



Submission to the
Department of Immigration and Citizenship
Review of the Student Visa Assessment Level Framework

March 2012

The Business Council of Australia (BCA) appreciates the opportunity to comment on the Department of Immigration and Citizenship's Review of the Student Visa Assessment Level Framework.

The BCA brings together the chief executives of 100 of Australia's leading companies. For almost 30 years, the BCA has provided a unique forum for some of Australia's most experienced corporate leaders to contribute to public policy reform that affects business and the community as a whole.

The importance of the international education sector

The education of international students in Australia has grown to become one of the nation's most important export industries, earning as much as \$18 billion a year in export income.

Further strong growth in global demand for international education is expected in coming years. In light of this, Australia needs to bolster the competitiveness of its already successful international education sector in order to ensure it can seize these opportunities.

Against this backdrop, the BCA proposes that Australia should aspire to become one of the best places in the world for international students to live, learn, research and commence their careers.

As part of realising this vision, the BCA urges government to strive for an international student visa assessment regime that:

1. appropriately targets risks (applies requirements proportional to the risks)
2. is flexible enough to respond to, and where possible head off, emerging risks
3. is administered in a timely, transparent and efficient manner.

General observations about the current visa Assessment Level framework

In the context of the government's policy to reduce, wherever possible, red tape and unnecessary regulation, the BCA notes that prescriptive compliance regimes have the potential to impose costs that exceed their benefits.

The BCA is concerned that the current visa Assessment Level (AL) framework does not appropriately target risk, and is overly prescriptive and inflexible.

The key risk with this approach is that low-risk providers of high-quality international education services will be rendered less competitive, and Australia will lose important export markets to overseas competitors as a result.

Specific questions

5.1. Given the challenges and benefits associated with individually rating all international education providers, how could such an approach be introduced?

Consistent with its submission to the Knight review, the BCA is supportive of moving rapidly to a provider-based risk assessment model (rather than the current sub-sector based model).

The current system is arguably unfair, especially to high-quality, low-risk VET and school sector providers and non-university higher education providers. There is also a prima facie case that the current rules may violate competitive neutrality policy – as they streamline requirements for the government-controlled university sector, but leave all others with higher barriers.

While the BCA acknowledges there will be transitional administrative costs in moving to a provider-based risk assessment model, it sees this as a necessary step, and a key element in delivering better targeted risk management over the long term.

Provider-based risk assessment will allow regulator resources to be more effectively utilised. For example, better targeting will enable regulators to focus more energy on areas that are genuinely high risk, rather than apply standard rules to all sub-sector providers regardless of risk level.

While the BCA does not propose a specific form of provider risk assessment, it notes that information on the quality of providers will soon be available from the Tertiary Education Quality and Standards Agency (TEQSA) and the Australian Skills Quality Authority (ASQA). This information may well be able to be used as a possible proxy for overall provider risk, producing synergies across agencies and reducing provider assessment costs to the Department of Immigration and Citizenship (DIAC).

5.2 If it is not feasible to implement such an approach in its entirety, what would be the features of an alternative and administratively feasible approach that allowed ‘granularity’ in identifying and managing risk? For example, could groups of providers be rated together in smaller groupings than at present, and on what criteria? Or could providers with certain characteristics be ‘deemed’ to be of a particular risk rating?

If provider-level risk rating is not possible, the BCA would support some form of banding or grouping to allow lower-risk providers access to a streamlined regime, which would improve risk targeting and thus increase the efficiency of the system.

5.4 What measures could be introduced to manage the limitations of considering risk within countries?

The discussion paper notes (page 12) that DIAC's system, 'Safeguards', already utilises data on risks for regions within countries. There may be merit in setting risk rating by region 'within' large source countries (like China and India), where this raises the accuracy of overall risk assessments. However, it may be more efficient to target overseas visa agent risk (see response to Question 5.11).

5.7 What are the merits and limitations of an approach whereby education providers certify that prospective students have appropriately robust levels of English language, rather than DIAC assessing this as part of the visa application process? If so, how should these levels be set?

English language levels can be improved through bridging courses or English Language Intensive Courses for Overseas Students (ELICOS). The BCA notes that mandatory English levels for ELICOS visas make little sense, as do similar visa time restrictions. Given that the pace of language acquisition varies by student, students who are able to fund ongoing ELICOS study should be allowed to do so.

It is also unclear whether English language level is a good predictor of migration risk. English language level may well be a good indicator of whether someone will be able to successfully undertake lessons in English, however, this may be a matter better considered by providers when they are accepting applications.

5.8 Are the recent changes to the financial requirements and the introduction of the Fraud Public Interest Criteria for student visas sufficient to address concerns about fraud in financial evidence and documentation? Should they be allowed to operate for a certain period of time before this issue is re-examined? If changes to the financial requirements should be made as a result of this review of the student visa AL framework, what changes should be made?

Financial requirement tests should be set so as to allow Australia to remain competitive with rival provider nations while also cost-effectively targeting visa system integrity risks.

Given existing industry concerns that current financial requirements are too onerous in a number of areas, it seems likely that current rules may impose costs that exceed their benefits.

5.11 What risk factors should be considered in the future framework, and what should the ratings be?

The BCA considers that the system should allow risk factors to be varied when the data show eventual risks can be better targeted with new indicators. For example, it seems likely that the quality of *source country agents* may be a higher probability indicator of risk which should be considered, perhaps above other risk indicators.

It is hard to judge which precise factors should be utilised without access to, and a detailed understanding of, the data held by DIAC (see related suggestion on data sharing below).

In light of recent policy changes, which extend post-study work rights to many students, it is not clear that the existing risk criteria – ‘rate at which visa holders apply for certain other permanent visas’ – is necessary or consistent with current policies.

5.13 Should the review mechanism include input from consultative fora from the international education sector, such as the EVCC?

5.14 What are the factors that should determine how frequently DIAC reviews risk in the Student Visa Program?

The BCA is supportive of more frequent reviews and wider consultation.

As stated earlier, the BCA recommends that the government consider reforming the system to move away from an inflexible legislated regime towards a more flexible, responsive regime (which maintains transparency).

The BCA is open-minded as to the form of the mechanism. It could, for example, involve the minister delegating power to a separate body, or it could involve the minister declaring new rules (with transparent guidelines on the process for this and with published explanations as to why changes have occurred).

The BCA also considers that there would be merit in greater sharing of government data with providers. Actively sharing information on emerging trends may allow providers to mitigate risks before they become major problems (for example, agents with high rejection rates). Greater collaboration may also lead agencies to more accurately identify new or evolving factors which may be used in assessment.