English Australia submission

Reform of the ESOS framework

Sent to: The Department of Education
via email ESOS-Policy@education.gov.au

Section 1)   Background

A discussion paper *'Reform of the ESOS framework'* was released on **1 October 2014** to seek views from interested stakeholders on opportunities to improve the Education Services for Overseas Students Act 2000 (ESOS Act) and associated legislative arrangements.

The Government remains strongly committed to building a prosperous future for international education in Australia so that it remains both sustainable and a central element of our economy. As an overarching policy, the Government has also committed to deregulation to increase productivity and ensure Australian businesses can grow, become more competitive and take advantage of global opportunities.

The ESOS Act and the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007 (National Code) are the main elements of a broad legislative framework that places obligations on education institutions to deliver a high-quality service to international students.

The current review of the ESOS framework seeks to:

- reduce burdens on education institutions offering courses to international students by ensuring government and statutory agencies request only the information they genuinely need and use to ensure Australia's education system is of the highest quality and integrity;
- ensure a more efficient registration process for education institutions by streamlining domestic and international education standards and quality assurance frameworks;
- increase opportunities and flexibility for organisations to provide education in a contemporary manner that meets the needs of international students;
- support the student visa system.

Through this discussion paper the department seeks views and suggestions on potential changes to improve the ESOS arrangements.

Written comments on this discussion paper are requested by **31 October 2014**.

Section 2)   English Australia comments

English Australia welcomes the opportunity to provide input to this review of the Education Services for Overseas Students (ESOS) legislative framework.

English Australia endorses the general view expressed in the discussion paper that while ESOS is highly valued, the current arrangements and one-size-fits-all approach in some elements of the ESOS framework need to better reflect the diversity of institutions in higher education, vocational education and training, ELICOS and foundation programs, and schools.

This submission will reflect an ELICOS sector perspective.

It is also English Australia's view that the current arrangements and one-size-fits-all approach in some elements of the ESOS framework need to better reflect an approach that is proportionate to risk. Many of the current issues experienced by the sector in relation the ESOS framework reflect the fact that some elements of the framework were developed to address the concerns posed by a minority of low quality providers, and whilst having a significant negative impact on the majority of providers are not necessarily achieving their goals of providing quality assurance agencies with the tools to deal with low quality providers.

This submission will also focus on the importance of including a risk based approach to the review.

Streamlining quality assurance agency processes

Simplifying administrative arrangements

Proposed changes

1. **Amend the current legislative arrangements to simplify decision making powers and responsibilities by directly providing rather than delegating some powers to TEQSA and ASQA. This will also simplify the registration and assessment process for ELICOS and foundation programs.**

   English Australia notes and endorses the intent of this proposal to assist the quality assurance agencies in better streamlining their operations so that they can more flexibly and effectively manage risk and therefore be more responsive.

   English Australia notes, however, that the paper was not clear regarding which bodies are included in the term 'quality assurance agencies' and whether references to ASQA and TEQSA are also intended to include other bodies such as state registering bodies. Further clarity regarding this would be appreciated.

2. **Allow quality assurance agencies to deem compliance with ESOS standards if equivalent domestic standards are met.**

   ELICOS providers do not have 'equivalent domestic standards' so this item is not relevant.

   English Australia believes, however, that it is still important for the ESOS standards to continue to define the expectations of <u>all</u> education providers consistently, regardless of the sector in which they operate. The onus is then on the quality assurance agencies to evaluate whether a provider has met these standards in the context of other requirements already having been met.

[Note additional comments in Section 4 of this submission and the need for ESOS standards, including the ELICOS Standards, to be applied consistently to <u>all</u> English language courses regardless of whether they are award or non-award programs.]

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3. **Amend the registration period in the ESOS Act to ensure it allows more flexible registration periods and extensions of registration timeframes, in line with domestic registration timeframes.**

ELICOS providers have different profiles and come under different quality assurance agencies. There is therefore little consistency in the approach taken across the sector. Whilst some providers deliver ELICOS alongside other programs and therefore have to meet the requirements of other domestic regulatory frameworks, stand-alone ELICOS providers do not have a registration timeframe stipulated by a domestic framework. English Australia believes that both 5 year and 7 year registration periods can be excessively long for providers delivering ELICOS programs, particularly those providers that do not have a track record of delivering programs successfully.

English Australia endorses the proposal for more flexibility regarding ESOS registration timeframes in an approach that aligns better with domestic registration timeframes, however believes that quality assurance agencies should utilise a risk framework for determining the registration period appropriate to providers within the ELICOS sector and that this could therefore be shorter than 5 or 7 years if appropriate. It will be important for the quality assurance agencies to provide clear criteria for determining the appropriate registration timeframe and for providers to have some degree of certainty around what is required of them.

English Australia also recommends that quality assurance agencies identify significant triggers (eg. change of ownership) that would warrant a review and consideration of any further reviews within a different timeframe to the standard.

English Australia recommends that one of these triggers should be when a provider commences delivering ELICOS (regardless of how long they have been registered on CRICOS to deliver other courses) and is therefore obliged to meet the ELICOS Standards for the first time.

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4. **Provide a 'check and balance' power to the Minister responsible for ESOS to direct TEQSA and ASQA in relation to the performance of their functions and the exercise of their powers under the ESOS Act, in consultation with other relevant ministers where appropriate.**

English Australia endorses this proposal in the context of the other changes proposed above.

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5. **Amend the ESOS Act and the National Code to enable quality assurance agencies to consider additional relevant material gathered through other registration processes in assessing CRICOS registration.**

6. **Amend the ESOS Act to increase consistency in compliance and enforcement powers under ESOS and domestic legislative frameworks.**

English Australia endorses these proposals.

Reviews of decisions by quality assurance agencies

Proposed changes

7. **Amend the ESOS Act to allow an education institution to seek an internal review of decisions made by the relevant quality assurance agency prior to application to the Administrative Appeals Tribunal.**

8. **Require publication of information regarding the quality assurance agency's internal review approach and process.**

   English Australia endorses these proposals, however notes the need for the internal review to have a defined timeframe for completion.

Reducing the reporting burden

Proposed changes

9. **Streamline the student default reporting process in PRISMS to align with the 14-day reporting timeframe, consistent with the proposed policy changes to Tuition Protection Service (TPS) (refer to Item C below), to allow easier reporting of student defaults through the student course variation process.**

   The reporting requirements of the ESOS regulatory framework are complex, inconsistent and questionable in terms of their value. Greater clarity is required regarding <u>what information is needed, by whom, for what purpose and within what timeline (with a rationale for that timeline)</u>.

   English Australia believes that the reporting requirements for student default purposes cannot be reviewed in isolation from other reporting requirements. Aligning the student default reporting process with the current 14-day reporting timeframe for student course variation purposes assumes that the 14-day period is appropriate, where this is not necessarily the case. Greater discretion needs to be given to the provider to determine what needs to be reported and when is the appropriate time. It is acknowledged, however, that students under the age of 18 would require different timelines as their welfare needs are significantly different from adult students.

   With specific reference to student default reporting, English Australia notes that this requirement was originally established to support the work of the Tuition Protection Service (TPS), however feedback from the TPS seem to indicate that this level of reporting is not required.

   English Australia notes that the Department has identified this issue as requiring further workshopping to achieve appropriate sector specific solutions.

   English Australia recommends that providers no longer be required to report student default in the form currently required but that this be aligned with other reporting requirements to streamline the process and workload for providers (see also comments under Items 18 & 19).

   English Australia recommends a comprehensive audit of data collection requirements through PRISMS, using the questions identified above including a review of the current 14 day reporting requirement for course variations.

   English Australia recommends a different (tighter) approach for students under the age of 18 and notes that requirements specific to under-18s could be included in Standard 5.

10. **Provide data upload facilities and links between PRISMS or CRICOS and other data systems to decrease manual entry and increase data quality.**

    English Australia endorses this proposal, whilst noting the great variety of data systems used across the industry.

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11. **Standardise data elements to assist with data collection and reporting, including utilisation of information provided across different data collection systems.**

    English Australia endorses this proposal.

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12. **Remove redundant data items from PRISMS and CRICOS.**

    English Australia endorses this proposal, whilst noting the need to consult regarding the specific items to ensure they are truly redundant.

    English Australia recommends that a PRISMS 'users group' be established to identify areas for improvement related to the practical use of PRISMS that have not been identified in this paper but that would reduce the administrative burden on providers.

Minimising Tuition Protection Service requirements

Proposed changes

13. **Change the requirement that all education institutions be subject to the 50 per cent limit on the collection of tuition fees prior to commencing a course.**

    As identified in previous submissions, the introduction of this constraint across all providers for all students has had a large number of negative consequences.

    In our October 2011 submission regarding the introduction of the ESOS TPS Bills, English Australia wrote:

    'This proposed change:
    - *does not align with the risk-based approach taken by other ESOS reforms;*
    - *will encourage poaching and discounting, with students attracted to cheaper courses once onshore;*
    - *will result in more students staying in Australia unlawfully;*
    - *will impose a considerable additional financial burden on education providers;*
    - *will impact on providers' capacity to plan and resource programs effectively, thus impacting on quality;*
    - *will result in poor outcomes for students;*
    - *will be contrary to the wishes and best interests of many "customers", including students, their families, governments and scholarship funding bodies;*
    - *will make Australia less competitive internationally.'*

    The last two years have seen all of these problems eventuate just as we predicted.

It is common practice for sectors delivering award courses to accept payments on a semester basis, however the ELICOS sector operates differently. In the secondary education, higher education and vocational education sectors, students commit to a program of study that will deliver a qualification at the end. Usually these programs of study are longer than one year. The numbers of students who switch between courses/providers are relatively low as a proportion of the whole cohort. There are breaks between semesters (holidays for students and time for providers to undertake administrative tasks).

The ELICOS sector, however, delivers non-award courses that have little differentiation and is therefore particularly vulnerable to 'poaching' and students shopping around for the lowest fee. Very few ELICOS providers have course breaks or 'holidays' between study periods and any delay in a student's payment of fees impacts on their financial status and has the potential to cause disruption to their study program.

The current requirements only allow providers to receive subsequent fees 2 weeks before the next study period commences.

This has unnecessarily complicated a provider's responsibility under ESOS if a student who has a confirmation of enrolment (and a visa) for 40 weeks does not pay the second lot of course fees at the end of 20 weeks. Is the college obliged to allow the student time to pay, can a provider suspend course registration or cancel the CoE? This has caused considerable disruption to classes, affected teacher employment and cost providers money in lost fees.

Whilst the average ELICOS enrolment is much less than 24 weeks, there are a significant number of students that enrol in ELICOS courses for longer. This limit on pre-paid fees has reduced the student's commitment to a maximum of 24 weeks, at which point they can leave with no risk of penalty since the provider is holding no more of their fees, although the provider may have been holding a place for them for well over 6 months.

Limiting pre-paid fees has encouraged students who may already be inclined to 'shop around' for 'alternative' (read 'cheaper') providers after arrival to be able to do so more easily because they do not have the same financial commitment to the provider they originally enrolled with. This has also played into the hands of local agents who specialise in moving students from one school to another.

All ELICOS providers are supposed to be operating within fixed parameters such as paying teachers at Award rates, having a maximum of 18 students in a class, and delivering a minimum 20 hours per week of face-to-face teaching. ELICOS providers that recruit a large proportion of their students onshore are only able to offer the low prices they do by finding ways to circumvent the ELICOS Standards and other regulations and by reducing their offshore marketing costs. The current limits on pre-paid fees only serve to encourage this kind of behaviour.

Whilst there has been a return to growth in the overall figures for ELICOS commencements, it is important to note that this growth is primarily being experienced by providers who specialise in offering pathways to other providers and these students are less likely to be 'poached' by cheaper offerings elsewhere that divert them from their main educational goal. Stand-alone ELICOS providers have experienced far lower rates of growth, and have been more significantly impacted by the limits on pre-paid fees.

There has been a considerable increase in administrative costs for ELICOS providers to chase unpaid fees. Changes have been required to databases to provide reports, invoicing and to monitor payment. In addition, both students and schools have incurred further bank fees for payments from overseas.

Offshore agents have to wait for payment of the commission until the student has commenced their course. This has impacted on agent business models and has made Australia less competitive for an agent looking at sending students to a range of destination countries.

There are many instances where providers need to be able to accept more than 24 weeks in pre-paid fees. There are sponsors who may wish to or indeed must use up their professional development funds for the given year – e.g. the Vietnam Ministry of Interior sends one provider 10-11 students at least once per year for 30 weeks and must allocate their funds for this purpose in one 'go' for a particular year. The provider is asked to invoice them for all aspects of the program up front. The same would apply to many Korean university partnership programs where there is government money provided for students under the Global Leadership Program. Middle Eastern sponsors may wish to pay a large amount at one time and with recent issues accessing ongoing funding for Libyan students, it would be preferable to be able to access full funding as and when this is available.

ELICOS providers assess a student's capacity to pay (and therefore one aspect of their 'genuineness') by their capacity to pre-pay fees, as does DIBP "When assessing a student for a visa, the Department of Immigration and Citizenship considers the amount of pre-paid course fees as an indicator of the student's commitment to studying in Australia."

English Australia recommends that this constraint be removed as a requirement for all providers, however that it remain as an optional 'condition' that quality assurance agencies can apply to education providers that meet a particular risk profile.

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14. **Amend or remove the requirement to maintain a designated account for all education institutions, for instance making it a condition of registration for fewer education institutions.**

As identified in previous submissions, this requirement has never been monitored, nor has it had a real impact in cases of provider default where in the majority of cases no funds remained in the designated account anyway.

English Australia recommends that this be removed as a blanket requirement for all providers, however that it remain as an optional 'condition' that quality assurance agencies can apply to education providers that meet a particular risk profile.

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15. **Remove requirements to identify study periods in the ESOS Act.**

English Australia endorses this proposal as the requirement serves no useful purpose with the changes proposed above.

Increasing flexibility in education delivery

Proposed changes

16. Amend the National Code to increase flexibility and discretion in the use and allowable amount of online and distance learning, within visa requirements.

This is an area where different approaches are required to meet the needs of the different sectors.

English Australia looked to international norms when considering the question of online learning. For example in the United States, SEVP regulation states that *'If the F-1 student's course of study is in a language study program, no on-line or distance education classes may be considered to count toward a student's full course of study requirement'[1]*.

The use of online tools is offering a range of options to education providers and it is important that Australian institutions have a regulatory framework that allows for innovation in this space. What is clear, however, within the international context for ELICOS, is that the face-to-face teaching element of language study remains a core component that students are paying for when they purchase an English language course (as identified below in our response to Proposals 18 & 19). Full-time ELICOS study in Australia used to be defined as 25 hours until a previous ESOS review reduced this to 20 hours. It is the sector's strong belief that 20 hours face-to-face should be the absolute minimum for a full-time course, but that there is nothing to prevent education providers from incorporating online components as an additional element of the course outside of the core 20 hours.

English Australia notes that the Department has identified this issue as requiring further workshopping to achieve appropriate sector specific solutions.

English Australia recommends that online learning is an appropriate option for ELICOS, however that it should only be used <u>in addition to</u> a full-time program defined as 20 hours of face-to-face teaching.

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17. Amend the National Code to broaden the work-based training or work-integrated learning provisions.

English Australia questions whether this issue belongs in the ESOS requirements at all, believing that the principle that should be applied is one of equity with domestic students. If a course has a work component then international students should be able to access this on an equal footing with domestic students.

At first glance, therefore, this issue would not seem to be relevant to ELICOS. There is, however, increasing demand for more specialised language programs that are designed to provide the language support for particular areas of specialisation such as aviation, finance, law etc. These courses might be developed to incorporate a work based component that allows for the practical application of particular language skills within a specific context. The same principle could be applied to these courses as identified as appropriate for other sector as identified above.

The ELICOS sector is also seeing increasing demand for English language programs combined with internship opportunities. There currently doesn't seem to be a visa option that provides for these two elements to be combined in one 'package'.

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[1] Code of Federal Regulations 8 CFR 214.2(f)(6)(i)(G)

English Australia recommends that any requirements relating to work-based training or work-integrated learning provisions be removed from the National Code, allowing the quality assurance agency to determine the appropriateness of this when a course is submitted for approval for registration on CRICOS.

English Australia recommends that the consideration be given to approving English + internship packaged programs within the student visa framework.

18. **Amend the National Code to allow course progress to be deemed by the relevant quality assurance agency as sufficient for meeting visa compliance requirements where appropriate.**

19. **Amend the National Code to allow existing practices for monitoring attendance to be deemed to satisfy the requirements under the National Code where appropriate.**

The National Code sets out the course progress and course attendance requirements which registered providers must apply to overseas students. These are two key areas where the National Code supports the integrity of the student visa program.

Each sector differs in the types of programs offered and the appropriate methodology used to monitor progress and/or attendance. English Australia therefore believes that each sector requires different approaches.

Monitoring the progress of language learners is a highly complex area as identified in the Best Practice Guide[2] developed by English Australia, with challenges for providers in achieving consistency across the sector in the recording of learning outcomes. Partly as a consequence of this, but also because of the nature of language learning and the role of the teacher, the monitoring of inputs and therefore course attendance and participation have become default mechanisms for determining whether an ELICOS student is engaging with the learning process.

ELICOS is also a highly competitive global industry. For students comparing courses in Australia with the UK, USA, Canada and New Zealand, the week and the hour have become the measurable units of value. For example, in the UK, English language colleges offer courses of 10 face-to-face hours per week, 15 hours per week, 20 hours per week etc. at varying fees. The international 'standard' for a full-time English language course is 20 hours face-to-face per week.

When considering the reporting of student attendance, it is also important to note the different practices across TEQSA and ASQA for registering ELICOS courses on CRICOS and the impact of this on how providers actually record attendance and at what stage a student is deemed to be in breach. ASQA and TEQSA allow for varying approaches for registering courses on CRICOS as follows:

- one 'umbrella' course registration of 'General English 1-52 weeks' with a single CRICOS code;

- separate courses of General English eg. Elementary 10 weeks, Intermediate 10 weeks, with separate CRICOS codes for each course.

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[2] *English Australia Guide to Best Practice in Monitoring Student Progress in ELICOS* (2014)

One issue relates to the fact that students may have 100% attendance across the 10 weeks of their first 'course' and then 60% attendance across the 10 weeks of their second 'course'. The provider must report the student for being in breach of the attendance requirements for their second course, however across the total 20 weeks of study the student has actually met the attendance requirement of 80% and need not be reported.

Another issue relates to the fact that students may test at a certain level of language proficiency overseas and then demonstrate a different level on arrival and requiring moving to a different 'course' to the one for which they originally enrolled. Also, students learn English at different rates of progress and students move frequently between different levels and different courses. This flexible approach to student movement between courses is the norm for the ELICOS sector.

This movement of ELICOS students between different 'courses' within what is basically a single English language course has presented a significant administrative burden to ELICOS providers in meeting the requirements to report on so-called 'course variations'. New eCoEs often have to be issues for no real purpose and this also potentially impacts on the fees that a provider has to pay under the annual registration charge. The value of this reporting needs to be questioned and solutions explored that will minimise the need for reporting that has little purpose.

Education providers also face a significant administrative burden in managing the student appeals process, particularly in relation to reporting related to students not meeting attendance requirements. The administrative workload is seen as wasted effort when the timeframe for appeals generally extends well beyond the student's enrolment period and no action is undertaken at the end of this labour-intensive process.

English Australia notes that the Department has identified this issue as requiring further workshopping to achieve appropriate sector specific solutions.

English Australia recommends that the current definition of 20 hours per week as defining full-time study be retained and that the current 80% attendance requirement also be retained for English language students in ELICOS programs.

English Australia recommends that regardless of whether ELICOS students are enrolled in a single 'course' or a sequence of 'courses', their attendance should be monitored over the total period of their study with the same provider and that movement between different ELICOS 'courses' not be defined as 'student default' or 'course variation'.

English Australia recommends that the student appeals process be reviewed.

[Note additional comments related to ELICOS course registration in Section 3 of this submission, and the need for progress and attendance monitoring to be applied consistently to <u>all</u> English language courses regardless of whether they are award or non-award programs.]

Transfer of students

Proposed changes

20. **Amend standard 3 of the National Code to more clearly require a written agreement to include a cancellation (currently refund) policy in the event of a student cancelling an enrolment or transferring to another education institution.**

21. **Amend the student transfer process in standard 7.**

As identified in previous submissions, English Australia believes that the introduction of limits on the amount of pre-paid fees a provider can receive combined with the introduction of streamlined visa processing (SVP) has contributed to increasingly large numbers of students transferring providers for reasons related more to the cost of the course rather than genuine reasons related to the suitability of the course or provider.

English Australia acknowledges the importance of balancing appropriate protections for students with appropriate protections for providers.

English Australia also notes the lack of consequences for education providers and onshore agents who are actively poaching students from other providers.

English Australia also notes that part of the issue with student transfers relates to the process itself and the role that PRISMS plays in the logistics of the transfer process.

In developing solutions to address this issue, English Australia believes it is important to note that other changes proposed in the discussion paper will also have a positive impact such as the removal of limits on pre-paid fees. This issue is complex and may require a variety of approaches to address the full range of causal factors relating to such things as the behaviour of onshore agents, the behaviour of education providers, the impact of SVP, the limits on pre-paid fees, student expectations (transparency and level of detail of pre-arrival information), clarity regarding student rights and obligations under ESOS and within their visa conditions etc.

English Australia notes that the Department has identified this issue as requiring further workshopping to achieve appropriate solutions. At this workshop, consideration needs to also be given to the role of the Letter of Release in the process and how PRISMS is used to facilitate (or create barriers to) the process and provide safeguards at the same time (for both students and providers).

English Australia recommends that other key stakeholders such as the Overseas Students Ombudsman and the Department of Immigration and Border Protection (DIBP) be invited to participate in further workshopping of solutions.

English Australia recommends that providers be allowed under ESOS (and with the support of the Overseas Student Ombudsman) to have a reasonable cancellation policy in their written agreement with students.

English Australia recommends that the quality assurance agencies explore strategies to identify providers with a history of poaching students onshore rather than investing in offshore recruitment and then develop appropriate penalties for such behaviour.

English Australia recommends that greater clarity be provided by DIBP regarding:

- **what is allowed under student visa requirements with regards to students changing their course/provider onshore;**

- **what the consequences are of such changes where they are in breach of what is allowed;**

- **what action will be undertaken by DIBP if students are in breach;**

- **what action will be undertaken by the quality assurance agencies if a provider is in breach; and**

- **that this be communicated more effectively to students and providers.**

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22. **Amend standard 4 of the National Code to require education institutions to enter into a written agreement with each education agent whose services it uses (as opposed to 'each education agent it engages to formally represent it').**

English Australia believes that this is an unrealistic expectation within the context of the language travel industry. A certain degree of flexibility is required within the ELICOS sector for providers to engage with 'new' agents – agents who are new to recruiting students for Australia.

Consideration needs to be given as to whether the quality assurance agencies are monitoring provider engagement with agents within the current requirements, let alone adding further requirements that will not necessarily add any value to the process.

English Australia recommends that no changes are required to this provision within the National Code.

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23. **Consider whether further information on the use of agents should be provided in addition to the current requirement for the publication of agent names and details on an education institution's website and the voluntary requirement in PRISMS for education institutions to give details of an education agent for each enrolment.**

English Australia has no concerns regarding the requirement for providers to list the agents they work with on their website. This adds a level of transparency for students to be able to confirm that an agent is a legitimate agency for specific providers.

English Australia is, however, strongly resistant to the idea of making the recording of agent details within PRISMS mandatory.

In fact, English Australia is concerned that the existing 'voluntary' provision is actually mandatory as once providers indicate in PRISMS that 'yes' they used an agent for an enrolment, they are currently compelled to go on and enter the agent details as these are mandatory fields. If they don't want to enter the agent details then they are compelled to lie and enter 'no' into PRISMS – not an ideal solution.

English Australia recommends that agent information fields be removed from PRISMS as they don't add any value to the provider or to the Department.

24. **Support an industry driven shared set of principles or code of ethics for education agents. This may include an industry-led system for recognising formally trained, high-quality, ethical and suitably qualified or knowledgeable education agents (rather than a formal registration system).**

25. **Support more options for training and informing education agents of their obligations to students.**

As identified in previous submissions, the use of agents varies significantly across the different sectors. In particular the level of knowledge and training required will be very different for an agent working with a university and required to be 'expert' on their multitude of course offerings compared with an agent working with a stand-alone ELICOS provider recruiting for a small number of English language courses.

English Australia agrees with the proposal, however, that a shared set of principles or code of ethics is relevant to all sectors. In March 2012, the UK, Australia, Ireland and New Zealand agreed to the *Statement of Principles for the Ethical Recruitment of International Students by Education Agents and Consultants*[3] (to be known as the London statement), so this type of document already exists.

What does not exist however is an agreed approach to using this document.

English Australia believes strongly that engagement with agents should be driven at an industry level rather than by government. In fact English Australia is launching a new *Partner Agency Program* this year which requires agents to have:

- a track record of recruiting successfully for at least 4 English Australia member colleges;
- references from staff at 4 English Australia member colleges;
- a commitment to The London Statement , a high-level Statement of Principles promoting best practice among the education agents and consultant professions that support international students.

The list of agents who join the English Australia *Partner Agency Program* will be publicly available on the English Australia website – member colleges will be invited to advise English Australia of any concerns they have with any of the agents listed and all complaints about agents will be investigated and under the Terms and Conditions an agent can be removed from the program without right of appeal.

English Australia recommends that strategies for engaging effectively with agents be driven by the industry rather than by government.

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[3] https://aei.gov.au/News/Latest-News/Documents/StatementofPrinciples.pdf

Welfare of students aged under 18

Proposed changes

26. **Amend the National Code to clarify requirements and responsibility for the welfare of international students aged under 18, including clearer references to supervision, accommodation as 'adequate and appropriate', health and well-being, and welfare arrangements.**

27. **Clarify that responsibility for ensuring appropriate welfare arrangements for a student remains with a provider until the student commences a course with another provider, regardless of the date from which the transfer is accepted.**

English Australia agrees that there needs to be greater clarity in the National Code with regards to the requirements specific to students under the age of 18.

English Australia notes that there are a number of complications related to welfare arrangements in the period between the student's arrival in the country and their first day at their institution, as well as when they finish their course with one provider and transition to a course with another provider.

The need is obviously for there to always be a 'live' welfare arrangement in place, however there might need to be some flexibility in terms of when one welfare arrangement takes over from the previous one, depending on the particular circumstances. The key strategy will to develop a process through PRISMS for this to be monitored.

English Australia notes that the Department has identified these issues as requiring further workshopping to achieve appropriate sector specific solutions.

Working with stakeholders to produce a practical and accessible National Code and explanatory guide for ESOS

Proposed changes

28. **Remove redundant provisions in the National Code.**

English Australia endorses this proposal, whilst noting the need to consult regarding the specific items to ensure they are truly redundant.

29. **Develop a simpler and clearer explanatory guide and other supporting material for ESOS, in collaboration with stakeholders, with sector-specific examples.**

30. **Amend the ESOS Act to better reflect the purpose of the National Code, its contents and the changes proposed in this discussion paper.**

English Australia endorses these proposals.

Registration charges

Proposed changes

31. Amend the Registration Charges Regulations to include a provision that allows for an exemption from the Entry to Market Charge for a class of education institutions with an appropriate history of education provision and CRICOS registration, and no adverse compliance record.

English Australia endorses this proposal.

English Australia would also recommend that further work be done to achieve greater consistency in the registration costs incurred by providers across the different quality assurance agencies as well as to reflect the impact of the proposed reforms on streamlining the operations of the quality assurance agencies.

Section 3)   Other issues

Peak bodies were invited to consider any other issues that were not addressed by the discussion paper.

ELICOS – course registration

English Australia would like to request further consideration of the current process by which courses are evaluated prior to their approval for registration on CRICOS for their suitability for international students. In particular we have concerns about the current process whereby education providers themselves can choose whether to register their English language courses on CRICOS as either ELICOS or VET. It is our strong opinion that all English language courses on CRICOS should be registered as ELICOS to ensure consistency in the standards required, to ensure potential students are able to readily compare course offerings and to support the integrity of the student visa program where risk levels are defined by the sector in which a course is registered.

Quality Assurance Agencies - cooperation

English Australia understands that there are constraints within the current legislation regarding the ability of various bodies to share information eg. the Tuition Protection Service being able to share their risk ratings of providers with ASQA.

English Australia would welcome any changes that would allow for this kind of sharing to be facilitated.

Written Agreements

English Australia's recent submission to the Overseas Students Ombudsman' enquiry into written agreements identified some of the challenges for ELICOS providers in dealing with student and agent expectations regarding which documents constitute a 'written agreement' within the enrolment procedure.

The ELICOS sector operates within a highly competitive global language travel industry that has closer links to tourism in many ways than to formal education. The average course length is 12.9 weeks and the financial investment for students is considerably lower than for students enrolling in longer higher education courses. The time between application and start date is also much shorter than for other education sectors, with courses starting every week rather than twice or three times a year and short lead times.

Students have low levels of English and rely heavily on agent facilitation of the process as well as not having the language skills to understand long and complicated legal documents.

The challenge for our sector is to make the application process as simple and streamlined as possible, to reduce the amount of language/text that a student has to read and to minimise the number of steps involved in the process.

The current multiple step purchase process that takes days to complete is blocking the potential to streamline what is required of students and agents through technology and other process improvements and is another contributor to Australia not being competitive. The process needs to reflect the reality of doing business in the globally competitive language travel industry.

English Australia believes that the ESOS review could reduce a significant administrative burden for providers in addressing the issue of written agreements and the need for a student signature in a way that streamlines the application process and acknowledges cultural differences.

English Australia believes that this issue warrants further discussion, perhaps in a separate workshop with the involvement of the Overseas Students Ombudsman.

ELICOS Standards

English Australia would welcome the opportunity to discuss further reforms to the ELICOS Standards once other changes to the ESOS framework have been finalised. Key issues that need to be addressed through this review of the ELICOS Standards would be:

- what are specific features of the ELICOS sector (the profile of the students, the nature of language learning etc) that would require addressing in addition to the standards identified in the National Code as relevant to all international students/education?

- international benchmarking – how do the Australian standards align with key competitor countries?

Section 4)   Next steps

English Australia has welcomed the opportunities provided by the department to discuss these areas in forums with other stakeholders.

We believe this has been important part of the process as the sectors all differ in their profile and in the impact of the various aspects of the legislative framework.

We believe it will also be important to aim to identify which areas of suggested reform have the potential to have the biggest impact and that the implementation plan for these be accelerated as much as possible.

ENGLISH AUSTRALIA CONTACT
Sue Blundell
Executive Director

(02) 9264 4700 | 0402 232 503
sueblundell@englishaustralia.com.au

PO Box 1437, Darlinghurst NSW 1300
Level 3, 162 Goulburn Street, Surry Hills NSW 2010

[submission authorised by the Board of English Australia]