



**12 May 2021**

**Submissions to the Australian Strategy for International Education 2021-2030 Consultation**

To whom it may concern,

The Council of International Students Australia (CISA) welcomes the opportunity to contribute to the Australian Strategy for International Education 2021-30 Consultation. CISA is the national peak student representative body for international students in Australia. Formed in 2010, we are a non-profit, non-partisan and noncommercially aligned organization in response to the need for a national voice and unified advocacy for the more than 650000 international students in Australia. Our National President is also an ex officio Expert Member of the Council for International Education.

This is a joint submission between CISA and the ANU Law Reform and Social Justice Research Hub (ANU LRSJ Research Hub). Members of the ANU LRSJ Research Hub are students of the ANU College of Law, who are engaged with a range of projects with the aim of exploring the law's complex role in society, and the part that lawyers play in using and improving law to promote both social justice and social stability.

Our submissions will address directly Discussion Questions 3, 5(i), 6, 6(i) and 8 in the following order. We note that some of our submissions may also address other Discussion Questions as well.

We welcome the opportunity to answer any questions from the Department regarding this submission. We can be contacted via [secretary@cisa.edu.au](mailto:secretary@cisa.edu.au)



### **Q3. What changes are needed to make Australia more globally competitive over the next decade?**

We submit that it is essential for Australia's competitiveness that institutions be able to comprehensively consider special circumstances that could compromise the ability of international students to pay their tuition fees. COVID-19 has highlighted the challenges faced by international students in Australia, especially without government-provided financial or social assistance. Currently, most international students face significantly higher tuition fees often upfront, with familial assistance. Many students work part-time or casual jobs to support themselves. At the peak of COVID-19, the only support available to international students was for 'extreme hardship' in the form of grocery vouchers, rare one-off payments from local governments and emergency relief from Red Cross.<sup>1</sup> The stark discrepancy in financial support available to international and domestic students may be remedied to some extent if universities were prepared to provide personalised payment plans and fee deferral options for temporary inability to pay tuition fees.

Depending on individual university policy and in light of the relevant ESOS provisions, some providers also only allow a deferral of study, new CoE or new visa for 'compelling and compassionate reasons' such as a serious medical condition or bereavement of close family members.<sup>2</sup> While the list is not closed, it could be expanded to provide for the inclusion of 'general financial hardships' that limit the ability of students to pay fees through no fault of their own. This ground should include

a) loss of income by the person responsible for paying the student's fees

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<sup>1</sup> Abhas Parajuli, 'Universities Step up to Help International Students Affected by COVID-19 amid Calls for Federal Help', SBS (Web Page, 2 April 2020) <<https://www.sbs.com.au/language/english/universities-step-up-to-help-international-students-affected-by-covid-19-amid-calls-for-federal-help>>.

<sup>2</sup> Department of Education and Training, Australian Government, *Standard 8: Overseas Student Visa Requirements* (National Code of Practice, 2018) 4.



- b) death of a family member whose income was crucial
- c) general inability to pay fees and
- d) loss of a casual or part-time job for the student living in Australia.

These grounds would recognise and account for the heavy dependence upon familial financial assistance.

If each case is considered individually, we submit that these grounds are not unduly wide. Most international students rely on their families for the payment of tuition fees. If this source of support is not available through no fault of the students, universities must be compassionate enough to work through individual cases to determine new payment plans. To their credit, some Australian institutions have implemented such plans and fee reductions, but the approach remains not uniform across the sector. By allowing case-by-case financial consideration, students will also be helped to abide by their visa conditions relating to enrolment and attendance. Overall, we believe that case by case consideration of personalised payment plans and deferral options will better support international students.

The changes we propose to the tuition fee payment policy will better support existing international students attract many prospective students. Further, to remain competitive, Australia must offer compassionate in addition to world class education. Students and their families want to see a commitment not only to international education but to international students. We submit that tuition fee flexibility, alongside initiatives such as promotion of multicultural and culturally-sensitive education as well as promotion of the value of international students beyond just their economic value, will help realise this compassionate, world class education.



**Q5(i). How can Australia improve employability outcomes for international students, ensuring students have the necessary the skills to compete in a globally competitive labour market?**

Employability outcomes plays a huge role for the sustainability and success of the Australian international education sector. However, there are challenges international students face in terms of maximising the opportunity to progress and develop skills in relation to their course of study.

The recent government decision to relax the 40 hours work limit for work in the hospitality and tourism sector is welcome, but we respectfully submit that we need to ensure that international students are able to work in the field for which they are studying. Currently, many employers in high-skills sectors would not hire international students or international students graduates on temporary graduate visas. As such, many international students are forced to take odd jobs working in fields that is not relevant their study background. These work naturally do not provide many transferrable skills relevant to working in an industry that is related to their studies both in Australia and back home.

It is vital therefore that Australia work to increase the willingness of employers to hire international students across all sectors. While the focus on increasing student's employability skills is welcome and should be continued, we respectfully submit that the problem lies with labour demand, not supply. This can be done through:

- working with chambers of commerce and industry groups to establish internships and placements for international students,
- dispel myths about international students and the 'difficulties' of hiring them



- further policy reform and stronger enforcement actions to curb discrimination in hiring against international students when such discrimination is not due to the inherent nature of a role.

#### **Q6. How do we create a uniquely Australian education experience?**

We submit that foundation for a uniquely Australian education experience lies in the high quality of the education provided by Australian institutions and the strong and caring relationship between Australian providers and its students. These in turn require strong and extensive quality assurance and student protections framework and mechanisms,<sup>3</sup> such as the *ESOS Act* and the *National Code*. It is therefore vital to the development of a uniquely Australian education experience that Australia continues to maintain and develops institutions that help to enforce these frameworks, such as TEQSA, ASQA and the Overseas Student Ombudsman.

The current approach taken by the regulatory agencies that administers the *ESOS Act* and the *National Code* such as TEQSA appears to be initially encourage students to attempt to resolve concerns through internal complaint mechanisms.<sup>4</sup> We respectfully submit that the Strategy needs to be advocate a lesser reliance on internal complaints mechanisms and a more proactive enforcement of the *ESOS Act* and the *National Code*. Students have complained that internal complaints mechanisms appear to have been used to ‘wear them down’ and drop their complaints. Further, students may rightly feel distrustful that a process administered by their provider would adequately address their concerns about the same provider.

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<sup>3</sup> See also Consultation Paper 12.

<sup>4</sup> <https://www.teqsa.gov.au/you-raise-concern>



If it decides to take action against the provider, regulators such as TEQSA may decide to take a range of actions,<sup>5</sup> including cancelling the provider's registration.<sup>6</sup> However, if students suffer financial loss due to the breach of the standards, to our understanding they will need to rely on personal actions in contract or consumer law and not regulatory action. International students also cannot enforce the *ESOS Act* and *National Code* directly.<sup>7</sup> Consistently with putting students at the centre, we respectfully submit that the Strategy needs to encourage greater involvement of students and students' associations in resolving legitimate educational quality complaints about their education institutions.

In sum, we submit that the Strategy should advocate for the following points to ensure a distinctively Australian education:

- Strengthen the *ESOS Act* and the National Code provisions with student welfare at the centre.
- Increased funding and staff for key regulatory bodies such as TEQSA, ASQA, Overseas Students Ombudsman and relevant state / territory ombudsmen.
- Allow student associations and students the ability to independently institute legal actions against a provider for breaches of the *ESOS Act* and the *National Code*, complimenting regulatory actions.
- To amend the National Code<sup>8</sup> to allow regulatory bodies to seek compensation orders against non-compliant providers.<sup>9</sup> Students and students

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<sup>5</sup> <https://www.teqsa.gov.au/what-happens-next>

<sup>6</sup> *National Code of Practice for Providers of Education and Training to Overseas Students 2018 Pt A.5.*

<sup>7</sup> See Bruce Lindsay, 'Complexity and Ambiguity in University Law: Negotiating the Legal Terrain of Student Challenges to University Decisions,' (2007) 12(2) *Australia and New Zealand Journal of Law and Education* 7, 12

<sup>8</sup> *ESOS Act* s 40.

<sup>9</sup> See, eg, *Corporations Act 2001* s 1317J(2)



associations with legitimate and non-vexatious claims should also be allowed to seek such orders as a supplement to regulatory action.

- Consultation with the relevant stakeholders as to the appropriateness to expand the mandate of the Overseas Students Ombudsman, providing students with a *national* and *centralized* point for general complaints.
- Maintenance and monitoring of high standards of good practice as well as cultural sensitivity in internal complaints mechanisms, particularly with respect to smaller institutions.

**Q6(ii). How do we offer an Australian education experience while complimenting the value of Australian offshore and online education?**

We respectfully submit that despite its merits online learning is unlikely to be an effective replacement for an onshore on-campus Australian learning experience. It is quite difficult to imagine how a student will have a distinctly Australian education experience while not being in Australia and experiencing its unique society and way of life,<sup>10</sup> or without visiting the campus of Australia's many leading institutions.

The last 15 months have also revealed significant issues that international students faced when studying onshore. Online learning poses several significant challenges to international students who are studying offshore. Students that live in different time zones risk missing out on classes such as tutorials, with many being scheduled night hours, in the very early morning or even in the middle of the night. Further, students with disabilities such as light sensitivity would also find it difficult to study online. Aspects of the course, such as group work and working with fellow students, may also be very difficult. Further, there is a risk that that the learning quality of students may

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<sup>10</sup> Consultation Paper 12



be inferior compared to on campus learning particularly if there are courses which lend itself poorly to online learning.

There is also the issue of student support. If a student is facing mental health challenges, as was the for many international students during the pandemic, offshore students are unable to access their universities support systems (such as counselling, etc) given that to our understanding Australian mental health care providers are only allowed to practice within Australia. International students who cannot access this support in the country they are studying from are left in limbo.

In sum, we submit that it is very difficult to offer a uniquely Australian educational experience for offshore and online students and we respectfully submit that this should not be the Strategy's sole and dominant focus. Having said that, there are steps that the sector can take to improve offshore and online learning:

- Australia must ensure that offshore and online students are still able to receive the same quality of specialist and mental health support if there were studying in Australia.
- Providers and regulatory agencies must ensure that courses that are offered will be appropriate for online learning and to find solutions that would prevent students from needing to learn at difficult hours. Funding should be allocated to universities and providers to develop such appropriate courses and solutions.
- A tailored regulatory framework and accreditation for online courses.
- Providers that offer offshore or online education must ensure that these students remain highly employable, such as by establishing networks that can arrange placements and internships in their home countries as well as Australia.



- Offshore students must also not be charged as if they are studying onshore. Such fees may drive students away to other countries that may provide an onshore education at similar costs.

### **Q.8 What else should the Council for International Education and the Australian Government consider in developing the new Strategy?**

It is reasonably clear that during the COVID-19 pandemic, the relationship and trust between international students and Australia and its international education sector has been significantly dented. This is particularly true of international students who were and are still unable to return to Australia due to the border closures. It is also clear that the post COVID-19 world will present unknown challenges for international students and the sector.

If Australia is to succeed in restoring and improving its relationship with international students and to implement the recommendations contained in this Strategy, a permanent coordinating agency needs to be established. We respectfully recommend that the Strategy advocate for the legislative establishment of a **'Commission for International Students'** to complement the Council for International Education. This commission would be structured along the same lines as the Australian Human Rights Commission and would be responsible to coordinate and assist with the resolution of issues faced by individual international students. It would also be responsible to oversee the implementation of this Strategy and further strategies as developed by the Council of International Education and its Expert Member from time to time, as well as to investigate and report on systemic issues faced by international students and the international education sector.

Further, we respectfully submit that the National Strategy must call for greater involvement and incorporation of the views, voices, perspectives, concerns and aspirations of international students themselves in all aspects of Australian



international education. This can be done by pushing for greater recognition as well as monetary and in-kind support for organizations that represent and advocate for international students, be it a federal, state or local / institutional level. Further, the Strategy should also call for greater co-design when it comes to initiatives that will affect international students such as policy and regulatory changes, support services development and research projects.