



INDEPENDENT
HIGHER EDUCATION
AUSTRALIA



**Independent Higher Education Australia - IHEA
Position Paper
Visa Processing
November 2022**





Who We Are

Independent Higher Education Australia (IHEA) is the peak body representing most of Australia's registered independent higher education providers. IHEA members teach 74 percent of the students in the independent sector (i.e., more than 120,000 students) and include dual and multi-sector providers offering Vocational Education and Training (VET) and/ or English Language Intensive Courses for Overseas Students (ELICOS) to domestic and international students.

Our Operating Context

The independent higher education sector is central to Australia's economic recovery, international education growth, and the availability of skilled workers in Australia's struggling labour force. Before the COVID-19 pandemic, the independent higher education sector realised approximately \$2.64 billion, making the sector Australia's 21st largest export.

Growing enrolment trends in the independent higher education sector reflect the increasing value students place on independent higher education compared to public universities, whose growth rates are much lower despite disproportionate government investments in their favour. Further, compared to universities, the independent sector consistently ranks the highest in Australia for teaching quality, learner engagement, skills development, and overall quality. To illustrate, IHEA members ranked in the top five in graduate outcomes for overall full-time employment and labour force participation rates in government-endorsed Quality Indicators for Learning and Teaching (QILT) surveys in 2021.

Executive Summary

This Position Paper outlines patterns of concern regarding Student Visa processing that are affecting the operations of Independent Higher Education Australia (IHEA) members.

The issues identified in this Position Paper were previously communicated to Cabinet Ministers in a letter from IHEA's CEO dated 21 September 2022. This Paper supplements this letter and provides empirical evidence substantiating the concerns raised in that letter.

The intention of this Position Paper is to outline the concerns of independent providers to encourage further dialogue. This Paper also aims to put forward recommendations that contribute potential solutions for the rectification of concerns raised by providers.

The Position Paper uses identified areas of concern as themed headers and uses detailed case studies provided by IHEA members to clarify the nature of the concerns and impacts on prospective students and the independent higher education sector more broadly.

On behalf of IHEA members, and the students they serve, IHEA sincerely thanks you for your due consideration of the matters raised in this Position Paper.

The recommendations that follow summarise key proposed solutions to the concerns raised.

Recommendations

In the interests of continuous improvement, IHEA offers the following recommendations for your consideration:

Recommendation 1

Update Direction 69 Criteria from Genuine Temporary Entrants to Genuine Student.

IHEA members would further welcome practical advice for providers and new decision-makers concerning assessing the genuineness of a student's application to study.

Recommendation 2

Be More Transparent About Government Market Preferences Regarding International Students to Support Business Resilience by Ensuring Higher Education Providers Go to Markets Where Genuine Students Are Likely to Be Granted Visas.

Case Studies and Examples of the Impact on the Independent Higher Education Sector

This section outlines patterns of concern identified by IHEA members requiring Government attention. The concerns are presented as themed headers and use case studies provided by IHEA members which detail the concern and impact on prospective students of the independent higher education sector.

Issue 1: Visa Decision Delays

IHEA acknowledges the surge in student visa outcomes since the Department of Home Affairs (the Department) increased human resources to address student visa processing delays from July 2022. Notwithstanding, visa delays continue to be an issue for Pakistan, Nepal and India which are two of the top three source countries across all Australian Higher Education providers delivering education to international student (1). Visa processing wait times are also notoriously high (up to six months) in African markets.

Ultimately migration delays damage our international reputation as a destination of choice for students and their agents, which makes it harder for education providers to recruit students. Consequently, we articulate the first concern for your consideration in the event of future backlogs or visa processing delays.

Case Study 1: Provider A

Visa delays affecting commencement of courses - Due to delays in visa processing, Provider A had to delay the commencement of two study periods due to low student numbers. Course administration costs are significant and require a minimum set of students to deliver a course viably, the costs for a cost-neutral delivery generally require more than 10 students in a subject.

The impact of the delay of course commencements, in turn affected students' ability to transition to Provider A's university partner, which impacts the relationship between the Provider A and their university partner who now considers the third-party arrangement to be a risk. To illustrate, the university partner also advised they have had to defer the commencement of study for between 200-500 students per week due to ELICOS visa processing delays.

Case Study 2: Provider B

Due to visa wait times, Provider B had to:

- Stop accepting students from some markets 10 weeks before the start of an intake. The decision caused unrest in affected markets.
- Deliver more online classes to support students with visas pending while offshore even though the students want to study face to face.

As a result of these operational responses, Provider B inadvertently continues to disadvantage other students, including Australian students with late timetable changes as many overseas students are deferring studies due to visas being delayed. Further Provider B has had to re-direct student support service human resources to support the increases in deferral of studies. Notably also from an economic perspective every deferral of study warrants a Confirmation of Enrolment (CoE) change which comes at a cost of \$25 per CoE change in direct and indirect costs.

Issue 2: Approaches to Assessing Genuine Temporary Entrant (GTE) Requirements in Some Markets and Associated High Visa Rejection Rates

IHEA acknowledges and welcomes recent announcements about the re-introduction of work right restrictions. IHEA believes that high demand for student visas is partly because of the uncapped work rights hours introduced for students as a response to the COVID-19 pandemic. IHEA is however concerned that while Government created the conditions leading to this increased demand, it is rejecting student visa applications without detailed reasons. Visa rejections negatively affect Provider Risk Ratings under the Simplified Student Visa Framework (SSVF) Appraisal and as a result several providers have reported staying out of certain markets to avoid the impact of rejections on their SSVF rating.

As outlined in IHEA's letter to The Hon. Clare O'Neil dated 21 September 2022, visa rejection rates in some markets can be as high as 70 per cent in the independent higher education sector compared to less than 30 per cent in university partners in the same markets.

Visa rejection rates are notably high for Pakistan, Bangladesh, Sri Lanka, India, Myanmar, and Nepal nationals. However, the concerning aspect about the rejections, beyond the delays before the rejections, relate to the lack of transparency in reasons for visa rejection, including the provision of vague reasons for visa refusal related to a Genuine Temporary Entrant (GTE) assessment.

The GTE in its current form sends tacit, negative messaging to the international market that Australia takes international students' tuition fees and uses their effort as low-level workers while they study but does not want them to participate in Australia post study - notwithstanding the post study work visas that have been made available and skills tested migration options.

Vague reasons for visa refusal that do not withstand scrutiny.

A pattern has emerged with many visa rejections from the Department referencing reasons for refusal such as lack of evidentiary, "**demonstration of economic ties to home country.**" Regular text provided in such rejection letters include:

"I have considered the applicant's circumstances in their home country. The applicant has not demonstrated sufficient economic ties to their home country. I acknowledge that the applicant has personal ties in their home country in the form of their immediate family however I find that these ties do not, of themselves, constitute a strong incentive to return home at the completion of the proposed study. I am therefore not satisfied that the applicant has been able to demonstrate personal or economic ties that would serve as a significant incentive to return to their home country."

The case studies that follow expand on IHEA member concerns in greater detail.

Case Study 3: Provider C

Provider C reported that a prospective student's visa application was rejected because the student was deemed not to be a Genuine Temporary Entrant (GTE) on the basis that the 20-year-old had not travelled outside of India since finishing school. Ironically at the time of application borders were just re-opening, making the rationale for the rejection somewhat bizarre. The impact of such decisions on students, agents, education providers and the broader reputation of Australian higher education in the marketplace is palpable.

Another vague reason being sighted in rejections is a reference to “**insufficient research into education providers in Australia and other countries.**” In many cases where this reason was sighted Provider C had ensured clear evidence of such research had been undertaken by applicants, including entry requirements and course outcomes across providers. In some of the cases, applicants had even benchmarked Australian higher education providers with comparable institutions and courses in their home country to support their choice to come to Australia – and yet the outcome was still negative and the reason for decision concluding that the applicants were not well informed, which appears at odds with the reality. The extract below illustrates the decision commentary provided in such rejection letters:

"I have considered the applicant's potential circumstances in Australia. The applicant's genuine temporary entrant (GTE) statement provides information on the chosen provider in Australia and on the course they propose to undertake. However, I find that while the applicant has provided information on alternate options of education providers in Australia and in their home country, their GTE statement does not sufficiently outline the research they have conducted to gather this information. Therefore, I am not satisfied they have conducted sufficient research into education options available to them in and outside Australia which would be expected of a genuine student."

Further, the rationale used in Department decision making appears to suggest that students are expected to also consider alternate countries beyond Australia and the students' home countries for the prospective student to be considered GTE. The extract below illustrates the decision commentary provided:

"I have considered the applicants potential circumstances in Australia. I acknowledge the applicant's genuine temporary entrant (GTE) statement, and the reasons set out in it for choosing Australia as the preferred study destination. However, the applicant has not demonstrated they have sufficiently researched their options in Australia, other countries or their home country. This raises concerns regarding the applicant's motivation to study in Australia. While I accept the applicant may aspire to obtain an internationally recognized qualification, given they have not substantively investigated study options in Australia, other countries or their home country, I am not satisfied, given their individual circumstances, that they genuinely intend a temporary stay in Australia."

It is unclear what the acceptable standard of research the Department would like to see from prospective students, which makes the use of such reasons for decision appear at best, arbitrary.

Yet another rejection reason is that applicants have **“not sighted convincing testimony for employment circumstances nor verifiable evidence for remuneration.”** In all cases where this reason was sighted, applicants had identified clear evidence outlining their future goals and plans. We are unclear what kind of verifiable evidence the Department is seeking in these cases.

Two examples of decision commentary provided in the rejection letters include:

"I have considered the applicant's statement genuine temporary entrant (GTE) setting out her reasons for undertaking the intended course of study in Australia. The applicant has stated that upon completing the proposed study she will return to home country, Philippines and pursue a career as Project Manager in the construction industry with expected annual income PHP 1,500,000. Although the applicant has provided a study plan, I am not satisfied the applicant has clearly shown how she will achieve this and how an overseas qualification (specifically Australian) will assist her in attaining this goal. I consider the substantial expenses associated with international education is unlikely to be offset by the potential income derived by the applicant in her expected employment field."

"I have considered the value of course to applicant's future. The applicant states that after completion of their studies in Australia they will return to their home county and begin their career in related field and later open their own Rehabilitation Center. While it is reasonable to study with the hope of improving job prospects, I am concerned that the applicant has not provided a convincing testimony as to how they would achieve this against the prevailing employment circumstances for individuals with their anticipated educational background. Nor have they clearly demonstrated with verifiable evidence the remuneration they could reasonably expect using this qualification. Given the applicant's individual circumstances, I consider that the significant cost of the course is unlikely to be offset by the potential income derived by the applicant in their expected employment field. Accordingly, I am not convinced the proposed course will add value to the applicant's future. I give weight to apparent lack of value of the course to the applicant's future, which indicates that their primary motivation for pursuing this course may be other than the quality of education in Australia."

The view that financial ties to stay in Australia outweigh financial ties in an applicant's home country applies for most applicants from developing countries and does not constitute non-genuineness. In fact, the Department's argument could be used for some developed countries such as the United States where employment outcomes have

dramatically altered because of the pandemic and geopolitical tensions. We further note that further study is literally the avenue used by most to improve career outcomes, e.g. gaining a higher paying job, contrary to the Department's case officers' opinions – which notably have lasting effects on applicants' migration opportunities into the future. We also note that this reason appears to be most used when financial requirements for the student visa are met and the students are from developing countries.

Case Study 4: Provider D

Provider D outlined the case of a Pakistani student whose visa was rejected because of their current unemployment and interview performance in August 2022. At the time of the student's application in December 2021, the student was unemployed having recently completed their Bachelor course in the same year. The Department's case manager identified the student's lack of employment post-study as a reason for visa rejection, notwithstanding the fact that unemployment rates in developing countries were exacerbated during and post COVID-19. To illustrate, the unemployment rate reported for Pakistan in June 2022 was 34% and yet the student's lack of employment was used to deny them an opportunity for further study in Australia (2) on the basis that their lack of employment suggested that they were likely to be a 'non genuine' temporary entrant. In the circumstances, this seems like an unfair outcome for the individual student as well as students from other nations facing unprecedented unemployment rates in response to the pandemic and other global issues.

Further, in this case, the student who had applied for a visa eight months earlier, was only invited to an interview with the Department with little notice and expected the student to be fully aware of subject lists in their prospective course of study as well as clear on their accommodation arrangements once they arrived in Australia – in the absence of visa approval.

Recommendation 1

Update Direction 69 Criteria from Genuine Temporary Entrants to Genuine Student.

This is a small but significant change. Further, IHEA members would further welcome practical advice for providers and new decision-makers concerning assessing the genuineness of a student's application to study.

Concerns about high rejection rates in Nepalese market.

In recent months providers have been receiving large amounts of visa rejections from Nepalese market. It seems the Department is placing caps (visa quota limits) on the number of visas granted from this country. However, this is not being done in a transparent way. IHEA members are concerned they are being penalised for growing in this market, at a time when market diversity is critical to Australia's International Education.

The Department's strategy appears to be requesting additional financial documents from students. Relevant financial documents are not easily obtained in the short timeframe allocated by the Department. Simply put, the strategy appears intent on getting prospective, genuine students from the Nepalese market to withdraw their visa applications. This exemplifies moving goal posts which appear to be in place simply to slow down visa grants in this market.

Case Study 5: Provider E

Since 1997, Provider D has had 365 Nepalese completions out of approximately 500 enrolments from this market. Of the overall enrolments from Nepal, only 20 students have been cancelled or have discontinued their studies. The overall completion rate for the Nepalese market at Provider D is thus 90% which is well within regulatory benchmarks associated with provider risks ratings. Provider D takes great care to identify genuine students and to ensure their suitability for the courses they apply to and yet appears to be caught up in the "correction" of the market that seems to be occurring in migration policy settings. While Provider D and IHEA support robust migration policies, we believe that corrections that tacitly target markets such as Nepal, and other countries in the Asia-Pacific are resulting in decreased student numbers in the short term which Australia so desperately needs post COVID-19, but also will have serious long-term effects on Australia's workforce shortages and Australia's recovering economy.

Recommendation 2

Be More Transparent About Government Market Preferences Regarding International Students to Support Business Resilience by Ensuring Higher Education Providers Go to Markets Where Genuine Students Are Likely to Be Granted Visas.

Conclusion

In conclusion, IHEA and its members consider the Genuine Temporary Entrant (GTE) requirement and its primary objective to be outdated. Direction 69's policy intent in assessing GTE is to exclude any applicant who considers and subsequently expresses interest in post-study outcomes, such as work rights available in Australia in their visa lodgement. Direction 69 inherently contradicts current and even previous Government decisions to promote post-study work rights and permanent stay options to students and graduates. Changing the assessment to focus on whether the applicant is a 'Genuine Student' would better serve community needs, especially as Australia faces skills shortages.

Further, the impact of visa delays and rejections as outlined in this Position Paper impacts on market perceptions not just about studying at an independent provider but also about Australia as a destination of choice, for study or tourism. We believe this brings disrepute to Australia and Australian international education more specifically.

IHEA welcomes opportunities to further discuss the concerns raised in this paper as well as potential solutions with you. We will follow up this submission with your office to arrange a time to discuss the issues and potential solutions.

(1) Austrade (2022) July 2022 Data see <https://www.austrade.gov.au/australian/education/education-data/current-data/summaries-and-news>

(2) Warraich (2022) Socio-Economic Challenges of COVID-19 and its Repercussions for Pakistan, *Journal of Indian Studies*, Vol 8, No 1, January – June 2022, pp. 77-90 see http://pu.edu.pk/images/journal/indianStudies/PDF/6_v8_1_22.pdf

