



Education (Overseas Students) Bill 2017

Response from the

Queensland Catholic Education Commission

June 2017

The Queensland Catholic Education Commission (QCEC) welcomes the opportunity to comment on the draft Education (Overseas Students) Bill 2017 (the Bill). The Bill is intended to repeal the current *Education (Overseas Students) Act 1996* and put in place an updated regulatory framework for the approval of schools to provide courses to overseas students, and the approval of schools and not-for-profit organisations to provide international secondary student exchange programs.

QCEC is the peak strategic body with state-wide responsibilities for Catholic education in Queensland. This submission is provided on behalf of five Diocesan Catholic School Authorities and 17 Religious Institutes and other incorporated bodies which, between them, operate a total of 302 Catholic schools that educate more than 147,000 students in Queensland

Alignment with Commonwealth legislation

The importance of ensuring appropriate quality, oversight and accountability in relation to the arrangements for students to come to Australia to study is recognised by the Australian and Queensland Governments. QCEC concurs with these aims and supports the updating of the Queensland legislation to better align with the Commonwealth *Education Services for Overseas Students Act 2000* (ESOS Act) and the *National Code of Practice for Providers of Education and Training to Overseas Students* (the National Code). It is noted that clause 8 of the Bill makes compliance with the ESOS Act and the National Code a requirement for approval. While in general terms this is required currently under the registration criteria prescribed in the *Education (Overseas Students) Regulation 2014*, placing this explicitly in the Act represents a strengthening of the requirement that any approvals at a State level are dependent upon full compliance with all Commonwealth legislation and guidelines.

Student exchange guidelines

In respect of seeking approval to provide an international secondary student exchange program, it is noted that applications will be decided on the basis of compliance with the Bill and guidelines developed by the Director-General. The guidelines are to deal with a range of student exchange matters including; eligibility to operate a program, financial viability and organisational structure, reciprocal arrangements for Queensland students to attend overseas schools, health insurance and the way support and protection is provided to students and host families participating in the programs. It is noted that the student protection aspects of the guidelines are to address how staff and others are screened and trained, including compliance with the *Working with Children (Risk Management and Screening) Act 2000*.

Given that many non-state schools have extensive experience in the effective delivery of student exchange programs, it would be appropriate and helpful to the Department for this expertise to be utilised in the development of the guidelines. Therefore, it is suggested that representatives of the Catholic and independent school sectors be involved in the development of the student exchange guidelines. This will ensure that the guidelines encompass the practical aspects of student exchange program delivery, as well as facilitating understanding and implementation of the guidelines across all Queensland schools.

1. It is proposed that representatives of the Catholic and independent school sectors be formally involved in the development of the international secondary student exchange guidelines.

Definition of student exchange programs

Schedule 1 of the Bill defines 'international secondary student exchange program' as a program of at least 28 days and not more than 12 months'. The Explanatory Guide to the Bill states that the new student exchange program requirements will be based on the existing arrangements as set out in the *National Guidelines for the Operation of International Secondary Student Exchange Programs in Australia* (the National Guidelines). Under the National Guidelines, an international secondary student program is one with a minimum period of three months or one school term. Therefore a change to the definition of student exchange program is being made that is inconsistent with the National Guidelines. The National Guidelines note that a minimum period of 28 days does apply in Victoria, but that this is specifically tied to requirements for the enrolment of overseas students in Victorian government schools.

The shortening of the period required for classification as an international secondary student exchange program may have unintended consequences. For example, schools may have in place 'sister school' arrangements, allowing students from a school in another country to visit for a relatively short period under visitor visa arrangements, rather than in accordance with a more formal and structured student exchange program. Similarly, schools on occasion host sporting teams or cultural visits from other countries that are primarily for purposes other than those pursued under student exchange programs.

The shortening of the definition period, in a manner that is inconsistent with the National Guidelines, may result in such activities being caught by the definition when they were not intended to come under the classification of the student exchange program. Further clarification is needed on this issue, particularly in respect of the policy reasons informing the change to the definition and why the decision was made to apply a definition which is inconsistent with the definition in the National Guidelines.

2. Further clarification is sought concerning the new definition of 'international secondary student exchange program' proposed to be included in the Bill.

Investigation and enforcement

Chapter 3 of the Bill deals with regulatory investigative and enforcement matters. Under these provisions, a range of extensive powers are granted to the category of 'Authorised Persons'. These powers cover entry to places; executing warrants; searching places; inspecting, examining or filming any part of a place; taking extracts from or copying a document and seizing property. A range of new offences are also created by the Bill including: declining to assist an authorised person; tampering with seized property; giving false or misleading information and obstructing an authorised person.

QCEC agrees with the statement in the *Explanatory Guide* to the Bill that the new powers of entry should be used sparingly and only in cases where it is appropriate and absolutely necessary. Under the ESOS Act, the designated State authority for Queensland is the International Quality (Schools) Unit of the State Department of Education and Training. The Unit is responsible for compliance monitoring, dealing with complaints and reviews of program providers, and the approach taken by the Unit over recent times of focusing on a facilitating and educative role, rather than an exclusively fault-finding one, has proven to be practically effective in the experience of the Catholic school sector. The provision of international education services is a complex area, involving as it does issues across the spectrum of immigration and border control, education quality, financial affordability and student welfare and protection. The balanced and supportive approach of the Unit in working with schools to address any inadvertent breach of regulations has proven to be an effective strategy for management of these issues.

QCEC therefore seeks the continuation of an environment of appropriate enablement and assistance with compliance requirements. At the same time, QCEC also recognises the need, within a context of diverse service providers, to safeguard standards and student welfare and to ensure the reputation and continued growth of Queensland international education provision. In light of the significantly increased powers provided under the Bill, it is proposed that the powers and offences be subject to a formal review within two years of their enactment, to assess their operation and the extent to which they are meeting their legislative intent. This would be to evaluate how the expanded or new powers and offences have been used and to assess whether any adjustments are required for the future.

3. A review to be undertaken of the operation of new compliance monitoring powers and offences created under the Bill within two years of their enactment.

Information sharing with Non-State Schools Accreditation Board

QCEC supports the inclusion in clauses 100 and 101 of provision for disclosure of information to the Non-State Schools Accreditation Board (the Board), and disclosure of information by the Board, for purposes under the Bill. The *Education (Accreditation of Non-State Schools) Act 2001* authorises the Board to conduct a comprehensive and thorough accreditation regime for non-state schools. Given this, many of the quality assurance issues discussed above are already addressed by the Board in the case of non-state schools. QCEC holds that a more explicit recognition of this should underlie the regulatory arrangements for the approval of schools to provide courses to overseas students or student exchange programs. Given that non-state schools are already subject to ongoing compliance monitoring by the Board, the broader aspects of school operation should be taken as compliant already, with attention focused mainly on issues that are specifically focussed on overseas student course delivery or student exchange programs.

Education (Queensland Curriculum and Assessment Authority) Act 2014

QCEC supports the amendments being made to the *Education (Queensland Curriculum and Assessment Authority) Act 2014* to facilitate new senior assessment and tertiary entrance systems for commencement in 2019. To do this, changes need to be made to the functions of the Queensland Curriculum and Assessment Authority (QCAA) to ensure its functions encompass activities and procedures that will be required to be performed under the new arrangements. One of these function is a confirmation process by QCAA of school-based assessment for senior subjects. This particular function does not seem to have been adequately articulated in the proposed amendments. To remedy this omission, it is suggested that the confirmation function be included in the new section 13A, as set out below.

4. 13A (1) (a) to read:
Endorsing **and confirming** school-based assessments for senior subjects;

Thank you for your consideration of this feedback on the draft Bill.

QCEC looks forward to contributing to further discussions and consultations concerning the development of this Bill.

A handwritten signature in black ink, appearing to read 'L. Perry', with a large, stylized loop at the end.

Dr Lee-Anne Perry AM
Executive Director