31 October 2014

By email: ESOS-Policy@education.gov.au

Reform of the ESOS Framework: Discussion Paper

Thank you for the opportunity to provide the attached submission to the review of the ESOS framework.

The University of Sydney is strongly supportive of measures that would reduce duplication and regulatory burden on providers, while ensuring rigorous standards are maintained.

Should further information be required from the University in relation any of the matters raised, please do not hesitate to contact Mr Tim Payne, Director, Policy Analysis & Communication in my office, 02 9351 4750, tim.payne@sydney.edu.au.

Yours sincerely,

Dr Michael Spence
Vice-Chancellor and Principal
The University of Sydney strongly supports the objectives of the reforms proposed in the Discussion Paper. Recent regulatory reforms including the establishment of the Tertiary Education Quality and Standards Agency (TEQSA) and the Australian Skills Quality Authority (ASQA) have created duplication, complexity and reporting overlaps in relation to the regulation of providers’ international education activities. The Education Services for Overseas Students Act and the National Code need updating to ensure better alignment with the new national regulatory framework for Australia’s post-school education system, as well as with leading international approaches to quality assurance for foreign students.

We are therefore pleased to provide the following comments in response to some of the Discussion Paper’s questions. We look forward to receiving detail from the Department about the reforms that are to made following these consultations, and about the process and timetable for their implementation.

Simplifying administrative arrangements (p.7)

The University of Sydney agrees with suggested reforms 1-6. We are particularly supportive of the change suggested in reform 3 as a single registration timeframe would maximise efficiency. On reform 2, our current experience is that the biggest difference between the domestic and international standards is the restriction for international students to 25% of their course being online learning.

Reviews of decisions by quality assurance agencies (p.8)

The University of Sydney is in agreement with the proposed reforms 7 & 8.

Reducing the reporting burden (p.9)

We welcome the reforms suggested in 9-12. On reform 9 – streamlining the student default reporting process by moving it to a 14 day timeframe is very welcome. A standardised approach would assist in easing the pressure and resource burdens attached to very short turn-around times. It will also minimise the confusion and potential for breaches in reporting.

Reform 10 is very much welcomed and long overdue. Currently, the University is duplicating information detailed in PRISMS onto its student record system and local databases for the purpose of compliance checking. This is time consuming, costly and increases the potential for human error. We anticipate that such facilities will therefore benefit workflows, resourcing, and assist with accurate compliance checking.

Reform 12 - removing redundant data items from PRISMS and CRICOS - would also be very welcome as we are currently finding that reports obtained from PRISMS are far too large, and require excessive filtering.

Minimising Tuition Protection Service requirements (p.9)

In relation to reform 13, the 50 per cent limit has not affected the University of Sydney as business processes have been established to allow the collection of semester-based tuition fees. Whilst it is appreciated that students may want to take advantage of currency exchange rates in paying their fees up front, the University has some concerns regarding the collection of large sums of money, which then
result in claims for refunds. We are particularly concerned when these refunds are sent to a separate
account, escaping the scrutiny that the import of such sums would normally attract from the Australian
Tax Office or the Federal Police.

Reform 14 does not currently affect the University so we are not in a position to comment.

Reform 15 is a welcomed move. Study periods can be easily manipulated by students who accelerate
studies within summer/winter schools. Removing the requirement to identify study periods would accord
with the fluid nature of study. While we are supportive of the reforms suggested here, the University
questions the need to maintain the Tuition Protection Service (TPS). At present, the TPS costs the
University up to $87,000 per year and we note that only one action has ever been taken under this
service. We do not see that the current cost of this service to reputable providers is fair, or even
proportionate to the risk to students from the higher education sector.

Assuming the TPS will be retained, we would also like to suggest some other reforms. At present, there is
some vagueness in the National Code as it refers to the TPS. One example is in relation to the steps an
institution needs to go through when it can no longer offer a program and needs to refund students' investments. There is also no definition of the time period in which a provider can default. This can, at present, occur after the point a student is enrolled. We are also concerned that variances can only be made through defaults – either of the provider or of the student – as there are cases when neither of these apply yet a variance must still be sought. A more explicit definition of provider default, with specific reference to when a default is considered to have occurred, would be helpful.

Increasing flexibility in education delivery (p.10)

We agree in general agreement with reforms 16-19, though noting that the University does not currently
monitor attendance for domestic or international students. Reform 16 is a very much welcomed response
to changes in pedagogy and delivery modes for both intensive and self-directed learning. Additionally, the
administrative burden to monitor distance learning may be reduced.

We feel further detail is needed on reform 18 to be able to comment meaningfully. Similarly, for reform
17, further detail would be helpful, particularly on what percentage of work-based training, clinical
placement or work-integrated learning is to be allowed and how these are defined. Further clarity about
the limits here is desirable.

Transfer of students (p.11)

The University agrees to reforms 20 and 24. Reform 24 would avoid duplication of training by providers
and demonstrate formal recognition by the government of the role of agents in contributing to Australia’s
export education industry. Government assistance in regulation and training would be welcome.

We believe online training should also be included in reform 25.

The University already complies with reform 22, and would further like to suggest that either the
Department of Immigration or TEQSA maintain an up to date list of approved, well-respected, agents in-
country whom education providers might engage. However, we note that currently standard 4.4 refers to
the use of ‘sub-contractors’ (sub-agents) for which the University does not have a direct agreement, but
who must be approved. Any requirement to formalise a written agreement with each education agent may
pose an increased resource burden.
The University does not agree with reform 21, insofar as the amendment seeks to increase the period from 6 months to 12 months in the principle course of study. We believe this has the potential to increase the administrative burden to the University, and restrict the choices of students as consumers.

Currently, the University's compliance team is required to consider release requests for large numbers of students. An extension to the restriction of students' ability to transfer to another provider will further exacerbate resource and workload allocations. The University seeks to recruit high calibre candidates. Teaching standards and assessments are also high and whilst very strong students are recruited, they can be somewhat unprepared for the challenges attached to our assessment methods. Many international students seeking release tend to base their requests on the academic challenges attached to successful completion.

While smaller providers may consider this extension necessary to protect and recoup income associated with recruitment, the University is concerned that binding students to one provider for 12 months is particularly restrictive and a substantial departure from the consumer choice provisions available to domestic students. In delaying students the opportunity to undertake studies at an alternate institution, providers may be favouring institutional revenue over a student's chances of achieving a successful completion.

**Welfare of students aged under 18 (p.13)**

The University strongly supports reform 26 to clarify responsibilities and requirements for international students under the age of 18. Clearer terminology that identifies what 'adequate and appropriate' constitutes would be very useful as current references are far too broad and subjective. 'Catch-all' clauses such as these leave providers open to litigation by parents of under-18 students.

There are at present no clear industry standards for homestay accommodation. The homestay industry is currently unregulated, and there is prescribed set of welfare arrangements for caregiver/guardianship companies. Providers have been forced to develop their own set of standards in relation to both, which industry stakeholders may or may not respect. There is also a need to consider what sort of protection is given to providers in the event that a student leaves his or her approved accommodation.

The University agrees with reform 27, noting that explicitly stating this level of responsibility within the ESOS framework would be very useful.

**Working with stakeholders to produce a practical and accessible National Code and explanatory guide for ESOS (p.14)**

The University welcomes reforms 28-30. It would be particularly useful to ensure that there are sector-specific examples provided in that National Code.

**Registration charges (p.14)**

The University would not be affected by this reform and so has no comments.
Other comments

The University would like to suggest that another aspect of the current system the review could usefully address is that of Electronic Confirmation of Enrolment (eCoE) cancellation and its relationship to visas. If a provider has occasion to cancel an eCoE it does not trigger a visa cancellation. This situation is problematic in cases where the University cancels an eCoE because it believes some aspect of the enrolment has been subject to fraud. Under the current system the eCoE cancellation does not trigger a visa cancellation, which is instead at the discretion of the Department of Immigration. In addition, the applicant subject to the cancellation must have access to the internal appeals process, which is also assessed by the NSW Ombudsman. In cases such as these, where fraud is confirmed and the case has been referred to law enforcement, this process appears to be inappropriate, administratively burdensome for providers, and open to manipulation by students. We see a need for engagement between the Department of Education and the Department of Immigration to address this issue.

Ends/

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