

COPHE Response to the Draft National Code

The confidential draft National Code distributed to peak bodies 3 May 2016 was considered at the recent COPHE Board meeting.

The Board members broadly supported the changes, clarifications and simplifications, with one main exception. They also noted progress on the IEAA DET on the agent project to develop a Code of Ethics and a national accreditation and registration scheme for education agents.

Standard 7: Student transfers; removal of 6 month restriction on transfer of principal course

Varying views were expressed at the workshop on this Standard on 17 February 2015. Most provider groups seemed in favour of some form of control, given the incidence of “course hopping” after the introduction of SVP. On the other hand, students and the Ombudsman favoured lesser restriction, as students could be trapped in an inappropriate course or provider for a long time, especially in a packaged program. We recognize the competing tensions.

Since the workshop, the Streamlined Student Visa Framework (SSVF) has been developed. This requires a fresh visa application if a student transfers to a lower AQF level course, eg higher education to VET. Otherwise there are no visa constraints, eg for a student transferring from one HE provider to another. The student would not be in breach of their visa condition by the act of transferring.

Under SSVF providers and countries are assigned an immigration risk rating from 1 (low) to 3 (high). Our concern is that without any transfer restriction, students and agents will target low risk providers, with the intention of immediately transferring to a higher risk provider once the visa is granted. This will compromise the integrity of the whole visa process, possibly on a much larger scale than the previous SVP course hopping, as the new framework will include all providers and sectors.

Low risk providers need to deploy considerable resources to achieve and maintain this rating, but it is still difficult to guard against orchestrated course transfers. Tight agent and business partner management is one control.

While transferring students may not breach their visa conditions, some will, either through cancellation or becoming unlawful, or they may apply for a Protection Visa; large numbers of such instances will impact on the risk rating of the original provider, who can no longer control or even monitor the behaviour of the students. The worst case result would be oscillation in individual provider risk ratings, to their detriment and the reputation and integrity of the whole framework.

We do not believe imposing a cancellation fee (Standard 7.1) will be a sufficient deterrent. Many students enrol in a higher education package with pathway courses, including ELICOS, for which substantial initial payment is required. Common present practice requires only a token deposit on the principal course in such cases. Students can complete some or all of their ELICOS, then transfer when they have used their initial payment, without any penalty.

Providers will be unlikely to require total upfront deposit of more than about a semester; any more would place them at a severe competitive disadvantage locally and internationally.

Another important implication of the revised code is that students could use the removal of the transfer restriction as a way of escaping course progression issues at one provider after another. At the moment, providers can refuse a transfer request “if the student is trying to avoid being reported to DIBP for failure to meet the provider's attendance or academic progress requirements”. But if we give students carte blanche on course transfers with no restrictions it seems possible that non bona-fide students could move from one provider to another consistently to escape poor performance and remain in Australia on a student visa.

While recognizing the consumer rights of students, on balance we believe that in order to protect the integrity of the visa framework and the welfare of vulnerable students themselves some restriction should remain on transfers within the first 6 months, especially where the pattern suggests this is premeditated in order to game the visa system.

The error in Standard 7.2 has been pointed out in earlier correspondence.

Conclusion

These are our initial comments on the Draft National Code. No doubt members will make further observations when the public draft is released in July.

As stated before, COPHE supports the general provisions of the draft Code, and appreciates the extensive consultation process to this point.

Contact Details -

Council of Private Higher Education Inc
Level 5 47 Neridah Street
Chatswood NSW 2067

Adrian McComb
Chief Executive Officer

Phone (02) 8021 0841
Email - amccomb@cophe.edu.au