

10 March 2017

Dr Michele Bruniges AM
Secretary
Department of Education and Training
GPO Box 9880
Canberra ACT 2601

Via online submission.

Dear Dr Bruniges

Submission in response to the consultation draft of a revised National Code of Practice for Providers of Education and Training to Overseas Students

As you would be aware, the Office of the Queensland Ombudsman (the Office) is an external appeals and complaints body for overseas students complaining about the actions or decisions of Queensland's public universities, TAFE Queensland and Queensland state schools and state high schools.

The National Code of Practice for Providers of Education and Training to Overseas Students (the National Code) is a critical element against which this Office assesses those actions and decisions to safeguard the interests of international students, assist providers and protect the integrity of Queensland's education system.

I am broadly supportive of the proposed changes to the National Code as outlined in the consultation draft. However, I consider that that certain further revisions are warranted to ensure that National Code effectively protects the interests of overseas students, while providing sufficient clarity to Queensland education providers.

I provide the following comments to the standards I consider warrant further revision. I trust this submission will assist the Department of Education and Training (the department) and would welcome the opportunity to discuss these comments further.

Standard 3 – Formalisation of enrolment and written agreements

Course start date

While I welcome the additional guidance to providers in the revised Standard 3.3 regarding the required content of written agreements, I consider this standard would be further strengthened by the inclusion of the requirement that providers stipulate the starting date for the course (or first course where the agreement is for a package of courses). The inclusion of a defined start date would provide this Office with clarity when investigating complaints from students, particularly those involving refunds.

I **recommend** that Standard 3.3 of the consultation draft be amended to require that written agreements stipulate the intended start date for the applicable course.

Standard 7 – Student Transfers

Students as consumers

I welcome the consultation draft's clarification of the factors that providers must consider when assessing student transfer requests. I note many of these considerations have been adopted from the Explanatory Guide to the National Code.

While I acknowledge the considerations outlined in the revised Standard 7 are not an exhaustive list, I note that the following consideration identified in the Explanatory Guide has not been incorporated into the revised Standard 7:

If the course the student wishes to transfer to better meets the long term goals of the student, whether these relate to future work, education or personal aspirations.

I **recommend** that this statement also be incorporated into the National Code.

More generally, I **recommend** that the current statement of intent in the Explanatory Guide also be incorporated directly into Standard 7, so as to make clear that the intent is 'to recognise students as consumers and support them to exercise choice, while acknowledging that they may also be a group that requires support to transition to study in Australia'.

In this Office's experience, some providers' transfer policies adopt restrictive interpretations of Standard 7 which do not recognise international students as consumers, and which expressly restrict them from exercising choice, rather than supporting them to do so.

When this Office has raised this issue with one provider, it expressed the view that the words of the Standard take precedence over the Explanatory Guide, and as the Standard itself did not require it to support student choice, its transfer policy was therefore compliant.

In my view, expressly including a statement of intent of Standard 7 will help providers to develop compliant policies, promote consistency and predictability for students, and assist external complaints and appeals bodies including this Office to resolve complaints and provide systemic feedback to providers about their transfer policies.

Stranded students

The consultation draft fails to address the systemic issue of 'stranded' students, where a provider has refused to issue a release letter to a student but has then cancelled the student's enrolment. The student may then have difficulty obtaining enrolment elsewhere, as other providers are reasonably concerned not to breach the requirements of Standard 7.1. These students are in effect 'stranded' between providers, and at risk of breaching their visa condition of maintaining their enrolment at an educational institution.

In its March 2014 'Submission by the Overseas Students Ombudsman: National Code Revision', the Overseas Students Ombudsman discussed this issue at some length, and recommended that the Department:

Expand the list of exceptions at 7.1 to the limitation on enrolling a student prior to the student completing six months of his or her principal course. An additional exception should be 'where

the student is no longer enrolled in the principal course because their enrolment has been cancelled'.¹

I endorse the Overseas Student Ombudsman's reasons and recommendation, and similarly **recommend** that the National Code be amended to include students whose enrolment has been cancelled in the list of exceptions to the letter of release requirement.

Timeliness requirement

The consultation draft removes the current Standard 7.2(c) which requires that a provider's student transfer policy must specify 'a reasonable timeframe for assessing and replying to the student's transfer request having regard to the restricted period'.

While I consider that a change to that wording may be of assistance, I consider that it is important that the National Code retain a requirement that providers finalise a student's transfer request in a reasonable timeframe. This is particularly important given the potential student welfare considerations and the short timeframes that attach to course enrolments or withdrawals.

Accordingly, I **recommend** that the department reinstate the requirement that a provider's transfer policy contain a commitment to finalise a transfer request in a reasonable timeframe.

Standard 8 – Monitoring course progress and attendance

I note the proposed Standard 8.5 does not require that a provider notify a student in writing when the student has been identified as not making satisfactory course progress.

Communication of important information in writing serves to ensure students identify the significance of not making satisfactory course progress, and take action to address their course progress. It would also provide this Office with clarity in overseeing the action providers have taken to meet the requirements of the proposed Standard 8.

In the interests of ensuring best practice service delivery and providing clarity to students, I **recommend** that the consultation draft be amended to require that providers notify students in writing (whether by email or otherwise) when they have been identified as not making satisfactory course progress.

Standard 10 – Complaints and Appeals

Standard 10.3 of the consultation draft refers to a provider's obligation to advise the student of their right to access an 'external appeals process, and provide contact details of the appropriate external appeals body'.

I am pleased that this provision has been revised to expressly require that students are informed about their right to contact external organisations, such as this Office, within 10 working days.

However, I note that the Queensland Ombudsman also accepts complaints from students about providers following their matter being considered by the provider's complaints handling process. I **recommend** that Standard 10.3 of the consultation draft is amended to refer to a


¹ Overseas Students Ombudsman, Submission by the Overseas Students Ombudsman: National Code Revision, 2014, p. 14 http://www.ombudsman.gov.au/_data/assets/pdf_file/0015/30417/Comments-on-the-revision-of-the-National-Code-2007-March-2014.pdf

student's right to access an 'external appeals process or complaints investigation body, and provide contact details for that external appeals or complaints investigation body'.

Conclusion

If you have any queries or wish to discuss this submission further, please contact me on (07) 3005 7000.

Yours faithfully



Phil Clarke
Queensland Ombudsman