



16 March 2012

Department of Immigration and Citizenship
Student Policy Projects
Attn: Lisa Curtin
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BELCONNEN ACT 2616

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Dear Ms Curtin,

Thank you for the opportunity to provide a submission to the Department of Immigration and Citizenship (DIAC) Discussion Paper *Review of the Student Visa Assessment Level Framework*. Please find attached a submission from the Migration Institute of Australia (MIA).

The MIA is the peak body for migration advice professionals, representing more than 2000 Registered Migration Agents (RMAs) as well as qualified Education Agents (EAs) across Australia and overseas. The MIA holds interests in all areas of migration policy development and would appreciate the opportunity to contribute to future consultations regarding Student visa Assessment Levels (ALs).

If you wish to discuss or have any questions in relation to this submission, please contact me or Communications Manager Brian Duff on 02 9249 9000.

Yours sincerely,

A handwritten signature in cursive script that reads 'Maureen Horder'.

Maureen Horder
Chief Executive Officer

MIA General Position on *Review of the Student Visa Assessment Level Framework* Discussion Paper

This paper seems to be based on some foregone conclusions that are worrying and there have no hard data supporting them. The Migration Institute of Australia (MIA) would not like to see increased subjectivity creep into this review process and supports the commitment to applying statistical weightings as at present.

The introduction of the Genuine Temporary Entrant criterion in November 2011 has re-introduced to the Student visa regulations a higher degree of subjective assessment powers for decision makers. In order to maintain a healthy level of objectivity with the regulatory framework requires a maintaining the tools that work and fine-tuning the regulations through reform rather than reverting to over simplified and subjective requirements that existed prior to 2001.

Formerly, tertiary students seeking to study abroad were largely determined by their relative family incomes and their source countries' graduation rates. Today, numbers of international students have more to do with trade linkages, tuition prices and host country costs of living. It is now in international collaboration and student mobility that new international education opportunities will appear.¹

It is essential that Australia continue to review what is onerous, cumbersome and discouraging about the current system as compared to traditional higher education competitor countries such as the UK, the US, Canada and New Zealand. It must also be mindful of non-traditional countries that have for the first time entered this highly competitive market, amongst them Turkey, Malaysia and Germany, the latter of which the MIA understands has lately made significant inroads within the Bangladeshi international student market.

International education is a hugely important export industry that is intrinsically tied to foreign relations and diplomacy, multiculturalism and transcultural exchange, and population growth and workforce skills and labour needs . It is thus essential that all aspects of international education reform are addressed with a "do no harm" credo.

This Review needs to be set against these larger issues.

Questions Addressed in this Submission

As many of the Questions posed in this Discussion Paper relate specifically to education providers' views on Student visa ALs, the MIA will limit its responses to those areas in which migration agents and education agents hold special expertise or interest.

¹ British Council, Going Global 2012 Conference, *The shape of things to come: global trends and emerging opportunities to 2022*[<http://ihe.britishcouncil.org/going-global/sessions/the-shape-of-things-to-come>, retrieved 16 March 2012]

Please see below for select MIA responses to quoted Discussion Paper questions:

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

If it proves unfeasible or undesirable to rank individual international education providers, DIAC should endeavour instead to rank groups of providers into smaller groupings based on industry quality indicators and clear and transparent criteria set and managed by relevant industry bodies and oversighted by relevant education departments.

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

The MIA believe that setting criteria for education provider ratings is best determined by the peak industry bodies within the education sector and the various federal and state level education government agencies.

5.3 Alternatively, if an applicant’s country and education sector continues to be used to determine risk, what should be put in place to manage the current limitations of this approach?

The limitations of an origin country risk determination system are manifest. Amongst the most pressing issues is that, within Australian higher education’s major source countries – China and India – there exists considerable internal differentiation regarding levels of fraud and immigration risk.

In the absence of comprehensive data, anecdotal evidence and feedback from some MIA Members indicate that incidences of fraud and corruption can be found across India, but are largely concentrated in Northern India, and particularly in Bihar and other nearby states.

DIAC statistics confirms that Indian student visas between April and September 2011 indicate a grant rate of 23.6 percent for the State of Punjab compared with a grant rate of 92 percent for Delhi, 84 percent for Tamil Nadu and 84 percent for Kerala.

Unfortunately, it is difficult to assign a risk level to applicants’ stated area of residence or origin within countries as these claims too can be fraudulent and applicants would have an incentive to state swap to achieve a more

favourable AL. If these difficulties prove intractable, the MIA is of the view that the current system of distinguishing risk by country – rather than by differentiation within countries – should be maintained.

The pending introduction of university streamlined processing will go some way toward distinguishing between higher and lower quality applicants and place more responsibility on the university sector to be more selective in its recruitment policies. That the university sector requires significant upfront investment in tuition fees prior to a visa application being lodged will also create a self selective quality indicator that will distinguish between internal country risk factors.

If DIAC chooses to change the current system to distinguishing risk within countries, then some consideration must be given to how long an individual had resided in the particular state to mitigate interstate migration. Similarly, it is important that more regional sensitivity analysis be introduced into this assessment to overcome some of the biases inherent in many of the groupings.

The extensive tools currently available to the Department should allow it to distinguish between regions. These tools need to be focussed and directed toward profiling major source countries rather than casting a “one size fits all” net across disparate regions.

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

5.10 Should the risk management methodology be different for countries depending upon whether they are large or small source countries or whether they are traditionally high or low risk?

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

In the interest of natural justice and fairness, emphasis should be placed on national-level factors – such as quality of documentation and level of banking stability – rather than personal-level factors – such as level of overstaying or likelihood of abiding by visa condition – that punish applicants for others bad actions.

The MIA is also mindful of onerous and discouraging financial status requirements on Student visa holders and sees room to ease these whilst still maintaining a safe, secure and low assessment system. The proposed easing of work limitation periods will provide some relief, but more can be done in this area.

Reliable financial institutions recognised or based in Australia hold specific expertise in managing financial risk and could prove to be dependable third party partners of DIAC and education institutions on these matters.

5.5 Should the 5 AL levels be collapsed – perhaps into ‘Low’, ‘Medium’ and ‘High’ risk categories?

There is some support in the profession for moving to a three tiered system that would prove easier to understand and navigate.

While 5 has proved excessive (no country having been rated AL5 since the introduction of the system), however, it is the MIA’s view that 3 would oversimplify what is a complex program that requires tools and settings that DIAC can finely tune with. Countries that are currently AL2 would either drop too low in rating or move up too high. There are also foreign relations considerations that may affect the determination and therefore some dynamism is necessary.

5.6 Should the current AL categories be maintained, or maintained with the exception of AL5 which should be removed?

The current AL categories should be, in the MIA’s view, maintained, or reduced to three as above. This is with the exception of AL5, which should be removed.

The Assessment Levels provide fine tuning mechanisms to manage risk when combined with subclasses. The problem lies in the interaction of Schedule 5A criteria and especially the financial requirements.

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

This is a worthy approach that would assist in the transition to a demand driven higher education sector, particularly as DIAC holds no particular competence or expertise in this area.

There are limitations, however, with education providers certifying English language levels, and the MIA’s position is that, for this approach to work, education providers must be rated and their approval to provider certification must be based on that rating level to mitigate risk in provider certifications.

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

All future consultations should be with as wide a range of stakeholders as is practicable, including, wherever possible, RMAs and EAs.