent. The Government has consulted with the sector on these recommendations to inform the next phase of the Government's response to the review, and will undertake further consultations in finalising any revisions to the National Code, and in particular the national and state regulatory authorities with responsibilities under the ESOS legislation.

The Government is working closely with the Tertiary Education Quality and Standards Agency (TEQSA) and the Australian Skills Quality Authority (ASQA), formerly known as the national VET regulator, to ensure a smooth transition of ESOS registration and compliance functions to them.

RECOMMENDATION 12

The Committee recommends that clear and timely mechanisms must be developed by the regulatory authorities and peak bodies to ensure that, if a provider closes, students are informed of their rights of either getting their money back or transferring to a new course. Students also need to be made aware of the avenues they can use to ask questions or lodge complaints.

RESPONSE

The Government supports this recommendation.

On 20 April 2010 COAG announced that each state and territory would establish a Provider Closure Taskforce to ensure rapid and coordinated support for students in the event of provider closure.

A dedicated Closures Taskforce in the Australian Government's Department of Education, Employment and Workplace Relations works closely with states and territories to ensure that provider closures are efficiently handled and students' rights are protected.

Tuition fees are currently protected under the ESOS Act, which requires a provider to join a Tuition Assurance Scheme or make other acceptable arrangements. The International Students Strategy for Australia highlights the Baird Review recommendations for how the tuition protection arrangements could be improved, including the creation of a new single Tuition Protection Service (TPS).

The TPS is the centrepiece of a package of bills introduced to the Parliament on 22 September 2011.

In October 2010 the Government introduced amendments to the Ombudsman Act 1976 to extend the jurisdiction of the Commonwealth Ombudsman to include students of private registered providers. These amendments were enacted on 8 April 2011. All international students studying in Australia now have access to an independent external complaints body. The Overseas Students Ombudsman is now available to investigate complaints of a student against a private registered provider at no cost to the provider or student. An Overseas Students Ombudsman website is now available at <http://www.oso.gov.au/> and information about this change is also available from the AEI website.

RECOMMENDATION 13

The Committee recommends that in engaging agents overseas, the Australian Government's Department of Education, Employment and Workplace Relations (DEEWR) ensures that agents and sub-agents are able to access authoritative information regarding studying in Australia.

RESPONSE

The Government supports this recommendation.

The Study in Australia portal contains authoritative information regarding studying in Australia. This information is available in 12 languages and is readily available to education agents and sub-agents, as well as to other stakeholders, including international students.

RECOMMENDATION 14

The Committee recommends that the Australian Government's Department of Immigration and Citizenship (DIAC) continue to expand the eVisa system, as an effective tool to encourage professional conduct of overseas agents.

RESPONSE

The Government notes this recommendation.

Online lodgement of Student visa applications is open to any overseas student in Australia.

Offshore, all low-risk applicants (Assessment Level (AL) 1), and higher risk applicants (AL 2 to AL 4) from China, India, Indonesia and Thailand who lodge through an approved eVisa agent can also apply online. Approved eVisa agents lodge Student visa applications through the Offshore AL 2-4 Student eVisa Lodgement Facility (the Facility), which is not accessible to the general public.

An evaluation of the Facility is currently underway. The evaluation will consider the effectiveness of the trial in terms of creating visa processing efficiencies, enhancing integrity and the impact on DIAC's resources in the event that the Facility is expanded, contracted or left unchanged.

RECOMMENDATION 15

The Committee recommends that providers deal exclusively with education agents who have successfully completed an appropriate course such as the EATC and that this requirement be phased in over the next three years.

RESPONSE

The Government notes this recommendation.

In 2009 and 2010 the Government provided funding for a series of professional development agent workshops delivered by Professional International Education Resources (PIER) involving over 1300 agents in 13 cities overseas, as well as full and partial subsidies for around 400 agents to complete the PIER Education Agent Training Course (EATC) assessment in 2009.

The *Education Services for Overseas Students (ESOS) Amendment Act (Re-registration of Providers and Other Measures) 2010* has increased transparency and accountability by requiring providers to list the education agents they use on their websites.

Following an amendment to the ESOS Act enacted in March 2010, all Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) providers are now required to publicly list the education agents they use on their website to increase transparency around such relationships.

In September 2011, the Government supported the 41 recommendations of the Strategic Review of the Student Visa Program, conducted by the Hon Michael Knight AO, including enhancing agent integrity through providers being required to enter the name of any agent involved in the recruitment of an overseas student into the Provider Registration and International Students Management System (PRISMS). The Government supports this recommendation and will be making the necessary regulatory and IT changes to implement the requirement.

RECOMMENDATION 16

The Committee recommends that as a matter of urgency the issue of medical internships receive priority in workforce planning and that this be the subject of a special study by Health Workforce Australia.

RESPONSE

The Government supports in principle this recommendation.

Health Workforce Australia is currently developing a National Training Plan and the issue of medical internships is being considered as part of this plan. One of the projects under the plan is the development of advice for the Australian Health Ministers' Advisory Council on options regarding future availability of internships for international full-fee paying medical students of Australian universities.

