Australian Government
Department of Education

# Improving Integrity in the International Education Sector

## Policy Impact Analysis

March 2024

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# Abbreviations and Glossary

| | |
|---|---|
| AIEC | Australian International Education Conference |
| AQF | Australian Qualifications Framework |
| ASQA | Australian Skills Quality Authority |
| ATN | Australian Technology Network |
| The Braithwaite Review | Refers to the *All eyes on quality: Review of the National Vocational Education and Training Regulator Act (2018)* |
| CBA | Cost-Benefit Analysis |
| CISA | Council for International Students Australia |
| CoE | Confirmation of Enrolment |
| CRICOS | Commonwealth Register of Institutions and Courses for Overseas Students |
| CST | Commonwealth State and Territory International Education Forum |
| The department | Refers to the Department of Education |
| Education agent | An entity (within or outside of Australia) that engages in the recruitment of overseas students, provision of advice or assistance of overseas students in relation to enrolment and/or otherwise dealing with overseas students, or intending overseas students. |
| ELICOS | English Language Intensive Courses for Overseas Students |
| ESOS Act | Refers to the *Education Services for Overseas Students Act 2000* |
| ESOS agencies | Refers to the Tertiary Quality and Standards Agency (TEQSA), the Australian Skills Quality Authority (ASQA) and the Secretary of the Department of Education |
| ESOS Framework | Refers to *Education Services for Overseas Students Act 2000* (ESOS Act) and related instruments |
| Foundation Program | Preparatory program of study for tertiary education |
| Go8 | Group of Eight |
| GOS | Refers to the QILT Graduate Outcomes Survey |
| IA | Impact Analysis |
| IEAA | International Education Association of Australia |
| IESF | International Education Stakeholder Forum |
| IHEA | Independent Higher Education Australia |
| IRU | Innovative Research Universities |
| ISA | Independent Schools Australia |
| ISANA | International Education Association Inc. |
| ISEAA | International Student Education Agents Association |
| ITECA | Independent Tertiary Education Council Australia |
| JSCFADT | Joint Standing Committee on Foreign Affairs, Defence and Trade |
| Migration Review | Refers to the *Review of the Migration System Final Report 2023* |
| Migration Strategy | Refers to the *Migration Strategy – Getting migration working for the nation* |
| National Code | Refers to the *National Code of Practice for Providers of Education and Training to Overseas Students 2018* |
| Nixon Review | Refers to *The Rapid Review into the Exploitation of Australia's Visa System* |
| NOM | Net Overseas Migration |
| NVETR Act | Refers to the *National Vocational Education and Training Regulator Act 2011* |
| OIA | Office of Impact Analysis |
| OMARA | Office of Migration Agents Registration Authority |

| | |
|---|---|
| Operation Inglenook | A multi-agency operation led by the Australian Border Force to identify individuals and entities involved in the exploitation of Australia's visa program, primarily as part of the sex industry. |
| Overseas student | A person holding a Subclass 500 student visa who is in Australia for the purposes of gaining an Australian education |
| PRISMS | Provider Registration and International Student Management System |
| QILT | Quality Indicators for Learning and Teaching |
| RMA | Registered Migration Agent |
| RTOs | Registered Training Organisations |
| RUN | Regional Universities Network |
| SES | Refers to the QILT Student Experience Survey |
| TAFE | Technical and Further Education |
| TDA | TAFE Directors Australia |
| TEQSA | Tertiary Education Quality and Standards Agency |
| The Council | Refers to the Council for International Education |
| TPS | Tuition Protection Service |
| UA | Universities Australia |
| VET | Vocational Education and Training |

# Executive summary

International education brings important economic, cultural and social benefits to Australia. It is one of the top export revenue earners for Australia, with overseas students contributing $30 billion to the Australian economy per annum and supporting Australia's contribution to a peaceful, prosperous and resilient region.[1] At its best, Australian international education facilitates meaningful cross-cultural exchanges and builds influential alumni networks that enhance Australia's reputation and influence in the world.

Integrity is a key support for a sustainable international education sector, one that is principally driven by quality with a strong connection with Australia's national interests. Robust integrity ensures only genuine providers and genuine students are able to participate in the sector, provides an overseas student experience free from exploitation and serves the best interests of the student.

Recent reviews, a major migration strategy and a parliamentary inquiry, drawing on submissions from across the education sector showed evidence of the exploitation of overseas students in Australia. This evidence has been bolstered by the results of taskforce criminal investigations into temporary migrant exploitation, including ongoing criminal investigations into actors in the international education sector who are exploiting students.

This Impact Analysis (IA) sets out recognised issues impacting the quality and integrity of the international education sector and provides policy options for the Australian Government to consider in response to identified problems relating to integrity in the international education sector.

This IA has been developed in accordance with the *Australian Government Guide to Policy Impact Analysis* and in consultation with the Department of the Prime Minister and Cabinet's Office of Impact Analysis (OIA). The draft IA was provided to the OIA for assessment as part of the policy proposal process and has informed an early decision by the Government. In consultation with the OIA, this IA has been further developed for second pass Final Assessment by the OIA.

This IA responds to the following recent reviews and inquiry:

- *Review of the Migration System Final Report 2023* (the Migration Review).
- *The Rapid Review into the Exploitation of Australia's Visa System* (the Nixon Review).
- the Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT) Inquiry into Australia's tourism and international education sector's *Quality and Integrity – the Quest for Sustainable Growth: Interim Report into International Education* (the JSCFADT Inquiry).

The IA draws on relevant material presented by sector stakeholders in the 483 submissions to the Migration Review, and the 133 written submissions and 20 public hearings across Australia of the JSCFADT Inquiry. The IA also considered seven key findings from the Nixon Review which drew on an interagency taskforce established to investigate trafficking and modern slavery practices in Australia involving the exploitation of temporary migrants, including within the international education sector.

[1] Commonwealth of Australia, Migration Strategy 2023, immi.homeaffairs.gov.au/programs-subsite/migration-strategy/Documents/migration-strategy.pdf.

The IA sets out three options to address these problems:

| | |
|---|---|
| 1 | *Status quo*<br>**No change**<br>• no legislative change.<br>• no regulatory change.<br>• ESOS agency activity and administration of the ESOS Framework continues *as is.*<br>• status quo interaction with the international education sector. |

| | |
|---|---|
| 2 | *Non-regulatory*<br>**Communication** to the international education sector<br>• encourage the international education sector to self-regulate to address issues of exploitation.<br>• communication campaign to highlight provider requirements under existing legislation:<br>  ○ public communication materials that outline identified integrity issues in the sector and refine education providers' responsibilities and obligations under the ESOS Framework.<br>  ○ an opt-in sector survey on commissions paid to education agents to gather point-in-time data. |

| | |
|---|---|
| 3 | *Regulatory changes*<br>**Targeted legislative change** to the ESOS Act through strengthened regulatory capability of the ESOS agencies, improving data capture, improving transparency for Government, ESOS agencies and education providers to:<br>○ amend the 'fit and proper' provider test under the ESOS Act to require ESOS agencies to consider cross-ownership of businesses between education providers and their agents to disrupt and deter collusive behaviour aimed to exploit students for profit.<br>○ expand access for providers to all education agent performance data, not just to those agents they have an existing relationship with.<br>○ require education providers to report through the Provider Registration and International Student Management System (PRISMS) information on agent commission fees they have paid to an education agent.<br>○ pause the assessment of applications of registrations from new international education providers and of new courses from existing providers for a period of up to 12 months.<br>○ require providers applying to deliver courses to overseas students to first deliver courses to domestic students for a period of 24 months.<br>○ automatically cancel the registration of providers who have not delivered training to overseas students for a consecutive 12-month period.<br>○ strengthen provisions to suspend the enrolment of new overseas students, including automatically where appropriate, by providers under serious regulatory investigation.<br>Each legislative change would be accompanied by public communication, guidance notes, fact sheets and dedicated sector outreach to inform international education sector stakeholders on legislative changes, including reasons, requirements and benefits of each measure. |

**Option 1** presents the greatest risk of continued exploitative practices. **Option 2** has limited effectiveness as it does not take substantive or enforceable action against known misconduct and identified integrity concerns in the international education sector. **Option 3** would be the most effective and most consistent with the overarching policy objective to increase integrity in the international education sector and represents concrete action against serious exploitation.

The targeted legislative reform to the ESOS Act under **Option 3** would provide more information to providers to make informed decisions on their business relationships, increase provider reporting requirements across the sector and take strong action to deter and disrupt overseas student

exploitation. Action would target unscrupulous providers and would not be an undue regulatory burden on high quality providers with strong integrity.

**Option 3** would be the strongest response to support whole-of-government efforts to strengthen integrity, including reform proposed by the Department of Home Affairs to combat misuse of the student visa system and preserve Australia's education reputation internationally. This option has the strongest alignment with and supports Government objectives under the *Migration Strategy – Getting migration working for the nation* (Migration Strategy) and the Government response to the Nixon Review. It would also extend reforms targeted at strengthening the integrity of Vocational Education and Training providers, via legislative changes to the *National Vocational Education and Training Regulator Act 2011* (NVETR Act), to other international education sectors, including higher education and English language training.

# Introduction

Australia's international education sector plays a critical role in connecting Australia with the rest of the world. Overseas students contribute $30 billion to the Australian economy per annum and international education is Australia's fourth largest export.[2] Overseas students are also a critical part of Australia's migration system, being the largest component of the temporary migration program after New Zealand citizens.[3]

Overseas students bring a diversity of perspectives, cultures and languages, enriching Australian communities and classrooms. The links forged through overseas students' experiences in Australia hold long term benefits to Australia's standing internationally, and in the strategically important Asia-Pacific region.

The Commonwealth Government regulates the international education sector through the *Education Services for Overseas Students Act 2000* (the ESOS Act) and associated instruments (the ESOS framework) to ensure that overseas students can enjoy a safe and quality education experience in Australia.

The Australian Government is committed to ensuring that overseas students who choose to study in Australia are safe, have access to a quality education and are free from exploitation. The Government is committed to Australia's *National Action Plan to Combat Modern Slavery 2020-25*, to take action against trafficking of persons and slavery-like incidents in Australia. The Government's intention is to safeguard and support Australia's international reputation as an education destination of choice and ensure that overseas students, who benefit from an Australian education, have the qualifications and aptitude to meet skills needs in and outside Australia.

Overseas students are a different consumer group to domestic students. They are more vulnerable due to their initial lack of local knowledge of the Australian education market and their reliance on advice offshore, often from education agents, to decide where to study and whom to study with. They make a significant social and financial investment in moving away from their home countries, friends, and families. They should be able to access a safe, high quality education experience in Australia.

Serious crimes such as trafficking can destroy a young person's life, derail their education journey and cause significant physical and psychological distress. While the number of those students who are victims of trafficking may be small compared to the overall overseas student population, the magnitude of the impact on an individual's life is significant and potentially life long. Exploitation that leads to poor education outcomes can damage the career trajectory of students and plunge them into debt that they may struggle to repay.

Unchecked unscrupulous behaviour within the international education sector feeds into and is driven by broader activities such as labour exploitation.

Since the reopening of Australia's borders post-COVID, growth in international education has been partly driven by non-genuine students and unscrupulous education providers undermining aspects of the current student visa framework and exploiting pandemic-era visa concessions, such as unrestricted working hours for overseas students. Throughout the consultation processes for recent independent reviews and a parliamentary inquiry into the international education sector (outlined in

[2] Department of Foreign Affairs and Trade (2023), www.dfat.gov.au/sites/default/files/australias-goods-and-services-by-top-25-exports-2022.pdf. Note, all dollar figures reported in this IA refer to Australian dollars.
[3] Commonwealth of Australia, Migration Strategy 2023, p.61.

Question 1), serious instances of exploitation of overseas students were reported. Stakeholders shared concerns that overseas student recruitment is partly being driven by some education providers helping non-genuine students to gain access to Australia's labour market using a student visa. Increasing student visa refusal rates also supported this assessment.[4]

The importance of strengthening integrity in the international education sector goes beyond disrupting and deterring unscrupulous actors - it supports and preserves Australia's international reputation for quality education. Ensuring quality and maintaining the integrity of the international education sector is also important for the Australian economy, including through overseas students and graduates contributing to Australia's skills needs.

[4] Commonwealth of Australia, Migration Strategy 2023, p.61.

# Background

## The ESOS Framework

The Minister for Education is the Minister responsible for the ESOS Act. The Department of Education (the department) administers the ESOS Act and associated instruments that underpin Australia's international education sector, collectively known as the ESOS Framework. The ESOS Framework protects and enhances Australia's reputation for quality education, provides tuition protection and supports the integrity of the student visa program.

The ESOS Act establishes the regulation requirements and standards for education providers to offer Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) courses to student visa holders.

The ESOS Framework complements and operates in conjunction with other education and training frameworks, including:

- Australian Qualifications Framework (AQF)
- *Higher Education Support Act 2003*
- *National Vocational Education and Training Regulator Act 2011*
- *Tertiary Education Quality and Standards Agency Act 2011*
- *Australian Education Act 2013*
- *Higher Education Standards Framework (Threshold Standards) 2021*
- other state and territory school legislation.

The ESOS Framework also supports the integrity of the student visa system by ensuring education providers collect and report information relevant to student visas.

### ESOS agencies

The ESOS agencies are the regulators for international education providers under the ESOS Act and are accountable to the Minister for Education. They are responsible for registering CRICOS providers and courses, assessing and acting on any regulatory breaches, including those relating to integrity issues. The ESOS agencies are:

- the Australian Skills Quality Authority (ASQA) for providers of Vocational Education and Training (VET) and standalone English Language Intensive Courses for Overseas Students (ELICOS) courses.
- the Tertiary Education Quality and Standards Agency (TEQSA) for providers of higher education courses, and foundation programs and ELICOS courses delivered by higher education providers.
- the Secretary of the Department of Education for schools.

# Current regulatory approach

## Requirements for overseas students

Migration legislation, administered by the Department of Home Affairs, sets out assessment criteria and regulation of student visas, including student visa conditions to maintain enrolment and progress in CRICOS courses.

## Requirements for education providers

The ESOS Act and subordinate legislation set out requirements for education providers. Providers must meet these requirements to receive and maintain registration for courses and campus locations. Providers register through the relevant ESOS agencies and must meet the 'fit and proper' provider requirement.

## Requirements for education agents

The Government does not regulate education agents. Under the current ESOS Framework, the Government requires education providers to take legal and effective responsibility for any third parties to which they outsource their services. This includes education agents.

Many education agents operate offshore, outside Australian jurisdiction. As part of the Government's response to the Nixon Review the Government is considering direct regulation of education agents as providers of migration advice through a potential expansion of the Office of Migration Agents Registration Authority (OMARA).[5] This work is being led by the Department of Home Affairs and not considered as part of this IA.

# International education sector

## Overseas students

Overseas students are defined in the ESOS Act as a person holding a Subclass 500 student visa who are in Australia for the purposes of gaining an Australian education. They are often referred to as 'international students'. In 2020, 10 per cent of international tertiary students around the world studied with Australian providers.[6] As at 31 January 2024, there were 486,398 primary student visa holders in Australia.[7]

## International education providers

Overseas students come to Australia to study with a range of education providers including higher education, VET, ELICOS (English language), Foundation Program (tertiary preparatory program) and schools.

Table 1 shows the number of education providers by sector as at 19 December 2023.[8]

[5] Government Response to the Nixon Review Recommendations, www.homeaffairs.gov.au/reports-and-pubs/files/nixon-review/government-response-nixon-review.pdf, p.3.
[6] OECD 2022 International Migration Outlook 2022, p.120.
[7] Department of Home Affairs, BP0019 Number of Temporary visa holders in Australia at 2024-01-31, www.data.gov.au.
[8] PRISMS data, Department of Education, accessed 19 December 2023.

**Table 1: Private and public education providers by sector**

| Main course sector | Private providers | Public providers | TOTAL Number of providers |
|---|---|---|---|
| Higher Education | 115 | 42 | **157** |
| VET | 865 | 16 | **881** |
| ELICOS | 104 | 1 | **105** |
| Schools | 324 | 8 | **332** |
| Non-Award | 2 | 0 | **2** |
| **TOTAL** | **1410** | **67** | **1477** |

Providers commit substantial resources to recruit overseas students and receive significant revenue from overseas students. Providers use overseas student revenue to expand their operations, fund their research capabilities and support existing operations.

Most large providers have 'International' or 'Global' Deputy Vice-Chancellors with staff and resources dedicated to international education. The amount providers spend on recruitment in total is difficult to quantify as this data is not collected by the Government.

## Education agents

An education agent is a person or organisation who recruits overseas students and refers them to education providers under a fee for service, commission, or 'in kind' arrangements. Overseas student recruitments are largely outsourced to for-profit education agents both in and outside of Australia, with most Australian education providers engaging education agents to recruit overseas students into their courses. Education agents are the frontline marketing and sales partners of education providers to attract students to study in Australia. Education agents also assist students onshore, including facilitating student transfers between providers in Australia.

In 2022, 86 per cent of overseas students reported using an education agent to source study in Australia.[9] This broadly corresponds with data from PRISMS, which indicates that approximately 80 per cent of overseas students utilise an education agent. In 2023, there were approximately 5,800 agencies and 23,000 individual agents who facilitated enrolments for overseas students at Australian education providers. These numbers fluctuate, as agents enter and depart the market.

A recent media article indicated that some universities, including Sydney University, University of New South Wales, University of Technology Sydney, Macquarie University and the University of Wollongong, together spent $147 million on agent commissions in 2022. It also noted that no university revealed the percentage of overseas student fees it paid to agents in commission, but the peak body for education agents said the industry average of higher education was about 15 per cent of first-year fees.[10]

[9] 2022 Quality Indicators for Learning and Teaching (QILT) Student Experience Survey – the International Student Experience, p.31.

[10] Daniella White, 'Agents earn record fees to recruit students', *The Sydney Morning Herald*, 5 December 2023.

# 1. What is the policy problem you are trying to solve and what data is available?

There are interrelated issues that together contribute to the overarching policy problem of weaknesses in the integrity of the international education sector, the extent of which is obscured by existing data gaps.

There is evidence of exploitation of overseas students and of actors in the sector who seek to subvert Australia's migration and education systems to enable the entry of people into Australia for purposes other than study. This exploitation can range from providing poor quality education products, to high student fees, and false promises of pathways to permanent migration. The problem extends to grave instances of sex trafficking, bonded labour and slavery-like conditions for people entering the country on a student visa. Such activity is funding and supporting networks of criminal activity inside and outside of Australia.

Strong integrity underpins quality in the international education sector. Weakened integrity damages quality, is antithetical to the best interests of the student and, over the long term, damages Australia's international reputation for quality education and damages the capacity of the sector to produce graduates ready for skilled jobs both in Australia and overseas.

Currently there are significant gaps in the data collected by the department, especially in respect to education agents that education providers work with to recruit students. These gaps, which will be set out in more detail below, limit the ability of the Government to:

- understand the breadth and depth of potential issues of corruption and exploitation.
- gain a more nuanced sense of areas of risk and potential for risk.
- target effective compliance action.

Addressing integrity concerns is a key issue for the international education sector. This chapter will first set out the findings of recent independent reviews and a parliamentary inquiry relating to serious integrity issues in the sector.

Drawing on the key findings of these reviews and inquiry, this chapter will then lay out four specific policy problems:

- provider and agent collusion.
- lack of transparency of agent performance data.
- lack of data on agent commissions.
- limited ability to identify, deter and disrupt unscrupulous actors.



## 1.1 Integrity issues in the international education sector

The recent findings of the Migration Review, the Nixon Review and the evidence tabled as part of the Joint Standing Committee on Foreign Affairs, Defence and Trade Inquiry (the JSCFADT Inquiry) into Australia's tourism and international education sector's interim report collectively demonstrate that there are serious integrity issues in the international education sector that need to be addressed.

All found unscrupulous education agents and providers were abusing weaknesses in the international education regulatory framework to exploit overseas students and subverting the international education system and student visas to facilitate non-genuine students to enter the country for purposes other than study.

### *Rapid Review into the Exploitation of Australia's Visa System* (Nixon Review)

The Nixon Review, led by former Chief Commissioner of Victoria Police, Christine Nixon AO APM, identified systemic integrity issues within the international education sector, including collusive and unscrupulous business practices between education providers, their agents and non-genuine students.

It presented evidence that some education providers are forming business relationships and working with related education agents to facilitate student movements for maximum profit, rather than acting in the best interests of the student.[11] These business relationships also enable the trafficking and exploitation of students, and they profit from non-genuine students who are using student visas to gain access to Australia for work instead of study.

In forming its recommendations, the Nixon Review drew on findings from the investigations of Operation Inglenook, which was established in November 2022 following media reporting by *60 Minutes*, *The Age* and *The Sydney Morning Herald* as part of the joint *Trafficked* series.[12] Allegations of sex trafficking and foreign worker exploitation were reported, including against overseas students.

Operation Inglenook's remit is to investigate the systemic abuse of Australia's visa system for the purpose of exploitation. This includes identification of individuals, including Registered Migration Agents and other professional facilitators, who are complicit in the exploitation of Australia's visa system. The recommendation to extend Operation Inglenook for a further three years was agreed by the Government in its response to the review.

The Nixon Review reported that as of 31 March 2023, Operation Inglenook had assessed more than 175 persons of interest to determine complicity in exploiting the temporary visa program, resulting in more than 57 border alerts being raised. Some 93 foreign nationals were of interest to the operation. The Department of Home Affairs had also identified 87 higher risk visa applications.

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[11] *Rapid Review into the Exploitation of Australia's Visa System*, www.homeaffairs.gov.au/reports-and-pubs/files/nixon-review/nixon-review-exploitation-australia-visa-system.pdf, p.16.

[12] The Australian Border Force is the lead agency responsible for the coordination of activities, agencies and resources involved in Operation Inglenook. Partners include the Australian Criminal Intelligence Commission, the Australian Transaction Reports and Analysis Centre, ASQA and the Australian Federal Police.

Further reporting by the Australian Border Force as of July 2023, noted that investigations had resulted in 22 instances of visa cancellation, identification of unlawful non-citizens and refused immigration clearance.[13] This is in addition to targeted disruption activities against 77 businesses. These figures do not differentiate between actions taken in relation to the student visa program or other temporary visa categories, but it can be assumed that a proportion of the individuals affected would involve student visa holders, and 'business and persons of interest' would include education agents and international education providers.

While these figures reported by Operation Inglenook are small in comparison to the more than 500,000 student visa holders in Australia, the severity of the identified cases is not in doubt. This is exacerbated by overseas students' added vulnerabilities due to language barriers, potential financial vulnerability (offshore and onshore), limited knowledge of Australian criminal law, and fear of deportation.

Calculating the magnitude and the number of overseas students who are vulnerable to or are victims of exploitation is difficult given the clandestine and criminal nature of trafficking and exploitation. The Australian Institute of Criminology (AIC) estimates there are approximately four undetected victims of human trafficking and modern slavery for every victim detected in Australia.[14] AIC identify low reporting due to mistrust in authorities and fear of deportation, affected individuals not identifying as victims, and victims not being correctly identified as such by the professionals who encounter them, as further compounding the assessment of magnitude of trafficking in Australia.

Australia's slavery offences have universal jurisdiction, meaning they apply whether or not the conduct occurred in Australia and whether or not the victim or the offender is an Australian citizen or resident. The Government is obligated to act to disrupt and deter slavery and slavery-like practices in Australia's international education sector and support Australia's *National Action Plan to Combat Modern Slavery 2020-25*.

## *Review of the Migration System* (Migration Review)

The Migration Review found clear evidence of systemic exploitation and the risk of an emerging 'permanently temporary' underclass, which included both overseas students and graduates. These individuals move from temporary visa to temporary visa, without any realistic hope of meeting requirements to gain permanent residency, sometimes bouncing from student visa to temporary graduate visa and back to student visa over an extended period.

The Migration Strategy noted that overseas students and graduates make up the largest share of 'permanently temporary' migrants, with 108,000 having lived in Australia for more than five years.[15] Their primary motivation is to work, and most of this work is low-skilled. This cohort are vulnerable to exploitation due to their temporary visa status. Like the Nixon Review, the Migration Review also found that some education agents and complicit education providers facilitate this process.

The Migration Review noted that private providers in the VET sector offering lower fees are of particular concern as these providers are deliberately creating incentives and pathways for

[13] Australian Border Force, www.abf.gov.au/newsroom-subsite/Pages/Women-stopped-from-entering-Australia-after-sex-work-admission.aspx, 5 July 2023.
[14] Lyneham, Samantha, Dowling, C and Bricknell S, (2019) *Estimating the dark figure of human trafficking and slavery victimisation in Australia*, Statistical Bulletin 16, Australian Institute of Criminology, p.6.
[15] Commonwealth of Australia, Migration Strategy 2023, p.63.

non-genuine students to apply for a student visa solely to gain access to the Australian labour market.[16]

Cumulatively, the review found that these factors are eroding public confidence in Australia's migration system.[17] Unchecked, such behaviours damage the international education sector's quality and integrity and its ability to retain its social license.

## Joint Standing Committee on Foreign Affairs, Defence and Trade Inquiry (JSCFADT Inquiry)

The JSCFADT Inquiry sought views from a large number of stakeholders on topics, including on education agents and integrity issues in the international education sector.

The Committee found that with respect to international education integrity, there were instances of active collusion between non-genuine students, agents and education providers, including instances of education agents directing genuine students to take up unsuitable courses that are profitable for the agent in commissions and the provider in recruitment numbers. Key international education sector stakeholders in their submissions and witness statements advocated for greater transparency, especially in relation to making agent performance available in PRISMS for all providers, which they argued would assist in identifying disreputable agents. The JSCFADT Inquiry recommended targeted action to remove disreputable providers and to send a strong message that Australia is serious about protecting the integrity of international education.

Evidence received by the Committee also indicated the current market is hyper competitive around student recruitment, which places providers at a disadvantage in managing agents. Witnesses highlighted that this environment fostered the payment of large commissions to agents. The Committee considered the case for mandating transparency in agent commissions overwhelming, where providers would be obliged to disclose to students the commission paid to their agent.

The Committee heard evidence that some education providers are supporting a system of non-attendance and 'funnelling' non-genuine students into so-called 'ghost schools' where education agents work with providers to enrol students in courses they do not attend. There are instances where courses are offered to overseas students only[18], which has been identified as a possible indicator of poor quality.[19]

The JSCFADT Inquiry found that there are persistent and deep-seated issues in the private VET sector. Student enrolment data shows that despite these concerns, growth in the VET sector far outstrips that of other sectors. The growth rate of VET from year-to-date December 2019 to December 2023 was 16.6 per cent.[20] This compares to a growth rate of 2.4 per cent for all enrolments.[21]

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[16]Commonwealth of Australia 2023, Review of the Migration System 2023, www.homeaffairs.gov.au/reports-and-pubs/files/review-migration-system-final-report.pdf, pp.106-107.
[17]Commonwealth of Australia 2023, Review of the Migration System 2023.
[18] Based on data drawn from National Centre for Vocational Education Research, www.ncver.edu.au
[19] This assumption does not hold for ELICOS courses, which often only teach overseas students.
[20] Department of Education (n.d.), www.education.gov.au/international-education-data-and-research/resources/international-student-data-yeardate-ytd-december-2023.
[21] As at year-to-date December 2023, there were 975,229 enrolments by overseas students. Compared with 952,379 enrolments in the same period of 2019, enrolments have increased by 22,850.

# 1.2 Problems to be addressed in the international education sector

To address the systemic integrity and exploitation issues identified by the reviews and inquiry, this IA examines four specific integrity problems in the international education sector:

- provider and agent collusion.
- lack of transparency of agent performance data.
- lack of data on agent commissions.
- limited ability to identify, deter and disrupt unscrupulous actors.

## 1.2.1 Problem 1: Provider and agent collusion

*The Nixon Review identified that some education providers formed business relationships and worked with education agents to facilitate student movements for the purposes of profit only, rather than the genuine education needs of the student. Operation Inglenook found that non-genuine providers were colluding with education agents to facilitate student visas and funnel students into criminal activities.*

When an overseas student engages an agent, they do so with the reasonable expectation that the agent will act in the student's best interests in linking them to appropriate providers and courses that suit their education needs. However, undisclosed cross-ownership arrangements between providers and agents can give rise to collusive behaviours that funnel students into particular courses in the interests of profit, rather than in the best interests of the student. This can lead to students enrolling in courses inappropriate to their abilities and aspirations, as well as potentially finding themselves in situations where they are vulnerable to exploitation.

Overseas student revenue is highly valuable, and there is a market for people wishing to access the Australian job market through any means. This can result in businesses established as education providers solely for the purposes of gaining overseas student revenue and secondarily acting as a conduit for those seeking to subvert student visas to work full time instead of study.

Overseas students are on average young and most are new to Australia. They can be vulnerable to exploitation in a number of areas including housing, employment, consumer scams and their education providers. Overseas students overwhelmingly use education agents to find an education provider in Australia and integrity issues within the international education sector, whether with agents or providers, ultimately have the most significant impact on the student. Low quality providers will not give overseas students the necessary skills to find work in Australia or at home.

The ESOS Act currently does not legislate ESOS agency assessments of cross-ownership between education provider and education agent businesses. The Government currently does not collect data on cross-ownership between education providers and agents and the regulators do not ask for this information at the time of registration. There is therefore a significant data gap in relation to cross-ownership arrangements making it difficult to quantify these arrangements. Some providers may hide these business relationships through having related (but not the same) persons on different boards or as owners.

### Current regulatory settings/existing measures

Cross-ownership between a provider and their agents is currently not specified as a separate consideration when assessing whether a provider would meet the 'fit and proper' requirements and may not always be disclosed to the ESOS agencies.

In addition to requirements providers must meet for domestic registration, the ESOS Act applies additional 'fit and proper' requirements for providers registering to deliver to overseas students.

Section 7A of the ESOS Act sets out the requirements for the ESOS agency to determine if the provider or registered provider is 'fit and proper' to be registered as a provider of education to overseas students. This includes where circumstances change, or information comes to light which means the ESOS agency is no longer satisfied the registered provider meets these requirements. This includes 'related persons' convicted of an offence or having had their registration cancelled under the ESOS Act.

A related person of a provider or 'registered provider' is:

(a) an associate of the provider who has been, is or will be, involved in the business of the provision of courses by the provider; or

(b) a high-level managerial agent of the provider.

Requirements to meet the 'fit and proper' test for domestic provision differ between the higher education and VET sectors. In the higher education sector, the *Tertiary Education Quality and Standards Agency Act 2011* (the TEQSA Act) includes a 'fit and proper person' requirement for providers at the registration and renewal of their registration, and as an ongoing condition of registration as a higher education provider. The *Tertiary Education Quality and Standards Agency Fit and Proper Person Determination 2018* (the TEQSA Determination) specifies matters that TEQSA may have regard to when determining whether a person is 'fit and proper' under paragraph 21(1)(b), subsection 25A and paragraph 36(1)(b) of the TEQSA Act.

In the VET sector, amendments made in 2023 to the *Standards for Registered Training Organisations (RTOs) 2015* strengthened the 'fit and proper' provider requirements for all RTOs. These changes provide VET regulators with stronger powers to scrutinise the people managing, overseeing and controlling RTOs.

## 1.2.2 Problem 2: Transparency of agent performance data

*Providers have a responsibility to ensure education agents act ethically, honestly and in the best interests of students, but currently they have no access to information on agent performance before engaging new agents, increasing the risk of establishing relationships with underperforming or non-genuine agents*.

Limited information about education agents is an issue for providers. The University of Melbourne's submission to the JSCFADT Inquiry considered that institutions' ability to engage with reputable agents is stymied by a lack of transparent information on agent performance.[22] Currently providers can only access the performance data of agents that they have engaged.

The University of Wollongong, in their submission to the JSCFADT Inquiry, identified that the growth of education agents within Australia is driven in part by provider competition for overseas students

[22] University of Melbourne, Submission 62, p.4.

within Australia as well as internationally.[23] As previously noted, over 80 per cent of overseas students use an education agent.

Education providers who are unable to assess and make informed choices on the education agents they engage may be vulnerable to education agents pressuring them for high commissions, using them as a 'transit' to a secondary provider and recruiting students who may be non-genuine or are ill suited to the courses they are recruited for.

## Current regulatory settings/existing measures

Under the current regulatory settings, performance data on education agents is only available to the education providers who are already partnered with a particular agent. Additionally, this data is available in relation to the agent's performance for that provider only. This is available through the department's 'agency dashboard', released in 2020, which is an interactive data resource that gives providers access to information on their education agents, including enrolment and visa outcomes. This information is derived from the PRISMS database. The publication of the de-identified agent data *Agent Summary Report* (released in June 2019) provides further information for providers.

Indicators of agent performance available to providers on their existing agents include metrics such as the proportion of students recruited by the agent who did not receive a visa and the rate of course incompletion, including whether the student commenced in the course. High negative rates in these categories could indicate to a provider that an agent is involved in the recruitment of non-genuine students who have the intention of using a student visa for the purposes of work instead of study.

There is a data gap for education providers looking to engage with new agents or who wish to benchmark the performance of the agents they currently engage. In engaging a new agent, the provider is currently unable to assess the track record of the agent in advance. Engaging an unscrupulous agent could have significant reputational, revenue and Department of Home Affairs evidence level impacts for a provider through a loss of enrolments, as non-genuine students look to transfer to other courses once onshore, do not commence their courses or are never granted a visa in the first place.

While the Government does not directly regulate education agents, through the ESOS Framework it does regulate education providers' interactions with the education agents with whom they have formal agreements, including requiring providers to provide information on the agents they engage. Registered providers must ensure that their education agents act ethically, honestly, in the best interest of overseas students, and uphold the reputation of Australia's international education sector.[24]

Under Standard 4 of the *National Code of Practice for Providers of Education and Training to Overseas Students 2018* (National Code), education providers are required to have written agreements with the agents who represent them. The *Education Services for Overseas Students Regulations 2019* (ESOS Regulations) prescribe information that providers must report to the Government, including details about their agents. The ESOS Act enables the publishing of some agent data for viewing by their providers.

[23] University of Wollongong, Submission 19, p.4.
[24] Standard Four *National Code for Practice for Providers of Education and Training to Overseas Students 2018*

Since 2012, PRISMS has enabled institutions to record the involvement of an education agent in enrolling an overseas student. Providers are also legislatively required to list any agents they work with on their websites.

### 1.2.3 Problem 3: Agent commissions

*Comprehensive and system wide data on the commissions paid to agents by providers does not exist. This makes it difficult to assess the scale of commissions and its impact on provider and agent behaviours*.

Commissions paid across the international education sector are largely opaque to providers giving them little opportunity to compare the commissions they pay with the market. Providers' evidence presented to the JSCFADT Inquiry related that the international education recruitment environment has been an 'agent's market' for several years, where providers are largely reliant on agents to source their students.

There is an information asymmetry for providers on agent commissions. Agents know the commission rates they can receive from each provider, allowing them to chase the higher commission, however providers only know their own commission. This can result in providers offering higher-than-average commissions or agents misrepresenting what they receive from other providers to drive up the commission payment. Providers have no way to verify the truth of these claims. Providers do not have resources to compare how their commission payments relate to those of other providers, as providers do not release this information publicly.

Some collusive business practices between providers and agents are driven by agents seeking commissions through facilitating onshore transfers of students between providers, especially from the higher education sector to the VET sector. Some stakeholders believe that commission payments incentivise agents to direct students to the highest-paying institutions. Media reports claim that there are significant variations in commissions between providers, with some paying commissions as high as 30 per cent of the student's annual tuition fee.[25] The Government is currently unable to verify these claims.

Often overseas students are not aware of these commission arrangements, which raises concerns about their ability to critically evaluate the information provided by agents to make informed decisions. A peak body, ISANA (International Education Association Inc.), reports that some education agents direct genuine students to take up courses that are unsuitable for the student, but profitable for the agent in commissions and for the provider in terms of recruitment numbers. ISANA has seen problems with students being given misinformation, resulting in students leaving their primary course and course hopping.[26]

The Government does not collect information on commission payments made by providers to individual education agents. The ESOS framework is silent on agent commissions. The data gap on commissions prevents a full and accurate analysis by the department and ESOS agencies. This limits the ability of the Government to determine behaviour driven by commissions, where these behaviours are most prevalent, and to take appropriate regulatory action.

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[25] Pii-Tuulia Nikula, Vincenzo Raimo and Eddie West, 'Do recruitment agents offer universities value for money?', *University World News,* 30 September 2023, www.universityworldnews.com/post.php?story=20230926151616737

[26] Ms Sharon Cook, National President, ISANA International Education Association, *Committee Hansard*, Canberra, 15 May 2023, p.11.

### Current regulatory settings/existing measures

Currently, the department can access information and aggregate it as needed on a provider, qualification type and sector level basis and identify practices of concern for further investigation by the ESOS agencies. Information about agent commissions paid by providers is not collected by the department. This means there is a lack of government insight into agent commissions and how they may be connected to provider behaviour.

The Government has taken recent action to address integrity issues in the international education sector by closing the concurrent study option in PRISMS which was designed to allow students to take a concurrent course that enhanced their primary course. In practice, providers, often facilitated by agents, had begun to use the concurrent function as a loophole to shift overseas students who had been in Australia for less than six months from the primary provider and course of study to new providers to facilitate work instead of study.

The concurrent enrolment function saw a sharp uptake in 2023 as a result of misuse by unscrupulous providers and education agents, who were seeking and gaining onshore commissions. In the first half of 2023, 17,000 concurrent enrolments were created, compared to approximately 10,500 for the same period in 2019 and 2022 combined.[27] The size of this cohort indicates this activity was lucrative for the agents facilitating it, though a lack of data on commissions makes this difficult to quantify.

While this measure has closed one available loophole facilitating unscrupulous behaviour, avenues remain for students, agents and providers to misuse the international education and visa systems for non-genuine reasons. Lack of transparency on agent commissions makes it difficult to track the financial incentives and relationships driving this behaviour.

## 1.2.4 Problem 4: Limited ability to identify, deter and disrupt unscrupulous actors

*Under the current ESOS legislative framework, ESOS agencies have limits on their ability to take action against unscrupulous education providers, safeguard the best interest of the student and respond to identified and emerging integrity issues.*

There are unscrupulous actors operating in the international education sector. Non-genuine students are using the student visa program to enter Australia for purposes other than study. The flow of these people into Australia is commonly facilitated by education agents and providers. Criminal networks also operate in the sector to traffic people assisted by education providers and agents working together in sophisticated chains of exploitation. It is challenging to identify, disrupt and deter these operations and ensure only genuine providers and genuine students participate in the sector.

As flagged, reviews which included evidence from multi-agency task force investigations found that parts of the international education sector were infiltrated by criminal elements that were exploiting the international education and migration systems to traffic people into bonded labour and sex trafficking, and to funnel non-genuine students into Australia.

The JSCFADT Inquiry detailed the existence of non-genuine providers who were not actually delivering any courses to overseas students. Non-genuine students are funnelled into ‘ghost schools’ for the purposes of full-time work or into potential trafficking situations. The provider falsifies attendance and course progression to ensure the student was not in breach of visa conditions.

[27] PRISMS data, Department of Education

The recruitment of overseas students by providers of low quality and integrity threatens the reputation of Australia's international education sector and increases the potential risk of exploitation of overseas students. Overseas students expend significant resources and undergo a dramatic life change to study for an Australian qualification. The stakes are often higher for an overseas student than a domestic student when choosing an education provider. Overseas students do not always have access to domestic information on the condition and quality of the education provider and are legislatively restrained from changing providers in the first six months of their primary study without a written release from their provider.

The entry of non-genuine or high-risk providers to the international education sector affects the quality of international education. 'Discount' providers compete against genuine providers who charge appropriately for quality education products. This creates unfair market competition and may put genuine providers out of business or encourage them to embrace non-genuine practices. The entry of non-genuine providers into the market negatively impacts the reputation of Australia's international education offering and affects confidence in the quality of education delivered to overseas students.

A possible indicator of poor quality is a provider's delivery of education and training to overseas students only. The department has broadly identified some characteristics of VET providers with high proportions of overseas student enrolments based on the National Centre for Vocational Education Research data collection of the Department of Employment and Workplace Relations. As of 2022, 258 registered VET providers had zero domestic students and 72 registered VET providers had less than 5 domestic students while having at least one overseas student enrolment. These 330 VET providers had around 139,000 overseas students in total, making the delivery of their education and training focussed on overseas students only. These 139,000 overseas students represented approximately 50.8 per cent of total overseas student enrolments in the VET sector in 2022. In 2022, there were 438 registered VET providers with larger overseas student enrolments than their domestic student enrolments.

As at 30 June 2023, ASQA was the ESOS Agency for 932 CRICOS registered providers. Of those, 852 were CRICOS registered RTOs, with the remaining 80 being non-RTO ELICOS only providers, which by its definition delivers to non-English speaking overseas students.

**Figure 1: CRICOS registered providers as a proportion of the total market**

| Registration type | | | Totals | % | Description |
|---|---|---|---|---|---|
| NVR RTO | CRICOS | ELICOS | | | |
| X | | | 2,910 | 76% | RTOs (approved for domestic delivery only i.e., not registered on CRICOS) |
| X | X | | 610 | 16% | RTOs which are registered on CRICOS to deliver training to overseas students (but are not registered for ELICOS delivery) |
| X | X | X | 242 | 6% | RTOs which are registered on CRICOS to deliver training to overseas students and are registered for ELICOS delivery) |
| | X | X | 80 | 2% | ELICOS only providers (providers registered on the CRICOS but are NOT NVR RTOs) |
| 3,762 | 932 | 322 | 3,842 | | |

Source: ASQA, 79.4 Supplementary to Submission 79, JSCFADT Inquiry into International Education.

Regardless of the standard of delivery, and with the exception of ELICOS and Foundation courses, delivering education and training solely to overseas students can impact the quality of the overseas student experience. Studies have considered the quality and quantity of contact, friendship patterns, social support networks and the functional roles of intercultural interactions. The results of the

research converge to indicate that overseas students expect and desire greater contact, and that interaction with domestic peers is generally associated with psychological, social, and academic benefits for the overseas student.

There was a total of 188 CRICOS applications received by ASQA in 2022-23, representing a 38.2 per cent increase compared to 136 CRICOS applications received in 2021-22.[28]

This marked rise in new applications has placed pressure on the ESOS agencies' capacity to effectively consider a provider's fitness and credentials to provide quality education services to overseas students.

The JSCFADT Inquiry identified that some education providers were targeting vulnerable overseas students by offering lower student fees and relaxed requirements for class attendance.[29] Within this group are providers established for the singular purpose of profiting from the flow of non-genuine students and exploiting vulnerable genuine students to facilitate access to the labour market or through promises of permanent migration outcomes, rather than providing quality education and training leading to a qualification.

Some providers use a 'false front' or ghost school to present as genuine education providers while their students are funnelled into full-time work. There are also individuals who shut provider doors to avoid regulatory investigation, or default on students, only to 'phoenix' and re-emerge by activating inactive CRICOS registered provider businesses. These practices impact the quality and reputation of the sector as a whole and decrease industry certainty of graduates' skills and competencies. These providers, often with the collusion of agents, offer low quality education outcomes and facilitate non-genuine student access to into Australia, and enable their long-term presence onshore.

This behaviour may be contributing to higher temporary migration and Net Overseas Migration (NOM) as unscrupulous providers and agents, in collusion with non-genuine students, set up a flow into the country of people on student visas who have no intent and potentially no capability to progress in study and who largely work in unskilled or low skills jobs.

Students may become 'permanently temporary', as found by the Migration Review, by jumping between providers and moving between student and other visas without a clear path to permanent residency and are faced with a diminishing opportunity to secure skilled work. The Nixon Review found that non-genuine overseas students entering on a student visa were prolonging their stay in Australia for up to a decade through exploiting protracted merit and judicial review timeframes.[30]

The Migration Strategy found that the numbers of overseas students staying in Australia on a second, or subsequent student visa has grown by over 30 per cent to more than 150,000 in 2022–23. The biggest growth in students moving from course to course, particularly to courses that are below their current level of study, to prolong their stay in Australia has been in the VET sector. In 2022–23 almost 69,000 students granted a subsequent student visa in Australia have stayed in, or moved into, studying in the VET sector, compared to 42,000 students pre-pandemic in 2018–19.[31] This can contribute to the continuation and expansion of criminal networks that extend inside and outside Australia that seek to subvert Australian migration, education and employment law and conditions,

[28] Parliament of Australia (2023), Joint Standing Committee on Foreign Affairs, Defence and Trade Inquiry into Australia's tourism and international education sectors *Quality and Integrity – the Quest for Sustainable Growth: Interim Report into International Education*, pp.108–109.
[29] Parliament of Australia (2023), *Quality and Integrity – the Quest for Sustainable Growth: Interim Report into International Education,* p.107.
[30] *Rapid Review into the Exploitation of Australia's visa system*, Finding Six, p.24.
[31] Commonwealth of Australia, Migration Strategy 2023, p.67.

and contribute to other forms criminal activity involving vulnerable overseas students such as money laundering.[32]

Throughout the Migration Review consultation process, stakeholders shared concerns that overseas student recruitment is partly being driven by some education providers helping non-genuine students to gain access to Australia's labour market using a student visa. Some private providers in the VET sector with lower fees and shorter durations are of particular concern because these institutions create financial incentives for non-genuine study. Student visa refusal rates also support this assessment, with consistently higher refusal rates for those applying to study VET courses compared with those seeking higher education.[33]

The Migration Review found that there is clear evidence of systemic exploitation and the risk of an emerging 'permanently temporary' underclass without a pathway to permanent residence. Stakeholder concerns in the Review focused on the ethics of having a significant population of people living in Australia who have no pathway, or no clear pathway, to permanent residence, and from there to Australian citizenship. The Migration Review identified former students as amongst the largest cohort of this 'permanently temporary' underclass.

Strengthening the quality and integrity of the international education sector by ensuring overseas students are coming to Australia for genuine educational purposes would reduce the number of 'permanently temporary' population driving up NOM. Of that group there are graduates on temporary graduate visas (TGV) without real prospects of skilled permanent pathways and who may cycle back to a student visa after their TGV is finished, students cycling through cheaper courses to remain in Australia for work, who are attempting full time work while studying, or whose full-time work is facilitated through a ghost school operation. This group often work in low skilled and casual labour, facilitated through provider and agent connections to employers. As a group they are vulnerable to exploitation, and coercion into accepting sub-standard wages and conditions through threat of deportation.

Genuine students supported by quality providers and education are better equipped to enter the global skilled workforce, return to their countries to take up professional pathways, or choose to stay and find work in Australia with a pathway to permanent residency through skilled visas. While these integrity issues are limited to a set of unscrupulous education providers, agents and students, they pose a significant risk to Australia's international standing as an education destination of choice and a valuable export worth $30 billion per annum.

These issues hinder Australia's ability to attract, train and retain the best and brightest skilled students and graduates capable of taking up skilled jobs identified by Jobs and Skills Australia to be in critical need in the mid to long term, and unable to be met by domestic labour supply.[34] Low quality educational outcomes have a flow-on negative impact on the certainty of matching graduate skills to industry demand. It will also have implications for Australia's research and development capacity.

[32] AFP Media Release, 'Australian police warn university students about money muling', 19 February 2024, www.afp.gov.au/news-centre/media-release/australian-police-warn-university-students-about-money-muling-dontbeamule.
[33] Commonwealth of Australia, Migration Review 2023.
[34] Jobs and Skills Australia, 2023 Skills Priority List, Key Findings Report, September 2023, www.jobsandskills.gov.au/data/skills-shortages-analysis#keyfindings

## Current regulatory settings/existing measures

There is currently no legislative requirement for a provider seeking CRICOS registration to have experience in delivering courses to domestic students.

To manage the volume of CRICOS applications and support a detailed assessment of quality and integrity issues in the application process, ESOS agencies can currently decide to pause assessment of applications. This decision is vulnerable to legal challenge under section 7 of the *Administrative Decisions (Judicial Review) Act 1977*. The current ESOS Framework does not provide a strong legal basis for ESOS agencies to pause assessment of CRICOS applications.

Currently education providers who are under regulatory investigation can continue to enrol new overseas students unless action is taken by the ESOS agency to apply a condition to prohibit enrolment of new overseas students. This decision is applied on a case-by-case basis and requires a written notice to be given to the provider with an opportunity for the provider to respond. The decision to impose a condition is also subject to review. Providers under serious investigation can continue to enrol overseas students while they go through this process. Overseas students may not be aware of these investigations, and their enrolment with providers with known integrity concerns increases the risk of students receiving a low-quality education product and potentially being exposed to exploitation.

# 2. What are the objectives, why is government intervention needed to achieve them, and how will success be measured?

## 2.1 Need for government action

The integrity of the international education system is a shared responsibility between the international education sector and the Government.

Commonwealth law establishes the conditions and requirements for education providers to deliver courses to overseas students and under which overseas students can come to Australia, who they can and cannot study with, what they can and cannot study, and restrictions around work and other activities. As previously outlined, international education providers have certain responsibilities under the ESOS Framework in relation to their obligations towards overseas students and the behaviour of the agents they engage.

The Government, through the department, legislates and administers the ESOS Framework, which regulates education services to students in Australia on a student visa. It protects students' financial investment, ensures high quality education services, and supports students to adapt to life in Australia, while maintaining the integrity of Australia's student visa system. All international education providers are required to comply with the ESOS Framework.

ASQA, TEQSA and the department's powers to regulate provider actions is limited to what is allowed under the ESOS Framework. Any change to the ESOS Act and related legislative instruments requires intervention from the Government.

The severity of the issues outlined in Question 1, including the serious criminal behaviour identified by the Nixon Review, means that the Government is best placed to take action to address these issues. Neither providers nor agents are well positioned to address these issues, as the behaviour of some providers and agents is directly contributing to the problem. Overseas students are particularly vulnerable and, as individuals, do not have the power to influence outcomes beyond the reporting of unscrupulous behaviour by agents and providers, which they may be reluctant to do for the reasons set out in Question 1. Some non-genuine students also act deliberately to circumvent the international education and visa systems for purposes other than study.

The Government has human rights obligations to address serious integrity issues. Trafficking of human beings is an internationally recognised human rights violation which can result in a chain of other human rights abuses such as forced labour, sexual servitude, and debt bondage. The Government has a long-standing commitment to combatting human trafficking and modern slavery in Australia and around the world and has developed the *National Action Plan to Combat Modern Slavery 2020-25*.

## 2.2 Objectives of government action

The Government's primary objective is to address the exploitation of the international education system thereby improving the quality and integrity of the international education sector and protecting overseas students from exploitation by unscrupulous actors. Government action could involve continuing to administer the ESOS Framework as per the current status quo, or through non regulatory or regulatory solutions. These three options will be outlined in Question 3.

Direct and specific objectives of Government action are to:

- increase the quality of providers entering and operating in Australia's international education sector.
- reduce the presence of criminal activity and networks operating in the sector.
- reduce the ability of providers and agents to engage in collusive practices to exploit overseas students.
- increase ability to identify and act on unscrupulous behaviour in the sector.
- increase data on provider and agent interactions that leads to unscrupulous behaviour.
- ensure overseas students have a positive experience of studying in Australia.

These lead to outcomes of:

- a positive and safe overseas student experience in Australia.
- improved market space for quality providers with strong integrity to recruit students.
- better education and better outcomes for overseas students after graduation.
- maintaining Australia's healthy and competitive international education reputation in the region and globally.

In addition, expanded and improved data capture would help inform future policy to continue to improve the quality and integrity of Australia's international education sector.

In the short term (one to two years post-implementation), action signals that the Government is serious about addressing integrity in the sector and deterring those who wish to exploit students from entering and disrupting those continuing to operate in the sector.

Over the medium to long term (three to five years post-implementation), strengthening integrity will improve the competitive advantage of Australia's international education industry. International education is the face Australia presents to the world. Supporting genuine providers and improving the quality of students' educational experience and their post-education outcomes will strengthen the Australian international education sector's reputation on the global stage.

The Government has a holistic focus on integrity across the international education sector. The Government's primary lever to ensure integrity in the sector is through its administration of the ESOS Act and associated legislation. The ESOS Framework regulates education providers who deliver courses to overseas students (defined as those holding a student visa).

Efforts to assure the integrity of the international education sector through the ESOS Framework will be complemented by other Government reform efforts currently underway to the migration system and VET sector. Where the ESOS Framework focusses on the conduct of international education providers, these levers will target the behaviour of overseas students and VET providers and will consider the regulation of education agents.

On 11 December 2023, the Australian Government released its *Migration Strategy – Getting migration working for the nation* (Migration Strategy). The Migration Strategy builds on the

Migration Review and represents an overhaul of the entire migration system and a major recalibration of visa classes, including student and graduate visas. The Government also committed to considering the regulation of education agents through the Office of the Migration Agents Registration Authority (OMARA) as part of its response to the Nixon Review. One of the key Government actions of the Migration Strategy is to seek to strengthen the integrity and quality of international education, which will complement and support actions undertaken to strengthen student visa integrity.

Reform targeted at VET providers is also being undertaken through legislative changes to the *National Vocational Education and Training Regulator Act 2011* (NVETR Act). The ESOS Act applies to those VET providers who are CRICOS registered to deliver to overseas students. The NVETR Act outlines the requirements for all VET providers (RTOs) to register in Australia. RTOs must meet the NVETR Act requirements regardless of whether they deliver to domestic students, overseas students or a mixture of both.

The ESOS Act outlines additional requirements for VET providers and all other providers across all sectors (Higher Education, ELICOS, Schools) who are registered to deliver CRICOS courses to overseas students.

The proposed changes to the NVETR Act will empower ASQA to apply greater scrutiny to RTOs seeking to enter the VET sector and to take action to deter and remove RTOs that conduct fraudulent activity or circumvent regulatory requirements. It will also expand the kinds of false and misleading conduct that ASQA can target through offence and civil penalty provisions and provides for increases to the penalties applicable to egregious conduct and breaches of the NVETR Act.

These changes will increase integrity in the VET sector only. They do not apply to other sectors offering courses to overseas students, including in the higher education, schools and ELICOS sectors. They also do not directly address policy problems impacting international education, such as collusive behaviour between providers and agents and a lack of transparency of agent performance and commissions.

### 2.2.1 Constraints and barriers

Legislative – introduction, debate, and passage of any legislation to amend the ESOS Act is subject to parliamentary timeframes. The timing of the parliamentary agenda and any delays could be a barrier to achieving objectives. The department will allocate dedicated staff resourcing to progress any required legislative amendments as decided by decision-makers and collaborate with relevant areas on the legislation drafting. This will support a high quality and timely drafting and legislation process.

Regulatory enforcement – under the current settings, ESOS agencies have limits on their ability to apply more targeted scrutiny to education providers' actions. Consideration of the risks of cross-ownership would require adjustments to resourcing and administration of ESOS agencies. The department will work closely with ESOS agencies to ensure a consistent regulatory and implementation approach across the international education sector.

Student behaviour – some overseas students knowingly and deliberately do not comply with their visa conditions. Their intention is to work in Australia rather than genuinely study and make use of the sophisticated knowledge of education agents to achieve this outcome. Some overseas students experiencing exploitation are reluctant to report their situation due to a fear of deportation. Other measures being implemented by the Department of Home Affairs on student visa scrutiny and compliance, such as the Genuine Student Test, will support addressing these issues.

Provider behaviour – some providers knowingly and deliberately subvert the requirements of the ESOS Framework, engaging in collusive or corrupt behaviour in relation to overseas students.

Efforts to increase integrity will need to consider how to effectively influence the behaviour of unscrupulous providers, remove them from the international education sector or prevent entry to the sector without placing an undue regulatory burden on high quality providers.

Education agent behaviour and location – some agents knowingly and deliberately subvert the requirements of the ESOS Framework and student visa system, engaging in collusive or corrupt behaviour in relation to overseas students.

Most education agents operate outside of Australia's borders, which presents a barrier to regulation.

OMARA's requirements for Registered Migration Agents (RMAs) state that an RMA must be an Australian citizen, an Australian permanent resident, or a New Zealand citizen with a special category visa. Education agents are not permitted to provide student visa advice if they are not an RMA. Regulation of education agents is currently under consideration by the Department of Home Affairs.

### 2.2.2 What success will look like

Success will be measured through qualitative analysis of several performance metrics. Qualitative analysis is the preferred approach noting a number of whole-of-government reform process are underway to strengthen integrity in the VET sector and migration program, as set out above. The success of these reforms is difficult to separate from those of the three options outlined in the IA given shared objectives. This, combined with the significant data gaps previously outlined and the continuing impact of the COVID-19 pandemic on available data, means that qualitative measures of success are most appropriate.

Broad quantitative analysis of various metrics will also be used to assist with measuring success where possible. However, a strict quantitative analysis may not be suitable given that there will be a number of other of significant reform measures and policy measures in train which may impact the data points outlined below, such as the number of complaints and the number of graduates in full-time employment.

Additionally, the sector is still in a post-COVID recovery period, using current data points as strict benchmarks against which to measure future success is not an appropriate strategy. As such, the qualitative analysis will incorporate quantitative analysis of data where available and appropriate, taking into consideration these limitations.

The results of Government actions will see a decrease in unscrupulous behaviour in the international education sector and the weeding out of low-quality providers and agents from the market. Success will be measurable through tracking the rate of breaches of the ESOS Act, student complaints to ESOS agencies and the Office of the Commonwealth Ombudsman and feedback from the sector on positive outcomes. In the short term, the rate of reporting complaints and regulatory breaches is expected to increase somewhat, as unscrupulous behaviour is identified and acted upon. However, these metrics should stabilise in the medium term and decrease in the long term.

Qualitative feedback from the sector will be gathered and analysed. The sector's views on the quality of students recruited and the performance of agents over time will be sought. Success will also be measured through quantitative analysis over the medium to long term, such as an increase in completion rates for overseas students and a decrease in the number of overseas students transferring to new courses onshore prior to completing their original courses. Both metrics will

indicate that that quality of recruitment has improved, and that agents and providers are better matching students to appropriate courses.

Feedback will also be sought from the department's network of offshore Education Counsellors and from Austrade Trade Commissioners abroad. These officers engage with education institutions and agents based offshore. They also monitor and analyse trends in student recruitment, including emerging integrity concerns, in their host countries and countries of accreditation.

Action to strengthen quality in the sector should see an increase in the number of graduates being able to take up skilled work in Australia and elsewhere. This will be tracked via the annual Quality Indicators for Learning and Teaching (QILT) Graduate Outcomes Survey (GOS), funded by the department. Responses to two specific questions will be tracked for improvements:

- graduate employment and study outcomes by level of study, international and domestic graduates.
    - This question tracks the percentage of overseas and domestic graduates (differentiated by undergraduate, post-graduate coursework and post-graduate research graduates) in full time employment, overall employment, labour force participation rate and median full-time salary.
- international undergraduate employment outcomes by residence at time of survey and study outcomes
    - This question tracks the percentage of international graduates in full time employment, overall employment, labour force participation rate and in further full-time study based on their location in Australia or overseas.

Improvement will be tracked via a qualitative and broad quantitative analysis of outcomes over time including:

- increased percentage of overseas graduates in full-time employment across all levels of study.
- narrowing gap between the employment outcomes and median full-time income for overseas and domestic graduates.
- similar rates of full-time employment for overseas students who remain in Australia after they graduate, compared to those offshore.

In assessing these results, the department would expect to see stable responses in the short term, noting the time lag between government action and effect. In the medium to long term, success would see a sustained improvement in these measures.

Noting that the COVID-19 pandemic has had a significant and ongoing impact on graduate employment outcomes for both overseas and domestic students since 2020, it is difficult to benchmark an appropriate quantitative target for improvement over the short, medium and long term. The GOS survey report from 2022 also acknowledges that because data is drawn from a survey to which only a subset of graduates respond, analysis can be affected both by the total number of survey responses and by how representative those responses received are of the total graduate population. It is unknown how representative the survey is in relation to whether a graduate is living in Australia or overseas at the time of the survey.[35]

The experience of overseas students in Australia will also be analysed qualitatively via the annual QILT Student Experience Survey (SES), which releases a report specific to the responses of overseas students. The department will track overseas students' responses to the section 'International

[35] QILT 2022 International Graduate Outcomes Survey, p.1.

undergraduate student education experience', with a particular focus on the metric 'quality of educational experience.'

Analysis will be qualitative due to limitations in the data presented in the report, for example the report only presents results for undergraduate students. It is also difficult to benchmark results given changes in the survey methodology due to the COVID-19 pandemic. Prior to 2020, the scope of the SES was restricted to overseas students located onshore in Australia. However, due to the pandemic and border closures, the scope of the survey captured many overseas student visa holders who were unable to travel to Australia and studied online from offshore. The proportion of overseas student respondents located offshore at the time of the survey varied from 12.1 per cent of undergraduate respondents in 2020 to 33.9 per cent in 2021 and 8.9 per cent in 2022.[36]

In assessing these results, the department would expect to see stable responses in the short term. In the medium to long term, success would see a sustained improvement in these measures.

Related effects of Government action should also see a drop in visa refusal rates for student visas over the long term as more genuine students are recruited by ethical agents and providers, and fewer non-genuine students apply for student visas, aided and abetted by unscrupulous agents and providers. This will be tracked via visa application and refusal data from the Department of Home Affairs. Trends will be analysed qualitatively, noting that other factors may influence visa refusal rates and will need to be accounted for, including separate integrity reform measures coming out of the Migration Strategy.

[36] QILT 2022 Student Experience Survey – the International Experience, p.1.

# 3. What policy options are you considering?

## 3.1 Option 1 – Status Quo

Under the status quo option, the department will continue to administer the ESOS Framework as it currently stands. International education providers will continue to be required to meet their existing obligations under the ESOS Framework towards overseas students and hold responsibility for the behaviour of the agents they engage.

### Problem 1: Provider and agent collusion

The existing 'fit and proper' test for providers under the ESOS Act, which does not specify cross-ownership, will remain unchanged. No action will be taken to explicitly require ESOS agencies to consider this business practice at provider registration.

### Problem 2: Transparency of agent performance data

Education providers continue to have written agreements with agents that work with them and are required to report details to the department via PRISMS. This information feeds into the agency dashboard that shows success rate of agents, including student retention and 'success' rates.

### Problem 3: Agent commissions

Currently, the Government and the broader international education sector has no visibility of the type or value of commissions and other remunerative practices between providers and agents. Under the status quo option, providers would continue to pay agent commissions without data comparing commission rates charged by agents across the market. Providers would have to rely on anecdotal reports to compare their commission payments.

### Problem 4: Limited ability to identify, deter and disrupt unscrupulous actors

The ESOS agencies would continue to operate within the current ESOS Framework arrangements.

Any decision by ESOS agencies to pause assessment of CRICOS applications will continue to be vulnerable to legal challenge under section 7 of the *Administrative Decisions (Judicial Review) Act 1977*. Providers registering to deliver courses to overseas students can deliver to overseas students without any domestic delivery experience and providers who have not delivered training to overseas students in the preceding 12 months will remain on the CRICOS register.

If an education provider is under investigation for serious integrity concerns, ESOS agencies can decide to apply a condition on the provider to prohibit its enrolment of new overseas students, assessed and applied on a case-by-case basis. ESOS agencies are required to issue a written notice and provide the provider with an opportunity to respond delaying the imposition of the condition

and allowing the provider of concern to continue to recruit overseas students. The decision to impose a decision is subject to review.

## 3.2 Option 2 – Non-regulatory option

The department has identified an option that takes a non-regulatory, risk management approach.

An educative approach would be taken to increase international education sector knowledge on integrity issues relating to education providers and agents. This would be in addition to the department and ESOS agencies' regular activities to remind the sector of their responsibilities.

This approach would be targeted specifically towards providers and focus on educating the international education sector on identifying risks when engaging new education agents. This approach may improve providers' ability to fully comply with their responsibilities and would be separate to communications on general regulation matters.

### Problem 1: Provider and agent collusion

In collaboration with ASQA and TEQSA, the department would inform the international education sector that there would be an increased focus on cross-ownership as a risk factor when assessing whether a provider is 'fit and proper'.

Under current regulation ESOS agencies can independently consider on a case-by-case basis 'any other relevant matter' in determining if the provider is 'fit and proper' to be registered or re-registered, which could include cross-ownership between provider and education agent businesses.

The Government, working with relevant peak bodies, such as the International Student Education Agents Association (ISEAA), would undertake a targeted education outreach to highlight to providers their obligation under Standard 4.3.1 of the National Code to require their education agent to 'declare in writing and take reasonable steps to avoid conflicts of interests with its duties as an education agent of the registered provider'.

### Problem 2: Transparency of agent performance data

The Government would undertake an educational campaign on provider engagement of new education agents.

The Government would undertake a series of activities to help providers make decisions on establishing new agents including best practice on assessing new agents. These activities would require Government funding and include:

- work with ISEAA to develop optional best practice agent contract templates, guidelines, or checklists, for engaging with new agents.
- work with ISEAA to increase opt-in from agents and providers.
- develop a best practice guide to monitoring agents.
- hold a series of onshore and offshore sessions on the ESOS Act and obligations for providers and interested education agents.

This would be supported by factsheets and notices on education agent management on the department's website, PRISMS, and departmental social media to educate providers about existing responsibilities with respect to monitoring education agents.

### Problem 3: Agent commissions

The Government would undertake an international education sector survey on commissions, designed to gather information on commissions and improve the Government's understanding of the practice of paying commissions (e.g. commission rates and other remunerative practices).

A de-identified report, showing average or scaled commissions, as reported to the Government, would be made available to education providers.

The Government would encourage the sector to establish their own mechanisms to exchange information on agents including average commission rates.

### Problem 4: Limited ability to identify, deter and disrupt unscrupulous actors

The Government would support the ESOS agencies and peak bodies to take a more proactive and whole of international education sector educative approach targeted at increasing education providers' awareness of their responsibilities and promoting integrity.

The Government would develop communications materials that outline the identified integrity issues in the international education sector and education providers' responsibilities and obligations under the ESOS Framework and call for education providers to comply with relevant requirements. The communications materials would be disseminated to education providers through ESOS agencies and peak bodies.

The Government would also provide support to the ESOS agencies and peak bodies to deliver targeted information sessions to education providers, including encouraging better reporting to the regulators on known or suspected maleficence.

## 3.3 Option 3 – Regulatory changes

Option 3 would make changes to the ESOS Framework to address agent integrity issues and support provider quality. The severity of the identified behaviours outlined in Question 1, including the involvement of overseas students in the identified cases of trafficking and exploitation, would be met with a robust response. Action under this option would target providers who are deliberately engaging in behaviour to find loopholes and exploit current regulatory and legislative measures.

The package of amendments has been informed by findings and recommendations of the Nixon and Migration reviews and evidence presented to the JSCFADT Inquiry. Changes to the ESOS Act would see an increased focus on the provider at the registration stage, supported by enhanced monitoring and investigation. Legislative changes would support the uplift of ASQA to conduct monitoring and compliance operations. On 3 October 2023, increased resourcing was announced for ASQA in addition to an uplift for its systems and analytic capability to support an increased focus on integrity.

## Problem 1: Provider and agent collusion

In its response to Recommendation 13 of the Nixon Review, the Government agreed to consider action to ban commissions paid by providers to education agents for onshore student transfers and further measures to deter collusive behaviour between providers and agents to exploit Australia's education and migration systems.

Genuine providers are vulnerable to undue control and influence by non-genuine education agents assuming cross-ownership for the purpose of commission profits, to pressure providers to make courses cheaper and who are seeking to establish cross-ownership for the purpose of establishing pipelines of non-genuine student entry into Australia.

The option to amend the 'fit and proper provider' test under the ESOS Act would legally require ESOS agencies to consider cross-ownership of businesses between education providers as a part of assessing all providers and their agents, making a consistent approach to cross-ownership rather than the potentially 'piecemeal' approach afforded under current legislation defining 'any other relevant matter'.

This change would give ESOS agencies a clear direction and greater scope to assess the material impact of cross-ownership relationships on provider operations. Cross-ownership would require consideration of controlling interests in either business.

## Problem 2: Transparency of agent performance data

Based on evidence presented, Recommendation 26 of the JSCFADT Inquiry recommended the 'expansion of the current Education Agents Dashboard on PRISMS to allow provider access to all education agents' information.'

Through amendments to the ESOS Act and ESOS Regulations, the Government could increase the amount of information it can share with providers. This would increase international education sector visibility of education agent performance outcomes by extending access for providers to education agent success rates and outcomes through the agency dashboard for all agents, not just those where there is an existing relationship.

This would allow education providers to consider new agents on their proven success rates in student enrolment, visa outcomes and course completion. This information would support providers to engage with new agents who have a track record of recruiting genuine students and enable benchmarking of their existing agents.

## Problem 3: Agent commissions

In its response to Recommendation 13 of the Nixon Review, the Government agreed to consider action to ban commissions paid by providers to education agents for onshore student transfers and further measures to deter collusive behaviour between providers and agents to exploit Australia's education and migration systems.

Changes to the ESOS Act and the ESOS Regulations would require education providers to report information for a specified time period through PRISMS on commission they have paid to an education agent for the recruitment of a student, whether individually or as a group recruitment incentive. This information would be an expansion of information on agents that providers are already required to report in PRISMS.

Providers would be able to view commissions paid to education agents in the agency dashboard. The intention is to impart providers with comparable commissions information paid to an agent across all providers. Providers would also be able to search for agents they do not have an existing relationship with and view information about commissions paid to these agents.

## Problem 4: Limited ability to identify, deter and disrupt unscrupulous actors

Part of Recommendation 18 of the Nixon Review recommended removing CRICOS eligibility for high-risk providers and courses and amending the ESOS Act and the National Code.

The JSCFADT Inquiry considered evidence from witnesses and submissions and concluded that determined and targeted action is required to remove disreputable providers and to send a strong message that Australia is serious about protecting the integrity of international education.

Based on evidence presented, Recommendation 14 of the JSCFADT Inquiry recommended actions to address 'persistent and deep-seated integrity issues' in the private VET sector could include:

- a pause for at least 12 months by ASQA in processing new provider applications for CRICOS registered VET providers, with limited exceptions for legitimate applications such as industry linked entities, high economic value proposals or those endorsed by state and territory governments.
- requiring new providers seeking CRICOS registration to have operated and delivered to domestic students for at least 12 months.
- suspension of recruitment of overseas students to CRICOS VET courses identified with persistent quality and integrity issues and/or of limited value to Australia's critical skills needs, such as management and leadership courses.
- automatic suspension of new overseas student intake for providers under serious regulatory investigation.
- cancellation of a provider's CRICOS registration if no training is delivered for 12 months or more.

Four legislative reform measures to the ESOS Act are proposed to address this policy problem, outlined below.

### 1. A pause on applications for registration of new providers and of new courses from existing providers for a period of up to 12 months

This measure would give increased legislative authority to manage applications and allow for in-depth assessment of high-risk applicants.

Through amendments to the ESOS Act, the Minister may determine, by way of legislative instrument, that no initial applications for the registration of providers and of new courses from registered providers are to be made for 12 months. The Minister may also determine, by way of legislative instrument, that an ESOS agency is not required to, or must not, accept or process initial applications for registration of providers and of new courses, for a period of up to 12 months. This means that providers can continue to make applications for registration, but ESOS agencies cannot make decisions on these applications. At the time the Minister makes the legislative instrument, the Minister may consider exemptions such as the registration of new courses identified as essential for addressing new fields or emerging areas of critical skills needs. The instruments could apply to all applications or one or more classes of applications.



## 2. Require providers applying to deliver courses to overseas students to first deliver courses to domestic students for a period of 24 months

Through amendments to the ESOS Act, providers would be required to demonstrate delivery of courses to domestic students for a period of 24 months, as determined by the relevant ESOS agency, before expanding to overseas students.

Standalone ELICOS providers and Foundation Program providers would be excluded from this requirement as they do not deliver to domestic students.

Table A providers under the *Higher Education Support Act 2003* are all providers who have an established record in delivering courses to domestic students. Because of this, Table A Higher Education providers would also be excluded from this requirement. The exemption of Table A providers intends to ensure those higher education providers who have a demonstrable history of sustained delivery to domestic students, but may merged or restructured their business operations resulting in the establishment of a new entity, are able to continue delivery to overseas students. The exemption was developed following consultation with TEQSA, ASQA, and DEWR.

The introduction of this requirement would assist providers to demonstrate genuine education provider credentials and allow an assessment of previous performance. This requirement does not currently exist under the ESOS legislative framework.

## 3. Automatically cancel the registration of providers who have not delivered training to overseas students for a consecutive 12-month period

Amendments to the ESOS Act would result in the automatic cancellation of a provider's registration where the provider has not delivered courses to overseas students for a consecutive 12-month period. This would ensure that providers not currently delivering to overseas students need to go through a registration process again to determine that they are 'fit and proper' and meet other requirements to recommence delivery to overseas students. The current ESOS legislative framework does not provide a basis to support this action.

Schools would be exempt from this change, as intakes of overseas students at schools are small and a school may not enrol an overseas student each year.

It is also proposed that a provider could apply to their ESOS agency for an extension of their non-delivery period. This would allow ESOS agencies to consider on a case-by-case basis a continuation of registration where providers are genuinely committed but due to legitimate circumstances, unable to deliver courses (noting that the total period of extensions must not exceed 12 consecutive months).

An example of a legitimate circumstance could include where a newly registered CRICOS provider may not be in a position to deliver to overseas students in the first 12 months of its registration or in the event of natural disaster impacting a campus location.

## 4. Strengthen provisions to suspend the enrolment of new overseas students, including automatically where appropriate, by providers under serious regulatory investigation

Where a provider is already registered and delivering courses, ESOS agencies will be enabled to take decisive action to prevent the provider from recruiting and enrolling new overseas students if serious misconduct is suspected.



Amendments to the ESOS Act would allow the automatic application of a condition to prevent a provider from enrolling new overseas students when the provider is under serious regulatory investigation and has been issued a written notice. This would also allow the ESOS agencies flexibility to determine that where the suspension may alert the provider and is likely to undermine an ongoing regulatory or investigation action, the notice can be withheld to a more appropriate time.



# 4. What is the likely net benefit of each option?

## 4.1 Option 1 – Status Quo

Option 1 maintains the status quo. Under this option, the Government would not take any non-regulatory or regulatory actions to address the four policy problems outlined in Question 1. The trends and integrity issues identified in the international education sector, including serious instances of trafficking and exploitation, would be expected to continue or potentially grow over time.

The status quo provides the baseline from which the costs and benefits of options are analysed in this chapter. This option would not incur any regulatory burden in addition to the existing regulatory requirements for education providers.

## 4.2 Option 2 – Non-regulatory option

Option 2 takes a non-regulatory, educative approach to increase international education sector knowledge on integrity issues and to enhance providers' awareness of their responsibilities, aiming to improve ethical behaviours of education providers and their ability to identify risks when engaging new education agents.

The level of benefits that this option would deliver is dependent on buy-in from providers. For providers who are willing to do the right thing but lack knowledge or understanding of compliance obligations, or capabilities or skills to engage and manage their agents, this option would assist those providers in developing or improving their capabilities and business processes. As the nature of unscrupulous and exploitative behaviours is driven by strong financial incentives, this option is highly unlikely to be effective in changing the behaviours of unscrupulous providers and agents. Due to the uncertainty of the level of buy-in from providers, it is not possible to quantify the potential size of benefits to providers and the broader sector.

This option would increase some costs to the providers who are willing to make changes to improve their compliance activities and business processes. It would not increase any costs to unscrupulous providers who are unlikely to change their actions. Similarly, due to the uncertainty of the level of buy-in from providers, it is not possible to quantify the potential size of costs to providers.

This option would incur some costs to the Government for undertaking a series of communication and educative activities.

## 4.3 Option 3 – Regulatory changes

Under Option 3, a package of seven legislative reform measures is proposed to address the four policy problems outlined in Question 1.



A cost-benefit analysis (CBA) has been undertaken by Deloitte Access Economics to assess the potential impacts of Option 3.

### 4.3.1 Methodology

A costs and benefits framework was established for the proposed legislative reforms under Option 3 to provide an organising structure for analysis by identifying the full range of costs and benefits by stakeholder groups. The framework consists of three substantive components:

- A theory of change and intervention logics that describe how each legislative change is expected to influence stakeholders and the international education sector, and ultimately lead to benefits (see details at Appendix A).
- A benefits framework that describes the 11 identified benefit streams from the legislative changes and the alignment of each of these benefits to a stakeholder group (see details at Appendix B).
- A costs framework that identifies the corresponding incremental costs for each legislative change and the attributable stakeholder group (see details at Appendix C). It is noted that the regulatory burden estimate is defined by all incremental costs, excluding costs attributable to government.[37]

Key modelling assumptions used in the cost-benefit analysis are outlined in Appendix D.

Individual legislative reform measures are referred to in the CBA as follows:

- **Reform 1:** amend the 'fit and proper' provider test under the ESOS Act to require ESOS agencies to consider cross-ownership of businesses between education providers and their agents to disrupt and deter collusive behaviour aimed to exploit students for profit.
- **Reform 2:** expand access for providers to all education agent performance data, not just to those agents they have an existing relationship with.
- **Reform 3:** require education providers to report through the Provider Registration and International Student Management System (PRISMS) information on agent commission fees they have paid to an education agent.
- **Reform 4:** pause the assessment of applications of registrations from new international education providers and of new courses from existing providers for a period of up to 12 months.
- **Reform 5:** require providers applying to deliver courses to overseas students to first deliver courses to domestic students for a period of 24 months.
- **Reform 6:** automatically cancel the registration of providers who have not delivered training to overseas students for a consecutive 12-month period.
- **Reform 7:** strengthen provisions to suspend the enrolment of new overseas students, including automatically where appropriate, by providers under serious regulatory investigation.

[37] Regulatory burden costs include all incremental costs imposed on business and individuals from an introduction of or change in policies and include all compliance costs and delayed costs, defined in the *Regulatory Burden Measurement Framework*, Office of Impact Analysis.



### 4.3.2 Key aggregate results

A comprehensive analysis has been conducted to assess the costs and benefits of the package of legislative reforms. Due to the nature of legislation changes and data gaps, more assumption-driven approaches have been required, relying on conservative and transparent settings to these assumptions (see key assumptions in Appendix D).

As many benefits have been challenging to quantify and attribute, this analysis has taken a break-even analysis approach to compare estimated costs and benefits, including comparisons of the break-even point with the projected overall value and returns of the sector in the status quo scenario, and case studies and qualitative discussions of the potential scale of the unquantified benefits. A summary of the key results is presented below as well as at Table 2, noting all values are calculated as present values (in 2024 dollars) using a 7 per cent discount rate.

- Across all seven legislative reforms, the **total cost is estimated to be $93.3 million** over **10 years** from 2025 to 2034.
    - The **regulatory burden cost is estimated to be $89.9 million** (i.e. all costs presented at Table 2, excluding costs to government).
    - The largest costs are incurred by providers (as the directly regulated stakeholder) and estimated at $83.1 million or 89.0 per cent of total estimated costs.
- The **total quantified benefits are estimated to be $86.1 million** across **three benefit streams**.
    - As the stakeholder group most exposed to quality and integrity issues, overseas students are recipients of the greatest benefits at $48.6 million or 56.4 per cent of total quantified benefits.
    - Of the 11 benefit streams established as part of the analysis, eight benefits are not able to be quantified. Some of these unquantified benefits could be substantial and magnitudes larger than the total estimated costs.
        - For example, as outlined later in section 4.3.4 (Table 7), a potential benefit to student growth is not able to be quantified given the complex factors and dynamics underpinning overseas student demand. As an indication of the potential scale of this benefit, one per cent of growth in overseas student numbers in one year generates a benefit of $47.9 million for providers. Across a 10-year period, the benefit of this size would exceed $400 million.
- **To achieve a break-even point** – where benefits are at least equivalent to costs – the **additional value of the eight unquantified would need to be at least $7.2 million**. To put the break-even point in perspective of the projected overall value and returns of the sector in the status quo scenario, as shown in Table 3:
    - This is equivalent to 0.002 per cent of the $310.4 billion projected 10-year value of Australia's education exports (based on $30.3 billion in 2022)[38], or 0.018 per cent of an estimated $41.2 billion in projected 10-year returns from overseas student fees (based on $4.1 billion in 2022).[39]

[38] $30.3 billion value in 2022 reported by Department of Foreign Affairs and Trade, (2023), *Australia's top 25 exports, goods & services*. Converted to 2024 dollars and projected for 10 years (2025-2034), assuming 5% annual growth, before discounting to present values.

[39] Status quo scenario estimate based on 746,387 in total overseas student enrolments in 2022 (Department of Education data), with growth projections from 2025 to 2034 assuming a 5% growth rate, applied to the annual fees paid by overseas students across all sectors, adjusted for discounting/scholarships, completion rates and average returns to business (based on February 2024 publicly reported CRICOS course fees). Note, where incremental benefits were derived above the growth rate of 5%, the growth rate in and of itself had relatively limited effects on the overall cost and benefit results of Option 3.

- It is also considerably smaller than two case study values of a change in student enrolments or completions.

- Sensitivity testing undertaken demonstrates the likelihood that the benefits of the legislative changes are likely to exceed the costs. This is particularly likely in relation to Reform 4, in the event the Minister for Education applies discretion to an instrument so that a pause on registrations is in place for less than 12 months and includes exemptions for certain new courses (see details in section 4.3.5, Table 10).

**Table 2: Total estimated costs and benefits, by stakeholder, $ million present values over 10 years**

| | |
|---|---|
| **Total costs** | **93.3** |
| To providers | 83.1 |
| To agents | 0.9 |
| To overseas students | 5.9 |
| To government | 3.4 |
| **Total (quantifiable) benefits** | **86.1** |
| To providers | 29.0 |
| To agents | 0.0 |
| To overseas students | 48.6 |
| To government | 8.5 |
| **Breakeven point:** Required value of (unquantifiable) benefits in order for benefits to meet costs | **7.2** |

Source: Deloitte Access Economics. Note: Breakeven point calculated as the difference between quantified costs and benefits.

**Table 3: Contextualisation of the value of unquantified benefits required to reach a 'break-even point'**

| | |
|---|---|
| **Breakeven point** | **$7.2 million** |
| **Presented relative to measures of the size of the sector** | |
| As a % of education exports over 10 years ($310.4 billion projected value in present values from 2025 to 2034) | 0.002% of $310.4 billion |
| As a % of returns on overseas student tuition over 10 years ($41.2 billion projected value in present values from 2025 to 2034) | 0.018% of $41.2 billion |
| **Compared to case studies of two unquantified benefits** | |
| Single year change in student revenue from 1% growth in enrolments (benefit P1) | $47.9 million |
| Single year change in student revenue from 1% growth in student completions (benefit P2) | $26.2 million |

Source: Deloitte Access Economics.

### 4.3.3 Detailed cost results

As shown in Table 4, the most substantial costs are attributable to collecting and sharing agent commission data (reform 3) and the temporary pause on CRICOS applications (reform 4), at $39.9 million and $30.2 million respectively. The cost of a potential pause was conservatively

estimated to capture the greatest possible length of the pause (12 months) and the number of providers and courses covered by an instrument. Costs for the remaining five legislative changes are smaller and range from $1.3 million to $10.3 million, totalling $23.3 million.

For each legislative change, providers typically incur the majority of costs. The exception is for 'Consideration of agent cross-ownership' (reform 1), where students are expected to incur additional administrative costs in the admissions and enrolments process.

There are potentially significant transfers within the provider and agent groups respectively. **Transfers among providers amount to an estimated $348.7 million**, representing students who enrol at a different provider as a result of reforms preventing them from enrolling with their original preferred provider. **Transfers among agents amount to an estimated $48 million**, representing students who are similarly supported by a different agent. These costs are not included in the total cost, as they represent a transfer from one stakeholder to another, within the same stakeholder group. No transfers are modelled for the student group.

Across the legislative changes, costs are generally larger in the first year, representing one-off cost items and/or a larger group of impacted stakeholders following initial implementation. Costs in out years are typically lower, but increasing over time as the number of students, providers and agents are expected to grow in the base case (Table 5).

The scenario defined for a 'Temporary pause on CRICOS applications' (reform 4), whereby the pause takes place entirely in the first year, means that costs in year one are substantially higher than any other year. To this end, a lower discount rate would result in a smaller breakeven value, and a higher discount rate would result in a larger breakeven value. However, **changes to the discount rate are not expected to materially change the overarching insights from this work** or the material magnitudes of the breakeven benefits required to meet costs.



**Table 4: Total estimated costs, by reform and stakeholder, $ million present values over 10 years**

| Reform | Total costs | To providers | To agents | To students | Regulatory burden | To government |
|---|---|---|---|---|---|---|
| **1: Consideration of agent cross-ownership** | 10.3 | 3.2 | 0.9 | 5.9 | 10.0 | 0.3 |
| **2: Sharing agent performance data** | 1.3 | 0.0 | 0.0 | 0.0 | 0.0 | 1.3 |
| **3: Collecting and sharing agent commission data** | 39.9 | 38.5 | 0.0 | 0.0 | 38.5 | 1.3 |
| **4: Temporary pause on CRICOS applications** | 30.2 | 30.2 | 0.0 | 0.0 | 30.2 | 0.0 |
| **5: Domestic provision criteria** | 3.4 | 3.3 | 0.0 | 0.0 | 3.3 | 0.1 |
| **6: Automatic cancellation of inactive providers** | 2.7 | 2.4 | 0.0 | 0.0 | 2.4 | 0.2 |
| **7: Preventing new enrolments for providers under serious investigation** | 5.6 | 5.5 | 0.0 | 0.0 | 5.5 | 0.1 |
| **Total** | **93.3** | **83.1** | **0.9** | **5.9** | **89.9** | **3.4** |

Source: Deloitte Access Economics

**Table 5: Total costs over time, by reform, $ million real 2024 values, undiscounted**

| Reform | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Year 7 | Year 8 | Year 9 | Year 10 |
|---|---|---|---|---|---|---|---|---|---|---|
| **1: Consideration of agent cross-ownership** | 2.6 | 1.3 | 1.3 | 1.3 | 1.3 | 1.3 | 1.3 | 1.3 | 1.3 | 1.3 |
| **2: Sharing agent performance data** | 0.3 | 0.2 | 0.2 | 0.2 | 0.2 | 0.2 | 0.2 | 0.2 | 0.2 | 0.2 |
| **3: Collecting and sharing agent commission data** | 18.5 | 3.1 | 3.3 | 3.4 | 3.6 | 3.8 | 3.9 | 4.1 | 4.3 | 4.5 |
| **4: Temporary pause on CRICOS applications** | 32.3 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| **5: Domestic provision criteria** | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 | 0.5 |
| **6: Automatic cancellation of inactive providers** | 0.7 | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 | 0.3 |
| **7: Preventing new enrolments for providers under serious investigation** | 0.8 | 0.8 | 0.8 | 0.8 | 0.8 | 0.8 | 0.8 | 0.8 | 0.8 | 0.8 |
| **Total** | **55.7** | **6.2** | **6.3** | **6.5** | **6.7** | **6.8** | **7.0** | **7.2** | **7.4** | **7.6** |

Source: Deloitte Access Economics. Note that 'Temporary pause of CRICOS applications' (reform 4) was modelled as though a single 12-month instrument is introduced in 2025, hence no costs occur beyond this point. This modelling is intended to show the quantum of costs and it is not reflective of when an instrument may actually be introduced. It is noted that undiscounted values are presented to support readers understand how costs are expected to vary (or not vary) over time.

### 4.3.4 Detailed benefits results

As discussed previously, many of the economic benefits are challenging to measure, particularly when associated with sector wide growth that is attributable (albeit indirectly) to all legislative reforms. Of the 11 benefit streams identified, three of the benefits are quantified as part of the CBA, three of the benefits are quantified through a 'case study' approach that is not included in the core CBA results, and five of the benefits are discussed qualitatively only.

The **total quantified benefits are estimated at $86.1 million across the three benefit streams** in present value terms from 2025 to 2034 (see Table 6). The largest of these benefit streams accrue to students, who generate $48.6 million savings in searching for agents and navigating the admissions and enrolment processes.

**Table 6: Total quantified benefits, by benefit and stakeholder, $ million present values over 10 years**

| | |
|---|---|
| **Total benefit** | **86.1** |
| **To providers** | |
| (P3) Cost savings and 'peace of mind' in the student admissions process and engaging with agents | 29.0 |
| **To students** | |
| (S1) Reduced administrative costs and personal burden in the education admissions process, from avoiding unscrupulous agents and greater quality and assurances in the market for agents | 48.6 |
| **To government** | |
| (G3) Reduced regulator workload and burden in monitoring and policing lower quality providers and non-genuine students | 8.5 |

Source: Deloitte Access Economics

When analysing the potential size of three benefits using a case study approach, there are significantly larger potential benefits associated with the legislative reform (see Table 7). The largest of the potential benefits accrues to providers, due to the significant revenue associated with each additional student attending a provider, while the smaller two accrue to the government and agents. Notably, 1 per cent growth in student demand is estimated to generate **$47.9 million in benefits for providers in 2025 alone**. However, these benefits are not captured in the core CBA results due to the significant degree of uncertainty associated with the impact of the reforms.

It is expected that benefits P1 (growth in overall student volume) and P2 (growth in student retention) **could exceed the breakeven point of the CBA** and therefore generate a net benefit associated with the reports. Benefit A1 (growth in demand for agents) is smaller in nature and would have a minor contribution to the necessary breakeven value.

The remaining five benefits are analysed qualitatively in Table 8. The qualitative discussion captures the value accrued to each stakeholder as a result of the legislative reform where it cannot be quantified. Where available, the qualitative benefits are supported with quantitative or qualitative evidence from literature.

The relative contribution of each reform to each benefit has been qualitatively assessed (Table 9), based on the intervention logic and theory of change (see Appendix A). As shown in Table 9,

reforms 2 and 6 have higher attributions across the 11 benefits streams, noting that the benefits streams are not equivalent in magnitude.

**Table 7: Case studies that illustrate potential benefits**

| Benefit stream | |
|---|---|
| **To providers** | |
| (P1) Growth in enrolments and profit, supported by a strengthened branding and reputation of providers and Australia's international education sector as a destination | Attributing the legislative changes to an estimated change in growth is challenging, given the myriad of factors and complex dynamics underpinning overseas student demand.<br>Accordingly, this analysis has not sought to quantify an expected benefit to student growth. As an indication of the scale of this benefit, 1% growth in international enrolments in Australia is equivalent to a benefit of $47.9 million in 2025 alone (underpinned by an average of $21,055 in average student revenue to providers, equating to $5,547 in profit per student), in addition to other direct and indirect economic contributions.<br>In order to account for the CBA breakeven value, a single year's growth of 0.018% would be sufficient. |
| (P2) More resilient enrolments and profit, supported by higher quality students with greater retention and completions | By supporting more resilient enrolments through higher quality agents and hence students, the reforms have the potential to improve the overall retention rate among overseas students in Australia. Despite this potential impact, it is challenging to attribute a specific growth rate to student retention associated with the legislative changes.<br>Accordingly, this analysis has not sought to quantify an expected benefit associated with student retention. As an indication of the scale of this benefit, 1% growth in the average student retention rate in Australia (from 83% to 84%) is equivalent to a benefit of $26.2 million in 2025 alone (underpinned by average student payments to providers rising from $21,055 to $21,171, each at a profit margin of 26%).<br>In order to account for the CBA breakeven value, student retention rates would only need to increase by 0.032%. |
| **To agents** | |
| (A1) Profit growth from increased demand for and use of agent services by both providers and students, underpinned by a stronger reputation of agent services and Australia's international education sector as a destination | Attributing the legislative changes to an estimated change in agent demand is challenging, given the wide range of factors involved in decisions to engage an agent.<br>Accordingly, this analysis has not sought to quantify an expected benefit to growth in agent demand. As an indication of the scale of this benefit, 1% growth in education agent demand in Australia is equivalent to a benefit of $3 million in 2025 alone, underpinned by average commissions to agents of $1,301 (of which, $343 is estimated to be profit) and the fact that around 50% of agents are onshore and therefore in-scope when accounting for benefits.<br>In order to account for the CBA breakeven value, a single year's growth of 1.08% would be sufficient. |

Source: Deloitte Access Economics

**Table 8: Qualitative discussion of remaining unquantified benefits**

| Benefit stream | |
|---|---|
| **To students** | |
| (S2) Improved student experience and educational outcomes, supported by closer alignment between personal goals and studies, and avoided exploitative behaviour | Improving the regulation of providers and agents is expected to enhance the quality of the sector and combat unscrupulous actors from operating. This will enable students to better align their aspirations with their academic pursuits and with higher quality offerings, supporting the specialising of their skills and knowledge, and attainment of human capital development. This recognises a wealth of literature on the returns to education and the value of a studying abroad.<br>Moreover, removing unscrupulous actors from the market will lower the chance of exploitative practices occurring. Noting the reviews and inquiries (as well as media reporting) on the harms of exploitative practices on students. |
| (S3) Improved student wellbeing and welfare, from greater trust and safety in the study experience, and improved reputations, without fear of being considered 'not genuine' | Improving student-to-provider matching and avoiding non-genuine providers and agents not only improves the educational experience, but improves the overall study experience for students, particularly from a student wellbeing and welfare perspective. Trust and safety are integral to Australia's international education offering and are highly valued and perceived by the overseas student community.<br>Further, by raising the overall status of overseas students and increasingly removing non-genuine students, overseas students are expected to benefit from the reputational effects and lack of fear of being perceived as non-genuine or lacking authenticity, further improving their sense of security and welcomeness. |
| **To government** | |
| (G1) Public confidence and trust in government and the regulator, and specifically Australia's international education sector and migration system | Noting the recent media attention and criticism of Australia's international education and migration sectors, there is greater scrutiny over the government's role in upholding the integrity and quality of the sectors. Supporting greater transparency and accountability, while detecting unscrupulous behaviours and enforcing the rule of law (and community expectations) is intended to reinforce the credibility of the regulator and government – which is fundamental to democratic governing.<br>A previous study found that improving a business' ethical reputation can improve its relationships with customers and suppliers and can lead to a 7% increase in return on assets, showcasing the importance of ethics and trust (albeit in a commercial setting).[40] |
| (G2) Supporting diplomatic relationships and global authority with a strengthened 'Brand Australia' | Not only does the quality and integrity of Australia's international education sector reflect on local public confidence in government, but it can influence and enable global confidence and the foundations of Australia's presence and credibility on the global stage, including in trade and investment, collaboration in international forums, and joint research and development.<br>The Universities Accord Interim Report noted that the quality of international education was not only crucial for delivering export value, but was a '*crucial* |

[40] Deloitte Access Economics (2020) *The ethical advantage: the economic and social benefits of ethics to Australia*, https://www.deloitte.com/au/en/services/economics/perspectives/ethical-advantage-economic-social-benefits-ethics-australia.html.

| Benefit stream | |
|---|---|
| | *element of Australia's soft diplomacy and the generation of relationships and reputation across the world*'.[41]<br>In the past 50 years 2.5 million overseas students studied in Australia. As a result, many foreign government and business leaders have studied in Australia and understand Australian institutions, values and perspectives on the world.[42] Research collaboration has improved from 2012 to 2021 from 42.6% to 60.5% of research publications with an Australian author including an international co-author, increasing Australia's access to cutting-edge global research and discoveries.[43] |
| **To industry** | |
| (I1) Greater access to, confidence in, higher quantity and quality of and improved skills alignment for skilled graduates | By attracting talented individuals and providing a world class education it is expected that graduates will possess both a higher quantity and quality of skills when entering the market. A previous study found that overseas student graduates who stayed in Australia would represent a 3% increase in the share of Australia's workforce with a tertiary education, resulting in an increase to Australia's GDP per capita of around 0.5%.[44] Attracting more students with better skills may also contribute to addressing Australia's critical skills shortage. |

Source: Deloitte Access Economics

[41] Department of Education (2023) *Australian Universities Accord Interim Report,* https://www.education.gov.au/australian-universities-accord/resources/accord-interim-report.
[42] Parliament of Australia (2023), *Quality and Integrity - the Quest for Sustainable Growth: Interim Report into International Education.*
[43] Department of Education (2023) *Australian Universities Accord Interim Report*.
[44] Department of Education (2016) *The value of international education in Australia*, https://internationaleducation.gov.au/research/research-papers/Documents/ValueInternationalEd.pdf.

**Table 9: Relative assessment of the attribution between legislative changes and benefits streams**

| Benefit stream | Reform 1 | Reform 2 | Reform 3 | Reform 4 | Reform 5 | Reform 6 | Reform 7 |
|---|---|---|---|---|---|---|---|
| (P1) Growth in enrolments and profit, supported by a strengthened branding and reputation of providers and Australia's international education sector as a destination | Lower | Lower | | Lower | Lower | Lower | Lower |
| (P2) More resilient enrolments and profit, supported by higher quality students with greater retention and completions | Lower | **Higher** | | Lower | Lower | | Lower |
| (P3) Cost savings and 'peace of mind' in the student admissions process and engaging with agents | | **Higher** | Lower | | | | |
| (A1) Profit growth from increased demand for and use of agent services by both providers and students, underpinned by a stronger reputation of agent services and Australia's international education sector as a destination | Lower | **Higher** | Lower | | | | |
| (S1) Reduced administrative costs and personal burden in the education admissions process, from avoiding unscrupulous agents and greater quality and assurances in the market for agents | **Higher** | Lower | | | | | |
| (S2) Improved student experience and educational outcomes, supported by closer alignment between personal goals and studies, and avoided exploitative behaviour | Lower | **Higher** | | Lower | Lower | Lower | Lower |
| (S3) Improved student wellbeing and welfare, from greater trust and safety in the study experience, and improved reputations, without fear of being considered 'not genuine' | Lower | | | Lower | Lower | **Higher** | **Higher** |
| (G1) Public confidence and trust in government and the regulator, and specifically Australia's international education sector and migration system | Lower | | Lower | **Higher** | Lower | **Higher** | Lower |
| (G2) Supporting diplomatic relationships and global authority with a strengthened 'Brand Australia' | Lower | Lower | | Lower | Lower | Lower | Lower |
| (G3) Reduced regulator workload and burden in monitoring and policing lower quality providers and non-genuine students | Lower | Lower | | Lower | **Higher** | **Higher** | Lower |
| (I1) Greater access to, confidence in, higher quantity and quality of and improved skills alignment for skilled graduates | | Lower | | Lower | Lower | Lower | Lower |

Source: Deloitte Access Economics: Note: 'Higher' refers to a higher expected attribution between a legislative change and benefits stream, whereas 'lower' refers to a lower attribution. 'Blank' cells are expected to have minimal or weaker attribution.

### 4.3.5 Sensitivity testing of the temporary pause on CRICOS registration (reform 4)

Recognising both the relatively higher cost estimates and higher levels of uncertainty in implementation for reform 4, sensitivity testing has focused on the key parameters underpinning this reform.

The expected scenario relied on a more conservative and higher cost scenario, whereby the pause in CRICOS registrations is immediately implemented (in year 1) for the full potential duration (for 12 months) and to all new providers and courses (that is, no exemptions).

This means that the cost estimated in this work represents the highest cost estimate, and in practice, costs could be expected to be lower where the Minister for Education varies the implementation of legislative power. In respect of this, this section tests two key parameters that reflect decision-making by the Minister, a third influential parameter, as well as the combined effects of changing all three parameters. These tests are defined as follows:

1. A shorter duration, with a 6 month pause on applications rather than the maximum 12 months.
2. An exemption to 25 per cent of new courses by existing providers, compared to a pause for all new courses by existing providers and all new providers.
3. A smaller share of 5 per cent of students no longer studying in Australia, compared to 10 per cent of students – noting that as these represent new offerings to market, student preferences on average are likely to be more flexible and not course or provider specific.
4. A combined scenario, whereby all three of these tests are jointly applied.

The headline cost of reform 4 is $30.2 million, representing a conservative, high-cost scenario. **The sensitivity test shows that costs could be $6.6 million to $24.3 million lower** (Table 10). Notably, the results are highly sensitive to the assumed length of a pause in CRICOS applications and the assumed share of students who would no longer study in Australia due to losing access to their preferred course.

The implication of changing the defined scenario for this reform would be substantial to the overall results across all seven legislative changes, holding all else constant. Notably, **the breakeven value would shift from $7.2 million net cost in the central case to $17.0 million net benefit** when applying all three sensitivities (fourth scenario).

This sensitivity testing provides policy makers with greater confidence that the benefits of the legislative changes are likely to exceed the costs. This is particularly likely in the event that the Minister applies discretion to an instrument so that it may be in place for less than 12 months and include some exemptions for new courses.



**Table 10: Sensitivity testing of the temporary pause in CRICOS registrations**

| | Cost $m | Deviation from central case $m | Breakeven value $m |
|---|---|---|---|
| **Central case** | 30.2 | NA | +7.2 |
| 1: Length of pause is 6 months | 15.1 | +15.1 | -7.9 |
| 2:25% of new courses by existing providers are exempt | 23.6 | +6.6 | +0.6 |
| 3: 5% of students no longer study in Australia | 15.1 | +15.1 | -7.9 |
| **4: All of the above** | 5.9 | +24.3 | -17.0 |

Source: Deloitte Access Economics. Note: A negative breakeven value is interpreted as quantified benefits greater than costs, and any unquantified benefits are above and beyond what is required for positive net benefits.

# 5. Who did you consult and how did you incorporate their feedback?

## 5.1 Purpose

The purpose of consultation is to identify issues impacting the international education sector and ensure that the sector has opportunity to comment on any proposed changes. This includes seeking stakeholder feedback to further develop the Government's understanding of any significant impacts the proposed options under Question 3 will have on their operations and on the overseas student experience.

## 5.2 Stakeholder feedback

### Option 1: Status Quo

Stakeholder and industry consultation is conducted regularly through a range of stakeholder roundtables, forums, and meetings. For example, the department holds regular formal consultations with sector peak bodies through quarterly meetings of the International Education Stakeholder Forum (IESF) and meets quarterly with state and territory education representatives and study clusters through the Commonwealth, State and Territory International Education Forum (CST). These forums provide an opportunity to engage with the sector and state and territory counterparts on the status quo functioning of the ESOS Framework, what is working well, potential areas for improvement and new issues arising in the sector.

The department also meets regularly with relevant Government agencies and peak bodies. In these forums, the department actively seeks views of the international education sector, including where regulatory gaps or integrity concerns exist that need to be addressed. For example, stakeholder feedback was important for informing the department's identification and subsequent closing of the concurrent study loophole, which was facilitating non-genuine onshore transfers by overseas students (see section 1.2.3).

Evidence presented to the JSCFADT Inquiry was also considered in assessing the options in this IA. The JSCFADT Inquiry was informed by at least 85 submissions from the international education sector, the public and experts in the field of international education that primarily focused on the international education component of the JSCFADT Inquiry, and 20 public hearings held across the country.

Witnesses to the Inquiry expressed views that the seriousness of the integrity concerns and the reputational impact of these issues on quality providers meant that Government action was required. For example, the peak body for the higher education sector, Universities Australia (UA),

noted that unscrupulous actors were paying no attention to the current regulatory framework and 'getting away with murder'. Better enforcement of the current rules was needed.[45]

ISANA, the association of Australian and New Zealand international education professionals, noted the main issues that concerned ISANA members were in relation to the effectiveness of regulation. There were a number of loopholes being exploited, including course hopping, students enrolling in lower AQF courses without any implications for their student visas, and concurrent enrolment.[46] Academia International described the regulatory model as 'not fit for purpose, and never was when it comes to quality'.[47]

An earlier parliamentary inquiry was undertaken by the Joint Standing Committee on Migration in 2019 into the efficacy of current regulation of Australian migration and education agents.[48] Submitters to the inquiry generally held the view that overseas students were vulnerable, open to exploitation by unscrupulous education agents, and a lack of regulation enabled them to operate without any consequences for their actions.[49] During the course of this inquiry the Committee received representations from a number of overseas students with evidence alleging that education agents were operating in an unlawful and unethical manner.

## Option 2: Non-regulatory option

A non-regulatory, educative option focussed on communications as outlined in Option 2, is not generally supported by stakeholders, given the ongoing presence of bad actors in the international education sector. The broad view was that good actors would continue to act with integrity, while bad actors, be they education agents, providers or students, would have no real incentive to change their behaviour.

For example, UA noted the problem faced by the sector regarding the behaviour of education agents was that the good agents join good quality organisations and were already good at self-regulation. The bad agents were a problem, but difficult to identify and root out. UA suggested the solution was not just about one or two fixes for a particular bad set of agents, but needed a whole-of-sector response, involving the Department of Education, the Department of Home Affairs and providers.[50]

Likewise, the International Education Association of Australia (IEAA) noted to the Inquiry that industry self-regulation had been tried previously and been unsuccessful, as agreement could not be reached among the peak bodies involved in deliberations on what could be done.[51]

ISANA raised concerns that, while there was a framework in place that should be sufficient to monitor and manage education agent practices, education providers were not using the resources

[45] Ms Catriona Jackson, Chief Executive Officer, Universities Australia, *Committee Hansard,* Canberra, 15 May 2023, p.12.
[46] Ms Sharon Cook, National President, ISANA International Education Association, *Committee Hansard*, Canberra, 15 May 2023, p.11.
[47] Mr Menelaos Koumides, Managing Director, Academia International, *Committee Hansard*, Canberra, 16 May 2023, p.6.
[48] Joint Standing Committee on Migration, *Efficacy of current regulation of Australian migration agents* tabled 21 February 2019.
[49] Joint Standing Committee on Migration, *Efficacy of current regulation of Australian migration agents* tabled 21 February 2019.
[50] Ms Catriona Jackson, Chief Executive Officer, Universities Australia, *Committee Hansard,* Canberra, 15 May 2023, p.12.
[51] The Hon Phil Honeywood, Chief Executive Officer, International Education Association of Australia, *Committee Hansard,* Canberra, 15 May 2023, p.15.

that had been developed to support best practices across the sector.[52] This feedback suggests that an educative approach may have little impact on behaviours and quality.

## Option 3: Regulatory option

The proposed legislative changes in Option 3 are in close alignment with broader Government reform, including reform of the student visa system and to the VET sector. They have been informed by the large body of stakeholder submissions to the Migration Review totalling 483 submissions, investigations undertaken through the Nixon Review and evidence presented to the JSCFADT Inquiry, relevant submission to the Australian Universities Accord were also considered. This is in addition to targeted consultation undertaken by the department.

Witnesses to public hearings to the JSCDADT Inquiry were broadly supportive of increased integrity and ensuring a quality international education product and experience. For example, ISANA provided feedback that regulatory bodies need to have more ability to monitor and regulate to ensure there is best practice, not just minimum standards. A strong framework that is regulated and monitored effectively would attract high quality students who enrol with high quality education providers.[53]

The Joint Standing Committee on Migration noted that the inquiry received an overwhelming amount of evidence raising concerns about the unethical and unlawful behaviour of education agents. That overseas students were socially, legally and financially vulnerable to exploitation from the actions of unscrupulous education agents. That publishing education agent performance data improves transparency; provides education providers a greater understanding about the work of their agents; and enables overseas students to make informed choices.[54]

The department also gained advice via regular meetings with the international education sector through formal forums such as the Council for International Education (the Council), which was established to set the direction for Australia's role in international education and training. The Council is comprised of six Government Ministers and eleven international education sector experts.

Proposals contained in Option 3 were discussed with the sector through individual meetings between international education sector leaders, providers and departmental senior executives, and dedicated sessions on integrity at conferences such as the 2023 Universities Australia Conference and the 2023 Australian International Education Conference (AIEC), as well as Austrade engagement with a global forum of education agents in late November 2023.

Formal consultations undertaken as part of the development of the Australian Universities Accord and the draft International Education and Skills Strategic Framework have also provided valuable feedback.

A series of dedicated Integrity Stakeholder Meetings, chaired by the department, were specifically established to discuss and gather international education sector feedback on integrity issues and responses, including proposals to change legislation. The meeting attendees include expert members of the Council, education peak bodies, state and territory governments and Federal Government departments.

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[52] Ms Sharon Cook, National President, ISANA International Education Association, *Committee Hansard*, Canberra, 15 May 2023, p.11.
[53] Ms Sharon Cook, National President, ISANA International Education Association, *Committee Hansard*, Canberra, 15 May 2023, pp.11-12.
[54] Joint Standing Committee on Migration *Efficacy of current regulation of Australian migration agents* tabled 21 February 2019.

Six meetings were held to discuss the proposed changes between October 2023 and February 2024, with more planned. The department will continue to engage with the international education sector on proposed reforms and their implementation, including through targeted consultations and other regular international education forums.

The participants of the Integrity Stakeholder Meeting are:

*Peak bodies*

- Australian Government Schools International (AGSI)
- Australian Technology Network (ATN)
- Council for International Students Australia (CISA)
- English Australia
- Group of Eight (Go8)
- International Education Association of Australia (IEAA)
- Independent Higher Education Australia (IHEA)
- Innovative Research Universities (IRU)
- Independent Schools Australia (ISA)
- International Student Education Agents Association (ISEAA)
- Independent Tertiary Education Council Australia (ITECA)
- Regional Universities Network (RUN)
- TAFE Directors Australia (TDA)
- Student Accommodation Council
- Universities Australia (UA)

*Providers (representatives are members of the Council)*

- Academia International Institute
- Haileybury
- The University of Melbourne
- Western Sydney University

*State and territory government agencies*

- ACT Education Directorate
- Department of Education and Training Victoria
- Department of Education International (Education Queensland International)
- Department of Jobs, Tourism, Science and Innovation (Western Australia)
- Department of State Growth (Tasmania)
- Department for Trade and Investment (South Australia)
- International Education and Study Melbourne/Global Victoria
- New South Wales, Department of Education, International
- TAFE Queensland
- Study Adelaide
- Study Canberra
- Study NSW
- Study NT/Department of Industry, Tourism and Trade
- Study Queensland
- Study Perth
- Study Tasmania

The department has also drawn on feedback provided through previous consultation with the international education sector and relevant agencies to identify issues requiring legislative change. The department received extensive feedback from the international education sector regarding several of the proposed reforms as outlined in the ESOS 2022 Review Discussion Paper.[55] The ESOS 2022 Review and the ESOS 2023 Reform explored potential reforms in depth, including to address unscrupulous education agent practices, as well as increasing transparency of data on agent performance and commissions, and issues relating to onshore transfers.

Feedback relating to specific reforms proposed under Option 3 are outlined below.

## Problem 1: Provider and agent collusion

Stakeholders raised concerns that there are multiple 'fit and proper' tests for domestic and international provider registration and these should be aligned where possible. The structure of the proposed amendment under Option 3 for cross-ownership to be a consideration rather than an automatic refusal, aligns with the structure of the 'fit and proper person' tests in both the NVETR Act and TEQSA legislation that do not have any criteria that immediately exclude a potential provider.

Stakeholders at the integrity consultation meetings shared views on the expansion of the 'fit and proper' test, with some expressing that parameters used to define 'cross-ownership' need to be carefully articulated. The independent tertiary education sector suggested that the department consider more nuanced definitions used in other sectors. Some stakeholders expressed that more nuanced definitions of 'partners' and 'trust' would be better to reflect the complexity of these arrangements, however the department considers these would not be suitable noting the scope is limited to relationships between agents and providers only. Any broadening of the language as proposed would risk the unintentional capture of other entities.

Many providers have shareholdings in IDP Australia and do not want this to be caught up in tightened 'fit and proper' requirements. IDP Australia began as a government development and education outreach program and is now an Australian-listed international education services company with global operations. Some Universities still hold a share in IDP Australia holding 0.66 per cent or below each.[56] The department took on this feedback to develop a definition of cross-ownership that considers 'controlling interest'. In the case of IDP Australia, providers do not have a controlling interest with providers holding at most 0.66 per cent of shares each.

Overall, there was in-principle support for a 'fit and proper' test that accounts for cross-ownership with strong agreement among stakeholders that the implementation of this measure needs to be well thought through and communicated, especially the transition period for existing registered providers.

## Problem 2: Transparency of agent performance data

Stakeholders were generally supportive of increased transparency of agent data. Stakeholders raised the idea that good, high performing agents should be 'rewarded' as opposed to identifying those who underperform.

[55] ESOS Review 2022 Discussion Paper https://www.education.gov.au/esos-framework/resources/education-services-overseas-students-esos-review-2022-discussion-paper

[56] IDP Australia Annual Report 2023, investors.idp.com/FormBuilder/_Resource/_module/v1AiEHYL20-_Rje11PzkYA/IDP_Annual_Report_FY23.pdf, p.129.

In evidence to the JSCFADT Inquiry, UA strongly argued for making comparative data on agent performance available in PRISMS.[57] The Independent Tertiary Education Council Australia (ITECA) concluded that it is very important that all providers have access to a suite of information on all education agents.[58]

Stakeholders were invited to submit feedback on what is useful in the current agency dashboard made available to providers on the agents they work with, to contribute to a collaborative design approach to increased transparency.

Overall consultations indicated stakeholder support for **Option 3** to increase access to agent data.

## Problem 3: Agent commissions

The collection and sharing of agent commission information raised concerns from some stakeholders.

Initial feedback on this proposed amendment was collected during the *ESOS Review 2022*, with further detailed conversations occurring with the Stakeholder Integrity group. Concerns raised by respondents include:

- commissions are 'commercial in confidence'.
- a 'price war' could put upwards pressure on prices.
- negative impacts on Australia's competitiveness.
- recruitment incentives go beyond commissions alone therefore commissions are incomplete data.
- treatment of hidden payments such as bonuses.

In providing this feedback, stakeholders were concerned that the proposed reforms would see information on agent commissions made public. The department has considered this feedback and is satisfied that the way in which this information will be shared with providers only should alleviate many of these concerns, noting the information will not be made publicly available. The specifics behind how commissions information will be collected and shared with providers is still being developed, however it is not intended that raw figures will be shared in order to protect individual student privacy.

Stakeholders expressed a range of views on how 'commissions' should be defined in the ESOS Act and what should be included or excluded. The department has taken this feedback into account in considering the drafting of proposed legislative changes and how they would be implemented.

Feedback supporting increased transparency included:

- value in benchmarking purposes.
- helping students to demand a better service and aid student choice.

In the JSCFADT Inquiry, the Migration Institute of Australia noted that if registered migration agents and financial advisers all have to disclose commissions, why should education agents be any different.[59] ITECA proposed an arrangement where not only the fees are disclosed but there's a

[57] Ms Catriona Jackson, Chief Executive Officer, Universities Australia, *Committee Hansard*, Canberra, 15 May 2023, p.12.
[58] Mr Felix Pirie, Deputy Chief Executive, Policy and Research, Independent Tertiary Education Council Australia, *Committee Hansard*, Canberra, 16 May 2023, p.17.
[59] Ms Bronwyn Markey, Senior Professional Services Manager, Migration Institute of Australia, *Committee Hansard,* Canberra, 15 May 2023, p.17.

schedule of other necessary arrangements which are made very clear to both the student and the provider and are readily discoverable by Government, such as health insurance; a copy of the agreement between the student and the agent, whether that be an onshore agent or an offshore agent; and transparency of any third party agreements.[60] ISANA contended that there needs to be greater transparency with education agent practices, including the payment of commissions.[61]

The Group of Eight, representing the top research universities, and the Australian Technology Network, representing six technology universities, told the JSFADT Inquiry that they supported transparency of commissions as a way to deal with unscrupulous agents.

ATN universities also supported this view arguing that the principle of transparency around how much an agent is getting in terms of commission is a good thing and we should adhere to it.[62]

English Australia, the peak body for the ELICOS sector, advised that the transparency of agent commissions data will become an administrative burden for providers, if they were required to record this information for individual students recruited. It noted that the system would need to take into account that bonuses paid to agents are usually paid across a volume of students, for example an agent may receive a bonus if they recruited a certain number of students. The accuracy and reliability of commissions data was called into question, with stakeholders noting that this information could be entered incorrectly and may not capture the information that the department is intending to capture as a measure of integrity.

English Australia proposed that annual reporting of the percentage of revenue spent by the provider on student recruitment may be more effective in understanding which providers have sustainable businesses. It suggested that a single figure be reported annually to the Tuition Protection Service (TPS) as part of other mandatory annual reporting.

In considering this feedback, the department has proposed providers report to the department the total amount of commissions paid to each of their agents, and the number of students recruited by each of their agents over a specific period, for example 12 months. Access to commissions data will be restricted to ESOS agencies and providers only. The data may be further broken down into separate payment types including commissions, bonuses and in-kind. The department determined that this approach would alleviate sector concerns regarding the administrative burden and potential inaccuracy of reporting commissions with each individual CoE. This reporting will give providers an average commission payment for each education agent that would enable them to make an informed decision.

The international education sector collectively agreed that students should be aware if a commission is paid by the provider to the education agent.

## Problem 4: Limited ability to identify, deter and disrupt unscrupulous actors

Stakeholder consultation was not undertaken on the proposed legislative reform measures to address Problem 4. These measures were considered to be highly market sensitive and were not publicly announced to avoid the risk of a situation arising where non-genuine providers sought to circumvent future increased regulatory scrutiny ahead of any changes being introduced. In addition,

[60] Mr Troy Williams, Chief Executive, Independent Tertiary Education Council Australia, *Committee Hansard,* Melbourne, 18 April 2023, p.33.
[61] Ms Sharon Cook, National President, ISANA International Education Association, *Committee Hansard*, Canberra, 15 May 2023, p.11.
[62] Luke Sheehy, Executive Director, ATN Universities, *Committee Hansard,* Melbourne, 18 April 2023, JSCFADT Inquiry.

the department did not want to create a situation or perception of some providers or peak bodies gaining an unfair market advantage from being consulted ahead of the broader sector.

Should Government decide to implement the reform measures under Option 3, a targeted post-decision consultation process will take place after it is announced publicly, but before it is implemented. The department will ensure that post-decision consultation will focus on the implementation of the policy, including timeframes and planned reviews, in accordance with the OIA's *Best Practice Consultation* guidance note (22 May 2023).

These consultations will occur through regular meetings of the Stakeholder Integrity Group and feedback will be sought through other regular consultative mechanisms chaired by the department including IESF and CST. The department will also welcome feedback from the international education sector through meetings with individual stakeholders and invite written feedback through contact points to be provided on communications materials relating to the reforms. This feedback will inform the implementation of the measures and help to identify any gaps or refinements that need to be addressed.

While direct consultation with the sector was not undertaken in advance of a decision, stakeholder views on the public record have been carefully considered in the development of the proposed reforms.

The JSCFADT Inquiry heard evidence from stakeholders in relation to the provision of low-quality courses by some private VET providers. The William Angliss Institute of TAFE observed that a minority of private VET providers offer cheap and lower-quality courses, for which students are not required to attend classes. The William Angliss Institute provided examples of students at private VET institutions having their competencies signed off without proper assessment and students working instead of undertaking training, for example commercial cookery students working at the provider's restaurant.[63]

Similarly, the Australian Academy of Vocational Education and Trades Pty Ltd observed that a small number of private VET providers operate 'ghost schools', in which the hiring premises are usually empty classrooms and automatic passes are widely awarded to students.[64] Echoing these concerns, the Primary Industries Skills Council noted in its submission to the JSCFADT Inquiry that some Certificate III RTOs are supporting a system of non-attendance and fraudulently issuing qualifications. The Primary Industries Skills Council recommended that the Department of Home Affairs and ASQA together comprehensively investigate the delivery arrangements of certain short courses such as Certificate III trade courses.[65]

The department has considered this feedback and assesses that the proposals under Option 3 to require providers to first deliver to domestic students for 24 months and cancel provider registrations where they have not delivered for 12 months would likely go some way to addressing these concerns about 'ghost schools'. Requiring delivery to domestic students would create a significant entry barrier for providers intending to act as 'fronts' for overseas students seeking to work.

ASQA identified the collusive activity between non-genuine providers, unethical education agents and students who seek to enter Australia for paid employment rather than study as a risk to the

[63] Mr Bruce Bradfield, International Marketing Manager, William Angliss Institute of TAFE, *Committee Hansard,* Melbourne, 18 April 2023, pp.46-49.
[64] Mr Menelaos (Mel) Koumides, Managing Director, the Australian Academy of Vocational Education and Trades Pty Ltd, *Committee Hansard,* Canberra, 16 May 2023, p.5.
[65] Primary Industries Skills Council, *Submission 106*, pp.3-6.

quality and international reputation of Australia's VET sector. ASQA noted that it is important to review policy and regulatory settings to ensure controls can be strengthened to detect and treat this risk.[66]

Stakeholder views in response to the legislative changes to the NVETR Act, introduced to Parliament in February 2024, have also been taken into account. The NVETR changes are parallel to the four proposed reforms under Problem 4 and, like the ESOS Act changes, take action to address the issues raised in evidence informing Recommendation 14 of the JSCFADT Inquiry. All RTOs must meet NVETR requirements for registration, irrespective of whether they deliver to domestic or overseas students.

The impetus for the NVETR Act changes was also the Nixon Review which identified the risks posed by RTOs that do not have the genuine purpose of delivering quality training and instead undermine integrity in the VET sector and exploit vulnerable students. The 2018 *All eyes on quality: Review of the National Vocational Education and Training Regulator Act* 2011 (the Braithwaite Review) also highlighted the need to strengthen quality and integrity in VET by placing more rigorous legislative requirements on RTOs at the point of registration and throughout the registration period. The Braithwaite Review recommended strengthening entry to market requirements to ensure RTOs are committed to and capable of providing quality VET. The NVETR reforms implement recommendations from the Braithwaite Review and respond more broadly to the findings in the Nixon Review in relation to non-genuine VET providers.[67]

These changes will apply to VET delivery only, with the proposed ESOS Act changes providing an additional level of scrutiny for providers across the broader international education sector. All providers, including RTOs, seeking to deliver CRICOS courses to overseas students must meet requirements for registration under the ESOS Act.

TAFE Directors Australia (TDA), the peak body for publicly owned VET providers, has expressed strong support for the changes to NVETR Act aimed at enhancing integrity in the VET sector by stepping up compliance and enforcement.[68] ITECA advised putting in place safeguards, such as placing a limit on the amount of time that a pause on new RTOs would be in place and publishing the underpinning reason for making such decisions.[69]

The proposed legislative change to the ESOS Act goes some way to addressing ITECA's concern by limiting the pause of registration of new CRICOS providers and courses to up to 12 months and requiring consultation with the ESOS agencies and the Minister for Skills and Training before the Minister for Education makes that decision.

Integrity risks posed by dormant CRICOS providers using their registration for non-genuine or fraudulent purposes, or those not demonstrating a genuine commitment to training delivery are the same as those as highlighted in the Braithwaite Review for RTOs. For RTOs the NVETR Act changes will be addressed by amendments to enable the automatic lapse of an RTO's registration (Part 1 of the Bill). Specifically, where an RTO has not delivered training and/or assessments for a period of 12 consecutive months its registration will automatically lapse by force of law. A similar approach will help close the loop on other dormant CRICOS providers.

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[66] Australian Skills Quality Authority (ASQA) *Submission 79,* p.5.
[67] National Vocational Education and Training Regulator Amendment (Strengthening Quality and Integrity in Vocational Education and Training No. 1) Bill 2024 – Explanatory Memorandum.
[68] TDA Media Release, 7 February 2024, tda.edu.au/wp-content/uploads/2024/02/TAFEs-welcome-steps-to-enhance-integrity-of-vocational-training_7-Feb-2024.pdf.
[69] ITECA news item, www.iteca.edu.au/news/skills/2024-Qtr1/nvetra.amendments.need.safeguards.aspx.

# 6. What is the best option from those you have considered and how will it be implemented?

## 6.1 What is the best option?

### 6.1.1 The Decision Rule

The decision rule used to assess the three options outlined in Question 3 was to select the option that delivers the greatest net benefit to the international education sector and would best meet the Government's objectives.

Using this decision rule, **Option 3** is the best option as, to the greatest extent, it firmly and directly addresses identified integrity issues raised in the Migration and Nixon Reviews and the JSCFADT Inquiry, and addresses the Government's objectives to strengthen quality and integrity.

### 6.1.2 Assessment of the best option - Option 3

This package of regulatory change would reduce the risk of student exploitation, weed out nongenuine providers and agents from the international education sector and provide the ESOS agencies with flexibility and enhanced regulatory powers to respond to changing conditions and emerging integrity issues. Increased transparency will prevent non-genuine behaviour and support quality providers to deliver education products to overseas students.

Given the clandestine nature of actors deliberately utilising loopholes in the migration and international education frameworks, action is needed to close regulatory gaps and strengthen enforcement. A direct measure that will increase data gathering capability and empower targeted action against identified unscrupulous behaviour through legislative change is the best option.

Other options to improve communication and provider understanding of requirements, rely on sector self-regulation, and to opt into best practice. This option's success heavily relies on the ethical behaviour of all actors in the sector. Those seeking to undermine international education for profit or student exploitation will not 'opt in' and will continue to act unscrupulously and to the detriment of overseas students. The analysis in Question 4, alongside stakeholder views from consultations, written submissions, witness statements and results from criminal investigations documented in recent Government reviews and a parliamentary inquiry, points to **Option 3** as the best option.

As assessed in Question 4, while it is the option with the highest regulatory burden estimates and the total estimated costs exceed the total quantified benefits, there are eight unquantified benefit streams and some of the unquantified benefits could be substantial and larger than the total estimated costs. It is also important to note that costs estimated in this work represent the highest cost estimate, and in practice, costs could be expected to be lower where the Minister for Education varies the implementation of legislative power.



Option 3 is the only option that will fully address each of the four policy issues identified in Question 1. Directly enforceable and clear obligations have the potential for significant positive impacts for student safety, for sector integrity and Australia's global reputation. Clear and specific obligations establish the ground for increased data collection, and a clearer view of the sector and areas of risk.

Robust and fit for purpose frameworks are needed to address emerging integrity and quality issues and challenges. The focus on non-genuine providers will address integrity issues with a modest additional regulatory burden on genuine quality providers.

## Problem 1: Provider and agent collusion

Collusion between agents and providers to facilitate the movement and exploitation of overseas students will be curtailed through amendments to the ESOS Act, which will close avenues for unscrupulous providers and agents to enter the market to act in the interests of profit instead of the best interests of the student. Under the current ESOS Framework, the Government lacks both the ability to gain insight into the depth and breadth of the problem and the ability to effectively act to strengthen integrity. Through better data collection, the Government will have a clearer picture of the scale of collusive practices and can better target compliance activity to prevent exploitation of overseas students.

## Problem 2: Transparency of agent performance data

Quality providers need to be able to make informed choices. Increasing the transparency of the performance of the agents that providers are considering working with will achieve this goal and advance the best interest of overseas students. Legislative amendments are required to increase provider access to agent performance data and strengthen provider reporting obligations for the education agents they work with.

Under Option 3, providers will be able to assess the quality and performance of new agents they engage and to benchmark the performance of the agents they currently use. This data expansion will increase the level of transparency for providers and support them to partner with ethical agents.

## Problem 3: Agent Commissions

Collecting information on commissions will allow the department to understand the scale, and connections to provider behaviour, such as student recruitment, transfers, and attrition rates. The department will have the information required to further inform policy to address any issues identified due to commission related behaviour and support action by the ESOS agencies. Providers will have access to high level data on commission payments to individual education agents based on the number of COEs and be able to identify where their own commissions payments are above the market average.

## Problem 4: Limited ability to identify, deter and disrupt unscrupulous actors

Option 3 will meet the policy objectives by providing ESOS agencies with the necessary flexibility and enhanced regulatory powers to manage the volume of new applications for CRICOS registration, deterring non-genuine providers and students by placing greater scrutiny on new providers and courses entering the market and requiring providers to demonstrate a track record of delivery to domestic students before enrolling overseas students.

### 1. A pause on applications for registration of new providers and of new courses from existing providers for a period of up to 12 months

Pausing the acceptance of applications will allow the ESOS agencies a period of up to 12 months to focus on any integrity issues with current CRICOS registered providers before new providers can enter the international market and recruit overseas students. This measure will ensure high quality provision by restricting the entry of non-genuine providers and courses.

It is expected that high-quality providers will still enter the market, albeit delayed, as they will be assessed by ESOS agencies with a focus on quality. This additional quality assurance will improve choice certainty and educational outcomes for students, as well as trust in the quality of the sector.

### 2. Require providers applying to deliver courses to overseas students to first deliver courses to domestic students for a period of 24 months

This measure will deter and prevent entry of new providers who have not demonstrated genuine commitment to the delivery of courses to domestic students for a period of 24 months. This will enhance Australia's international education reputation and improve the certainty of quality education delivered to students. This will have a flow-on benefit of greater certainty in skills matching between graduates and industry.

Interaction with domestic students is often an important value proposition for overseas students and can be a driver of both quality and student demand, generating returns to students and the sector more widely.

### 3. Automatically cancel the registration of providers who have not delivered training to overseas students for a consecutive 12-month period

This measure will restrict providers with volatile enrolment activities that may rush training activities or present a 'false front' as genuine education providers (this is also intended to prevent inactive companies from 'phoenixing'). Prospective students will be increasingly protected with providers not delivering courses to have their registration cancelled. This measure will support the removal of non-genuine providers from the sector, enhance positive experience and quality of education for overseas students, as well as providing industry certainty regarding graduate skills.

### 4. Strengthen provisions to suspend the enrolment of new overseas students, including automatically where appropriate, by providers under serious regulatory investigation

Prospective students will be increasingly protected with providers under serious regulatory investigation automatically unable to recruit new overseas students. It is expected that students will have higher certainty about the quality of education they will receive as well as increased confidence in the quality and alignment of their skills.

The package of changes under Option 3 will, over time, transform the delivery of courses to overseas students by eliminating non-genuine providers and demonstrate providers' ability to effectively deliver courses to domestic students before expanding into overseas student delivery.

These changes will complement amendments to VET legislation announced by the Minister for Skills and Training that address integrity issues specific to the VET sector, extending some of these requirements to the broader international education sector. Together with reforms underway to the student visa program, this option will also support the sustainability of the international education sector and provide relief to broader infrastructure pressures with fewer non-genuine students arriving and remaining in Australia and fewer non-genuine providers offering courses.

### 6.1.3 Assessment of alternative options

Assessment in this Impact Analysis confirms that **Option 1** and **Option 2** are insufficient to address the problems and objectives outlined in Questions 1 and 2.

Taking no action, as per **Option 1**, will allow non-genuine provider behaviours to continue with the ESOS agencies unable to effectively address integrity issues. This option will not achieve the policy objectives to improve the quality and integrity of the international education sector and protect overseas students from exploitation by unscrupulous actors. Avenues enabling the exploitation of overseas students will remain open. Organised transnational criminal networks will continue to benefit from current gaps and vulnerabilities to misuse the migration and international education systems.

Issues such as cross-ownership between providers and agents to facilitate exploitation and lack of information about agent commissions will mean that agents can continue to collude with and influence providers and exploit students to gain commission profits through encouraging the transfer of students onshore. This would result in students being placed in inappropriate courses or in potentially exploitative situations. This will impact on the interests of the student and genuine providers as it will negatively affect course completion rates across the international education sector. A continued lack of transparency of agent performance and commissions will also prevent providers from evaluating the quality of new agents they engage. Agents can continue to exploit this information gap to mislead providers and ramp up commission fees.

Option 1 will also not provide complementary support for the measures taken by the Department of Home Affairs to improve the integrity of the student visa program and measures taken by the Department of Employment and Workplace Relations to lift registration requirements for VET providers. For example, changes in the student visa program will be less effective if unscrupulous providers are able to continue colluding with education agents to traffic overseas students.

The Government has made public commitments to addressing these issues and would be subject to embarrassment and criticism if no equivalent action was taken in the Education portfolio.

**Option 2** takes some steps towards uplifting the capability of education providers to appropriately manage their agents. This option will assist providers who want to do the right thing but lack capabilities, skills, or money to develop their own appropriate processes and resources. This will achieve the policy objective to improve the quality and integrity of the sector to some extent. However, this option will not deliver the policy objective to protect overseas students from exploitation by unscrupulous actors. Providers and agents deliberately acting to exploit students might become aware of increased scrutiny but will be unlikely to change their actions.

While Option 2 takes an educational and risk management approach to raise and enhance providers' awareness of responsibilities, it is dependent on buy-in from providers. There are strong financial incentives to providers for not doing the right thing even if they are fully aware of their responsibilities. The integrity issues identified by the Nixon Review and JSCFADT Inquiry were driven and facilitated by the unscrupulous behaviour of education providers and the agents they engage.

Option 2 will not provide complementary support for separate measures taken by the Department of Home Affairs to improve the integrity of the student visa program and measures taken by the Department of Employment and Workplace Relations to lift registration requirements for domestic VET providers.



# 6.2 Implementation

Legislative changes to the ESOS Act, through the *Education Services for Overseas Students Amendment (Integrity Measures) Bill 2024* (Bill), will be required to implement the measures under Option 3 to set out legislated requirements for education providers. Subject to passage in Parliament, the Bill is expected to commence on 1 July 2024.

The post announcement period will be bracketed by communication from the department and ESOS agencies that are publicly accessible to students, providers and agents, with a supply of material to peak bodies for dissemination to their members to ensure the settled details of the legislation is widely understood by sector stakeholders.

## 6.2.1 Implementation of data requirements

Systems change will be implemented to allow for agency dashboard expansion as soon as practicable after legislation is in place.

The department will engage with providers on these changes to ensure that the method of entering data required by providers is simple, straightforward and minimises the burden of reporting requirements, whilst capturing essential data.

Providers will need to change their practices to engage with the agency dashboard, to view agent data and take this into account when recruiting new agents.

A proposed guidance-note and step-by-step process will be posted in the PRISMS environment that providers and users can draw on to guide and inform how they enter and can use the data.

## 6.2.2 Implementation communication

The international education sector has been consulted in the development of these proposals, and the sector and general public are aware of the reviews and Government responses that have informed and driven these changes with many contributing to these reviews. Implementation will build on this work, particularly through the continuation of the Integrity Stakeholders Meetings.

Following the Government's announcement of the legislative changes and the introduction of the Bill, a communication plan will be implemented, and outreach undertaken to ensure the sector and the public will have access to plain language information and guidance. The department will continue targeted sector consultation and information sessions and roundtables to inform understanding of the changes.

This will comprise of:

- ongoing utilisation of the consultation mechanisms established with sector stakeholders.
- department participation in relevant sector-led and peak body conferences and workshops across Australia as an opportunity to set out implementation and field questions from the sector.
- briefing notes distributed to the education offshore network to inform their engagement with offshore stakeholders including education agents, sector representatives and prospective students.

- dedicated fact sheets and guidance notes that address different parts of the sector including students, education providers and other stakeholders will be published on the departmental website.

The department will work closely with other ESOS agencies to inform their individual communication to the sectors that they are responsible for:

- TEQSA communication to the Higher Education Sector and relevant ELICOS.
- ASQA communication to the VET Sector and relevant ELICOS.
- the department for the Schools sector.

Guidance materials and links will also be provided to the Department of Home Affairs Student Visa area, and relevant areas in the Department of Employment and Workplace Relations.

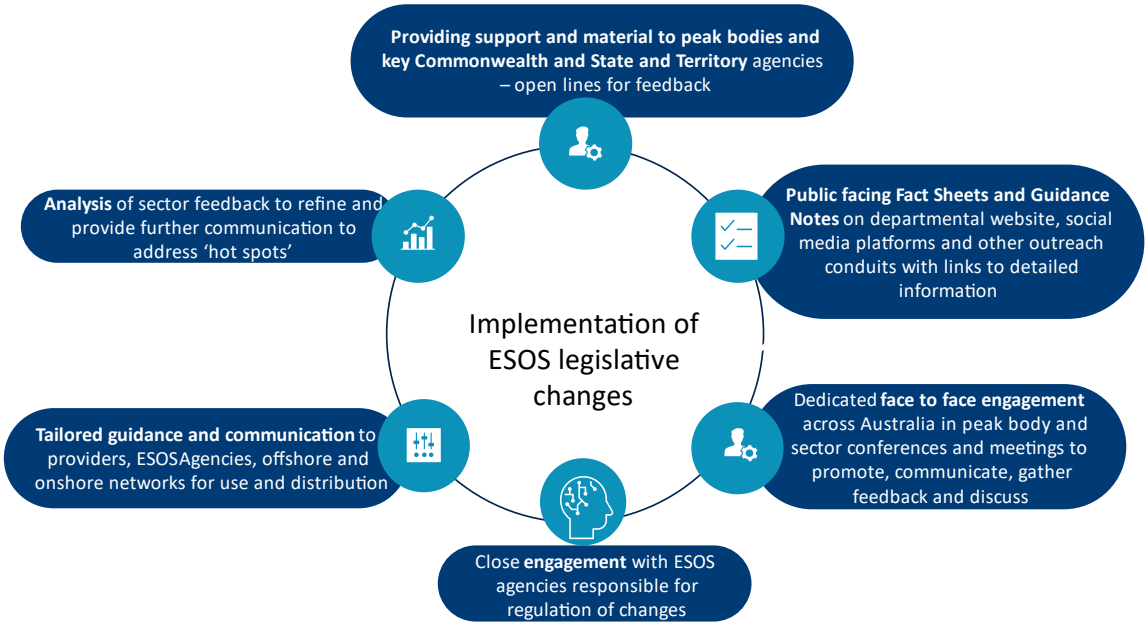



**Figure 2: Implementation Matrix**

## 6.2.3 Decision points after implementation

Once legislative changes have been made, the Minister for Education will have the power to trigger a pause on the applications for registration of new providers and of new courses from existing providers for a period of up to 12 months. Should the Minister choose to make the legislative instrument to enact a pause, the Minister will have the discretion to consider the appropriate length of the measure for a period of up to 12 months and whether any providers or courses should be exempt. To make this decision, the Minister would be provided with advice by the department and consult with ESOS agencies and the Minister for Skills and Training.

## 6.2.4 Implementation risks and mitigations

Implementing **Option 3** will require legislative and systems changes, which can be subject to parliamentary timeframes. Should Government legislative priorities change, the legislative package may not be introduced and in place for implementation by mid-2024.

To mitigate this risk, the time between the final decision point and implementation of legislation and systems changes will be used to consult the international education sector on the details of proposed reforms, continue to gather feedback, and allow ESOS agencies to prepare and train staff to enable systems changes to be tailored for maximum effectiveness. If introduction of the legislation is delayed, the department will work with the Minister and drafters to see the legislation tabled as soon as practicable for implementation ahead of Semester One 2025.

It will need international education sector buy-in to use the new agent data available to them.

Systems changes will be required to PRISMS to expand access to the agency dashboard. Providers will need to change their practices to engage with the agency dashboard, to view agent data and take this into account when recruiting new agents.

A new reporting field will also be developed in PRISMS for commission information. This will be an additional field that providers are required to complete on a regular basis for a specific period, for example 12 months. The department will require the provider to report the number of students, and the total amount paid to each individual education agent or agency they have accepted students from over the specified period. The payment information may be broken down into payment types. The figure paid to each education agent could then be averaged over the number of students that education agent recruited for the provider.

Providers will be required to declare any relationships they have with agents to the ESOS agency at the time of registration or re-registration. The ESOS agencies will need to build their capability to verify provider claims and investigate suspected undeclared relationships. As providers are required to continue to meet the 'fit and proper' provider requirements throughout their registration, the ESOS agencies will need to monitor their ongoing compliance. They will need to create new forms and processes to verify provider 'fit and proper' requirements.

To be effective, amendments should also be made to the legislative instruments, including the ESOS Regulations which detail the collection of data. If timing does not allow these amendments to be made, implementation could be delayed. This will be taken under consideration and work will be done to ensure changes are aligned.

Transitional arrangements will be put in place. The department will engage the international education sector through forums, the peak bodies and written information via the departmental and PRISMS websites to inform stakeholders of the new requirements. The ESOS agencies will also engage education providers. The Minister for Education may engage directly with the international education sector and through the media. Upon the passage of legislation, there will be a period before the proposed commencement of 1 July 2024, to allow the international education sector to understand the new legislative requirements and to implement systems changes if required.

To ensure effective implementation, the department will work closely with key stakeholders, including other ESOS agencies, the international education sector and relevant Government agencies, to consult on the amendments and their implementation. Upon passage of legislation providers and peak bodies will be informed of the new requirements.

## 6.3 Impact Analysis status at each major decision point

This IA has been developed in close consultation with the OIA and in line with the relevant requirements.

A draft of an earlier version of this IA was provided to the OIA for assessment as part of the policy proposal development process, as well as to Government to inform an interim decision on the proposals under Option 3. Since then, the department has undertaken extensive analysis and further consultation with the OIA and stakeholders to inform the development of this IA for the Second Pass Final Assessment. This version of the IA was also provided to the Minister for Education as part of the final briefing process seeking agreement for the *Education Services for Overseas Students Amendment (Integrity Measures) Bill 2024* to be introduced in Parliament.

# 7. How will you evaluate your chosen option against the success metrics?

The department will monitor and evaluate the implementation of the measures to ensure it aligns with the objectives and success metrics outlined in Question 2 and gauge its effectiveness. This evaluation will form a part of the department's ongoing commitment to strengthen integrity and quality in the international education sector and will be supported by other significant integrity reform to build data and regulatory capacity for the department and ESOS agencies.

Feedback gathered through post announcement legislative changes will be drawn from ongoing consultation with relevant sector stakeholders and a communications plan which includes fact sheets and guidance notes (as set out in detail Question 6). Additional monitoring will be via feedback gathered through a departmental contact email that can be accessed by students, providers, and other interested parties to raise and seek response to issues arising from the changes. These responses will be monitored and collated as a business-as-usual practice and inform evaluation of the implementation process.

A related non-regulatory measure, the development of whole-of-system risk indicators, will inform a risk-based approach to support ESOS agencies access faster, more nuanced data to inform targeted regulatory action, including the regulatory action that may flow out from the legislative changes detailed in this IA. The whole-of-system approach to risk will result in a better and more nuanced picture of risk behaviour in the sector. As an adjunct to the primary focus of whole-of-system risk mapping, it can be utilised to inform the impact the legislative changes have on the sector's integrity over time. This work complements a significant uplift in analytical capabilities of ASQA combined with an increased compliance function in the Department of Home Affairs and OMARA, which will play a critical role in identifying and driving targeted ESOS agency action and will support the successful implementation, and inform evaluation, of the ESOS Act changes.

Evaluation of the measures will also be assessed as part of a proposed independent Evaluation Plan to measure reform impact at a projected timeframe of six months, one year and two-years.

The Evaluation Plan will include:

- data analysis tracking student enrolments and completion rates.
- education agent performance data.
- regulatory actions/assessments and outcomes.
- stakeholder feedback.

As outlined in in Question 2, the above are performance metrics that can be used to measure trends in the quality and integrity of the sector. Increased student completion rates indicate that overseas student recruitment is more targeted and effective, and students are being better matched to courses by agents and providers. Agent performance data includes metrics such as the proportion of students recruited by the agent who did not receive a visa, and the rate of course incompletion, including whether the student commenced in the course. Improvement in these rates would



indicate increased quality of agent performance and that agents are recruiting genuine students who are better matched to courses and providers.

Regulatory actions, assessments and outcomes by ESOS agencies are direct indicators of integrity in the sector, as they track compliance with the ESOS Act by providers. Stakeholder feedback is a more qualitative measure and important for understanding the effect of changes, any issues with implementation and whether new issues are emerging. Providers, agents, peak bodies and overseas students all have valuable and varied insights to offer on the functioning of the sector in evaluating the reform measures.

The Evaluation Plan will also consider information from the Commonwealth Ombudsman, international education peak bodies and the Quality Indicators for Learning and Teaching (QILT) Student Experience Survey and Graduate Outcomes Survey.

Success will be measured through the increase in sector integrity over time – this success will be in concert with the impact of other reforms announced in the Migration Strategy and broader implementation of the Nixon Review. Table 11 shows a number of success metrics against Government's objectives.

**Table 11: Success metrics against Government objectives**

| Government objectives | Success metrics against objectives include assessment of: |
|---|---|
| 1. Increase the quality of providers entering and operating in Australia's international education sector. | • Improved visibility of the number of unscrupulous providers and agents identified and penalised and the shift in numbers over time.<br>• Improved visibility of the number of poor performing providers and agents leaving the sector and the shift in numbers over time.<br>• Analysis of type and reduction of complaints from students about provider conduct (to the department, to TEQSA, to ASQA and the Commonwealth Ombudsman).<br>• Number of students who graduate and are able to take up skilled work in Australia (given a decrease in low quality courses and increase in quality of education providers available yielding better outcomes for students).<br>• Analysis of PRISMS data on good outcomes and performance of students, agents and providers.<br>• Collection of positive feedback from sector stakeholders.<br>• Decrease in the number of persons attempting to enter Australia under a student visa for purposes other than study (the conduits available to those persons being disrupted through closing down providers and agents facilitating their movement). |
| 2. Reduce the presence of criminal activity and networks operating in the sector | • Improved visibility of the number of unscrupulous providers and agents identified and penalised and the shift in numbers over time.<br>• Collection of positive feedback from sector stakeholders.<br>• Decrease in the number of persons attempting to enter Australia under a student visa for purposes other |

| Government objectives | Success metrics against objectives include assessment of: |
|---|---|
| | than study (the conduits available to those persons being disrupted through closing down providers and agents facilitating their movement). |
| 3. Reduce the ability of providers and agents to engage in collusive practices to exploit overseas students. | • Improved visibility of the number of unscrupulous providers and agents identified and penalised and the shift in numbers over time.<br>• Analysis of PRISMS data on good outcomes and performance of students, agents and providers.<br>• Collection of positive feedback from sector stakeholders.<br>• Decrease in the number of persons attempting to enter Australia under a student visa for purposes other than study (the conduits available to those persons being disrupted through closing down providers and agents facilitating their movement). |
| 4. Increase ability to identify and act on unscrupulous behaviour in the sector. | • Decrease in data gaps.<br>• Improved visibility of the number of unscrupulous providers and agents identified and penalised and the shift in numbers over time.<br>• Analysis of PRISMS data on good outcomes and performance of students, agents and providers.<br>• Collection of positive feedback from sector stakeholders.<br>• Decrease in the number of persons attempting to enter Australia under a student visa for purposes other than study (the conduits available to those persons being disrupted through closing down providers and agents facilitating their movement). |
| 5. Increase data on provider and agent interactions that leads to unscrupulous behaviour. | • Decrease in data gaps.<br>• Improved visibility of the number of unscrupulous providers and agents identified and penalised and the shift in numbers over time.<br>• Analysis of PRISMS data on good outcomes and performance of students, agents and providers.<br>• Collection of positive feedback from sector stakeholders. |
| 6. Ensure overseas students have a positive experience of studying in Australia. | • Improved visibility of the number of unscrupulous providers and agents identified and penalised and the shift in numbers over time.<br>• Improved visibility of the number of poor performing providers and agents leaving the sector and the shift in numbers over time.<br>• Analysis of type and reduction of complaints from students about provider conduct (to the department, to TEQSA, to ASQA and the Commonwealth Ombudsman).<br>• Analysis of overseas student satisfaction metrics through the QILT survey.<br>• Number of students who graduate and are able take up skilled work in Australia (given a decrease in low |

| Government objectives | Success metrics against objectives include assessment of: |
|---|---|
| | quality courses and increase in quality of education providers available yielding better outcomes for students).<br>• Analysis of PRISMS data on good outcomes and performance of students, agents and providers.<br>• Collection of positive feedback from sector stakeholders.<br>• Decrease in the number of persons attempting to enter Australia under a student visa for purposes other than study (the conduits available to those persons being disrupted through closing down providers and agents facilitating their movement). |

Data on provider and student trends, such as enrolments and commencements, will be sourced from PRISMS and student visa data from the Department of Home Affairs. Where appropriate, analysis of trends will be shared with the sector to inform discussions on how reform measures are working and whether gaps remain. The number of ESOS agency investigations and breaches of the ESOS Act, as well as student complaints to ESOS agencies and the Office of the Commonwealth Ombudsman will be tracked for trends and emerging issues. Results from the QILT Graduate Outcomes and Student Experience surveys will be analysed for improvements in outcomes and experience of overseas students. The results of these surveys are publicly available and will inform discussions with the sector.

The department will continue to actively seek input from sector stakeholders, international education peak bodies, the Council of International Students Australia (CISA) and liaison with and feedback from outposted Department of Education counsellors in the region and globally and feedback from the ESOS agencies to ensure diverse perspectives on the implementation and impact of the measures are gathered, analysed and considered.

## 7.1 Problem 1: Provider and agent collusion

The department expects to see an increase in the identification of behaviours that have previously gone undetected and a subsequent uptick in regulatory action, and over time a decrease in the instances of overseas student exploitation as identified by the Nixon Review. This will be supported by data and reporting from Operation Inglenook, which will continue until 2026.

This measure, along with those to address Problems 2 and 3, will afford an expansion of data collection and data availability to the department and ESOS agencies, and a reduction in data gaps that have hampered efforts to detect and deter unscrupulous behaviours.

It is difficult to estimate the change in the number of cross-ownership arrangements as this data is not currently collected. With less cross-ownership the risk of education agents unduly influencing provider delivery will be mitigated, and it will be more challenging for providers and agents to collude, especially in operation of chain or network arrangements to traffic students. Undisclosed cross-ownership, if discovered, would be an immediate red-flag for the ESOS agencies to investigate any further wrongdoing under the ESOS Act and refer to the appropriate authorities if criminal activity is suspected.

The ESOS agencies will share insights on how they are managing the cross-ownership requirements, through appropriate inter-departmental forums to ensure consistency across sectors. ESOS agencies may adapt their approach based on this information sharing.



## 7.2 Problem 2: Transparency of agent performance

Data analytics will be run on a regular basis in PRISMS to determine uptake of the new agent data. This will clearly show the percentage of providers who engage with the new agent data. A success metric for this will see 20 per cent or more of providers interacting with this information in the first 12 months of implementing the changes.

Qualitative provider feedback on how they use the expanded agency dashboard will also be collected, including through ongoing formal consultations with the international education sector. Iterative changes based on continuing assessment and evaluation of provider feedback will be considered for IT implementation to refine the information in a way which is most useful to providers when deciding whether they should engage a new agent.

## 7.3 Problem 3: Agent commissions

Data analytics will be run on a regular basis in PRISMS to determine provider use of the new agent data. These analytics will clearly show the percentage of providers who engage with the new agent data.

A success metric for this will see 20 per cent or more of providers interacting with this information in the first 12 months of implementing the changes. Data reports and analytics will be run on the agent commission data to understand compliance. This information can be used by the ESOS agencies for compliance monitoring and investigation.

Red flags may include:

- providers reporting no commission paid against a significantly high number of CoEs, when compared to all providers in the same sector.
- lower than expected commissions (e.g. under $100).
- unusual patterns in commission payment data.

This information can be used by the ESOS agencies for compliance monitoring and investigation.

Continuing provider feedback will also feed into the mechanics of how providers record new data required by the changes to ensure that requirements are not overly burdensome and useful information is captured. Input fields are intended to be adaptable, within the parameters of the information prescribed by the ESOS Regulations.

## 7.4 Problem 4: Limited ability to identify, deter and disrupt unscrupulous actors

Success of Option 3 will see an increase in the quality of providers and a decrease in the activity of non-genuine providers and students operating in the market. It will be measured through quantitative feedback on the number of registration applications from new providers and of new courses over a period of up to 24 months that result in successful registrations.

The number of existing providers who have their registration cancelled due to not delivering training to overseas students, or suspended, due to serious regulatory investigation, will be tracked and trends will be monitored and assessed.

Qualitative feedback on increased flexibility of options for ESOS agencies in the assessment process and compliance activities will be sought from ESOS agencies and international education sector stakeholders.

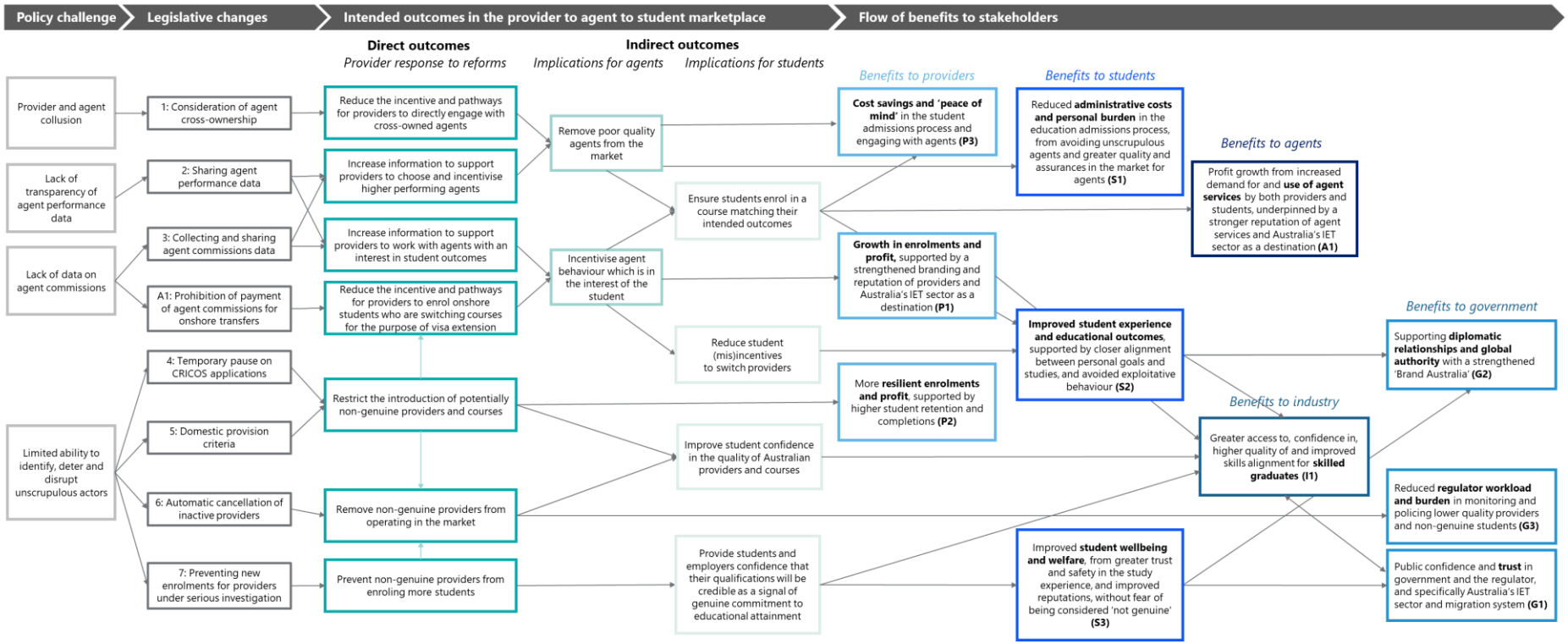


# Appendices

## Appendix A

**Figure A1: Theory of change**

**Theory of Change:** *Identifying the logic from each legislative reform to influencing stakeholders and supporting benefits*




Source: Deloitte Access Economics.

Note: 'IET' in this figure stands for 'international education and training'—this is collectively referred to in the IA as international education.

**Table A2: Intervention logic of the seven legislative reforms**

| Reform | Intervention logic |
|---|---|
| **1: Consideration of agent cross-ownership** | • The reform will give ESOS Agencies instruction to examine agent ownership structures, improving the government's oversight of agent cross-ownership structures and monitoring potential provider-agent collusion.<br>• The reform will improve transparency of agent ownership structures, decreasing the ability of agents and providers to collude and improving the trust, integrity and reputation of the sector. This will enable students to have more certainty about the quality of agents and providers they are engaging. |
| **2: Sharing agent performance data** | • This reform establishes the basis for sharing performance data with providers. This will enhance the visibility of agents' performance, which will facilitate better informed decision-making for providers.<br>• It is expected to improve the quality of agents in the market and enhance agent-provider matchmaking. This will improve the certainty of students and providers alike and ensure that agents act in the best interests of students and perform ethically, enhancing student certainty and experience. |
| **3: Collecting and sharing agent commission data** | • Currently the government does not collect information on agent commissions or the nature of arrangements. This reform will expand provider reporting requirements to include reporting on agent commissions. This will enhance transparency in the sector and increase provider price certainty on agent commissions.<br>• With increased commission price data and transparency, some price convergence is expected as the market adjusts. It will lower providers' uncertainty of commissions paid to agents and inform better decision-making and possible cost savings. Moreover, higher commission transparency will support more competition for high quality services. |
| **4: Temporary pause on CRICOS applications** | • This reform seeks to moderate growth in the sector and give ESOS Agencies more time to assess the backlog of applications. The reform will restrict the introduction of potentially non-genuine providers and courses, ensuring high quality provision.<br>• It is expected that higher quality providers will enter the market, albeit delayed, as they have been vetted more rigorously. This additional quality assurance will improve choice certainty and educational outcomes for students, as well as trust in the quality of the sector overall. |
| **5: Domestic provision criteria** | • This reform would prevent entry of providers who have not demonstrated genuine educational outcomes for domestic students for 24 months.<br>• It is expected to deter and prevent entry of new providers who do not intend to deliver genuine educational outcomes. This will enhance the reputation of international education in Australia and improve the certainty of quality education delivered to students. This will have a flow-on-benefit of greater certainty of skills matching between graduates and industry in-demand skills.<br>• Interaction with local domestic students is often an important value proposition for overseas students, and can be a driver of both quality and student demand, generating returns to students and the sector more widely. However, the attribution and quantification of this return is likely to be challenging. |
| **6: Automatic cancellation of inactive providers** | • This reform will restrict providers with volatile enrolment activity that may be rushing training activities or presenting a 'false front' as a genuine educational provider (this is also intended to prevent inactive companies from 'phoenixing'). These providers, either with or without agent collusion, offer lower-quality education outcomes and possible non-genuine students' access |

| | |
|---|---|
| | to irregular migration. This impacts the quality and reputation of the sector and decreases industry certainty of graduates' skills.<br>• The reform will support removing non-genuine providers from the sector, increasing the experience and quality of education for students, as well as industry certainty regarding graduates' skills. |
| **7: Preventing new enrolments for providers under serious investigation** | • Preventing new students from enrolling to study at providers under serious investigation will protect genuine students from unknowingly enrolling with a provider at risk of poor quality and limit the options for non-genuine students seeking to enrol for non-educational reasons.<br>• It is expected that students will have higher certainty about the quality of education they will receive as well as increase confidence in the quality and alignment of skilled graduates. Removing unscrupulous actors from the sector will also improve the trust and brand of the sector. |

Source: Deloitte Access Economics

# Appendix B

**Table B1: Benefits framework**

| Stakeholder | Benefits |
|---|---|
| **Providers** | • (P1) **Growth in enrolments and profit,** supported by a strengthened branding and reputation of providers and Australia's international education sector as a destination<br>• (P2) More **resilient enrolments and profit**, supported by higher quality students with greater retention and completions<br>• (P3) **Cost savings and 'peace of mind'** in the student admissions process and engaging with agents |
| **Agents** | • (A1) Profit growth from increased demand for and **use of agent services** by both providers and students, underpinned by a stronger reputation of agent services and Australia's international education sector as a destination |
| **Overseas students** | • (S1) Reduced **administrative costs and personal burden** in the education admissions process, from avoiding unscrupulous agents and greater quality and assurances in the market for agents<br>• (S2) Improved **student experience and educational outcomes**, supported by closer alignment between personal goals and studies, and avoided exploitative behaviour<br>• (S3) Improved **student wellbeing and welfare**, from greater trust and safety in the study experience, and improved reputations, without fear of being considered 'not genuine' |
| **Government** | • (G1) Public confidence and **trust** in government and the regulator, and specifically Australia's international education sector and migration system<br>• (G2) Supporting **diplomatic relationships and global authority** with a strengthened 'Brand Australia'<br>• (G3) Reduced **regulator workload and burden** in monitoring and policing lower quality providers and non-genuine students |
| **Industry** | • (I1) Greater access to, confidence in, higher quantity and quality of and improved skills alignment for **skilled graduates** |

Source: Deloitte Access Economic. Note: P = benefits to providers, A = benefits to agents, S = benefits to overseas students, G = benefits to Government, and I = benefits to industry.

**Table B2: Attribution between benefits and each legislative reform**

| Benefit stream | Reform 1 | Reform 2 | Reform 3 | Reform 4 | Reform 5 | Reform 6 | Reform 7 |
|---|---|---|---|---|---|---|---|
| (P1) Growth in enrolments and profit, supported by a strengthened branding and reputation of providers and Australia's international education sector as a destination | *Indirect attribution across reforms* | | | | | | |
| (P2) More resilient enrolments and profit, supported by higher quality students with greater retention and completions | *Indirect attribution across reforms* | | | | | | |
| (P3) Cost savings and 'peace of mind' in the student admissions process and engaging with agents | | ✓ | ✓ | | | | |
| (A1) Profit growth from increased demand for and use of agent services by both providers and students, underpinned by a stronger reputation of agent services and Australia's international education sector as a destination | ✓ | ✓ | | | | | |
| (S1) Reduced administrative costs and personal burden in the education admissions process, from avoiding unscrupulous agents and greater quality and assurances in the market for agents | ✓ | ✓ | | | | | |
| (S2) Improved student experience and educational outcomes, supported by closer alignment between personal goals and studies, and avoided exploitative behaviour | *Indirect attribution across reforms* | | | | | | |
| (S3) Improved student wellbeing and welfare, from greater trust and safety in the study experience, and improved reputations, without fear of being considered 'not genuine' | ✓ | | | ✓ | ✓ | ✓ | ✓ |
| (G1) Public confidence and trust in government and the regulator, and specifically Australia's international education sector and migration system | *Indirect attribution across reforms* | | | | | | |
| (G2) Supporting diplomatic relationships and global authority with a strengthened 'Brand Australia' | *Indirect attribution across reforms* | | | | | | |
| (G3) Reduced regulator workload and burden in monitoring and policing lower quality providers and non-genuine students | ✓ | ✓ | | ✓ | ✓ | ✓ | ✓ |
| (I1) Greater access to, confidence in, higher quantity and quality of and improved skills alignment for skilled graduates | *Indirect attribution across reforms* | | | | | | |

Source: Deloitte Access Economics

# Appendix C

**Table C1: Costs Framework**

| | 1: Consideration of agent cross-ownership | 2: Sharing agent performance data | 3: Collecting and sharing agent commissions data | 4: Temporary pause on CRICOS applications | 5: Domestic provision clause | 6: Automatic cancellation of inactive providers | 7: Preventing new enrolments for providers under serious regulatory investigation |
|---|---|---|---|---|---|---|---|
| **Providers** | 1a: De-merger costs, including risk of closure<br>1b: Lost efficiency from ceasing integrated services<br>1c: Increased administrative burden | | 3a: Refine internal reporting systems<br>3b: Additional reporting preparation | 4a: Lost profit from delayed entry<br>4b: Lost profit from delayed entry of courses that are responding to growing demand | 5a: Lost profit from delayed entry | 6a: Cost and burden of reapplying to CRICOS | 7a: Lost profit for investigated providers<br>7b: Lost profit from reduction in total students |
| **Agents** | 1d: De-merger costs<br>1e: Lost efficiency from ceasing integrated services<br>1f: Losses of business for cross-owned agents | 2a: Losses to lower performing agents | 3c: Losses for higher commission agents | | | | |
| **Overseas students** | 1g: Increased administrative costs | | | 4c: Lost access to preferred course/provider | 5b: Lost access to the preferred course/provider | | 7c: Lost access to the preferred course/provider |
| **Government** | 1h: Develop extension to 'fit and proper test' for ownership structure<br>1i: Monitoring and enforcement | 2b: Extend reporting system access<br>2c: Data processing, validation and reporting | 3d: Extension to PRISMS platform<br>3e: Data processing, validation and reporting | | 5c: Increased administrative burden on assessing providers | 6b: Increased administration burden on monitoring providers | 7d: Increased administrative burden on monitoring enrolments for providers under serious regulatory investigation |

Source: Deloitte Access Economics

# Appendix D

## Analytical approach

This Appendix outlines the analytical approach used to populate the conceptual cost and benefits framework. Key modelling assumptions used in this work are outlined in Table D1. A standard 7 per cent discount rate and 10-year time frame (commencing in 2025) is used.

**Table D1: Key modelling assumptions**

| Assumption | Notes |
|---|---|
| **All** | |
| **International education sector gross profit-to-revenue rate**<br>26% | • Revenue represents the gross earnings by a business, whereas profits represent the returns to that business (after accounting for business costs in delivering a good or service), and better represent the returns to business owners, in this instance, providers and agents.<br>– If a provider or agent does not incur enrolment activity, then they do not receive the revenue from that activity, however they also do not incur the business costs associated with delivering that activity. The 'cost' to the business is the profits or returns from that activity, calculated as revenue less business costs.<br>– Revenue can often be used in analysis as it is typically more accurately measured, whereas profits tend to be commercial in confidence. Further, when calculating ratios (such as a benefit-cost-ratio), a comparison of revenues may be appropriate. However, this analysis compares a variety of revenue and non-revenue-based costs and relies on breakeven analysis, which is less appropriate for relying on revenue measures.<br>– Further, marginal revenue tends to be constant (e.g. course fees do not differ across similar students), whereas marginal profit can often vary, as marginal costs vary (i.e. the incremental cost of delivering to a student changes). This variation is typically larger for more capital-intensive industries and tends to be less variable for more labour-intensive industries, such as international education.<br>• Whereas accounting profit measures can often account for taxation (a transfer to government), for simplicity, no adjustment for taxation is made.<br>• Revenue is estimated from average fee revenues (as per below) and costs are estimated from a Department of Education study of university student costing ($18,800 average per student, inflated to $22,366 in 2024).[70]<br>• It is noted that while costs and profits for other international education sub-sectors are likely to vary, overall international education is typically a labour-intensive sector with lower returns (relative to more capital-intensive sectors with typically higher returns).<br>– Accordingly, it is reasonable to expect that sub-sectors within international education will have relatively similar rates of return, compared to the average Australian business.[71]<br>– Further, industry-wide estimates of profits and revenues are not suitable, as they can include schooling, early childhood education and adult education, which typically operate with significantly smaller profit-to-revenue ratios. Likewise, estimates for universities (in entirety) are likely to result in smaller profit-to-revenue ratios, as these will capture broader non-teaching activities, such as research and community services, that are expected to have lower profits (if any) and are known to be cross-subsidised by more profitable teaching activities. |

[70] Deloitte Access Economics report prepared for the Department of Education (2022) *Transparency in Higher Education expenditure for publication*.

[71] The exception is for schooling, noting that these represent less than 2% of international education enrolments.

| Assumption | Notes |
|---|---|
| | • The same rates are applied to international education agents, noting that the costs and benefits estimated for agent commissions are magnitudes smaller (to provider revenues) and do not have a material effect on the overall result. |
| **International education sector growth rate**<br>Average 5% year-on-year growth rate for students, providers and agents. | • Assumption-driven, **noting that this primarily informs Option 1 (status quo) and where incremental benefits and costs are derived above this growth rate, the growth rate in and of itself has relatively limited effects on the overall results**. |
| **Students** | |
| **Student preferences**<br>10% of students decide to no longer study in Australia | • Assumption driven.<br>• Noting the drivers of overseas student decision-making, where typically students will choose to study abroad, then choose a destination, then choose a provider, such that it is expected most students will transfer to an alternative Australian provider. |
| **Value of student time**<br>$37 per hour | • Consistent with the OIA Regulatory Burden Measurement Framework (non-work-related labour costs). |
| **Providers** | |
| **Cross-ownership of businesses**<br>5% of VET providers have cross-ownership structures with agents | • Based on findings from the Nixon Review and expectations of the Department, VET providers are most likely to be affected by cross-ownership monitoring. Initial analysis of 11 cross-ownership providers identified via ABN matching indicated these businesses primarily operated in VET enrolments.<br>• Assumption that 5% of VET providers have cross-ownership structures. Of 989 VET providers in 2024, this equates to 49 providers.<br>• Initial conservative departmental estimates identified 11 cross-owned providers only relying on ABN matching.<br>• Assumption that 100% of providers identified under reform are impacted. |
| **Providers seeking CRICOS registration**<br>91 providers apply for CRICOS each year | • Based on 5-year average over 2019-23 of newly registered CRICOS providers.<br>• Approximately 15 of these providers are ELICOS providers. |
| **Providers under serious investigation**<br>22 providers each year | • Based on 6-year average of 'ASQA Compliance Monitoring – Cases' over 2018-19 to 2023-24. |
| **International education sector wage costs**<br>$52 hourly wage and 75% on-costs ($91 in total) | • ABS average weekly earnings, full time adult ordinary earnings, assuming a 37.5-hour work week.<br>• Office of Impact Analysis Regulatory Burden Measurement Framework. |
| **Fees**<br>Average adjusted course fees of $21,055 | • Unadjusted fees: Higher education $36,915, VET $13,440, Schools $34,110, ELICOS $14,746.<br>• Relies on average reported fees in public CRICOS reporting by sector. Fees for courses longer than a year are adjusted for a single year tuition. Includes both tuition and non-tuition fees.<br>• Adjusted for an assumed 10% discount to account for scholarships.<br>• Adjusted for an average 83% completion rate based on agent performance data over 2022-23, whereby students who do not complete are assumed to pay 50% of their fees.<br>• Profit margins are applied to fees.<br>• It is noted that this average course fee is re-weighted for the specific sub-sector composition impacted for each legislative change. |
| **Agents** | |
| **Agent commissions**<br>Average agent commission of $1,301 | • Commissions: Higher education $1,876, VET $683, Schools $1,733, ELICOS $749.<br>• Average commission for universities relies on Department analysis of potential agent spend using university finances reporting: $14.1m total agent spend per university, |

| Assumption | Notes |
|---|---|
| | including other advertising and marketing spend, 9,382 overseas students per university, and 80% of students facilitated by agents.<br>• Commissions for other sectors (VET, ELICOS, schooling) scaled proportionally by average tuition fees.<br>• Profit margins are applied to commissions. |
| **Onshore agents**<br>50% of agents are onshore | • Based on estimates of business location address for agents.<br>• Noting Department advice to caution these agent counts and field values. |
| **Department** | |
| **Department wages**<br>$99,032 wages and 75% on-costs ($173,306 in total) | • Midpoint of the minimum and maximum APS 6 earnings for DoE.<br>• On-costs consistent with the OIA Regulatory Burden Measurement Framework. |
| **Extension to PRISMS platforms**<br>$100,000 for each extension | • Assumption-driven. |

Source: Multiple references compiled by Deloitte Access Economics

## Measuring benefits

This section outlines the analytical approach to measuring benefits, noting that in many instances, the nature of the benefits is challenging or not appropriate to quantify. In these instances, an approach to qualitatively describing the benefits is sought. The approach to each of the 11 benefit streams is outlined in Table D2. These benefits are captured with many of the underlying key assumptions that are outlined in Table D1.

Several of the benefits have potential for quantification, however a significant degree of uncertainty regarding the potential impact. To capture the potential size of these benefits, without overstating the overall CBA outcomes associated with the reforms, these benefits have been captured through a 'case study' approach. The case studies capture the benefit associated with a 1 per cent improvement in student growth, retention or agent demand.

**Table D2: Approach to measuring benefits**

| Benefit stream | Quantifiable? | Approach |
|---|---|---|
| **Education providers** | | |
| (P1) Growth in enrolments and profit, supported by a strengthened branding and reputation of providers and Australia's international education sector as a destination | Case study only | • Attributing future growth to the sector from these legislative changes is challenging and uncertain.<br>• The quantum of potential impacts is examined by a 1% increase in enrolments, relying on an estimate of total revenue using the average adjusted fee of $21,055 per student and total enrolments of 864,036 (forecast) in 2025.<br>• 26% profit margin for sector |
| (P2) More resilient enrolments and profit, supported by higher quality students with greater retention and completions | Case study only | • Attributing future completion rates in the sector from these legislative changes is challenging and uncertain.<br>• The quantum of potential impacts is examined by a 1% improvement in completions, relative to the current completion rate of 83%, whereby an incomplete student is assumed to pay 50% of fees.<br>• 26% profit margin for sector |

| Benefit stream | Quantifiable? | Approach |
|---|---|---|
| (P3) Cost savings and 'peace of mind' in the student admissions process and engaging with agents | **Yes** | • Providers are assumed to experience a **10% reduction in time** involved in admissions processes due to the higher calibre of agents and therefore students. The admissions process is assumed to take **one hour** per student admission prior to the reform.<br>• Providers are assumed to experience a **10% reduction in time** spent searching for quality agents and conducting due diligence on them. This process is assumed to take **five hours** prior to the reform.<br>• Hourly wage is estimated at $91 per hour. |
| **Agents** | | |
| (A1) Profit growth from increased demand for and use of agent services by both providers and students, underpinned by a stronger reputation of agent services and Australia's international education sector as a destination | Case study only | • Attributing future growth in use of agents from these legislative changes is challenging and uncertain.<br>• The quantum of potential impacts is examined by a 1% growth in agent use, relative to the current utilisation rate of 79.9%, and a current average commission of $1,301 per student.<br>• 26% profit margin for sector. |
| **Overseas students** | | |
| (S1) Reduced administrative costs and personal burden in the education admissions process, from avoiding unscrupulous agents and greater quality and assurances in the market for agents | **Yes** | • Students are assumed to experience a **1-hour time saving** from engaging with a high-quality agent when compared to a low-quality agent. **17% of agents** are assumed to be low quality, with visa refusal rates or student incompletion rates below 50%.<br>• Students are assumed to experience a **25% time reduction** in the agent search process, as the Australian market becomes better known for agent quality. The average search time among students is assumed to be **one hour**. |
| (S2) Improved student experience and educational outcomes, supported by closer alignment between personal goals and studies, and avoided exploitative behaviour | No | • This benefit is not quantified – the harms of integrity and quality issues to overseas students and education outcomes, including the damages of exploitation are discussed. |
| (S3) Improved student wellbeing and welfare, from greater trust and safety in the study experience, and improved reputations, without fear of being considered 'not genuine' | No | • This benefit is not quantified – the importance of trust and safety to overseas students are discussed, as well as the harms from safety fears for overseas students. |
| **Government** | | |
| (G1) Public confidence and trust in government and the regulator, and specifically Australia's international education sector and migration system | No | • This benefit is not quantified – the importance of trust in government is discussed, as well as the harms from integrity and quality issues in Australia's migration system. |
| (G2) Supporting diplomatic relationships and global authority with a strengthened 'Brand Australia' | No | • This benefit is not quantified – the importance of Australia's global and diplomatic presence is discussed, |

| Benefit stream | Quantifiable? | Approach |
|---|---|---|
| | | and the role that Australia's international education sector has in supporting that. |
| (G3) Reduced regulator workload and burden in monitoring and policing lower quality providers and non-genuine students | **Yes** | • Assumed that ESOS Agencies experience a **1% efficiency** in monitoring activities as a result of having fewer low-quality agents and providers and non-genuine students in Australia, including ASQA, TEQSA and the Department of Home Affairs (student visa processing only).<br>• Based on Agency resourcing for ASQA ($48.3m) and TEQSA ($23.5 m) in 2022-23 from agency financial reports (annual funding).[72,73] Funding for ESOS agencies is assumed to be reasonably stable on an annual basis.<br>• Department of Home Affairs resourcing for student visa processing is calculated based on the total cost of visa processing ($395.9 m, Program 2.2 in the Department of Home Affairs Annual Report 2022-23), apportioned for the share of student visas (12% of all visas, from various Home Affairs reporting for 2022-23). |
| **Industry** | | |
| (I1) Greater access to, confidence in, higher quantity and quality of and improved skills alignment for skilled graduates | No | • This benefit is not quantified – the role of the international education sector in supporting the skilled graduate pipeline is discussed, as well as how integrity and quality issues compromise that pipeline. |

## Measuring costs

This section outlines the analytical approach to measuring costs by each legislative change, including whether the cost is expected to be ongoing (or once-off), whether the cost represents a within stakeholder group transfer, and whether the cost has been quantifiable or not (Table D3 to Table D9).

It is noted that the implementation of reform 4 is relatively uncertain, as this legislative change is described to be used at the discretion of the Minister for Education. In particular, the duration of the pause (up to 12 months) and the use of exemptions to the pause (to specific providers or courses) is not known. This work has relied on conservative and high-cost assumptions to determine the headline result (i.e. an immediate 12 month pause applied to all new courses and providers), with sensitivity testing of key parameters to examine the potential downwards variance in costs.

[72] Australian Government Transparency Portal (2023), *Tertiary Education Quality and Standards Agency Annual Report 2022–23*, www.transparency.gov.au/publications/education/tertiary-education-quality-and-standards-agency/tertiary-education-quality-and-standards-agency-annual-report-2022-23/part-4%3A-financial-report/note-5%3A-funding.

[73] Australian Government Transparency Portal (2023), *Australian Skills Quality Authority Annual Report 2022–23*, www.transparency.gov.au/publications/employment-and-workplace-relations/australian-skills-quality-authority-national-vocational-education-and-training-regulator/asqa-annual-report-2022-23/chapter-4.-finances/funding.

**Table D3: Approach to measuring costs for 'Consideration of agent cross-ownership' (Reform 1)**

| Costs | Stakeholder | Ongoing? | Transfer? | Quantifiable? | Approach |
|---|---|---|---|---|---|
| **1a: Provider de-merger costs, including risk of closure** | Providers | No | No | **Yes** | • 25 businesses assumed to demerge (based on 49 businesses with cross-ownership arrangements identified and impacted, and 50% assumed demerger rate).<br>• Average demerger cost of $50,880 per combined business (based on 2015 USD analysis of average cost of starting a small business as a proxy, converted to 2024 Australian dollars).<br>• Assumption that 50% of cross-owned businesses need to demerge, with 50% of business demerger costs borne by providers (the other half are borne by the agent in cost 1d).<br>• Business closure is considered qualitative only, with the modelling assuming all businesses bear the cost of demerging rather than closure. |
| **1b: Lost efficiency for providers from ceasing integrated services** | Providers | **Yes** | No | No | • $25.2m in student revenue generated by affected cross-owned providers annually, based on 92 enrolments per cross-owned business (Departmental analysis) and $11,055 adjusted VET fees per student.<br>• $50,914 in average lost business synergies (5% of provider revenue assumed) for each provider affected by demerger.<br>• 26% profit margin for sector. |
| **1c: Increased administrative burden for providers** | Providers | **Yes** | No | **Yes** | • 91 new CRICOS registrations per year (based on 5-year annual average registrations for 2019-2023, PRISMS).<br>• $455 administrative cost per provider, based on 5 hours assumed additional resourcing effort and $91 hourly education sector wage. |
| **1d: Agent de-merger costs, including risk of closure** | Agents | No | No | **Yes** | • Calculated as the 50% of costs in 1a.<br>• Business closure is considered qualitative only, with the modelling assuming all businesses bear the cost of demerging rather than closure. |
| **1e: Lost efficiency for agents from ceasing integrated services** | Agents | **Yes** | No | No | • $119,811 in revenue generated by agents annually, based on 92 enrolments per cross-owned business (Departmental analysis) and $1,301 estimated agent commissions per student.<br>• $5,991 average lost business synergies (5% of revenue assumed) for each agent affected by the demerger.<br>• 26% profit margin for sector. |

| Costs | Stakeholder | Ongoing? | Transfer? | Quantifiable? | Approach |
|---|---|---|---|---|---|
| **1f: Loss of business for cross-owned agents** | Agents | No | **Yes** | **Yes** | • $5.9 million in agent commissions generated annually by businesses with cross-ownership arrangements (based on 49 identified businesses, 92 average annual enrolments and $1,301 average agent commission).<br>• Assumption that 50% of identified businesses demerge and 20% of agent commissions are lost due to business demerger, with lost business transferring to other onshore agents.<br>• 26% profit margin for sector. |
| **1g: Increased administrative costs for students** | Overseas students | **Yes** | No | **Yes** | • 4,555 students impacted annually (based on an average 92 enrolments per cross-owned business and 49 providers impacted).<br>• $185 cost per student based on a 5-hour increase in time spent engaging separately with providers and agents (assumed). |
| **1h: Develop extension to 'fit and proper test' for ownership structure** | Government | No | No | **Yes** | • $100,000 fixed cost assumed. |
| **1i: Monitoring and enforcement** | Government | **Yes** | No | **Yes** | • 0.2 FTE at APS6 level. |

Source: Deloitte Access Economics

**Table D4: Approach to measuring costs for 'Sharing agent performance data' (Reform 2)**

| Costs | Stakeholder | Ongoing? | Transfer? | Quantifiable? | Approach |
|---|---|---|---|---|---|
| **2a: Lost profit for lower performing agents** | Agents | **Yes** | **Yes** | **Yes** | • 17% of agents are lower performing, defined by a visa refusal rate and/or incompletions rate greater than 50%.<br>• 4,399 onshore agents (17% of 25,876 agents projected in 2025) are lower-performing and facilitate 63,708 enrolments (14.5 enrolments per agent) at an average commission of $1,301 per agent (enrolment), generating $82.9 m in commissions.<br>• Lower performing agents lose half of their business (50%) to higher performing agents, 50% of who are on shore resulting in a $20.7 m transfer (25% onshore transfer rate).<br>• 26% profit margin for sector. |
| **2b: Government extension of reporting system access** | Government | No | No | **Yes** | • $100,000 fixed cost assumed. |
| **2c: Data processing, validation, and reporting** | Government | **Yes** | No | **Yes** | • 1 FTE at APS 6 level. |

Source: Deloitte Access Economics

**Table D5: Approach to measuring costs for 'Collecting and sharing agent commissions data' (Reform 3)**

| Costs | Stakeholder | Ongoing? | Transfer? | Quantifiable? | Approach |
|---|---|---|---|---|---|
| **3a: Provider alignment of internal reporting systems** | Providers | No | No | **Yes** | • $10,000 fixed cost assumed for systems and process change (per provider) for 1,542 providers in 2025. |
| **3b: Provider additional reporting preparation** | Providers | **Yes** | No | **Yes** | • 20 hours additional resourcing assumed at $91 hourly rate for 1,542 providers in 2025. |
| **3c: Lost profit for higher commission agents** | Agents | **Yes** | **Yes** | No | • Some price convergence is expected where higher commission agents will face lower commissions, on average, and vice versa.<br>• Noting the lack of data or transparency in agent commissions. No further analysis is undertaken to estimate this transfer. |
| **3d: PRISMS platform extension - new data collection and access** | Government | No | No | **Yes** | • $100,000 fixed cost assumed. |
| **3e: Data processing, validation and reporting** | Government | **Yes** | No | **Yes** | • 1 FTE at APS 6 level. |

Source: Deloitte Access Economics

**Table D6: Approach to measuring costs of 'Temporary pause on CRICOS applications' (Reform 4)**

| Costs | Stakeholder | Ongoing? | Transfer? | Quantifiable? | Approach |
|---|---|---|---|---|---|
| **4a: Lost profit from delayed entry** | Providers | No | **Yes** | **Yes** | • 91 new CRICOS registrations per year, with an average of 105 students each (based on 5-year annual average registrations for 2019-2023, PRISMS).<br>• An estimated 2,336 new courses (excluding those from new providers) entered the market in 2023, with an average of 28 enrolments per new course.<br>• If a 12-month instrument were introduced, affecting each of the aforementioned courses and enrolments, 75,911 students would be affected.<br>• Each enrolment is estimated to be associated with an average course fee of $16,135, based on the mix of new courses across education sectors. 26% profit margin for sector.<br>• It is assumed that 90% of students will choose to study in Australia at a different institution. |
| **4b: Lost profit from students who chose to study outside of Australia** | Providers | No | No | **Yes** | • Based on enrolments in 4a.<br>• Assumption that 10% of overseas students (7,591 enrolments) opt not to study at an Australian institution, resulting in lost provider fee revenue of $16,135 per student.<br>• 26% profit margin for sector. |
| **4c: Lost access to preferred course/provider** | Overseas Students | No | No | No | • Overseas students may lose access to their preferred choice of provider or course which has an impact on student's utility.<br>• No further work was undertaken to quantify this cost stream. |

Source: Deloitte Access Economics

**Table D7: Approach to measuring costs for 'Domestic provision clause' (Reform 5)**

| Costs | Stakeholder | Ongoing? | Transfer? | Quantifiable? | Approach |
|---|---|---|---|---|---|
| **5a: Lost profit from delayed entry** | Providers | **Yes** | **Yes** | **Yes** | • 1,515 students annually who are now unable to enrol (based on $11,055 average adjusted VET student fee revenue, 21 new VET providers annually with no domestic students, and average commencements of 73 students per year).<br>• VET fees were modelled due to expected exemptions for other education sectors. 26% profit margin for sector.<br>• It is assumed that 90% of these students will choose to study elsewhere in Australia, imposing a cost of $15.1 million annually to the providers who cannot enrol these potential students, but a gain to remaining providers. |
| **5b: Lost access to the preferred course/provider** | Overseas students | **Yes** | No | **Yes** | Based on enrolments in 5a.<br>It is assumed that 10% of students will chose to study outside of Australia as a result of losing their preferred provider, imposing a revenue loss to providers of $3.4 million annually. 26% profit margin for sector. |
| **5c: Increased administrative burden on assessing providers** | Government | **Yes** | No | **Yes** | • 0.1 FTE at APS 6 level. |

Source: Deloitte Access Economics

**Table D8: Approach to measuring costs of 'Automatic cancellation of inactive providers' (Reform 6)**

| Costs | Stakeholder | Ongoing? | Transfer? | Quantifiable? | Approach |
|---|---|---|---|---|---|
| **6a: Cost and burden of reapplying to CRICOS** | Providers | **Yes** | No | **Yes** | • 160 providers identified with zero international enrolments in 2023.<br>• Estimated that each year 66 providers will have zero international enrolments, based on the average number of providers with zero enrolments at some point over 2019-23.<br>• Identified that 32% of providers who had zero international enrolments over 2019-23, had zero in only one of the five years. These 32% are assumed to reapply for CRICOS registration.<br>• Re-registration is assumed to cost providers the CRICOS application fee ($6,800) in addition to 10 business days of labour to complete the application and facilitate site visits, valued at $92 per hour. |
| **6b: Increased administration burden on monitoring providers** | Government | **Yes** | No | **Yes** | • 0.2 FTE at APS 6 level. |

Source: Deloitte Access Economics

**Table D9: Approach to measuring costs of 'Preventing new enrolments for providers under serious regulatory investigation' (Reform 7)**

| Costs | Stakeholder | Ongoing? | Transfer? | Quantifiable? | Approach |
|---|---|---|---|---|---|
| **7a: Lost profit for investigated providers** | Providers | **Yes** | **Yes** | **Yes** | • 2,682 students annually are unable to enrol at providers under investigation (22 providers with average commencements of 122 students per year).<br>• Assumed that 90% of these students (2,414 students in total) choose to study at other institutions within Australia.<br>• Based on an average VET fee of $11,055 per student, providers who are under serious investigation have the potential to lose $26.7 million each year, which will be transferred to the other providers these students choose to engage with.[74] |
| **7b: Lost profit from reduction in total students** | Providers | **Yes** | No | **Yes** | • Based on enrolments in 7a.<br>• It is assumed that 10% of these students (268 in total) choose to no longer study in Australia, as a result of losing their preferred provider.<br>• Based on an average VET fee of $11,055, lost revenue to providers would be approximately $3.0 million each year. 26% profit margin for sector. |
| **7c: Lost access to the preferred course/provider** | Overseas students | **Yes** | No | No | • Overseas students may lose access to their preferred choice of provider or course which has an impact on students' utility.<br>• No further work was undertaken to quantify this cost stream. |
| **7d: Increased administrative burden on monitoring enrolments for providers under serious regulatory investigation** | Government | **Yes** | No | **Yes** | • 0.1 FTE at APS 6 level. |

Source: Deloitte Access Economics

[74] Based on findings from various reviews (the Nixon Review, Migration Review and JSCFADT Inquiry) and data responses from ESOS agencies it is assumed that VET providers are the most likely cohort to face serious investigation. No data was available on serious investigations from TEQSA.