

Submission to Hon Michael Knight led Review of Student Visa Regulations

This submission has been prepared after considering views from AAERI members across India. Some of these were also introduced in the discussion held with Hon Michael Knight during his visit to New Delhi in March 2011.

AAERI (www.aeri.org) is Association of Australian Representatives in India.

The Association of Australian Education Representatives in India (AAERI) was formed in October 1996 to assure the integrity and credibility of agents who are recruiting students on behalf of Australian education and training institutions. The establishment of AAERI was an initiative of Australian Education International (AEI) although AAERI is an independent organization, registered under the Societies Registration Act of India.

Relevance of “Assessment Level” stereotyping of nations in 2011.

Breaking down of the countries by five assessment levels is an unfair generalisation bordering on stereotyping and it negates the characteristic differences between regions within a large country and it negates the fact that many reside around the world but continue to hold onto the nationality of the origin country. It especially leads to disadvantages for genuine students with bona-fide intentions in a country of 1.2 billion people.

AAERI recommends that the Assessment Level framework be reviewed at this time. Possibly it can be brought down to 3 levels from current 5 levels where Level 1 is low risk, Level 2 is moderate risk and Level 3 is high risk assigned only to countries with which Australia doesn't want to do business. The current system contains anomalies in practise. Certain countries with “higher fraud” retained lower AL simply because of lower volume of student visa caseload. The categories can also be reflected upon. All Postgraduate Courses should attract the same risk-assessment level irrespective of whether the student is attempting it as Coursework or as Research. There is a need to identify the trusted providers under the Vocational and Private sector too and accord them easier visa category. They're adhering to the regulations and need acknowledgement. At the same time there is need for objectivity related to some of the visa requirements. Such as 1) English Proficiency, 2) Income to Fund ratio and 3) The onus of deciding on the academic ability of the student to undertake the program of study should remain with the education provider without any required interpretation from the entry clearance officers.

Further, The current student visa regulations allow the student visa officer to reject the visa application for a student who appears “to him” as non-genuine even when he has met the objective criteria. *However, the same student visa officer does-not have the authority to waive any objective criteria to grant the visa when he is convinced that the student is genuine.*

AAERI hence recommends that the student visa officer should have the authority to waive any set objective regulation to “grant” a student visa if he/she is convinced that the student appears to be genuine and the set criteria that he/she is not meeting is not going to impend his studies.

Reducing monopoly of IELTS as the sole evidence of English proficiency.

For long, AAERI has been appealing to increase options available to a student for demonstrating his/her English proficiency. A result of such requests was Australian Government's decision to call for expression of interests from other vendors. However no formal announcement of acceptable alternatives have been made. One particular education-agent does the delivery and assessment of IELTS in markets such as India and there is a clear conflict of purpose, as all Australian bound students have to take this very test only. The access to database of all students in the hand of this education agent hence is also a cause of concern. For the record, AAERI is

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seeking legal interference to stop the monopolistic use of the test by the particular organisation. The incident of fraud at the IELTS centre in WA too is due to undue importance given to this one single test. Around the world, TOEFL and PTE are being accepted. Some also accept high English scores from the student's prior studies as substitute the IELTS scores. Nationality should not decide the requirement for the test in this global world. There are Indian nationals growing up in other countries and they should be eligible to the same requirements as others there.

AAERI recommends that alternative options are made available to students. This can be a quick decision since homework at the end of DIAC is already completed. This will not just remove the monopoly but will also make Australian education more accessible to vast majority of the students seeking to study overseas from India and other such countries. Students who have taken TOEFL/PTE while considering USA or UK can also then simultaneously consider Australia without the need for the expense and bother of another test by way of IELTS.

Increasing the list of acceptable financial instruments for the purpose of the student visa demonstration of funding ability.

Australia's Visa Offices have different interpretations to what can be an acceptable financial instrument. In India, fully secured bonds with Government of India and Reserve Bank of India are not currently acceptable since they are not immediately liquid. Further the Savings Certificates (which are very common) with the Indian Post Office such as National Savings Certificates (and also IVP or KVP) are not accepted on the same grounds. There is a need to acknowledge the role that each country is playing in securing their financial institutions. India's Reserve Bank has an outstanding record of regulating its banks and there is no reason for not accepting some of the banks in India. This includes cooperative and state run cooperative banks. Deposits held with Public Sector enterprises are considered secure but are not currently accepted.

AAERI strongly recommends that all highly secured bonds or savings certificates that are maturing in the initial period of a student's study should be accepted as available funding for latter years. Some of these instruments will have a possibility of foreclosure and/or overdraft and if that possibility is available, that instrument should be accepted. All banks that are secured by Reserve Bank of India should be acceptable as it is not Australian Government's role to advise parents on the banks that they may choose to secure their funds with. Public Sector deposits are fully safe as the Government of India backs them and so these should be considered as fully acceptable funds. Example is the deposit scheme of HDFC Ltd. Interestingly HDFC Ltd also has popular educational loans. Insurance Companies such as the Government run LIC are used not merely as Insurance against premature death but are popular options for savings and some of them actually promote their schemes to save for education of children. They are promoted by the Government and incentivised through tax rebates. There may also be a possibility to accept the shares (even if to a proportionally lower limit based on credit rating) if the aim is to reduce hurdles for International students while still protecting the process. India's premier banks such as State Bank of India accept Blue-Chip equity shares as collaterals for education loans and so there is no logic in not accepting these Blue-Chip shares. Mutual funds of various banks should be accepted, as it is easy to get loans up-to 50% of their value.

Funds requirement for non-accompanying Spouse and child dependents

Australia requires funds to be demonstrated for living for spouse and child dependents even if they are not accompanying the student. Interestingly for courses upto 1-year long, spouse and dependents are not granted student visa but they still need to show funds availability. For children over the age of 5 years, significant funding is required to be demonstrated for their schooling even if the student is to study in a state where education for children of International students is free.

AAERI recommends that regulations in this area is brought at par with competing countries where funds are only demonstrated if a visa has been applied for the dependents and certainly not when there is no permission for the spouse or dependents to accompany the student.

Post Study Work as a major incentive in choice of destination

Students opting to study overseas from India often want to work for some years in that country. Some use it to gain valuable international experience while others use the earning to repay their loans. Australia is not the only country to offer this ability and hence this is one area that needs to see some stability without confusion on part of commentators as immigration. The recently changed UKBA regulations on Post-Study-Work in UK too permit all graduating students to move to Tier-2 visa “without the need for “Resident Labour Market Test”. NZ too allows students to move to a job-search-visa and then work permit. USA has provisions for OPT and Ireland has laid out a new such pathway. For Australia to remain competitive, it will need to allow post-study-work options with immigration as a separate pathway post that for those who may be eligible.

AAERI recommends that students undertaking a period of study should have the provision to “work for experience” for a similar period of time as their study period. (One year of study should allow One year of post study work option. Two for Two and Three for Three.) Students who have skill in demand in Australia with appropriate other requirements should continue to be preferred over direct applicants for permanent residency and Australian training/experience should continue to advantage them.

Education Agents remain a valid stake holder

Just the way, there are good and bad doctors, good and bad lawyers and good and bad law enforcement officers, there are good and bad agents. Work is being undertaken in lifting the general standards in the industry and in professionalising the education agents.

AAERI recommends that Australian Government’s departments continue to recognise education agents as a valid stakeholder and also list them as one. AAERI is doing its bit in lifting the standards of counselling. All members are undertaking to abide by the ESOS Act provisions, have undertaken a third party integrity check and EATC certification. AAERI is an Association promoted and supported by AEI and works in coordination with DIAC and Austrade in India and all members undertake to abide by a code of conduct and have limits to the fees charged.

Visa Fees:

The visa fees is the highest when compared to other destinations and when the consideration is made to the work that is also being done at the pre-lodgment stage in terms of document checking and cataloguing by the education agents, the fee appears even higher. Though it doesn’t come into the “decision decider on Australian Education”, it is a major inconvenience for those who have to lodge the visa again. It should be noted that there are students who get visas on the second attempt and there are refusals on technical grounds requiring the second application. Australia also doesn’t allow appeal or review of offshore visa applications. A possibility can be that on the second lodgment by a student, the visa fee is reduced. When estimating the total visa costs, we must also include the costs in “medicals” and “compulsory IELTS” as that is often not a requirement for other countries. It may be an option to have a two-tier fee structure where visas applied onshore should cost more than visas lodged offshore as in the offshore-lodgments, a significant role in the process is being actually completed by third parties such as education agents, who are also taking the responsibility for the documents including the authenticity checks. Those making a second application for student visa (following the first being refused) should be charged a lower fee if the application is being lodged within 12 months.

Timeframe for the student visa process:

Students are customers and they should be assured of a visa decision within a certain time frame. The maximum time frame should not be more than 2-3 weeks inclusive of the time taken for the medicals. AAERI also has reservations on the new initiative offering a fast-track processing for certain institutions who have signed into a local initiative of the Delhi post. When the visa fees

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are the same to all students (customers) and when they are all going to a valid institution (CRICOS), why should one customer be given a different treatment disadvantaging another in the queue. It needs to be noted that the quality of the student or the quality of institution is not being reflected in this “fast-tracking” at all as there are some “Group of Eight” institutions too who have not opted for this initiative. Asking education providers to give written undertaking on the visa applicant’s integrity is also going beyond their current skill-set.

Cost of Living be lowered from the \$18000 p.a. requirement

Living costs to be demonstrated with visa application was increased from \$12000 to \$18000 p.a. This is too high even for Sydney or Melbourne from an international student’s circumstances and doesn’t take into account the fact that students also choose locations where the cost of living can be much lower. It needs reflection based on reality. An example can be taken from UK, which has a two-tier policy for student visa applicants where those studying in London demonstrate a higher funding to those opting to study elsewhere in UK. Similarly, in Australia, the living cost may also be two-tiered and those studying in Sydney/Melbourne demonstrate a higher cost to those opting to study in other locations. This is without considering the fact that most international students also subsidize some of their costs through earnings from part time work that is legally allowed.

Reverting back to “no change of provider for first 12 months of study”.

This is one area that is exploited by the on-shore dodgy agents and dodgy providers. This should be revoked immediately and the students should not be allowed to change provider during the first academic year. This could damage more when visas are likely to be prioritized on the basis of the institution chosen by the applicant. Student going to a good university and getting visa for a good program should not be allowed to take up a much cheaper and lower level program on shore.

Blacklisting of “fraud” Education Agents and inclusion of quality agents into the “eVisa” process:

AAERI feels that several generalized statements are issued about education agents from time to time. It will instead be better to identify the education agents who are repeatedly furnishing and creating fraud documents and to alert education providers on them formally. AAERI notes that for eVisa approved education agents, an undertaking has been taken allowing sharing of this information with providers but not from the other agents. It is unfair to generalize education agents as a group without having to justify the comments. If “blacklisting” is introduced and Justifiably used, Education Institutions may then decide whether to work with the tarred agents or not. Further, all agents who have a clean track record be drawn into the eVisa approved agent list in line with the practice for onshore migration agents in Australia. It is in Australia’s interest to have all active education-agents included in the eVisa program and hence including them in the ambit of regulation than otherwise. The risk of disciplinary action should be a deterrent at all times. AAERI membership helps in differentiation too.

This submission is made on 1st April 2011 by Mr Ravi Lochan Singh as President of AAERI and for any clarifications, Ravi, can be contacted on ravi@globalreachonline.com