UNIVERSITIES
AUSTRALIA

RESPONSE TO THE DEPARTMENT OF EDUCATION, SKILLS AND EMPLOYMENT'S 'ESOS REVIEW 2022' DISCUSSION PAPER

29 April 2022

KEY MESSAGES

- The *ESOS framework* is **consumer protection legislation**, and it is important that any changes made to it **do not reduce protections for international students** onshore in Australia.

- The department's ESOS Review discussion paper, and the *Australian Strategy for International Education (ASIE 2021)* seek to expand Australian international education, especially by expanding our online and offshore offerings. This goal is, for the most part, **disconnected from the purpose of the *ESOS Act* as an instrument that protects the consumer rights of international students** in Australia.

- There **are** areas of the *ESOS framework* that would **benefit from review and amendment,** and these are outlined below. Some of these align with the goals of *ASIE 2021*, but again, this is not the purpose of ESOS.

- UA encourages the department to work with the Department of Home Affairs to create better **connections between the *ESOS framework, the Migration framework,* and *the Higher Education Standards framework*.**

Universities Australia is pleased to respond to the 'Education Services for Overseas Students (ESOS) Review 2022' Discussion Paper (the discussion paper), recently released by the Department of Education, Skills and Employment (the department). On behalf of Australia's 39 comprehensive universities, Universities Australia welcomes this opportunity to review the *ESOS Framework*, explore areas of the Act and its legislative instruments that are no longer fit-for-purpose and explicate some of the issues facing students and providers in the Act's implementation.

The *ESOS framework* includes the following legislative instruments:

- The *Education Services for Overseas Students (ESOS) Act 2000*
- The *ESOS Regulations 2019*
- *The National Code of Practice for Providers of Education and Training to Overseas Students (the National Code) 2018*
- The *English Language Intensive Courses for Overseas Students (ELICOS) Standards 2018*
- The *Foundation Program Standards 2021*
- Various other specifications, amendments and other legislative instruments.

The university sector welcomed the introduction of the *ESOS Act* in 2000 as a consumer protection mechanism for international students. It has remained largely fit-for-purpose for students in the university sector over its 22 years, while also providing valuable guidance and protections for university providers and supporting the global competitiveness of Australian international education offerings.

The Department is obviously aware of the complexity of the *ESOS framework* and its substantial interconnectedness with the *Migration Act*. Given the general success of the *ESOS Act* and its attendant instruments, UA cautions against change without thorough investigation of the possible unintended negative consequences that may occur.

UA recognises the department's awareness that the *ESOS framework* is not the only, nor always the ideal mechanism for addressing the issues raised in the discussion paper and appreciates that the narrow scope of this particular paper comes with an implicit understanding of the integrated nature of these issues with other mechanisms such as student visa settings and PRISMS reform (given the dual role PRISMS plays in administering both the ESOS and Migration Acts). Greater coordination across relevant Commonwealth and State Government entities and instruments would be valuable in ensuring that the various legislation frameworks that apply to international education are in alignment.

Our submission therefore addresses the issues that are within scope, while also drawing on the various intersections with other instruments for the department's consideration. Although this submission provides responses on behalf of Australia's comprehensive university sector, it should be noted that ESOS applies to the entire education market, encompassing secondary schooling, foundation programs, ELICOS and the full range of AQF qualifications. Domestically these sectors are all covered by different regulators, legislation and jurisdictions. Providers are not homogenous. Programs have quite different goals and characteristics and different markets, and this should be kept top of mind throughout the ESOS Review process.

SUMMARY OF RECOMMENDATIONS

Issue 1: Diversification and expansion

UA recommends that the department:

- undertake further consultation with relevant stakeholders to identify the range of complexities related to online learning before making any changes to Standard 8 of the *National Code*; and

- consider removing the requirement for an international student to study at least one face-to-face unit in each compulsory study period.

Issue 2: Meeting skills needs and graduate workplace readiness

UA recommends that the department:

- convene a cross-portfolio roundtable to identify adjustments to Visa Condition 8105 in relation to the inclusion of elective WIL placements in the 40-hour working fortnight;

- reinstate the 40-hour working fortnight for overseas students; and

- convene a cross-portfolio roundtable to identify ways to streamline skilled migration pathways and coordinate skilled migration priorities across different portfolios.

UNIVERSITIES AUSTRALIA | RESPONSE TO THE DEPARTMENT OF EDUCATION, SKILLS AND EMPLOYMENT'S 'ESOS REVIEW 2022' DISCUSSION PAPER

2

Issue 3: Supporting the quality of third-party relationships

UA recommends that the department:

- make comparative data about agent performance against other agents, and across different universities available, in PRISMS;

- include reports made to ESOS agencies about agents who have committed offences available as part of the PRISMS comparative reports;

- create a mechanism for students to apply to the department for simplified data reports about specific agents so that they may compare and make informed decisions;

- require agents to disclose previous or concurrent trading names and include this information in PRISMS data collection;

- ensure sub-agents and referral partners are adequately covered by the *ESOS framework*;

- consider reviewing the Agent Code of Ethics to include a Standard specific to agent and sub-agent transparency and disclosure;

- include data about sub-agents in PRISMS; and

- empower and resource Austrade to take an approach more like that of the British Council or Campus France;

Issue 4: Course transfers

UA recommends that the department:

- retain the six-month restrictive period for principal courses, as outlined in Standard 7;

- coordinate with the Department of Home Affairs to revise the Simplified Student Visa Framework to ensure a new provider assumes full SSVF risk for a transferred student;

- reconfigure PRISMS so that a receiving provider can't issue a Confirmation of Enrolment until the transferring student has been released by the previous provider;

- undertake further consultation and exploration around the Concurrent Study function in PRISMS before making any changes; and

- continue coordinating with the relevant regulators to ensure that providers can offer a wider range of concurrent ESOS-exempt supplementary courses to international students without students or providers contravening the *ESOS framework*;

Issue 5: Written agreements

UA recommends that the department:

- develops – but does not mandate – simple but comprehensive templates or models of written agreements for providers to adapt;

- add a clause in Standard 3 of the *National Code* requiring providers to explicitly state the student's transfer-restricted period for every Confirmation of Enrolment; and

- retain existing flexibility around the provision of refunds.

Issue 6: English language

UA recommends that the department:

- adjust PRISMS data entry requirements to make it easier for providers to record evidence of a student's English proficiency. For example:
  - Add sections in PRISMS to better cater for prior studies undertaken in English and include more granularity (e.g. prior studies in Australia – AQF Level x, prior studies in an English-speaking country (not Australia), prior studies in English in a non-English speaking country).
  - Add more English tests as selectable options instead of including these in 'Other'.
  - Add ELICOS programs (e.g. ELICOS program completed at a university operated/ affiliated/non-affiliated English provider).
  - Create a compulsory comments field for any scenarios not covered by the additional categories outlined above.

- maintain the 20 hours of face-to-face synchronous class time (plus five hours of self-study) required of ELICOS students in programs providing admission to university (I.e. Direct Entry programs); and

- does not implement independent testing for all students from non-English-speaking backgrounds.

Additional recommendations

UA recommends that the department:

- in consultation with the Department of Home Affairs, reopen discussions about allowing international students to study part-time;

- reword Standard 8 Section 8.15 of the *National Code* to remove ambiguity;

- recognise the unique circumstances of international higher degree research students within the *ESOS framework*;

- consult specifically with Aboriginal and Torres Strait Islander representatives to ensure Indigenous voices and perspectives are incorporated into any changes to the *ESOS framework*;

- consult with the sector over any suggested changes to be made to the *ESOS framework* before they are confirmed; and

- once any changes to the *ESOS framework* are confirmed, consult with the sector over plans for implementation and enforcement of those changes.

UNIVERSITIES AUSTRALIA | RESPONSE TO THE DEPARTMENT OF EDUCATION, SKILLS AND EMPLOYMENT'S 'ESOS REVIEW 2022' DISCUSSION PAPER

4

ISSUE 1: DIVERSIFICATION AND EXPANSION

As discussed in Universities Australia's response to the department's Diversification discussion paper,[1] improving the diversity of a university's international student cohort mix relies on a range of external factors, of which the *ESOS framework* is only one.

Similarly, increasing online and offshore delivery is affected by a wide range of considerations. However, other mechanisms are more critical than ESOS in this area.

FULLY ONLINE / OFFSHORE DELIVERY – CONSIDERATIONS FOR ESOS AND BEYOND

The barriers to fully online and offshore delivery are not inherent to the current *ESOS framework*, as ESOS only covers onshore student visa holders. A number of Australian universities already offer fully online programs to offshore international students.[2] Ultimately, this is a business decision that must be made by individual institutions.[3]

Although there are no barriers in ESOS to expansion and diversification into fully online or offshore delivery, there are a number of other, non-ESOS related barriers that should be considered by the government in implementing Priority 1 of the Australian Strategy for International Education 2021.

Low demand is the most important barrier that Australian universities face in offering fully online delivery to offshore students. Research from IDP Connect in 2021 showed that 82 per cent of international students considering Australia as their top destination choice preferred an on-campus experience, with 38 per cent willing to defer their studies entirely until on-campus study resumed and the remaining 43 per cent willing to begin their studies online so long as they would soon be transitioned to on-campus study.[4] Only 7 per cent of Australia-focused survey respondents reported planning to continue with their study plans if their full course would be delivered online.

The key reason that students across the board gave for preferring an on-campus experience was that online study lacks the international exposure they were hoping to gain by choosing a university outside of their home country.

The same study showed that in countries such as the UK, students were less likely to defer their studies if required to study online. However, the key difference in barriers for students interested in studying in Australia compared to the UK was that for students choosing Australia there were concerns around post-study work rights – i.e. a concern that online/offshore study would not qualify them for a post-study work experience, which was a key part of the international exposure they were seeking.

Often, for those students willing to consider online delivery, cost becomes a deterrent. Recent research by QS found that 75 per cent of international students believed that online delivery should be priced substantially lower than having an on-campus experience.[5] Australian universities have reported similar

---

[1] Universities Australia. March 2022. "Response to the Department of Education, Skills and Employment's 'International Student Diversity at Australian Universities' discussion paper." Canberra: Universities Australia. https://www.universitiesaustralia.edu.au/submission/response-to-the-department-of-education-skills-and-employments-international-student-diversity-at-australian-universities-discussion-paper/.

[2] See the Open Universities Australia website for a range of examples of courses that can be studies 100 per cent online. Offshore international students are welcome to apply for these courses but undergo the same application process and requirements (i.e. English language proficiency and qualifications recognition) that they would experience if they were applying for onshore study.

[3] Although the students engaging in these offshore modes of delivery are not currently protected by the *ESOS Act*, they are afforded some protections by the *Higher Education Standards Framework (HESF),* the mechanism TEQSA uses to regulate on- and offshore delivery.

[4] IDP Connect. 2021. "International Student Crossroads IV: International Student Perceptions, Choices and Motivations during Covid-19." IDP Connect. https://www.idp-connect.com/apac/articles/data-intelligence/report-crossroads-iv-international-students-will-quarantine-and-get-vaccinated.

[5] QS. 2020. "How COVID-19 Is Impacting Prospective International Students Across the Globe." USA: QS. https://www.qs.com/portfolio-items/how-covid-19-is-impacting-prospective-international-students-across-the-globe.

UNIVERSITIES AUSTRALIA | RESPONSE TO THE DEPARTMENT OF EDUCATION, SKILLS AND EMPLOYMENT'S 'ESOS REVIEW 2022' DISCUSSION PAPER

5

perceptions from their prospective students. For students in many countries, online degrees are seen as sub-standard, irrespective of what country delivers them, and thus are seen as a reputational risk – and therefore a last resort – by many students. Consequently, few students are willing to pay the same fees for an online course as they would for an on-campus experience.

This is a problem for universities, because online delivery is typically as expensive to deliver as on-campus delivery – sometimes even more so.[6] Universities must factor in a wide range of costs, including (but not limited to):

- the IT infrastructure required, both to ensure a positive student experience and to protect students and the university from security breaches;
- licensing costs for software;
- the cost of engaging instructional designers;
- the cost of training faculty members in online delivery;
- the cost of ensuring accurate identification of students;
- online and/or offshore proctoring of exams (either through online proctoring software, or by hiring appropriate venues and reliable, trustworthy exam moderators in the many countries and cities in which students are located); and
- 24-hour student support services to account for time zone differences.

For universities offering hybrid offshore courses – i.e. when Australian universities partner with a university in a host country, providing some aspects of the degree using that university's infrastructure and other aspects online – there can also be costs for academics and administrators travelling to the partner campus. For wholly independent transnational branch campuses (such as RMIT Vietnam or Monash Malaysia), there are all the costs of establishing and maintaining a campus with the additional complexity and costs of understanding and adhering to the laws and regulations of another country.

FLEXIBLE / HYBRID / BLENDED DELIVERY MODELS

The main barrier in the *ESOS framework* to partial online delivery (in the form of flexible, hybrid or blended delivery models) is the requirement in Standard 8 of the *National Code of Practice for Providers of Education and Training to Overseas Students 2018 (the National Code)* for onshore international students to study no more than a third of their qualification in an online format as a condition of their student visa. Although it's important to note that this requirement does not include 'the provision of online lectures, tuition or other resources that supplement scheduled classes or contact hours',[7] this requirement could be considered outdated in today's technologically advanced higher education landscape.

As the department is aware, during the pandemic the legislative requirement to prevent international students from completing more than 33 per cent of their study online was lifted to allow student visa holders who had returned to their home countries to continue their studies online, despite border closures.[8] This adjustment is due for review in the near future. Continued flexibility would allow students to study a portion of their degree outside of Australia if they wished but still come into Australia for practically oriented courses, cultural engagement and work integrated learning experiences. It would provide added flexibility for students who are studying at universities with multiple campuses in Australia. These students may wish to study courses that are offered at different campuses to their primary study location but currently face barriers to doing so in person in terms of transport to and accommodation in the new campus location. Greater flexibility would allow these students to do this kind of study online, while continuing to have on-campus experiences at their primary location.

[6] Poulin, Russell, and Terri Taylor Straut. 2017. "Distance Ed Costs and Price: Not as Closely Correlated as You'd Think." USA: WCET Frontiers. https://wcetfrontiers.org/2017/02/16/distance-ed-price-and-cost/.

[7] *National Code of Practice for Providers of Education and Training to Overseas Students 2018*. 2018. Cth. https://www.legislation.gov.au/Details/F2017L01182/Html/Text, http://www.legislation.gov.au/Details/F2017L01182. (p. 24)

[8] Department of Education, Skills and Employment. 2021. "COVID-19 – Information for VET, ELICOS and Higher Education Providers." Australian Government. https://www.dese.gov.au/download/4858/coronavirus-regulatory-information-universities-vet-elicos-and-higher-education-providers/7256/document/pdf.

UNIVERSITIES AUSTRALIA | RESPONSE TO THE DEPARTMENT OF EDUCATION, SKILLS AND EMPLOYMENT'S 'ESOS REVIEW 2022' DISCUSSION PAPER

6

Ultimately, due consideration should be given to potential unintended consequences before implementing any changes to this legislative requirement.

Recommendation

- *Undertake further consultation with relevant stakeholders to identify the range of complexities related to online learning before making any changes to Standard 8 of the National Code.*

- *Consider removing the requirement for an international student to study at least one face-to-face unit in each compulsory study period.*

ISSUE 2: MEETING SKILLS NEEDS AND GRADUATE WORKPLACE READINESS

International students play a critical role in our workforce, both during and following their studies. However, addressing skills deficits is a very complex issue that goes well beyond changes to ESOS. Unfortunately, however, this section demonstrates why a review of the *ESOS framework* is not UA's recommended mechanism for meeting Australia's skills needs, despite the need for changes to a number of other relevant policy and legislative settings to address challenges in this area.

WORK INTEGRATED LEARNING OPPORTUNITIES

The current inclusion of extra-curricular Work-Integrated Learning (WIL) opportunities in the 40-hour fortnight limit on international students' working capacity while courses are in session has been a longstanding issue for the sector. This limit is not part of the *ESOS framework*; it is in Schedule 8 of the *Migration Regulations*, specifically visa condition 8105 which states that a student visa holder can be considered to have engaged in work if they:

- *have attended a place of work for a period by a roster or timesheet (but not during unpaid breaks)*
- *have been "clocked on" to an electronic system that records a work activity*
- *have received remuneration for work, as indicated in a payslip provided to the visa holder (unless documentary evidence is provided that they were not working during this time).[9]*

A Provider Processing Update circulated by the Department of Home Affairs in July 2018 provided clarification on this condition, stating that:

> *The legislation specifies that work won't count towards the 40-hour limitation if the work was specified as a requirement of the course when the course particulars were entered in the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS). If an elective is a requirement of the course but the work itself was not specified when the course was registered with CRICOS, **students can still complete these electives but it would be counted towards the 40-hour work limitation.** This may be the case even if the student is not being paid for undertaking the work. However, volunteer work, that is, work that would not normally attract remuneration, may be exempt.[10]*

This stipulation is preventing international students from fully embracing opportunities to enhance their employability or equip themselves with the relevant knowledge and experience to meet Australian skills requirements.

Furthermore, since the *Migration Regulations* were enacted in 1994, what counts as degree-related experience or training has changed. In the past, the legislation only needed to account for degrees that involved a semester or longer practicum component such as teaching, nursing or architecture, which require practical experience as a condition of qualification. Today, WIL is a recommended component of all degrees, with many students choosing to undertake paid or unpaid WIL experiences for the purpose of increasing their graduate employability and competitiveness.

Extracurricular WIL activities like mentoring, volunteering in student clubs and networking have been found to be highly beneficial for skills development, including the development of English Language Proficiency in students from non-English speaking backgrounds.

The nature of WIL has also changed, incorporating applied research projects, virtual placements and even competitions like hackathons in addition to the traditional models.

---

[9] *Migration Regulations* 1994. 1994. Cth. http://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/mr1994227/sch8.html.

[10] of Home Affairs. 2018. "Provider Processing Update 9 - July 2018 - Work Limitations." Australian Government. (emphasis added)

UNIVERSITIES AUSTRALIA | RESPONSE TO THE DEPARTMENT OF EDUCATION, SKILLS AND EMPLOYMENT'S 'ESOS REVIEW 2022' DISCUSSION PAPER

8

Although practicums that are core to a qualification are exempt from the 40-hour fortnight (because they are CRICOS registered), this clause in the legislation means that international students who study an elective course incorporating a WIL component (or even a core course in which the WIL component wasn't included during the CRICOS registration process) must account for that WIL component in their 40-hour fortnight. This is the case whether the work is paid or voluntary, even though the same student is allowed to undertake non-WIL voluntary work in addition to the 40-hour fortnight without being in breach of their visa conditions.

Much consideration was given by the sector and other stakeholders to the 40-hour working fortnight, which was chosen to allow international students to supplement their existing support with additional income without compromising their study. However, given the nature of contemporary WIL experiences, there is no evidence to suggest that undertaking non-mandatory WIL will compromise their other study.

It should finally be noted that while UA recommends elective WIL be excluded from the 40-hour working fortnight, the restriction of students to a 40-hour working fortnight should be reinstated. The lifting of this restriction was always intended to be temporary and was due for revision in April 2022. However, the Department of Home Affairs website now states that 'these temporary measures remain in place until further notice'.[11]

Recommendation

- *Convene a cross-portfolio roundtable to identify adjustments to Visa Condition 8105 in relation to the inclusion of elective WIL placements in the 40-hour working fortnight.*

- *Reinstate the 40-hour working fortnight for overseas students.*

AUSTRALIA'S PRIORITY EMPLOYMENT FIELDS

In response to questions 5 and 7 of the discussion paper, it's critical to recall that ESOS is primarily a consumer protection measure; its purpose is not to channel students into specific employment fields. Other settings are better adjusted to achieve this goal such as adjusting the skilled migration settings via the *Migration Regulations*. Greater cooperation and coherence would be valuable across the various relevant Government departments, agencies and other bodies, including streamlining and aligning the goals of:

- The Australian Government Migration Program
- The Skilled Occupation List
- The National Skills Commission

This could create clearer pathways for students to follow towards permanent residency if that is what they wish to seek.

Furthermore, the questions posed in this section are at odds with the current goals of other Australian Government legislative and regulatory mechanisms such as the Genuine Temporary Entrant Requirements criteria laid out in the *Migration Regulations* 1994 Schedule 2. These regulations emphasise the importance of students' intention 'genuinely to stay in Australia temporarily.'[12] The student's intention to leave once they have completed their study and, potentially, a 1-5-year post-study work opportunity, is considered when determining their visa eligibility. Students perceived to be interested in staying longer than that risk having their student visa application denied.

---

[11] Department of Home Affairs. 2022. "Temporary Relaxation of Working Hours for Student Visa Holders." Immigration and Citizenship. February 4, 2022. https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/student-500/temporary-relaxation-of-working-hours-for-student-visa-holders.

[12] *Migration Regulations*. 1994. Cth. http://classic.austlii.edu.au/au/legis/cth/consol_reg/mr1994227/sch2.html.

If students are encouraged to study for specific qualifications to address Australia's skills shortages, this would suggest that they should also be encouraged to remain longer than 4 years – the maximum duration of most post-study work visas.[13] Otherwise, Australia will face a skills shortage in the mid to senior levels of these occupations. However, this is not the implication of the current settings in Schedule 2.

Maintaining robust migration settings that are amenable to providing international graduates with a pathway to obtaining permanent residency is critical to Australia retaining its position as a desirable destination country for highly skilled individuals. Empirical evidence indicates that it is not in universities' (or their prospective students') best interests to over-recruit international students into degrees that match Government-prioritised employment fields. Given that degrees can take many years to complete, areas with skills shortages can easily change between a student's commencement and their graduation, leaving them with a degree that is not as valuable to the Australian workforce as they were led to believe upon enrolment.

To illustrate: the department's 'International Student Diversity at Australian Universities' discussion paper posits that having too many international students in specific programs, particularly when those students come from one or two source countries, can affect the diversity of classrooms and therefore the student experience and should be carefully reconsidered. The paper gives the case of architecture and building, for example, which has an international student cohort at 33 per cent of total enrolments, with more than half of those international students coming from China. The paper suggests that cases like this are key areas of concern for the sector, implying that this may not be an area we would wish to actively attract international students into in the future. However, there are a range of occupations in the current Skilled Occupation List whose qualifications would fall into this category such as Architect, Naval Architect, Landscape Architect, Construction Project Manager and Surveyor.[14] If universities – and indeed, prospective students – prioritised degrees based on occupation shortages at the time of a student's commencement, there is clearly every possibility that Australian government policy settings and priorities will have changed by the time they complete their degrees.

Finally, it's important to remember that international students do not study in Australia in order to meet Australia's skills needs. They have their own goals and aspirations that may align with those held by the Australian government and these aspirations sometimes lead students to apply for a post-study work visa. This is good for students, as it enables them to continue their lives in Australia and good for Australia in that these students not only consolidate their ties and commitment to Australian society but also contribute significantly to our workforce. With their Australian university qualification and having already participated in Australian society, international graduates are ideal candidates for skilled migration.

However, only 16 per cent of international students and graduates remain in Australia post-study.[15] For the 84 per cent who leave for other shores, Australia's reputation as a world-class education provider relies on our graduates being not only job-ready for the Australian context but also for the global context.

In summary, UA would not recommend adjusting the *ESOS framework* with the aim of encouraging international students to identify and undertake courses that align with Australia's priority employment fields. However, any attempts from the Australian Government more broadly to streamline skilled migration pathways and coordinate skilled migration priorities across different portfolios are highly encouraged.

Recommendation

- *Convene a cross-portfolio roundtable to identify ways to streamline skilled migration pathways and coordinate skilled migration priorities across different portfolios.*

---

[13] According to the Department of Home Affairs website, a Temporary Graduate visa (Subclass 485) is usually between 2 and 4 years, depending on the applicant's qualification. Hong Kong and British National Overseas passport holders may stay for 5 years. https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/temporary-graduate-485/post-study-work.

[14] Department of Home Affairs. 2021. "Skilled Occupation List." Working in Australia. October 5, 2021. https://tinyurl.com/mrvn2z6v.

[15] Treasury and Department of Home Affairs. 2018. "Shaping a Nation." Canberra: Australian Government. https://research.treasury.gov.au/external-paper/shaping-a-nation.

ISSUE 3: SUPPORTING THE QUALITY OF THIRD-PARTY RELATIONSHIPS

Australian providers are deeply dependent upon agents, as they are highly visible to international students and are often an ideal intermediary between students and providers. Many overseas recruiters offer high quality services to international students, however less reputable agents do exist and are difficult to police, given that many are offshore and are not subject to Australian law.

Australian universities currently manage the area of agent relationships effectively, with existing self-regulation mechanisms making increased government regulation largely unnecessary. However, there are a few areas where changes could have benefit for students and the sector.

UA's member universities appreciate the 2017 changes to the *ESOS Act* that allowed the department to share education agent performance information with providers. However, at present, providers are only able to see detailed data about their own agents, thus limiting their ability to make informed decisions about engaging new, or continuing existing, third-party relationships.

GREATER DATA TRANSPARENCY

UA's members and their students would benefit from some increased data transparency measures when it comes to third-party relationships. This was the department's intention, according to a 2019 policy paper that outlined a five-phase strategy to achieve this goal.[16] This strategy indicated that, in addition to the data currently available to providers, more detailed comparative reports about agent performance would be made available, first to universities and later to the public, so that both providers and students could make more informed decisions. This included the provision of a report showing the performance of agents across different providers – something the sector had long been interested to better understand.

There are, however, concerns from the sector around making data that is commercial in confidence public. Publicly available information may not be in the best interests of the sector or agents. However, the capacity for providers to access comparative data (i.e. data comparing agents on performance in terms of areas such as visa cancellations, visa refusals and incomplete Confirmation of Enrolments, and data about a specific agent compared across all of their university clients) through PRISMS and for students to be able to apply to the department for a report about the performance of specific agents, could be highly beneficial.

Furthermore, Section 17 of the *ESOS Act* requires registered providers to notify their ESOS agency of any offences by agents. This data could also be provided through PRISMS, making it easier for the sector to make more informed decisions about whether to form or continue relationships with poorly performing agents.

Finally, it should be noted that if any data is made public, it should be thoroughly contextualised – publishing numbers without context creates conditions for consumers of the data to draw conclusions that may not be valid.

Recommendations

- *Make comparative data about agent performance against other agents, and across different universities, available in PRISMS.*

- *Include reports made to ESOS agencies about agents who have committed offences available as part of the PRISMS comparative reports.*

---

[16] Department of Education and Training. 2019. "Publication of Education Agent Performance Data: Policy Paper." Australia: Australian Government. Australia. https://apo.org.au/node/215901.

UNIVERSITIES AUSTRALIA | RESPONSE TO THE DEPARTMENT OF EDUCATION, SKILLS AND EMPLOYMENT'S 'ESOS REVIEW 2022' DISCUSSION PAPER

11

- *Create a mechanism for students to apply to the department for simplified data reports about specific agents so that they may compare and make informed decisions.*

Finally, requiring agents to disclose whether they have ever operated under a different name would make it easier for providers to track poorly performing agents who have been convicted of an offence under the *ESOS Act* (or any other State or Commonwealth law) or had their registration cancelled or suspended.[17]

Recommendation

- *Require agents to disclose previous or concurrent trading names and include this information in PRISMS data collection.*

GREATER TRANSPARENCY AROUND SUB-AGENTS

Currently, the *ESOS Regulations* require agents to provide information about any employees who were involved in facilitating the enrolment of any given student.[18] However, greater transparency around the use of sub-agents and agents' 'referral partners', who play a similar role, would also be valuable. Research suggests that in some contexts, even when institutions expressly preclude the use of sub-agents in their written agreements with agents, the practice goes on regardless.[19]

There are obvious challenges when attempting to manage the behaviours of foreign nationals.[20] However, providing greater clarity in the existing Agent Code of Ethics (ACE) that would improve communication between providers and agents about their sub-agents could be valuable. Currently, there is only one mention of sub-agent relationships in ACE Standard 1: Organisational Effectiveness.[21] The inclusion of an additional Standard related specifically to agent transparency could add value by capturing data such as:

- Sub-agent business names and locations
- Specific activities sub-agents have been engaged to perform
- Whether sub-agents are purporting to represent the provider that engaged the original agent
- Whether sub-agents are using the provider's marketing or promotional materials
- What an agent's process is for dealing with inappropriate sub-agent behaviours.

Data about sub-agents should also be included in PRISMS, providing information about student outcomes in the same way that this data is collected about agents.

Recommendations

- *Ensure sub-agents and referral partners are adequately covered by the ESOS framework.*

- *Consider reviewing the Agent Code of Ethics to include a Standard specific to agent and sub-agent transparency and disclosure.*

- *Include data about sub-agents in PRISMS.*

---

[17] Agents are already required to provide details of any other *current* trading names under the ESOS Regulations 2019, Section 13(1)(h)(vii) but not whether they have ever changed from a previous trading name.

[18] Education Services for Overseas Students Regulations 2019. 2019. Cth. Section 13(2)(a)(b)(c). http://www.legislation.gov.au/Details/F2021C01320.

[19] Duncan, John, John Wood, and John McPartland. 2019. "South Asia Education Strategy 2020-2025: Opportunities and Challenges." New Delhi, India: Association of Australian Education Representatives in India (AAERI). https://drive.google.com/file/d/1yi1K5lIUGF1vVATRs1hUWnnjo4x-YkQg/view?usp=sharing&usp=embed_facebook.

[20] See the 2009 Baird Review of the *ESOS Act* (https://internationaleducation.gov.au/regulatory-information/Education-Services-for-Overseas-Students-ESOS-Legislative-Framework/ESOS-Review/Documents/ESOS_REview_Final_Report_Feb_2010_pdf.pdf) , and the 2011 Knight Review of the Student Visa Program (https://www.homeaffairs.gov.au/reports-and-pubs/files/2011-knight-review.pdf) for an overview of some of these challenges.

[21] Australian International Education and Training. 2016. "Agent Code of Ethics." Australian Government. https://tinyurl.com/4y6jckfs.

UNIVERSITIES AUSTRALIA | RESPONSE TO THE DEPARTMENT OF EDUCATION, SKILLS AND EMPLOYMENT'S 'ESOS REVIEW 2022' DISCUSSION PAPER

12

INCREASED TRANSPARENCY OF WRITTEN AGREEMENTS WITH AGENTS

It is not currently a requirement for providers to have written agreements with agents who bring students in independently (as opposed to those agents engaged by providers for that purpose). It is unusual for universities to accept students through these avenues but nonetheless, when they do, most universities then create a written agreement with that agent before proceeding. Therefore, it's unlikely that there would be any consequences for students entering universities, positive or negative, if the *ESOS framework* was changed to mandate these kinds of agreements.

AGENT FEES AND PAYMENTS

Universities and other types of providers make agreements with agents that are commercial in confidence. Agents are compensated in a variety of ways through these agreements, including through commissions, as well as based on quotas of students recruited.

Students also enter into financial agreements with agents; however, these agreements do not cover the same activities or services as those made with providers. Students can pay optional fees to agents for specialist migration services, IELTS preparation and testing, accommodation services, or assistance with services related to medical insurance or banking. However, recruitment and counselling costs should never be passed onto students.

Currently, students are informed by their agents in a written agreement which services they must pay the agent for and which are provided free to students. This is a stipulation of the Agent Code of Ethics, which sits beneath the *National Code 2018*. Although bad actors may on occasion circumvent the ACE due to the challenges of regulating foreign nationals and entities, this is an issue that is better managed by including reports of unethical agent behaviour in the expanded reporting outputs on agents in PRISMS, as mentioned above.

POTENTIAL FOR INCREASED ADMINISTRATIVE ACTIVITY

The discussion paper asks what the additional administrative load may be on providers, if required to monitor all agents (including sub-agents). While this would depend on the additional requirements enforced, an increase in administrative activity is likely to lead to an increase in the cost of acquisition. It may be worth considering whether the monitoring requirements should vary depending on the risk profile of the university – i.e. providers who are deemed to have a higher risk rating may require more strenuous monitoring than those with low-risk ratings.

INCREASING PRIVATE AND PUBLIC COOPERATION

According to a 2019 report released by the department, 75 per cent of overseas student enrolments in Australian universities in 2018 were facilitated by an education agent.[22] Australia's international peers have taken a different path. Rather than relying on agents, countries like the UK and France have empowered their government representative agencies – the British Council and Campus France – to pursue marketing and recruitment avenues abroad. Australia's equivalent, Austrade's business development role in international education is poorly defined. Empowering Austrade to take a more proactive role should reduce Australian providers' reliance on education agents, creating a more transparent recruitment environment across the sector.

Recommendation

- *Empower and resource Austrade to take an approach more like that of the British Council or Campus France.*

---

[22] Department of Education and Training. 2019. https://apo.org.au/node/215901.

ISSUE 4: COURSE TRANSFERS

Standard 7 of the *National Code*, which regulates overseas student transfers between providers, has been a contentious area since its inception. Finding the balance point between a) ensuring genuine students' consumer rights and freedoms are protected, b) ensuring non-genuine students are less able to exploit loopholes in the legislation, and c) reducing incentives that encourage students to transfer between providers, has always been a challenge. It is critical that any changes made to Standard 7 do not weaken its capacity to protect both students and providers who are acting in good faith and do not add further administrative or enforcement burden in an area where these are already significant.

USING PRISMS TO MANAGE COURSE TRANSFERS

Firstly, it's important to recognise that Standard 7 does not fully restrict students from transferring within 6 months of commencing their principal course. It prevents them from being able to do so *automatically*. Instead, they must apply to their existing provider and give an appropriate reason why the provider should release them, even though they have only had minimal opportunity to establish themselves in their primary course.[23]

Under the January 2018 changes to the *National Code*, providers can agree to release a student from their restrictive period (and therefore allow them to transfer) within PRISMS when they believe a case has appropriately provided any one of seven reasons:

1. *There is evidence of compassionate or compelling circumstances.*
2. *An appeal (internal or external) on another matter results in a decision or recommendation to release the overseas student.*
3. *There is evidence that the overseas student's reasonable expectations about their current course are not being met.*
4. *The overseas student will be reported because they are unable to achieve the satisfactory course progress at the level they are studying, even after engaging with that registered provider's intervention strategy to assist the overseas student in accordance with Standard 8 (Overseas student visa requirements).*
5. *The registered provider fails to deliver the course as outlined in the written agreement.*
6. *There is evidence that the overseas student was misled by the registered provider or an education or migration agent regarding the registered provider or its course and the course is therefore unsuitable to the overseas student's needs and/or study objectives.*
7. *Other. Comments will be required.*[24]

Universities regularly do release students for transfer prior to the end of their restrictive period when students provide a compelling case that they should do so.

The discussion paper points out the 16 per cent of international student complaints to the Commonwealth Ombudsman in the 2020-21 financial year were about providers (specifically private education providers, given the remit of the Commonwealth Ombudsman)[25] declining to release students from their restrictive period. Given that there are seven possible reasons students can give when apply to transfer, it may be that the students making complaints to the Ombudsman have not made a compelling case for transfer, or may not be fully aware of the requirements of their restrictive period.

---

[23] See 7.1 of the *National Code*, which states that: "Registered providers must not knowingly enrol an overseas student seeking to transfer from another registered provider's course prior to the overseas student completing six months of his or her principal course…(unless - 7.1.3) the releasing registered provider has agreed to the overseas student's release and recorded the date of effect and reason for release in PRISMS" https://www.legislation.gov.au/Details/F2017L01182

[24] Provider Registration and International Student Management System (PRISMS). 2018. "How to Manage Student Transfers in PRISMS." Australian Government. https://prisms.education.gov.au/Information/ShowContent.ashx?Doc=How%20To%20Manage%20Student%20Transfers%20in%20PRISMS.pdf. (p. 2)

[25] Commonwealth Ombudsman. n.d. "Overseas Students." corporateName=CommonwealthOmbudsman;jurisdiction=Commonwealth. n.d. https://www.ombudsman.gov.au/How-we-can-help/overseas-students.

An important goal of Standard 7 is to avoid the use of Australia's educational institutions by non-genuine student applicants attempting to gain access to Australian residency. As the discussion paper suggests, there have been cases of foreign nationals who enter Australia on a student visa, then move between providers and AQF levels (often using the 'concurrent study' functionality) in order to maintain a clean transcript so that they do not break their visa conditions.

The existing constraints in Standard 7 should therefore continue to act as a deterrent.

It should also be noted that under the current Simplified Student Visa Framework (SSVF), the risk for a student remains with the original provider, rather than transferring with the student to a new provider in the case of a course transfer. The SSVF should be revised to ensure a new provider assumes full SSVF risk for a transferred student, rather than the original provider continuing to carry partial risk for someone no longer studying at their institution.

Recommendations

- *Retain the six-month restrictive period for principal courses, as outlined in Standard 7.*

- *Coordinate with the Department of Home Affairs to revise the Simplified Student Visa Framework to ensure a new provider assumes full SSVF risk for a transferred student.*

- *Reconfigure PRISMS so that a receiving provider can't issue a Confirmation of Enrolment until the transferring student has been released by the previous provider.*

- *Undertake further consultation and exploration around the Concurrent Study function in PRISMS before making any changes.*

- *Continue coordinating with the relevant regulators to ensure that providers can offer a wider range of concurrent ESOS-exempt supplementary courses to international students without students or providers contravening the ESOS framework.*

ISSUE 5: WRITTEN AGREEMENTS

UA sees no evidence that universities need increased regulation around written agreements. However, templates and standardised materials may add value by helping to protect the reputation of the Australian international education sector. This would not necessarily need to be included in the *ESOS Act* or *National Code* but could be a toolkit to support the *ESOS framework* more broadly.

The discussion paper refers to the high number of complaints about written agreements made to the Commonwealth Overseas Students Ombudsman each year. It should be noted that the Office of the Commonwealth Ombudsman only investigates complaints that international students have with private education providers.[26] However, more information about student complaints across all provider types in the sector would be welcome in determining the scope of this issue.

That said, a model offer letter that could be varied as appropriate to a provider's context could be useful. Written agreements are often long and can be difficult for students to interpret in part because of the inclusion requirements imposed by Standard 3. Given their often-convoluted nature, there is some concern that students do not read their written agreements and this may be contributing to the complaints made to the Ombudsman mentioned in the discussion paper. A valuable model or template would:

- be developed in simple, plain English.
- comply with Standard 3 with maximum brevity.
- be adaptable by providers to suit their specific contexts.

One specific addition to Standard 3 would be that providers could be required to explicitly state the transfer-restricted period the student will have in place. This will be particularly valuable in the case of packaged offers, where the primary course may not start until 12 or more months after the commencement of the first course. When packaged offers are made by universities, this clause is already included. However, it would be valuable to know that all providers, including independent ELICOS providers not affiliated with a university, are also making this clear in their written agreements.

In terms of refunds, it's first worth pointing out that providers do not have 'unmediated discretion' to set refund policies in the event of visa refusals as the discussion paper describes. The fee amount is governed by the *ESOS (Calculation of Refund) Specification 2014.*

Flexibility around refunds allows providers to accommodate students' needs when appropriate. For example, during the pandemic, existing flexibility in the *National Code* allowed providers to accommodate transfer and cancellation requests and provide refunds, even during students' restrictive periods.

Recommendations

- *Develop – but do not mandate – simple but comprehensive templates or models of written agreements for providers to adapt.*

- *Add a clause in Standard 3 of the National Code requiring providers to explicitly state the student's transfer-restricted period for every Confirmation of Enrolment.*

- *Retain existing flexibility around the provision of refunds.*

---

[26] Commonwealth Ombudsman. n.d. "Overseas Students." https://www.ombudsman.gov.au/How-we-can-help/overseas-students.

UNIVERSITIES AUSTRALIA | RESPONSE TO THE DEPARTMENT OF EDUCATION, SKILLS AND EMPLOYMENT'S 'ESOS REVIEW 2022' DISCUSSION PAPER

16

ISSUE 6: ENGLISH LANGUAGE

UA maintains that the ELICOS Standards provide adequate support for English language acquisition in preparation for enrolment in principal courses. Beyond this, each university is a distinct entity with a business model designed to meet their unique context. The management of English Language Proficiency (ELP) is a matter for individual providers, who engage a wide range of tactics to ensure that students both enter and leave their institutions with adequate ELP. Universities are accountable to their Academic Governance bodies for ensuring ELP levels are fit for purpose and are, in turn, regulated by the *Higher Education Standards Framework,* which includes the Threshold Standards. Through the Threshold Standards, higher education providers are responsible for their admission practices, including direct entry settings with ELICOS providers. As such, there is little more that the *ESOS framework* should regulate in this regard. However, there are a range of other areas that warrant the department's attention.

INPUTS VERSUS OUTPUTS

The discussion paper expressed concern about English acquisition at the point of admission, when the key focus should in fact be on ELP at point of completion. The measure of efficacy of the regulation should be the success rates of students after they graduate. However, it is difficult to predict this measure of success in advance. Improved data around graduate student outcomes in PRISMS would make it easier for providers to make good judgements about what will and will not work in the ELP space. This is something that the department could focus further efforts on.

To support students' ongoing and later success with ELP, time-on-task practicing English, particularly via in-country ELICOS courses, has been found to be incredibly valuable.[27] UA is aware of growing interest amongst other providers in the international education space in reducing the number of ELICOS class hours students must take each week (currently set at 20 hours per week). UA supports maintaining the 20-hour class time (plus five hours of self-study) per week mandated in the National ELICOS Standards, given the extensive evidence that this kind of immersive learning helps students develop language and learning skills in preparation for university study.[28] This is one way that the *ESOS framework* can continue to support students' English language skills to match their course requirements upon enrolment and, in turn, encourage an optimal study experience for all students.

PRISMS DATA ENTRY REQUIREMENTS

The discussion paper points out that 70 per cent of student admissions in 2019 were categorised in PRISMS as either 'No test' or 'Other form of testing which satisfies the institution'. This can be explained by the very small number of categories that were available for selection prior to October 2019. Significant work has been done since then to establish the categories that needed to sit within the broad category of 'Other', including Foundation courses, English for Academic Purposes courses and other forms of ELICOS and VET courses.[29]

Universities carefully test their various courses to ensure equivalence to IELTS levels. Thus, the 'Other' category is not as concerning as the PRISMS data makes it appear.

---

[27] Baik et al. 2022. https://melbourne-cshe.unimelb.edu.au/research/research-projects/the-student-experience/pathways-to-success-in-international-education.

[28] Elder, C., & O'Loughlin, K. 2003. Investigating the relationship between intensive English language study and band score gain on IELTS. IELTS research reports, 4(6), 207-254.; International English Language Testing System [IELTS]. 2002. The IELTS handbook. Cambridge: University of Cambridge Local Examinations Syndicate, The British Council, IDP Australia. (See p. 22, which points out that "recommendations for hours of language tuition are influenced by a number of affective variables. It has been shown that individuals can take up to 200 hours to improve by one IELTS band. There is also a marked tendency for more rapid rates of progress at lower levels.")

[29] See the following for guidance: Provider Registration and International Student Management System (PRISMS). 2022. "PRISMS Provider User Guide." Department of Education, Skills and Employment. https://prisms.education.gov.au/Information/ShowContent.ashx?Doc=ProviderUserGuide.PDF.

UNIVERSITIES AUSTRALIA | RESPONSE TO THE DEPARTMENT OF EDUCATION, SKILLS AND EMPLOYMENT'S 'ESOS REVIEW 2022' DISCUSSION PAPER

17

In terms of the 'No test' category, this simply implies that this student is exempt from providing evidence of ELP. Technically, English 'waivers' for students from non-English speaking countries do not exist. International students are either citizens of an English-speaking country and therefore don't require an IELTS equivalency, or they complete one of the stringently monitored IELTS-equivalent courses to satisfy English language proficiency requirements.

INDEPENDENT TESTING

UA does not believe it would be beneficial to introduce an independent assessment of international students' English proficiency before they commence their first AQF course. Given that universities have stringent IELTS equivalency measures in place already, implementing independent testing for all international students from non-English speaking backgrounds would impose a significant burden on students for very little return. Furthermore, it would disincentivise students from enrolling in university ELICOS and/or Foundation courses, when research has shown that these courses help to prepare students with course-and institution-specific language, as well as preparing them for their chosen institution's norms and culture.[30]

STUDENT EXPERIENCE

Substantial focus was put on student experience in the discussion paper, particularly as it pertains to international students' ELP. However, it should be noted that the majority of concerns about ELP, both alluded to in the discussion paper and emergent in related research, [31] pertain specifically to spoken interaction and oral communication skills. International students who feel that their English skills are adequate to doing well in their studies may feel challenged when it comes to communicating verbally with their peers, citing a lack of confidence rather than their actual level of English proficiency. Rather than this being an issue with international students and ELP, it is a broader concern for migrants to any country with a primary language that differs from their own.

This is a very different issue that will not be addressed by introducing new entry requirements around ELP in ESOS. Standard 6 of the *National Code* already provides guidance on the kind of support services providers must make available to students. Again, it appears that these issues are primarily a concern for specific universities to address through their individual business practices.

Recommendations

- *Adjust PRISMS data entry requirements to make it easier for providers to record evidence of a student's English proficiency. For example:*
  - *Add sections in PRISMS to better cater for prior studies undertaken in English and include more granularity (e.g. prior studies in Australia – AQF Level x, prior studies in an English-speaking country (not Australia), prior studies in English in a non-English speaking country).*
  - *Add more English tests as selectable options instead of including these in 'Other'.*
  - *Add ELICOS programs (e.g. ELICOS program completed at a university operated/ affiliated/non-affiliated English provider).*
  - *Create a compulsory comments field for any scenarios not covered by the additional categories outlined above.*
- *Maintain the 20 hours of face-to-face synchronous class time (plus five hours of self-study) required of ELICOS students in programs providing admission to university (I.e. Direct Entry programs).*

- *Do not implement independent testing for all students from non-English-speaking backgrounds.*

---

[30] Baik et al. 2022. https://melbourne-cshe.unimelb.edu.au/research/research-projects/the-student-experience/pathways-to-success-in-international-education.

[31] Baik et al. 2022. https://melbourne-cshe.unimelb.edu.au/research/research-projects/the-student-experience/pathways-to-success-in-international-education. (p. 35)

UNIVERSITIES AUSTRALIA | RESPONSE TO THE DEPARTMENT OF EDUCATION, SKILLS AND EMPLOYMENT'S 'ESOS REVIEW 2022' DISCUSSION PAPER

18

OTHER REMARKS

This section details a number of other points about the *ESOS framework* that do not relate directly to the six issues or 30 questions outlined in the department's discussion paper.

1. A consideration related to international students that has emerged as a result of the pandemic is that of increased flexibility around student course loads and part-time study. Some of our members suggested that the course failure rates were proportionally lower amongst international students who elected to study part-time during 2020-21. In the future, this level of flexibility could be accommodated by issuing student visas for a longer period – requiring greater flexibility in CRICOS – with providers reporting on early completions. Given that ESOS is a consumer protection instrument, this would enable students to pace their study for the best chance of success while also reducing a significant administrative impost on universities and providers.

2. The language of Standard 8 section 8.15 of the *National Code* is ambiguous and should be adjusted. Currently, the section states:

   > "The registered provider may decide not to report the overseas student for breaching the attendance requirements if the overseas student is still attending at least 70 per cent of the scheduled course contact hours and… (etc)"

   This implies that the registered provider *must* report the overseas student if they have attended less than 70 per cent of the scheduled contact hours with no exclusions, therefore indicating that the outcome of any appeals process should be ignored. However, this appears to contradict the previous section, 8.14, which states explicitly that:

   > "The registered provider *must only* report unsatisfactory course progress or unsatisfactory course attendance in PRISMS in accordance with section 19(2) of the *ESOS Act* if:
   >
   > 8.14.1   the internal and external complaints processes have been completed and the decision or recommendation supports the registered provider, or
   >
   > 8.14.2   the overseas student has chosen not to access the internal complaints and appeals process within the 20 working-day period, or
   >
   > 8.14.3   the overseas student has chosen not to access the external complaints and appeals process, or
   >
   > 8.14.4   the overseas student withdraws from the internal or external appeals processes by notifying the registered provider in writing."

   To reduce this inherent contradiction and remove ambiguity, 8.15 could be reworded to the below or similar:

   > "The registered provider may decide not to **send written notice to the overseas student of intention to report** for breaching the attendance requirements if the overseas student is still attending at least 70 per cent of the scheduled course contact hours, and… (etc)"

3. The *ESOS framework* covers both coursework and higher degree by research international students. However, these different kinds of students are affected by ESOS in very different ways. For example, international graduate research students must account for their presence 365 days a year, while international coursework students only have to account for their time during semesters. This influences research students' capacity to take sick, carers or compassionate leave which, in turn, affects their health and wellbeing. Equally, this treatment is different to that of domestic research students, who can take up to 12-months leave of absence without documentation.

4. Our members also noted that ESOS is an Australian legislative framework. It will be important for the department to seek Indigenous voices and perspectives throughout this consultation process and ensure they are reflected in any changes to the framework.

UNIVERSITIES AUSTRALIA | RESPONSE TO THE DEPARTMENT OF EDUCATION, SKILLS AND EMPLOYMENT'S 'ESOS REVIEW 2022' DISCUSSION PAPER

19

Recommendations

- *In consultation with the Department of Home Affairs, reopen discussions about allowing international students to study part-time.*

- *Reword Standard 8 Section 8.15 of the National Code to remove ambiguity.*

- *Recognise the unique circumstances of international higher degree research students within the ESOS framework.*

- *Consult specifically with Aboriginal and Torres Strait Islander representatives to ensure Indigenous voices and perspectives are incorporated into any changes to the ESOS framework.*

UNIVERSITIES AUSTRALIA | RESPONSE TO THE DEPARTMENT OF EDUCATION, SKILLS AND EMPLOYMENT'S 'ESOS REVIEW 2022' DISCUSSION PAPER

20

CONCLUSION

There are aspects of the *ESOS framework* that are no longer fit-for-purpose and UA appreciates the opportunity to make recommendations on which aspects should be reimagined and which would be best addressed through other mechanisms.

Critically, many of the recommendations made throughout this submission intersect with the *Migration Framework*. Although changes to these legislative items is not within scope of the ESOS Review, we hope this submission provides context for the complexity of making changes to ESOS without taking a whole-of-government, cross-portfolio approach.

We look forward to further consultation with the department on the *ESOS framework*. Visibility over any draft changes to the *ESOS framework,* and over a plan for implementation, would be strongly welcomed by the sector.

Recommendations

- *Consult with the sector over any suggested changes to be made to the ESOS framework before they are confirmed.*

- *Once any changes to the ESOS framework are confirmed, consult with the sector over plans for implementation and enforcement of those changes.*

For further information about the contents of this submission, please don't hesitate to contact Dr John Wellard, Director of International Policy: j.wellard@universitiesaustralia.edu.au.