

VICTORIAN **ombudsman**

**Investigation into how universities
deal with international students**

October 2011

**Ordered to be printed
Victorian government printer
Session 2010 - 11
P.P. No. 81**

Letter to the Legislative Council and the Legislative Assembly

To

The Honourable the President of the Legislative Council

and

The Honourable the Speaker of the Legislative Assembly

Pursuant to sections 25 and 25AA of the *Ombudsman Act 1973*, I present to Parliament my report of an investigation into how universities deal with international students.



John R Taylor

ACTING OMBUDSMAN

26 October 2011

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Executive summary

1. My office has a longstanding interest in the good administration of Victorian universities. I regularly deal with complaints from staff and students about universities under the *Ombudsman Act 1973*. I also investigate disclosures of improper conduct at universities under the *Whistleblowers Protection Act 2001*.

I regularly deal with complaints from staff and students about universities.

2. My experience in recent years has highlighted concerns with the way Victorian universities deal with international students.
3. International education has become a key focus of universities. The number of international students enrolled in onshore higher education courses at Victorian universities tripled between 2000 and 2009 to almost 67,000 students.¹ In 2009, Victorian universities collected \$1.16 billion from fee-paying international students, or around 20 per cent of their revenue.²
4. International education is also important to the wider Victorian community. In addition to its social and cultural benefits, international education activity as a whole generated \$5.9 billion for the Victorian economy in 2009-10.³

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5. Victoria's reputation for providing quality higher education has been a key selling point for universities. There has been considerable effort on the part of governments to protect and promote this reputation, particularly following the recent downturn in the international student market.
6. Complaints from students at universities to my office, however, have more than tripled in the last four years, from 176 in 2007-08 to 534 in 2010-11. Many of these complainants identify themselves as international students and most contact my office because their university has, or is proposing to, exclude them because of poor academic performance.

Complaints from students at universities to my office have more than tripled in the last four years.

1 Department of Education, Employment and Workplace Relations, Commonwealth, *Students: Selected Higher Education Statistics*.

2 Department of Education, Employment and Workplace Relations, Commonwealth, *Finance 2009: Financial Reports of Higher Education Providers* (2010) Table 1.

3 Australian Education International, *Export Income to Australia from Education Services in 2009-10*, Research Snapshot (January 2011).

7. I have observed some concerning patterns with these complaints:
- A number of international students struggle to communicate in English. This is despite the fact that universities are meant to ensure they have appropriate English language proficiency before admission.
 - Some universities have been the source of a disproportionately high number of complaints.
8. At the same time, I have received disclosures under the Whistleblowers Protection Act alleging improper conduct at some universities, such as bribery or preferential treatment of students.

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My investigation

9. In late 2010 I decided to conduct an own motion investigation under the Ombudsman Act into how universities deal with international students. I selected a sample of four universities – Deakin University (Deakin), RMIT University (RMIT), Swinburne University of Technology (Swinburne) and the University of Ballarat.
10. My investigators spoke to academics who teach international students, with a focus on accounting and nursing schools. They also spoke to managers and student services staff at the universities, as well as student representatives, regulators, employer and professional associations and academic experts who have conducted research in the area. They also reviewed data and documentation provided by the universities.

I also identified issues with:

- ***English language admission standards and support services***
- ***academic standards and conduct***
- ***regulatory arrangements.***

11. My investigation initially focused on the universities' handling of student complaints, but as it progressed I also identified issues with:
- English language admission standards and support services
 - academic standards and conduct
 - regulatory arrangements.

12. This report makes a number of recommendations about good practice in these areas that aim to ensure Victoria continues to offer quality education to international students in years to come.

English language proficiency

13. Most of Victoria's international students come from countries in Asia where English is not the first language. I am concerned that universities are not doing enough to ensure these students have the English language skills they need to study successfully in Australia.

I am concerned that universities are not doing enough to ensure students have the English language skills they need to study successfully in Australia.

14. Witnesses who work with international students said they see a wide range of skills amongst students, and published pass rates show international students as a whole perform well compared with local students. However, almost all witnesses who work with university students and graduates shared my observation that some international students struggle with English. Similar concerns have been raised in government reports dating back to at least 2002.⁴
15. Some professional bodies like the Nursing and Midwifery Board of Australia and CPA Australia are now setting their own language standards for former international students seeking to work in Australia. In some cases, these remain higher than the universities' standards.

English language admission standards

16. I am concerned that universities have been setting their admission standards based largely on industry practice and assumptions, not on evidence about the language skills that students need to study successfully. I also identified tensions at some universities between academic standards and the need to maintain revenue and market share.
17. The four universities require prospective international students to demonstrate their English language proficiency before admission. They allow students to do this in a number of ways. They generally involve a minimum score on a recognised English language test, such as the International English Language Testing System (IELTS) test, or successful completion of previous study in English.
18. My investigation identified concerns with some of these English language admission pathways:
 - The four universities' minimum IELTS scores for most higher education courses are below, or at the lower end of, those considered acceptable by the testing organisation.

⁴ See, for example, Victorian Auditor-General, *International students in Victorian universities* (2002).

- When asked how they had selected their scores, three universities referred largely to industry practice.
- The use of independent tests like IELTS to check students' English language proficiency is declining at some universities. In 2010, only 15 per cent of RMIT's new international students (for whom information was available) were admitted on the basis of IELTS or similar test results.

The use of independent tests to check students' English language proficiency is declining at some universities.

- All four universities admit substantial numbers of international students through 'pathway courses', such as intensive English language or TAFE programs. The universities run some of these courses themselves. They are meant to give students the language and/or academic skills they need for higher education, but the universities do not require students to take an independent test like the IELTS test at the end to verify their assumptions.
- Several academic and student services staff said they had seen students who met the universities' admission standards, but still struggled with English.

19. Several witnesses claimed that universities are reluctant to face problems with their admission policies for fear of reducing international student numbers and revenue. My investigation obtained internal documents from three universities showing business considerations have factored in discussions about admission policies.

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20. The universities rejected any suggestion that admission standards have been compromised by revenue. They expressed concern about the methodology for my investigation, particularly the number of witnesses interviewed. Swinburne noted that other factors, in addition to English language skills, affect international students' academic and career prospects. RMIT and the University of Ballarat referred to the published data showing international students have pass rates comparable to local students and dismissed contrary evidence from witnesses as 'anecdotal'.

The universities rejected any suggestion that admission standards have been compromised by revenue.

21. However, my investigation identified that only one of the four universities – Swinburne – has been regularly collecting and analysing data about the

academic performance of students admitted through different English language pathways to verify its own policies. This is despite a 2002 report from Victoria's Auditor-General recommending all universities track the relationship between admission pathways and academic outcomes to support admission decisions.

22. I consider that the universities need to shift their focus from recruiting students and boosting their revenue to ensuring their international students have the necessary skills to study successfully.

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English language support services

23. The universities provide a range of services to help international students with language problems after they have been admitted. They include dedicated learning advisers who offer help with language and study skills.
24. These services can help students maintain and develop language skills, although they are not a substitute for proper admission standards.
25. I am concerned that universities have not dedicated sufficient resources to these services to meet the level of need amongst international students. I am also concerned that the services are not engaging many of the students who are at risk and need assistance.
26. The universities have been bolstering their services in recent years and three – Deakin, RMIT and Swinburne – are undertaking university-wide reviews or projects in the area. There is debate within the academic community about how universities can best provide language services and I believe all universities need to evaluate their English language support services and how they can be improved.

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Academic standards and conduct

27. The growth of international education at Victorian universities has been rapid and far-reaching. The pace of change is likely to continue with the introduction of demand-driven funding for local students and plans to increase participation in higher education.
28. Recent disclosures to my office under the Whistleblowers Protection Act, along with media debate about 'soft marking' of students, raise questions about how universities are maintaining standards in the face of these changes.

29. The four universities all have quality assurance systems and processes and aim to promote proper conduct through staff codes of conduct and strategies to discourage and detect plagiarism.
30. I consider that the universities need to strengthen their systems. The university staff interviewed during my investigation were committed to giving international students a meaningful education, and to preserving quality and standards in the face of significant changes to their working environment. However, some staff reported experiences that are cause for concern. These include:
- A nursing lecturer at one university said her head of school had given extra marks to students because he thought the failure rate for her subject was too high and he wanted ‘to get the traffic lights green’.
 - Academics at three universities said the way they assess students has changed, with less emphasis on written examinations and more emphasis on other types of assessment such as group work.
 - Academics at three universities said plagiarism is a problem for students. One RMIT academic described it as ‘running rampant’.
 - Six of 15 academic staff interviewed from the four universities reported they had been offered a bribe by a student in the past, or knew of colleagues who had been offered a bribe.

The university staff interviewed during my investigation were committed to giving international students a meaningful education.

31. The universities rejected any suggestion that academic standards and quality are being compromised.
32. While it is not possible based on this investigation to determine how widespread problems with standards and misconduct are, clearly there are problems. A number of disclosures of bribery and preferential treatment of students have already been substantiated under the Whistleblowers Protection Act.⁵
33. Universities need to accept that not taking action on these types of issues heightens the risk to their integrity and reputation. They need to manage these changes better so that academics have more guidance about how to teach and assess diverse groups of students. They also need to introduce more rigour and oversight into their assessment practices and to assess the risk of misconduct and the effectiveness of their existing policies. These issues require attention, not complacency or defensiveness.

⁵ See, for example, Victorian Ombudsman, *Annual Report 2011 Part 1* (2010) pages 51-52; Victorian Ombudsman, *Investigation into an allegation of improper conduct within RMIT's School of Engineering (TAFE) - Aerospace* (2010).

Complaints and appeals

34. All four of the universities have policies and processes which allow students to lodge complaints and appeals. The universities generally encourage resolution within faculties or schools in the first instance. In a 2005 review of complaint handling in universities, I found that knowledge about how to handle complaints was not as strong at less senior levels within universities, or within the student body.
35. My current investigation identified some ongoing concerns, including:
 - complex policies and processes at some universities
 - reports of poor complaint handling within faculties and schools, despite increased efforts by universities to train and support staff
 - failure to record and monitor faculty or school-based complaints and appeals in some cases.
36. The universities' systems for identifying and helping 'at risk' students are not always effective in practice. The letters that two universities send to students with poor academic performance would be hard for local students to understand, let alone students who may have limited English.⁶ The systems do not identify struggling students until they are already failing; help is limited in practice; and students see the process as intimidating. While the Universities of Ballarat and Deakin have created systems that identify struggling students earlier and encourage more personal contact, there is scope for other universities to do the same.

Systems do not identify struggling students until they are already failing.

Regulation

37. Governments have put in place regulation that is meant to protect international students and Australia's reputation for quality education.
38. Universities enjoy a special status under these arrangements. They are subject to regulation, but have less external scrutiny than other education institutions. This reflects the historical role of universities as independent centres of learning and research in society.

Universities are subject to regulation, but have less external scrutiny than other education institutions.

39. The concerns identified by my investigation raise questions about the effectiveness of these arrangements.
40. Part of the problem is the regulation itself. It leaves considerable discretion to universities in many cases. The Commonwealth Government is planning to issue detailed teaching and learning standards and English

⁶ See example in Appendix 1.

language proficiency standards, but it is not clear when these will be in place.

41. There has also been a lack of effective local regulatory oversight for universities in Victoria. At the time of my investigation, responsibility was divided between the Commonwealth Government and the state Victorian Registration and Qualifications Authority (VRQA). The VRQA was not proactive about investigating reports of poor English language proficiency, encouraged by the so-called concepts of 'proportionate regulation' and 'risk management'.
42. While the ideal of universities as independent centres of teaching and research remains important, I consider that they are not well placed to self-regulate their dealings with international students when they are competing for those students and are reliant on them for such a large part of their revenue.
43. The universities can all point to policies, programs and plans for international education, but the evidence obtained during my investigation demonstrates that they are often poorly designed or poorly implemented in practice.
44. My investigation also identified gaps between the evidence provided by some university executives and staff who actually work with students. One senior executive said that he had heard 'nothing' from academics about students' language proficiency while employed at his university. Several academic staff told my investigation they had tried to raise concerns, but their universities had not been responsive.
45. While some universities disputed my conclusions, the response of some has compounded my concerns. The Vice-Chancellors of Deakin and Swinburne did not agree with all of my conclusions, but acknowledged the seriousness of the issues and set out plans to address them. The Vice-Chancellors of RMIT and the University of Ballarat, by comparison, took exception to my report and rejected many of my recommendations.

While some universities disputed my conclusions, the response of some has compounded my concerns.

46. My investigation has highlighted areas where concerns have been expressed by staff who work with students, often supported by other witnesses and research. Universities rejecting these concerns, in the face of evidence from their own staff, raises concerns about their commitment to their students and their reputations for providing quality teaching.
47. I have recommended a number of changes to ensure universities continue to set the standard for international education in Victoria, including:
 - evidence-based reviews of English language admission standards
 - independent language testing for students from pathway courses
 - external examiners to add rigour and oversight to assessment.

Background

48. International education has transformed Victoria's universities in recent years. The number of international students enrolled onshore in higher education courses tripled between 2000 and 2009, from 22,000 to almost 67,000 students.⁷ At some universities, international students now make up to 20 per cent of students on campus.
49. Universities have become increasingly reliant on the fees paid by these students to fund their operations. In 2000, Victorian universities collected around \$296 million from fee-paying international students. By 2009, that figure had grown to \$1.16 billion or around 20 per cent of the universities' revenue.⁸
50. International education is also important to the wider Victorian community. In addition to its social and cultural benefits, international education activity as a whole generated \$5.9 billion for the Victorian economy in 2009-10. Education services is Australia's largest services export industry.⁹
51. Victoria's reputation for providing quality higher education has been a key selling point for universities. There has been considerable effort on the part of governments to protect and promote this reputation, particularly following the recent downturn in the international student market.

The role of the Victorian Ombudsman

52. My office also has an interest in the good administration of international education in Victoria. I regularly deal with complaints from students at Victoria's eight public universities, TAFE institutes and some other education institutions under the *Ombudsman Act 1973*. I also investigate disclosures of improper conduct by public officers and bodies under the *Whistleblowers Protection Act 2001*.
53. My experience in recent years has highlighted some concerns with the way universities deal with international students.
54. Complaints from students about universities have more than tripled in the last four years, from 176 in 2007-08 to 534 in 2010-11. Many of these complainants identify themselves as international students and most contact my office because their university has, or is proposing to exclude them because of poor academic performance.
55. In dealing with these complaints, I have identified some concerning patterns, including:
 - A number of international students struggle to communicate in English. This is despite the fact that universities are meant to ensure

7 Department of Education, Employment and Workplace Relations, Commonwealth, *Students: Selected Higher Education Statistics*.

8 Department of Education, Employment and Workplace Relations, Commonwealth, *Finance 2000: Financial Reports of Higher Education Providers (2002) Table 1* and *Finance 2009: Financial Reports of Higher Education Providers*, op cit.

9 Australian Education International, *Export Income to Australia from Education Services in 2009-10*, op cit.

that students have appropriate English language proficiency before admission. It raises questions about whether those students could ever be expected to study successfully at an English-speaking university and how universities are setting admission standards.

- Some universities, such as RMIT, have been the subject of a disproportionately high number of complaints.

56. I have also received several disclosures under the Whistleblowers Protection Act alleging improper conduct at some universities. The disclosures allege staff have sought or accepted bribes from, or have given preferential treatment to, international students. My *Annual Report 2011 Part 1* and my 2010 report, *Investigation into an allegation of improper conduct within RMIT's School of Engineering (TAFE) - Aerospace*, contain examples.
57. In late 2010 I decided to conduct an own motion investigation under the Ombudsman Act into how universities deal with international students. The initial focus of the investigation was the universities' handling of international student complaints, but as it progressed I also identified issues with:
- English language admission standards and support services
 - academic standards and conduct
 - regulatory arrangements for universities and international students.
58. This report makes a number of recommendations about good practice in these areas that aim to ensure Victoria continues to offer quality education to international students in years to come.

The investigation

The universities

59. I selected four of Victoria's eight universities for my investigation. They were Deakin, RMIT, Swinburne and the University of Ballarat. I chose these universities partly based on complaints to my office and partly to ensure my sample covered urban, regional, large and small universities.

Deakin University

60. Deakin offers higher education courses at its Burwood, Geelong and Warrnambool campuses, as well as off campus. In 2010, Deakin had over 39,000 students and over 3,200 full time equivalent staff.
61. In 2010, Deakin had 8,197 international students, making up over 20 per cent of its student population. Deakin's top three sources of international students were mainland China, India and Hong Kong.¹⁰

¹⁰ Deakin, *Deakin at a Glance 2010*, page 7; Deakin, *Annual Report 2010*, pages 4-5.

RMIT University

62. RMIT is a 'dual sector' institution offering higher education and vocational education and training (VET) courses. It is Victoria's largest university in terms of student numbers. In 2010, it had almost 74,000 students and almost 4,000 staff.
63. RMIT had nearly 12,000 international students, making up around 16 per cent of its student population, studying onshore at campuses in Victoria. Its main sources of students were China and India. RMIT also had 17,000 international students studying offshore, including at two campuses in Vietnam.¹¹

Swinburne University of Technology

64. Swinburne is also a dual sector university. In 2010, it had just over 59,000 students studying at six Melbourne campuses, as well as an offshore campus in Malaysia.
65. In 2010, Swinburne had 7,622 international students studying onshore in Victoria, making up 13 per cent of its students. Its top source countries for international students were India, followed by China and Vietnam.¹²

University of Ballarat

66. The University of Ballarat has six campuses in regional Victoria. Like RMIT and Swinburne, it is a dual sector university offering higher education and VET courses. It is one of Victoria's smallest universities in terms of student numbers. In 2010, it had almost 23,000 students.
67. The University of Ballarat has been affected by the international student downturn more than Victoria's other universities. In 2010, it had 5,500 international students, down from 7,572 students the year before.¹³
68. The University of Ballarat uses a different model to other universities for teaching international students. Most of its international students study through partner institutions located in metropolitan centres, like the Melbourne Institute of Technology in Melbourne.

Investigation methodology

69. In December 2010, I wrote to the Vice-Chancellors of the four universities informing them of my intention to conduct the investigation. I also notified the Premier, the Minister for Higher Education and Skills and the Chair of the Victorian Registration and Qualifications Authority (VRQA), Victoria's education and training regulator.
70. The investigation involved:
 - Analysis of complaints to my office from students since July 2007. Deakin noted that the number of students who complain to my office is small compared with the university's overall student

¹¹ RMIT, *2010 Pocket Statistics*; RMIT, *Annual Report 2010*, page 14.

¹² Swinburne, *Statistics Book 2010*, Table E8.

¹³ University of Ballarat, *Pocket Statistics 2010*.

population and the University of Ballarat said students are now more aware of their rights. Both referred to surveys showing high levels of satisfaction amongst their students generally. Nevertheless, my experience is that complaints can still identify systemic problems.

- A review of a sample of complaint and appeal files at the four universities.
- Interviews with management, academic and student services staff at the four universities, as well as staff from 'pathway' courses that aim to prepare international students for university study. The interviews with academic staff focused on accounting and nursing schools, which attract high numbers of international students.
- Interviews with representatives of regulatory agencies.
- Review of information and data obtained from the four universities and the VRQA.
- Interviews with staff and student unions, employer interests, professional associations and registration bodies, an English language testing organisation and an international student association.
- A review of other relevant reports regarding international students in Australia.
- Interviews with four academic experts who have conducted research in the area.

71. In the course of my investigation, 42 interviews were conducted under oath and 20 interviews were conducted not under oath. One witness was interviewed under summons. Three witnesses requested legal representation at interview and this was granted by my office.

Jurisdictional issues

72. In August 2011, I provided relevant extracts from this report to the four universities, the VRQA and IELTS Australia, an English language testing organisation.
73. The universities' responses to my report were mixed, with two in particular – RMIT and the University of Ballarat – taking a defensive approach.
74. The Vice-Chancellor of RMIT argued that much of the material in the report appears to be outside my jurisdiction. She asserted this position for three reasons. First, she stated that universities are 'established under legislation as self-governing institutions in order to ensure the autonomy and integrity of academic processes'. Second, she stated that many of the matters are within 'the jurisdiction of the Commonwealth' and third, she stated that much of the report deals with 'matters unrelated to administrative action'.

75. The universities are established by Victorian legislation, but they are not intended to be immune from scrutiny. They are established for a public purpose (to provide tertiary education) and the Governor in Council and relevant state minister appoint a number of members of their governing bodies. Each of the universities is therefore a 'public statutory body' as that term is defined in section 2 of the Ombudsman Act and, as such, is within the jurisdiction of the Ombudsman to investigate.
76. The Vice-Chancellor provided few details as to the basis for her view that Commonwealth jurisdiction excludes that of the Ombudsman. It is noted that Commonwealth regulation will not exclude the operation of state laws unless there is inconsistency between the relevant Commonwealth and state legislation. The Vice Chancellor has not identified any such inconsistency. Nonetheless, certain matters dealt with in this report are subject to Commonwealth regulation as a result of Commonwealth Acts such as the *Education Services for Overseas Students Act 2000* (Cth). I have examined those Acts and nothing was identified that excludes, expressly or by implication, the universities from the jurisdiction of the Ombudsman.
77. Finally, the Vice Chancellor considered that matters concerning 'academic governance' are not 'administrative actions'. The definition of 'administrative action' in section 2 of the Ombudsman Act is very broad covering:
- any action relating to a matter of administration, and includes—
- (a) a decision and an act;
 - (b) the refusal or failure to take a decision or to perform an act;
 - (c) the formulation of a proposal or intention; and
 - (d) the making of a recommendation (including a recommendation made to a Minister).
- As 'academic governance' concerns the administration of universities, I see nothing that removes matters concerning 'academic governance' from the scope of 'administrative action'.

English language proficiency

78. Most of Victoria's international students come to Australia from countries in Asia where English is not the first language. These students face the challenge of studying in a language that is not their own, along with the other personal and cultural issues faced by visitors to a foreign country.
79. Some international students who complain to my office have difficulty communicating in English. Some ask for an interpreter. Others write in a way that is much less skilled than I would expect from university students and I have included examples of those complaints in this chapter.
80. Previous reports have identified similar issues. In 2002, Victoria's Auditor-General surveyed academics at three universities. Only 30 per cent thought the international students in their classes had adequate English language proficiency.¹⁴ A 2006 Commonwealth Government review reported that some former international students seeking to migrate to Australia had lower language skills on graduation than they needed to enter university in the first place.¹⁵
81. These reports raised questions about how students with poor English language proficiency are gaining admission to universities and what universities are doing to develop students' English skills while they study. My investigation identified that the same issues are relevant today.

International students and language proficiency

82. Many of the witnesses interviewed during my investigation were full of admiration for international students for studying in a foreign country and 'doing it a little bit against the odds'. They stressed that they see a wide range of skills amongst both international and local students. One lecturer said international students are often at the very top as well as the bottom of his classes. University data shows that, as a whole, international students have progress or pass rates equivalent to, or only slightly lower than local students.
83. However, almost all of the witnesses who work with international students shared the observation that some students struggle with English. One of Swinburne's lecturers reported that some of her students use digital translators in classes to translate handouts into their first language. A manager of clinical education at a teaching hospital said she had seen international nursing students who found it 'near impossible' to talk to people in English.
84. English language proficiency is not the only requirement for academic success, but witnesses expressed concern that students with very low levels of English were being 'set up to fail'. A lecturer from RMIT said:

... for the ones that haven't got the English, they do fail. And quite often you can see a pattern. They will have failed two or three

¹⁴ Victorian Auditor-General, *International students in Victorian universities*, op cit, page 44.

¹⁵ Bob Birrell, Lesleyanne Hawthorne and Sue Richardson, *Evaluation of the General Skilled Migration Categories* (2006) pages 107-108.

subjects in [semester] one, two or three out of the four. And then they'll fail some more in the second semester.

85. The lecturer highlighted the costs to the students and their families:

I can think of one student. And his parents were working – his father had gone off to the oil rigs and was working a second job in the meantime and a third one as well. They were quite poor. And his mother was working as well to keep him in study in Australia. And he was a failing student. He couldn't pass ...

86. While the universities' published data show that international students have similar pass rates to local students, other data obtained from two universities suggest that international students are over-represented amongst their worst-performing students. At Swinburne, 36 per cent of excluded higher education students in 2010 were onshore international students, even though they made up only 29 per cent of the university's higher education students. Just under 30 per cent of the students excluded by faculty committees at Deakin in 2009 were international students, even though international students made up only 19 per cent of the student population that year.

87. According to some employers and professional associations, international students who graduate from university with poor English language skills struggle to find employment. A nursing manager at one of Victoria's health services said:

We have had graduates walk out of [the interview room] where [the interview panel] has said, "We didn't understand a word they were saying." We couldn't write anything down because we couldn't comprehend a word. How were they ever going to look after a patient?

88. The two health services interviewed during my investigation had employed very few international nursing students in their graduate programs. Witnesses reported that many work in areas such as aged care, which have poorer pay and conditions.

89. A recent Australia-wide survey shows the problem is not limited to nursing. It found that 13 per cent of higher education-qualified international students in Australia were seeking work. This is more than double the 6 per cent of local graduates seeking employment. Department of Immigration and Citizenship data shows that only 60 per cent of former international students who stayed in Australia are in skilled jobs, and their median earnings are over \$20,000 less than other skilled migrants.¹⁶

90. The Business Council of Australia told my investigation that English proficiency was the 'number one' issue for its members. Two recent Commonwealth Government studies found similar concerns amongst employers.¹⁷

¹⁶ Australian Education International, *International graduate outcomes and employer perceptions* (2010) pages 5-6; Department of Immigration and Citizenship, Commonwealth, *How new migrants fare: Analysis of the Continuous Survey of Australia's Migrants* (2010) page 6.

¹⁷ Australian Education International, *International graduate outcomes and employer perceptions*, op cit; Department of Education, Employment and Workplace Relations, Commonwealth, *The impact of English language proficiency and workplace readiness on the employment outcomes of tertiary international students* (2009).

91. Some professional bodies like CPA Australia and the Nursing and Midwifery Board of Australia have started setting their own language standards for former international students seeking to work in Australia to ensure they can communicate effectively in the workplace.
92. The following case study illustrates this issue:

Student A

Student A was enrolled in an undergraduate management course at RMIT. He complained to my office after the university excluded him from the course because of unsatisfactory academic performance. He wrote as follows:

... While last semester I still failed up to 3 subjects I am stock, because I have consider myself should be pass 3 subjects, which is meet the requirement of academic result. However, the main issue to cause me failed is because of my Essay writing is failed because those assignment marks for those subjects is heavy, the exam is only 40% and one of the subject is PURE WRITE ESSAY without exam. I have notice that my essay/report writing skill is poor and it is impossible to surviving in Final year (as this my final year, Year 3). This is the main issue to affect I failed 3 out of 4 subject for semester 1, 2010 ...

... I only need 1 semester and I do believe I can finish my degree program, as I already stay in Melbourne for 6 years

Following discussions with my office, RMIT allowed Student A to continue his studies on the grounds his academic performance had improved.

93. In their responses to my draft report, three of the universities said that many international students succeed at university and in the workforce.
94. Swinburne acknowledged that '[f]or some international students, English language skills can present barriers to academic success'. It noted that international students also face other cultural and pedagogical challenges, as well as structural issues such as access to industry-engaged learning when they seek employment in Australia.
95. RMIT and the University of Ballarat questioned the evidence obtained during my investigation:
- The University of Ballarat said international students are not over-represented in its exclusions, although it did not provide comparable university-wide data. It also claimed that its international nursing graduates have found employment in a number of health services and hospitals.
 - RMIT claimed there is 'no evidence' that the higher failure rates and poorer employment outcomes identified are related to English language competence, but did not draw my attention to any of its own studies to support this argument.

- Both universities highlighted data showing international students as a whole have comparable pass rates to local students.
- Both universities said the evidence could equally apply to local students from a non English-speaking background. RMIT claimed:

[M]ost university staff are unaware of the status of students from non-English speaking backgrounds, and have no way of distinguishing between domestic students from non-English speaking backgrounds and international students. Instead you appear to be relying on subjective assessments of status based on ethnic factors.

96. Some academic staff said they did not know the status of students in their classes. As might be expected, others were interacting with their students and were aware of their circumstances. Their evidence, along with evidence from employers, a major business association and two Commonwealth Government studies, suggest that published pass rates do not tell the full story and some international students have English language problems that affect their studies and employment prospects in Australia.

Standards for English language proficiency

97. Universities in Australia are largely free to set their own English language admission requirements for international students and to decide how much ongoing support they will offer.
98. The main source of regulatory standards for universities in this area is the *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007* (the National Code).
99. The National Code sets out 15 standards that education institutions have to meet when dealing with international students, including:
- standard 2.2, which requires education institutions to implement documented procedures to assess whether a prospective student's qualifications, experience and English language proficiency are 'appropriate' for the course prior to enrolment
 - standard 6.2, which requires education institutions to provide the opportunity for students to participate in services, or to provide them with access to services, designed to assist students in meeting course requirements and maintaining their attendance.
100. In 2009, the Australian Universities Quality Agency (AUQA), which was responsible for quality auditing universities in Australia, released more detailed *Good Practice Principles for English Language Proficiency for International Students in Australian Universities*. Amongst other things, the principles state that:
- universities are responsible for ensuring that their students are sufficiently competent in the English language to participate effectively in their university studies

- resourcing for English language development should be adequate to meet students' needs throughout their studies.

101. The following case study illustrates the problems faced by international students who enter university with poor English language proficiency:

Student B

Student B was excluded from his course at Swinburne because of poor academic performance. He applied to study an alternative course and complained to my office because the university had already reported him to Commonwealth Government authorities in accordance with the National Code. He wrote:

Last year was the first year i'm studying oversea. So I met a lot of problems,

the big problem I met is language. English is not my first language and. When I study in lecture, I just understand a little bit. Lucky now it better, I can hear most. Another problem is I always use computer which automatically doing everything so when do the hand writing I met a lot of spelling mistake and more bad is many simple words I can't remember how to write it ...

My office did not substantiate Student B's complaint.

The universities' English language admission standards

102. The four universities subject to my investigation have policies that require international students to demonstrate a minimum standard of English language proficiency before admission.
103. They allow students to do this in a number of ways. They generally involve:
- a recognised English language test, or
 - completion of previous study in English.

English language tests

104. The most widely recognised English language test in Australia is the IELTS (International English Language Testing System) test. IELTS is owned and managed by the British Council, University of Cambridge ESOL Examinations and IELTS Australia. It tests applicants' listening, reading, writing and speaking skills and scores students on a band from 0 to 9 for each skill as well as providing an overall score.
105. Universities also recognise alternative tests, such as the American TOEFL (Test of English as a Foreign Language) test.

The universities' minimum test scores

106. The universities set minimum IELTS scores that students have to meet in order to demonstrate their English language proficiency. The minimum scores depend on the level of study, as set out in Figure 1.

Figure 1: General minimum IELTS scores for admission to university

	Deakin	RMIT	Swinburne	University of Ballarat
TAFE courses	N/A	5.5 (no band less than 5)	5.5 (no band less than 5)	5.5 (no band less than 5)
Undergraduate courses e.g. bachelor of commerce	6.0 (no band less than 6)	6.5 (no band less than 6)	6.0 (no band less than 6)	6.0 (no band less than 5.5)
Postgraduate courses e.g. masters and PhD courses	6.5 (no band less than 6)	6.5 (no band less than 6)	6.0 (no band less than 6) – 7.0 (no band less than 6.5) depending on the course	6.0 (no band less than 5.5) for coursework programs 6.5 (no band less than 6) for research programs

107. Some universities require international students who want to study particularly demanding courses, such as medicine, to demonstrate higher IELTS scores.

108. IELTS Australia describes a person with an IELTS score of 5 as a 'modest user' with 'partial command of the language, coping with overall meaning in most situations, though is likely to make many mistakes'. A person with IELTS 6 is a 'competent user' with 'generally effective command of the language despite some inaccuracies, inappropriacies and misunderstandings'. They can 'use and understand fairly complex language, particularly in familiar situations'. IELTS Australia describes a person with IELTS 7 as a 'good user' who has 'operational command of the language, though with occasional inaccuracies, inappropriacies and misunderstandings in some situations' and who '[g]enerally handles complex language well and understands detailed reasoning'¹⁸.

The adequacy of the minimum IELTS scores

109. During my investigation I identified issues with the universities' minimum IELTS scores, including:

- The scores are below or at the lower end of those considered acceptable by IELTS Australia, a point also made in a recent

¹⁸ IELTS, *Ensuring quality and fairness in international language testing* (2007) page 2.

Commonwealth Government review of international student regulation.¹⁹ While IELTS Australia stresses that it is up to education institutions to determine their admission requirements, it has published guidance on acceptable scores for courses (Figure 2).²⁰ The current guidance states that students with IELTS scores of 6 or 6.5, the scores required by universities for most undergraduate and postgraduate courses, would need further English language development to study most of those courses.

- A number of university staff reported that students with IELTS scores of 6 struggle with their studies. A staff member from the University of Ballarat said, for example:

It just takes an IELTS 6.0 student longer. It's not that they're not capable or they don't have the skills. It's more [that] it takes them double the time. They have to translate everything. You can imagine deconstructing reading materials ... It just takes them that much longer.

- Some schools and faculties at RMIT and Swinburne have asked the universities' decision-making bodies to raise the minimum scores for their courses. RMIT, for example, raised its minimum score for its Master of Education and intermediate awards from IELTS 6.5 to 7 in 2007, noting concerns that international students were failing teaching rounds because of language difficulties.

Figure 2: IELTS guidance regarding band scores for courses

Band	Linguistically demanding academic courses	Linguistically less demanding academic courses	Linguistically demanding training courses	Linguistically less demanding training courses
7.5-9.0	Acceptable	Acceptable	Acceptable	Acceptable
7.0	Probably acceptable	Acceptable	Acceptable	Acceptable
6.5	English study needed	Probably acceptable	Acceptable	Acceptable
6.0	English study needed	English study needed	Probably acceptable	Acceptable
5.5	English study needed	English study needed	English study needed	Probably acceptable

Selection of the minimum test scores

110. In light of this evidence, I asked the universities for documentation showing how they had derived their English language admission requirements.

¹⁹ Commonwealth of Australia, *Stronger, simpler, smarter ESOS: supporting international students* (2010) (the Baird review) pages 10-11.

²⁰ IELTS, *Guide for education institutions, governments, professional bodies and commercial organisations* (2009) pages 8-9.

111. The universities advised that they set their minimum IELTS scores some years ago, but they did say they had reviewed their admission requirements.
112. Most justified their scores by reference to industry practice rather than evidence about the needs of students. The University of Ballarat said that its 'minimum requirement is benchmarked against other [u]niversity entry requirements ...'. RMIT provided evidence that '[d]evelopment of [its language of instruction policy] has been informed by a survey of the practices and requirements of other universities ... and existing RMIT practices'. Deakin said its scores were 'generally agreed industry practice around ... the time that they were set'. The Vice-Chancellor of Deakin said the university's standards also reflect the needs and requirements of relevant professional bodies.
113. Swinburne was the only university that had been conducting regular research into the impact of different IELTS scores on the academic performance of its students. It has commissioned several studies of students admitted on the basis of different scores. The studies show a correlation between IELTS scores and pass rates. A study of students commencing in 2008 found students with an IELTS score of 7 had an 85.7 per cent mean progress rate. Students with an IELTS score of 6 had a lower 74.7 per cent mean rate, while students with an IELTS score of 5.5 had a 70.3 per cent mean rate. This compared with an 81 per cent mean rate for local students. Swinburne advised it was reviewing its IELTS scores and would consider the findings of its research.
114. Swinburne noted that English language proficiency scores are not perfect predictors of academic success, a view supported by published research.²¹ However, it also emphasised the importance of regular reviews of student performance. The Vice-Chancellor said:

[A]ssumptions about the performance of students need to be tested to ensure that decisions are evidence-based; and

... entry requirements need to be calibrated to give the commencing student population the best overall opportunity to succeed in their studies.

The integrity of the IELTS test

115. The integrity of the IELTS test attracted some publicity during my investigation. In early 2011, the Western Australian Corruption and Crime Commission held public hearings into the manipulation of IELTS test results at the Curtin University of Technology's English Language Centre. The Commission charged nine people with bribery offences and Curtin University announced the test centre's closure.
116. A number of Victorian university staff told my investigation they had seen students whose IELTS score was not consistent with their apparent

²¹ See Judith Rochecouste, Rhonda Oliver, Denise Mulligan and Martin Davies, *Addressing the ongoing English language growth of international students: Final report*, Australian Teaching and Learning Council (2010) pages 13-14.

level of English language proficiency. Witnesses proposed various explanations:

- Some referred to stories of cheating at overseas IELTS test centres.
- As with any test, IELTS results can be affected by how students are feeling on the day and their skills with test technique. There is now a separate industry around the IELTS test which sells preparation courses and materials to students. An international student representative reported that some students take the test multiple times in a bid to improve their scores.
- Some universities accept IELTS results that are up to two years old. IELTS Australia and its partners consider results to be valid for two years, but witnesses noted students' skills can decline during this time.

117. IELTS Australia told my investigation they use a series of quality and security measures to protect the integrity of the test. They advised that these systems originally detected the problems at Curtin University. IELTS is also introducing a new identity-checking system that requires applicants to undergo passport checks and fingerprint scanning. My investigation observed these procedures in operation in Melbourne. IELTS Australia also has an online verification service that universities can use to check that test results submitted by students are genuine.
118. All four universities advised that they use IELTS Australia's verification service to check students' test results. Swinburne advised that the organisation that operates the TOEFL test has also developed an online verification tool which is used by Swinburne admissions staff.

Previous study in English – alternative pathways

119. Universities also admit international students who can demonstrate previous study in English. The types of study recognised by universities vary from institution to institution, but fall into three general categories:
- a secondary qualification in English, such as Victorian Certificate of Education English as a Second Language (VCE ESL), or an international equivalent
 - completion of an intensive English language course
 - completion of a course taught in English, such as a TAFE course.
120. These alternative pathways have become a common way for international students to meet universities' English language admission standards. Only two universities were able to provide comprehensive data about how international students meet their English language admission requirements. Data from Swinburne showed that only 25 per cent of its 2010 international students submitted IELTS or TOEFL test results, down from 40 per cent in 2008. Data from RMIT showed that only 15 per cent of the students for whom information was available submitted IELTS or TOEFL results, down from 31 per cent in 2008.

121. The universities run their own pathway programs that feed international students into their higher education courses:
- Deakin uses the Deakin University English Language Institute (DUELI) to teach intensive English courses. It also has an arrangement with the Melbourne Institute of Business and Technology (MIBT) to teach diploma courses that qualify students for entry to Deakin. MIBT is a private college owned by Navitas but has facilities on Deakin's Burwood and Geelong campuses.
 - Swinburne uses the university-owned Swinburne College to provide intensive English, foundation and 'Unilink' courses to international students. Students can also move from Swinburne's TAFE division to its higher education courses.
 - RMIT uses the university-owned RMIT English Worldwide to provide English courses and RMIT International College to provide foundation and diploma programs. Like Swinburne, RMIT also provides for students to move from TAFE to higher education.
 - The University of Ballarat recently established an English Language Centre to provide intensive English courses.
122. Students who successfully complete the universities' pathway programs can be guaranteed future admission to higher education courses. The University of Ballarat, for example, offers students who do not meet its minimum IELTS score a place in one of its intensive English programs. Upon completion, the student can enter their chosen course.
123. Some universities also give students from certain pathway programs credit towards their university degree. Deakin allows students with an MIBT diploma to transfer into the second year of a Deakin bachelor degree. A similar arrangement applies at Swinburne for graduates of Swinburne College's Unilink courses.

Problems with alternative pathways

124. My investigation identified concerns with some of the alternative pathways recognised by universities. A lecturer at Deakin said he and his colleagues joke about one of its pathway programs to the effect:
- Well, if you're living and breathing and you know three words of English, we'll put you in [to the university].
125. A teacher at one institution said some of his students do well when they move to Deakin, but others:
- limp into second year and they're just overwhelmed. It's like being in the face of a tsunami I would think. They're clearly underprepared.
126. Internal university data, while limited, shows that students who come through some pathways perform worse than others. Swinburne has commissioned three studies into the academic performance of students admitted through different English language pathways. The study of

its 2008 commencing international students found that students who used an IELTS test had a 79.9 per cent mean progress rate. Students who used Swinburne College's Unilink courses, by comparison, had a mean progress rate of only 55.5 per cent.

127. Swinburne said it had made changes to the Unilink program and its most recent tracking study showed the progress rate for former students had increased to 77.8 per cent.
128. A study of English language pathways at the five Australian Technology Network universities, including RMIT, also showed students from some pathways are more likely to underperform.²² This included international students who have come through the Australian secondary school system.
129. Academic and support staff raised particular concerns about the English language skills of international students who have completed VCE ESL in Victoria. My investigation was told that at least three universities – Deakin, RMIT and the University of Melbourne – have raised their required VCE ESL scores as a result of these problems.

Selection of alternative pathways

130. My investigation examined how universities verify that pathways students have the level of English language proficiency they need for higher education.
131. None of the four universities requires students to take an independent language test at the end of their pathways course to check they have the English language proficiency required for higher education.
132. The universities do require international students to provide evidence of their English language proficiency before they *enter* a pathway course. This is generally an IELTS score of 5.5, lower than the IELTS 6 or 6.5 scores the universities require for direct admission to their courses. The entry requirements can be even lower for some intensive English programs.
133. The universities' intensive English programs, by their nature, are aimed at improving students' language skills. Most of the universities' English courses are accredited by the National ELT Accreditation Scheme, the relevant accreditation scheme, and the courses are now subject to national standards.²³
134. The University of Ballarat also advised that '[i]t is a widely accepted principle that 10 weeks of study increases IELTS bands by 0.5'.
135. Published research suggests universities should be cautious about assuming all students will improve at the expected rate. One study sponsored by IELTS Australia found that, after 10-12 weeks of intensive

²² Alan Olsen and Raj Sharma, *English Language Channels and Academic Performance of International Students 2006: Research for the Australian Technology Network of Universities* (2008).

²³ *National standards for ELICOS providers and courses* (2011). The University of Ballarat advised that it is seeking NEAS accreditation.

study in an English-medium environment, students *on average* moved up 0.5 on the IELTS band. The authors stated, '[t]his is probably the most reliable information that institutions can offer their clients'. However, they added a caveat 'that score gains are not guaranteed, that they may not reflect real gains in proficiency and that they are less likely at the higher levels of proficiency'. The IELTS scores of some students in the study stayed the same, and some actually went backwards.²⁴

136. There is little benchmarking of outcomes against external standards by the universities themselves. While the University of Ballarat said it is considering testing at the end of its courses, Deakin's DUELI is the only institution that has been regularly exit-testing a sample of students using an independent benchmark like IELTS. Its most recent test found only 70 per cent of the student sample achieved the university's required IELTS score for entry to higher education courses.
137. Some other pathway courses, such as many TAFE programs, offer no additional English tuition to international students.
138. Several university staff questioned the assumption that students' English language proficiency improves because they are living in an English-speaking country, noting that many students of the same nationality live and socialise together and rarely use English outside the classroom. One of the academic experts in this area said:

There is no way that we can actually assess what those language levels of those students would be. We're really admitting an unknown quantity ...
139. In 2002, the Victorian Auditor-General recommended all universities track the relationship between entry pathways and subsequent academic outcomes to better support future admission decisions.²⁵
140. Swinburne was the only university in this investigation that had fully implemented this recommendation.
141. Deakin has been tracking former DUELI and MIBT students, but only started collecting broader admissions data this year following changes to its student management system. RMIT is upgrading its system to enable automated reporting and analysis of admissions data, but this will not be completed until 2013. The University of Ballarat advised that its schools had not provided any formal analysis. The Vice-Chancellor of the University of Ballarat said the university is considering ways of developing diagnostic tools to track the academic progress of students admitted through different English language pathways, but 'this is a complex matter and tracking must be approached with caution'.
142. The following case study illustrates the English language proficiency of a student studying at a postgraduate level.

24 Catherine Elder and Kieran O'Loughlin, 'Investigating the Relationship between Intensive English Language Study and Band Score Gain on IELTS' *IELTS Research Reports*, 2003, Volume 4, Report 6.

25 Victorian Auditor-General, *op cit*, page 45.

Student C

Student C was an international student enrolled in a Masters of Business Administration and Masters of Professional Accounting course at Deakin. Soon after starting the course, he asked the university to release him so that could transfer to another program. He complained to my office when the university refused his request and a subsequent appeal:

After coming here and attending the classes, I realized that the course is quite difficult for me and it's really up to my understanding level that's why I applied for release letter to [the university] and it got rejected ...

... But I think Deakin administration staff are not able to understand the factual problems regarding my career, I don't know anything about International Business studies so it is impossible for me to do the course on Master Level, Although I have studied Accounting in my home country, But I am still unable to cope up with the syllabus. Well consistently I am trying to explain administrative staff regarding my limitations. I want to withdraw from the course, I am just being reluctant but proactive ...

I feel really depressed and tensed here and I really don't want to disappoint my family by failing first semester ...

Following preliminary enquiries by my office, the university wrote to Student C advising that it would release him in time for him to start his new course the following semester.

Business considerations

143. Several witnesses said that universities have been reluctant to face problems with their English language admission standards for fear of reducing international student numbers and revenue. One academic expert in this area stated:

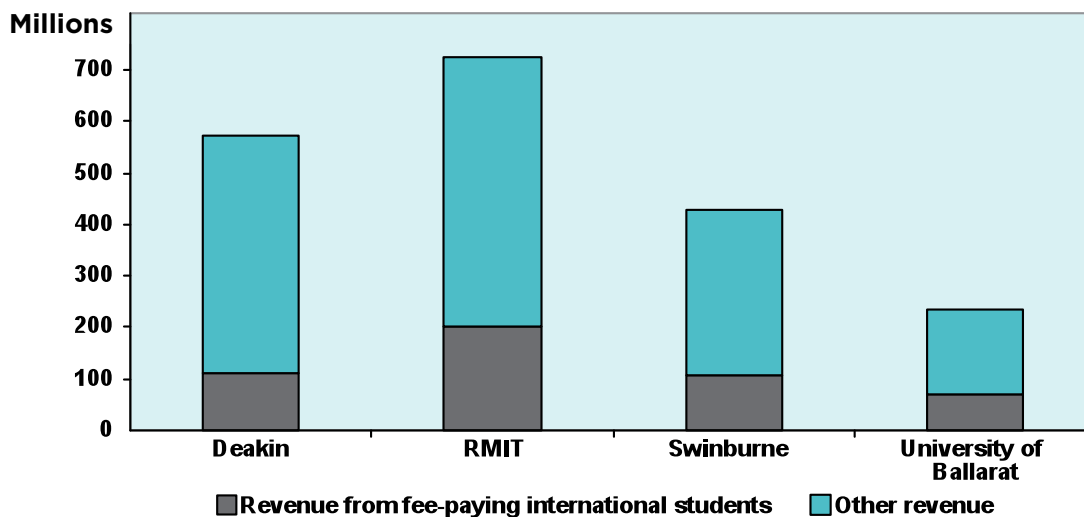
Universities don't want people's English to stop them getting in, because they're full fee-paying students. A lot of this is not about educational issues. It's commercial. It's about getting students in.

The people who bemoan the standards of international students are often the lecturers who have to deal with them. But at the marketing and recruitment end, people have wanted to keep pulling students in all the time as government funding for universities gets lower and lower.

144. Unlike local students, who can access government supported places or loan schemes, international students pay upfront fees for their courses. A bachelor of commerce student, for example, could expect to pay an annual fee in 2011 of \$14,600 at the University of Ballarat and \$31,766 at the University of Melbourne.
145. Universities now rely on international student fees to fund a large part of their budgets. Figure 3 shows the proportion of university revenue

attributable to international student fees in 2009. International students generated around a fifth of Deakin’s operating revenue, around a quarter of Swinburne’s revenue and over a quarter of revenue at RMIT and the University of Ballarat.

Figure 3: Revenue at Victorian universities 2009 (\$ million)



Source: Department of Education, Employment and Workplace Relations, *Finance 2009: Selected Higher Education Statistics*.

146. Universities employ marketing staff and education agents to recruit international students. Deakin, RMIT and Swinburne confirmed they have university-wide targets for enrolments, and some university staff said they also have targets for individual subjects and programs. RMIT and the University of Ballarat claimed that some of the data provided to me during my investigation was commercial-in-confidence.
147. University staff had different views about the link between admission standards and student enrolments and revenue. A staff member at Deakin’s School of Accounting, Economics and Finance, for example, estimated that increasing its minimum IELTS score to 7 would cut international student numbers by 60 to 70 per cent. A senior manager at Swinburne said:

I think you can do both. I think you can grow and maintain quality ... I don’t think you have to race to the bottom, to take as many students at the lowest possible score that you can in order to grow. I think you can grow by taking market share of good students from other institutions.
148. During my investigation I obtained documents from some universities which demonstrate clear tensions between academic standards and business considerations in this context.
149. For example, in 2008 RMIT’s Policy and Programs Committee discussed a College of Business recommendation for higher admission standards for students from foundation courses. It approved the recommendation

but its minutes record concern that ‘the proposed [new standard] would create consequential marketing issues, in particular that applicants might be drawn to other universities’.

150. In 2008, Swinburne International and National Recruitment submitted material to the university’s Research Higher Degrees Committee review of IELTS and TOEFL requirements. It stated:

The recruitment of international and domestic students is undertaken in an intensively competitive and increasingly market/demand driven environment, including students seeking to undertake research. A critical function of our role is to ensure that Swinburne is competitive in this environment.

In order for Swinburne to compete, course requirements need to be comparable and competitive.

151. At Deakin, internal documents estimated that increasing the minimum IELTS score for Faculty of Health, Medicine, Nursing and Behavioural Sciences courses to IELTS 7 would result in a 30 per cent fall in commencements and a \$2.36 million reduction in revenue in 2012. It canvassed an alternative approach of setting scores at IELTS 6.5 to ‘help ensure that current levels of enrolments and revenues are maintained’.

152. Three of the universities rejected any suggestion that their admission standards had been influenced by revenue. RMIT stated:

there is no evidence presented that any university has compromised academic standards. All universities are required to properly consider the financial impacts of any decisions they make, and are required to properly consider such factors by the Victorian Government.

153. Swinburne said the document I have quoted concerned a proposal to recognise the TOEFL test, not a proposal to lower English language entry requirements. The Vice-Chancellor stated:

Universities in Australia and overseas operate in a highly complex environment in which the ability of an institution to attract and retain students of all types (international, domestic, TAFE, higher education, research, sponsored students, low-SES students, indigenous students and so on) is critical to their ability to operate and advance. Government policy is so designed to require this kind of planning.

154. The University of Ballarat said it:

refutes any suggestion of tensions between academic standards and business considerations when setting admission standards and notes that there is no evidence provided in the [r]eport to suggest that such tensions exist at the University of Ballarat.

155. The following case study illustrates the English language proficiency of an undergraduate student.

Student D

Student D was studying for a University of Ballarat degree through the International Institute of Business and Information Technology in Sydney. He sent a copy of his correspondence with the university about his academic performance to my office. It stated in part:

I am current student in iibit at university of ballarat Sydney. SORRY for late procedures. Because I was so much busy with my final examinations. I am writing in response of your letter. In previous semester I didn't prepare perfectly. I was missing lots of points for preparations. About of little mistakes I didn't pass my final examinations. In previous time, about of only 3.50 marks I fail programming 1 in final examination. Also I was confusing in given questions so, now I realize those things and also, I have changed some reading method this semester. I prepare very well in this examinations. Also I did some writing method for each subject. And this time I attend all lectures and labs

I also attend my learning center and study skills during the college time. And I also increase my reading which is 6hrs per day. Also I am thinking credit for this examination. Because I write every thing very well I and attend all questions in the examination. Also, now I understand to the all main points which I missed in previous time. So,

I have good confidence for this examination. So, please I am heartily requesting to you

Taking into account the above mentioned progress, please allow me to continue with my studies and I will show up the progress ...

My office advised Student D that he should try to resolve his concerns with the university in the first instance.

Conclusions

156. Universities have a responsibility to ensure that international students have the English skills they need to study successfully in Australia. I do not believe universities have been meeting these obligations.
157. Universities have been setting standards based on industry practice and assumptions about students' language development. Notwithstanding the denials by universities, I am also concerned by evidence of tensions between academic standards and the need to maintain revenue and market share.
158. Despite years of discussion about international students and English language proficiency, most of the universities have not been collecting and analysing basic data to support their admission standards. Deakin and RMIT have been slow to track the progress of students admitted

through different English language pathways, and the University of Ballarat appears to have no firm plans to do so.

159. Universities should base their minimum language test scores on evidence about the needs of their students, and need to work with IELTS Australia and other recognised testing organisations to resolve any concerns about the integrity of the tests.
160. The growing use of pathway programs to enrol international students is of particular concern. While in principle these pathways increase education opportunities by preparing international students for the demands of university, they threaten to become a way for universities and students to bypass more rigorous independent language tests. This is essential to ensure that appropriate academic admission standards are maintained.
161. I consider that universities need to shift their apparent focus from recruiting students and therefore boosting their revenue to ensuring international students have a reasonable chance of academic success. They also need to address these issues faster than they have to date.
162. The four universities did not agree with these conclusions. Deakin, for example, said it:
- does not support [my] assertion that Victorian universities, including Deakin University, are not meeting their obligations to ensure that international students have the required levels of English language proficiency to study successfully in Australia.
163. Swinburne said it ‘seeks to recruit students of the desired quality and in the desired quantity’. The Vice-Chancellor said:
- That is not to say we cannot improve, and that some groups of students (domestic and international) struggle. It is our role as an institution to determine the nature and size of the student body we seek to attract and to ensure that the students we recruit are adequately prepared for their studies or provided with alternative pathways if they require further preparation prior to studying their chosen course.
164. All of the universities expressed concern about the methodology for my investigation, particularly the number of witnesses interviewed. Swinburne, for example, said:
- [T]he report perhaps could have benefited from more input from, and the views and expertise of, more and a broader cross section of witnesses from among our international students, expert staff and other stakeholders.
165. The focus of my office, however, is on integrity and accountability, not just data collection or academic research. Many of my investigations identify systemic issues as a result of complaints by individuals or evidence of individual experiences. The academic staff who were interviewed during my investigation gave their evidence under oath. In many cases, their evidence is consistent with evidence from academic experts in the area and other reports and research.

166. RMIT and the University of Ballarat further argued that there is no evidence in this report to support the conclusions. The universities referred again to data showing that international students as a whole have comparable pass rates to local students. This data does not distinguish between students with different levels of language proficiency. I note that, despite a recommendation dating back to 2002, these two universities have not been regularly collecting and analysing the type of data needed to verify their different language admission pathways.

Recommendations

I recommend that all Victorian universities:

Recommendation 1

Review their minimum IELTS scores for admission to courses based on evidence about the academic needs and performance of students by mid-2012, and provide the findings to my office.

Recommendation 2

Amend their admission procedures to require admissions officers to verify IELTS test results submitted by prospective students and report evidence of student anomalies to testing organisations.

Recommendation 3

Require all international students, including students who have completed pathway courses, to submit results of an independent language test, taken not more than twelve months previously, prior to enrolment in higher education programs.

Recommendation 4

Monitor and report annually to their academic governing bodies from 2012 about the academic progress of international students who enter university through different English language pathways.

Recommendation 5

Conduct annual reviews of their admission standards.

The universities' responses

- Deakin advised that it had initiated actions in relation to the recommendations in this report 'to ensure that there are no gaps in our systems and processes, and to address any such shortcomings'.
- RMIT said the recommendations relate to matters outside my jurisdiction and are not supported by evidence presented in this report. The Vice-Chancellor said 'available evidence on the pass rate of international students contradicts' my recommendation that the university review its minimum IELTS scores. She said my

recommendation that universities verify IELTS test results and report anomalies ‘already occurs’ and is ‘unnecessary’. She also said RMIT ‘complies with Commonwealth and Victorian requirements for English-language competency of international students’ and ‘already conducts a Program Annual Review process for all of its programs’.

- Swinburne advised that most of the recommendations reflect current practice at the university or are already underway. It did not support my recommendation that it require students from pathway courses to submit the results of an independent language test. The Vice-Chancellor said that, as a multi-sector institution, the university encourages students to move through packages of courses:

However, we have established more rigorous processes to ensure that the pathways programs we offer to domestic and international students are adequately preparing students for studies at the next level up.

- The University of Ballarat said it already verifies IELTS test results where they are questionable and supports the continuation of this practice. It did not support my other recommendations.

The universities’ English language support services

167. The four universities offer services to help international students with English after they enrol. The programs vary from university to university and include:

- Dedicated learning advisers who offer students free language and study skills support at all four universities.
- Post-entry diagnostic tests – Deakin and Swinburne have developed free online tests that students can take after enrolment to test their skills and identify problems. RMIT and the University of Ballarat advised that they are also considering such tests.
- Optional English language subjects – Swinburne and RMIT both offer elective communication subjects that students can take for credit towards their degree.

The effectiveness of English language support services

168. Witnesses expressed different views about the effectiveness of the universities’ services. Some academic staff said they had developed good working relationships with learning advisers at their universities. They said the advisers had worked with them to help individual students, and students who used the services improved noticeably.

169. Other university staff were sceptical about whether universities are dealing effectively with language problems amongst students as a whole. A staff member at Deakin said, ‘It’s something we talk about but we pay lip service to it as a university community’. A representative

from the Association for Academic Language and Learning, which represents language and learning educators at tertiary institutions, told my investigation:

At a distance it looks good. When you get close, down at the messy level, down in the litter with the students, I don't think it's that brilliant actually. I think a lot of students struggle. A lot of students are bewildered.

Funding for English language support services

170. The resources for universities' language services have been limited in the past. All of the universities have low ratios of language support staff to students. Deakin, for example, employs 8.8 full time equivalent language and learning advisers for a population of around 8,000 international students and 31,000 local students. In response to my draft report, Deakin pointed out that it has the capacity to engage casual staff to respond to periods of peak demand and it also offers other resources to students, including faculty and school-based programs.
171. An international student representative told my investigation that students try to access the services at assessment time, only to find they have reached capacity.
172. Deakin, Swinburne and the University of Ballarat reported that students can face waiting times depending on the time of year or demand. The universities said they had tried to manage their limited resources by changing their service delivery model. They still offer individual consultations to some students, but most had shifted their focus to group workshops, online material or drop-in sessions.
173. Senior managers at Swinburne and Deakin stated that language support services are an area where their universities could 'do better' and that they need to 'ramp up investment'. The University of Ballarat pointed out that it is 'a small institution with a relatively small student population which enables staff to be easily accessible to students'.

Student engagement with English language support services

174. Witnesses also reported a reluctance amongst international students to use university support services. University staff, including academics and administrative staff, expressed frustration during interviews that international students do not access services, even when they are facing exclusion for poor academic performance. A RMIT lecturer said, 'we can't force them ... they just don't go; they ignore what we say'.
175. Student surveys provided to my investigation confirm these reports. A University of Ballarat survey of students, for example, found that only 15.6 per cent reported that they had needed to access university learning assistance frequently. Over half (50.5 per cent) said they needed the services rarely or never. Swinburne advised that only 20 per cent of commencing students participated in a voluntary trial of its post-entry diagnostic English test in 2010, despite extensive promotion.

176. University staff suggested a number of reasons why international students do not use university support services, including:
- Students are already busy with study and work commitments.
 - Students see referrals to language services as punishment for poor performance.
 - Some students overestimate their language skills. Staff reported that students question why they need to improve their skills if they have satisfied the university's admission standards.
 - Students, particularly those who have succeeded academically in their home country, see the need to use services as a blow to their pride.
177. An international student representative told my investigation that students often come from protective environments and feel alienated at university. She said:
- It's not just about putting a service out there and saying we've got someone hired full time to do this ... Bridging the gap is the solution.

The universities' plans for English language support services

178. Universities have become more proactive in the area of English language support in recent years. Some are gradually shifting their focus from remedial support for students to mechanisms that develop students' language skills. Deakin is developing a university-wide English language development strategy, although it is in its early stages. RMIT advised that it has been piloting an online language screening tool, integrated English language support resources and English language criteria in assessment. Swinburne was reviewing its language services during my investigation and said it was committed 'to commencing the necessary investments in this area in 2012'.
179. My investigation identified that there are no detailed benchmarks or standards for language support services and there is debate within the academic community about what universities should do. A number of witnesses argued universities should 'embed' language development within the mainstream curriculum. One academic expert told my investigators:
- ... many international students actually prefer to be taught by their lecturer ... And so for their English language issues, setting them aside like that [in a separate support service] is not useful for them because they see it as just another place they have to go to and it's not really relevant to their real studies.
180. RMIT advised that it already offers embedded English in a number of TAFE programs and some higher education programs. Deakin and Swinburne are looking at options for in-course support as part of their current projects.

181. Another academic expert questioned the feasibility of asking mainstream academic staff to teach language skills. He argued that academics already have numerous demands on their time and some programs have limited staff-student contact hours. He suggested universities should locate language advisers within faculties and deliver their services in conjunction with assessment.

Conclusions

182. English language services are not a substitute for appropriate admission standards. However, they are a way to ensure both international and local students maintain and develop their language skills while they are studying.
183. The evidence identified by my investigation shows that the universities' existing support services reach only a small proportion of students. I am concerned that universities have not dedicated sufficient resources to meet the level of need amongst international students. I am also concerned that the services are not engaging many of the students who are at risk and need assistance.
184. RMIT and the University of Ballarat disputed my conclusion that universities' services are reaching a small proportion of students. RMIT said 'the evidence supports the conclusion that the vast majority of students have sufficient English proficiency to complete their studies'. Based on the evidence provided by university staff working with students and employer associations, I do not agree.
185. Swinburne advised that its current review will consider strategies to encourage students to access assistance where this is diagnosed as necessary. The Vice-Chancellor said this was likely to be a costly and lengthy project 'but it is one that the university is committed to achieving for domestic and international students over the long term'.
186. The universities are taking steps to improve their support services, although the University of Ballarat provided less evidence of its plans in this regard. The current debate amongst the academic community offers scope for innovation and I believe all universities need to evaluate their support services and how they can be improved.

Recommendation

Recommendation 6

I recommend that all Victorian universities review English language services for students by mid-2012 to identify the extent to which students use existing services, including identifying any barriers to student participation and models for providing effective in-course language support to all students.

The universities' responses

- Deakin advised that it had initiated actions in relation to the recommendations in this report 'to ensure that there are no gaps in our systems and processes, and to address any such shortcomings'.
- RMIT said this recommendation relates to matters outside my jurisdiction and is not supported by evidence presented in this report. The Vice-Chancellor said 'RMIT notes that it has recently reviewed its English language services'.
- Swinburne advised that it has already commenced a process in this regard.
- The University of Ballarat said it would support such a recommendation although it was concerned the timeframe is 'unrealistic'.

Academic standards and conduct

187. The growth of international students at Victorian universities has been rapid and far-reaching. International student enrolments in higher education courses tripled in less than a decade. In some programs, international students now exceed local students.
188. Changes of this size and speed create challenges as well as opportunities. Universities have had to find ways to teach students from diverse language, cultural and education backgrounds effectively. They have had to commercialise their operations – competing to recruit and retain students – while preserving the quality of courses that attracts students in the first place. The amount of money at stake, both for the universities and the students, increases the risk of improper conduct in the interests of short term gain.
189. Recent allegations to my office about bribery and preferential treatment of international students at universities highlight the need for universities to manage these risks.²⁶
190. My investigation examined how widespread these issues have become and whether universities can manage them better.

Regulatory standards for quality

191. Universities in Australia are largely responsible for maintaining their own quality and standards.
192. The national *Higher Education Support Act 2003* requires universities to operate at an ‘appropriate level of quality for an Australian higher education provider’ to remain eligible for Commonwealth Government funding, and to undergo independent quality assurance audits at least once every five years.²⁷
193. Governments have created additional initiatives to promote and assure quality, such as the Australian Qualifications Framework, which sets out expected learning outcomes and skills for different types of degrees.
194. Universities have also created their own guidelines and processes to promote quality and proper conduct, including:
 - Written policies, such as policies about assessment of students and codes of conduct for staff.
 - Quality assurance units that conduct internal audits. The Vice-Chancellor of Swinburne advised that the university also uses an external panel to review the programs and operations of academic units every five years.
 - Surveys of students at a subject-level.

²⁶ See, for example, Victorian Ombudsman, *Annual Report 2011 Part 1*, op cit; Victorian Ombudsman, *Investigation into an allegation of improper conduct within RMIT’s School of Engineering (TAFE) – Aerospace*, op cit.

²⁷ *Higher Education Support Act 2003* (Cth) Subdivision 19C.

195. However, external benchmarks or standards have been limited. Commonwealth and state ministers have agreed to *National Protocols for Higher Education Approval Processes*, which set out criteria for all higher education institutions such as ‘deliver[ing] teaching and learning that engage with advanced knowledge and inquiry’, but these are also broad.

Academic standards

196. The academics interviewed during my investigation confirmed that they have had to change the way they work in recent years, but they had differing views about the reasons for these changes and the impact on standards. Their evidence focused on two areas – teaching and assessment.

Teaching

197. Academic staff reported that there can be considerable challenges involved in teaching international students. Some students have limited English language skills. Some students undertake higher degree courses in disciplines in which they have no undergraduate experience. Other students come from different education backgrounds. One of Deakin’s academics said:

[international students] are successful learners. They’ve come to us with 12 or 15 years worth of study from primary school all the way through. But they’ve come from a particular learning method, which is rote learning; it’s memorisation, it’s repetitive ... and it’s not necessarily based on understanding and they walk in here on the day before [the] start of a trimester and then we start asking them to discover things and to learn. And that’s not what they’ve got their background in.

198. The academics interviewed during my investigation were passionate about their work and keen to assist international students to have a meaningful education. Many of them indicated they had modified their style of presentation and approach to teaching to accommodate the particular needs of international students.
199. The types of changes they described included:
- a greater use of multi-media, such as putting course materials and lecture and tutorial notes online so students can review points of the lectures or tutorials they did not understand
 - explaining and reinforcing key concepts, speaking slowly and avoiding colloquialisms and jargon
 - dividing tutorials into smaller groups of students according to background, so that they can assist one group while the others do something more stimulating.

200. Different views were expressed about the implications of these changes. Some staff saw them as good teaching. An academic at RMIT emphasised that every teacher is expected to change or modify their teaching depending on the group. Another witness argued that international students have helped because lecturers have to be clearer, and local students also benefit from this.
201. Other academics were concerned about the impact on their workload and their ability to teach effectively. A postgraduate lecturer at Deakin said that he reduced student failure rates in one subject by teaching repetitively and using online services to get students to ask questions but said, 'I'm teaching these people twice, and it's a really big ask'. One of RMIT's accounting lecturers said:
- we're not language teachers. But we're finding we have to become language teachers otherwise we're sort of inhibiting really the chances of the students' success.
202. Some academics reported that other students sometimes express frustration with these styles of teaching, or are reluctant to work with international students.
203. Not all academics attributed these pressures to international students. Some pointed to larger class sizes, particularly in business faculties where there can be large numbers of international students, as well as the growing use of less experienced sessional or casual teaching staff. An academic from Deakin reported that:
- We have one teacher ... who has 18 tutes with 18 casual sessionals taking tutorials, 18 casual staff. It's significant, it's a really big effort and a really big ask.
204. The Vice-Chancellor of Deakin disputed the academic's characterisation of the size of its classes. She said enrolments in some core units in the Faculty of Business and Law can exceed 1000 students, but that is across all three of its campuses as well as distance students.

Assessment

205. Some academics also expressed concern about the way universities are assessing students in recent years. There have been reports about 'soft marking' of international students in the media. I have also received disclosures under the Whistleblowers Protection Act about marking and preferential treatment of international students. The academics interviewed during my investigation reported that these issues are also part of a broader problem that goes beyond international students.

Assessment methods

206. It is difficult to assess the extent of 'soft marking' based on evidence obtained during my investigation. Only one of the 15 academics from the four universities interviewed by my staff said her head of school had intervened to pass students she had assessed as not competent. The academic, a lecturer in a nursing school, said her head of school

thought the failure rate in the subject was too high and gave extra marks to students 'to get the traffic lights green'. She said she believed at least two former students of the school who are now registered nurses are unsafe.

207. Some witnesses discounted reports of a wider problem. A head of school at the University of Ballarat said 'I think it's all rubbish', while a senior manager at Swinburne said any pressure on staff to 'soft mark' students would be 'completely unacceptable'. Many of the academic staff interviewed by my investigation said they had not and would not reduce their standards.
208. Some academics stressed that the absence of direct intervention by university managers does not mean there is no pressure to pass students. An academic from RMIT's accounting school said, 'it's much more subtle than that'.
209. These witnesses expressed concern about:
- Moves to limit the overall amount of assessment – an academic at RMIT said that its School of Management had been told assessment should take no more than an hour per student per semester. She said that could be because universities do not want to pay sessional teaching staff for additional marking but 'the less marking you do the less chance you have to assess students broadly'. The Vice-Chancellor of RMIT said this does not reflect RMIT policy.
 - Moves away from traditional examinations to other types of assessment, such as group assessment or multiple choice – an academic at Deakin commented, 'a group assessment task is where three people did a reasonable amount of work, two people did absolutely nothing.' An academic from RMIT's accounting school said the university no longer allows academics to use exams as a 'hurdle requirement' i.e. students no longer have to pass the exam to pass the course. She said 'we now will have students ... getting in the 30s out of 100 on an exam passing their course. And you know they're possibly passing because they were in a team assignment or ... copied off somebody'.
 - Moderation processes which allow schools to review the marks given by academics – these processes are meant to promote quality by making sure academics have marked students consistently and identifying any unusual pass or fail rates. University staff reported that results are rarely changed. However, some academics were concerned that the process sends a message to staff. A senior academic at Deakin said they need to get permission to upload results that don't meet the 'ideal model':

So what do you think the majority of academics who don't need to go through the hassles are going to do?
 - Universities' handling of appeals from academic results – one nursing lecturer said a student who had failed one of her subjects three times appealed and was allowed to sit another exam and have

those marks added to her final results. A nursing lecturer from the same school said the university 'is in a different universe. We're professional people. We're thinking about the outcome and the product has to be care for patients. They're thinking about fairness to all university students'.

Uncertainty about assessment methods

210. My investigation identified some uncertainty amongst academics about aspects of the assessment process.
211. For example, some academics expressed different views about whether universities should mark students on their grammar. One social science lecturer said he thought this should be part of universities' marking criteria because students' ability to construct clear, concise arguments is critical. Another senior academic said he asks students who have poor English to get some assistance and resubmit their work. An experienced accounting lecturer at Swinburne said he did not believe it was his responsibility to assess students' grammar and he only marked them on the content of their answers.
212. Several academics said they automatically adjust marks to pass students who have failed by only a narrow margin, but the point at which they were willing to do this varied. A senior lecturer at Deakin, for example, said 'We don't fail anyone who gets 48 ... You cannot mark within one per cent'. A lecturer from a university outside the scope of this investigation said he would not fail a student on 45-50 per cent because of the likelihood of an appeal.

The impact on academic standards

213. Witnesses disagreed about whether the pressures facing universities are reducing the quality of education in practice. The Business Council of Australia said its members believe the overall quality of Australian education remains high by international standards. A lecturer at Deakin said 'I haven't seen any overt senior management drive to reduce quality. I see attempts to rationalise'.
214. In its response to my draft report, RMIT noted that:

Australia and Victoria operate world-class university systems and that there exists a number of high-quality and rigorous studies providing information in this respect.

Swinburne also pointed to public outcome measures regarding academic standards.
215. Some academics said they had noticed a decline in standards. An accounting lecturer at the University of Ballarat reported:

over time, around international students, but also around students coming out of school, there has definitely been a lowering. And I calculate it in my own ... mind at around eight marks. I talk to colleagues and people my age all think the same thing.

... it's happened insidiously ... you're marking to a certain extent to the group ... As groups have weakened over time – and some of that is about the number of international students that are around – the mark – what you accept becomes less.

216. An accounting lecturer at RMIT also said:
- as an academic you don't say, 'I'm going to lower my standard'. But if you actually have to interact with your class and work with them, and if you're working at a level and they're not there, you only actually have one option and that is to move down ...
217. The lecturer did note, however, that she had read similar complaints from accounting examiners dating as far back as the 1950s.

Support for academic staff

218. Some witnesses told my investigation that academics' uncertainty about how to deal with international students is itself a problem. A language support teacher at one of the universities said, 'I've got a lot of contact with academics who say "What can I do, please, tell me what else I can do?"'. One of the academic experts in the area explained that:
- Australian academics are very stressed, and they're working very hard, and there are increasing demands placed on them with different sorts of research indicators and teaching and learning indicators ... For many of them, they struggle with international students. Not because they don't care, but because many of them don't know what they can do around it.
219. My investigation examined what the universities were doing to help academics with these pressures.
220. All four of the universities have professional development units or courses for teaching staff. Deakin, for example, has an Institute of Teaching and Learning. It requires continuing staff to complete a Graduate Certificate in Higher Education. RMIT requires new Lecturers and Associate Lecturers to complete a Graduate Certificate of Tertiary Teaching and Learning. The University of Ballarat has established a Centre for Learning Innovation and Professional Practice for staff.
221. Some of the academics who spoke to my investigation were aware of professional development opportunities, but few had taken them up.

Conclusions

222. The academics interviewed during my investigation were attempting to preserve quality and standards in the face of significant changes to their working environment. These changes are not isolated to international students. Many universities are also facing significant resource pressures in the form of larger class sizes and the increasing use of sessional staff.
223. My investigation identified one instance where a lecturer experienced direct pressure to pass students against her judgement. This occurred within a nursing school, where poor standards can put community safety at risk.

224. Other academics reported that systemic changes designed to rationalise resources, particularly around assessment, are threatening academic standards.
225. These pressures will continue as demand-driven funding for local student places is introduced, along with plans to increase participation in higher education.
226. Universities need to manage these changes better so that academics have more guidance about how to teach and assess diverse groups of students.
227. Universities also need to introduce more rigour and oversight into their assessment practices. One option is the external examiner system used by universities in the United Kingdom. Under this system, universities appoint independent advisers to report on their academic standards, assessment processes and student performance and how they compare with other institutions. The Group of Eight network of universities, which includes Monash University and the University of Melbourne, has already announced plans to introduce such a system.
228. The universities rejected any suggestion that standards are falling. They questioned the methodology for my investigation and the number of witnesses, particularly the number of academic staff, interviewed.
229. Deakin said it has 'rigorous quality assurance procedures with high quality ... teaching and learning, assessment, course materials and student support'. The Vice-Chancellor said the university has already introduced external examiner programs for a number of its courses.
230. RMIT again claimed that these matters fall outside my jurisdiction and described much of the evidence provided by witnesses as 'subjective comments from a very small number of academic staff'.
231. Swinburne said the modern university classroom 'can present challenges for academic staff', not only due to the presence of international students but also local students from a range of backgrounds and experiences. The Vice-Chancellor of Swinburne said the university's approach to dealing with these challenges includes professional development for staff. She also said the university 'does not tolerate "soft marking"' and articulates its assessment standards and requirements for staff through assessment policies and processes. She concluded by stating that:
- Universities are very complex organisations. Some of our academic units perform better than others, but our commitment is to raise the standard of the education we provide to students, and the outcomes this education provides to our graduates right across the organisation.
232. The University of Ballarat said the university 'refutes any suggestion that quality or standards are slipping.' Its Vice-Chancellor said the University of Ballarat generally has small class sizes relative to other universities and 'ensures stringent academic standards are upheld through its checks and balances in the marking process, including its moderation processes'.

233. Notwithstanding the university's responses, evidence provided by academic staff to this investigation highlights problems at a local level that warrant attention.

Recommendations

I recommend that all Victorian universities:

Recommendation 7

Review the extent to which academic staff, including sessional staff, use professional development resources designed to help them teach and assess diverse groups of students, and identify any barriers to staff participation and models for providing practical support to staff.

Recommendation 8

Appoint external examiners to report on their academic standards and assessment methods.

The universities' responses

- Deakin advised that it had initiated actions in relation to the recommendations in this report 'to ensure that there are no gaps in our systems and processes, and to address any such shortcomings'.
- RMIT said the recommendations relate to matters outside my jurisdiction and are not supported by evidence presented in this report. The Vice-Chancellor said RMIT has a 'comprehensive staff development program in place' and is conducting a project examining professional development of academic staff. She said the recommendation regarding external examiners should be directed to the Commonwealth Minister for Tertiary Education and would have 'significant funding and cost implications'.
- Swinburne noted the recommendations.
- The University of Ballarat said it would support my recommendation regarding professional development. It said it already uses external examiners '(e.g., through program review processes) and is seeking to enhance the use of external examiners as part of comprehensive assessment moderation processes'.

Academic misconduct

234. University staff said that many of their international students are also under pressure. Many pay large sums of money to live and study in Australia. They may carry the weight of family expectations while struggling to overcome language and cultural hurdles. In these circumstances, there is a risk that some students will act improperly in a bid to pass.

235. My investigation looked at how universities are managing these risks in two areas – plagiarism/cheating and bribery.

Plagiarism/cheating

236. Plagiarism/cheating amongst students threatens both the academic standards and the reputation of universities.
237. Plagiarism/cheating can include:
- quoting or paraphrasing a website, book or journal without acknowledging the source
 - copying the work of another student
 - padding out a bibliography with references not used in the work
 - using or paying someone else to write an assignment.
238. A number of academic staff reported that plagiarism is a particular issue for international students. They noted that plagiarism is a Western academic concept that can be hard to understand for international students who come from cultures where writing involves repeating the collective wisdom and students do not need to acknowledge the source of information.
239. Other staff said that students with poor English skills find it harder to avoid plagiarism. An academic expert said international students may lack the English language skills required to read information, extract the relevant points and put it into their own words.
240. All four universities have strategies to discourage plagiarism and cheating, including:
- information for students about plagiarism and how to provide citations correctly in orientation materials, on their websites and in course guides
 - requiring students to use anti-plagiarism software such as Turnitin and SafeAssign when preparing assessments
 - written procedures for dealing with cases of plagiarism and other types of academic misconduct amongst students.
241. Despite these strategies, academics reported that plagiarism and cheating remains a problem amongst students. A senior academic at Deakin said:
- We have hundreds and hundreds and hundreds of students in the faculty ... who are before the faculty academic discipline boards ... Literally, I mean 1,500 maybe at times overall in a trimester. I don't know what the figures are but they're just massive.
242. An academic in RMIT's School of Nursing and Midwifery said she prefers to give students exams because she knows they can't cheat:
- We've got plagiarism running rampant ... I give students a nursing care plan to do. I know that international and local students have bought it from somewhere - from someone else.
- The Vice-Chancellor of RMIT said this is 'the assessment preference of one academic and not a statement of teaching policy'.

243. While some academics reported that plagiarism is a bigger problem amongst international students, others said it is easier to detect amongst students from a non-English speaking background:
- They don't have the same eloquence of phrase as a native speaker. You can really see the difference between a really good writer's sentences stuck amongst the very poor grammar.
244. Although some universities have policies requiring academics to report plagiarism, at least one academic at RMIT expressed doubt about whether her colleagues report cases in practice. One RMIT academic said, 'you don't want to treat a student harshly who just needs help with their writing skills'. Another former academic said some staff prefer to make students resubmit work instead because of the additional work involved in making an official report.
245. The Vice-Chancellors of RMIT and the University of Ballarat queried the absence of data in my report about the number of students charged with plagiarism. My investigation requested data about student discipline matters from the universities. The data provided was not comprehensive. It was either confined to cases heard by central discipline committees (excluding cases managed within schools and faculties) or did not distinguish between international and local students.

Bribery

246. In recent years, I have received a number of disclosures under the Whistleblowers Protection Act alleging that university staff have sought or accepted bribes from students. Three recent disclosures have been substantiated, two of which involved international students.
247. My investigation examined whether this represents a wider problem at universities. Fifteen academic staff from the four universities interviewed on oath were asked if they had ever been offered a bribe by a student, or were aware of colleagues who had been offered bribes.
248. Six of the 15 reported that they or their colleagues had been offered bribes by students. An academic at Deakin said he had been offered sexual favours by a young female student who had failed a subject. He said:
- And this is an offer that will change her life in terms of her potential in the future in her society or whether she could get married at the right level and everything else. Because that's how important it was for her.
- ... what really was damaging to me was that the stakes are so high, absolutely sky-high, that you can get to that point as a student.
249. Others said they had experienced conversations with students they thought were leading in the direction of a bribe. One academic at RMIT said:
- it's something I feel pretty sure if I pursued could have been considered a bribe. But I'm fairly quick at jumping in. You know

students say things, “I’m sure ... we can find a way around this that would mutually satisfy everybody”. And I very quickly jump in and say always, “You repeat the subject, you pass, I’ll celebrate with you at graduation” ... if it looks like you’re going to waiver then I think they’d come in fairly hard.

250. The academics who reported these experiences responded in different ways. Some, like the RMIT academic, said they tried to cut off the conversation. Another told the student they would need to continue the discussion in the presence of an independent person. One of the allegations was reported and was the subject of an internal investigation.
251. Two academics said they thought one of their colleagues had accepted a bribe. An academic at the University of Ballarat, summed up the situation as ‘[w]e don’t know how endemic it is. But we know that it happens’.

Conclusions

252. Academic misconduct poses a serious risk to the standards and reputation of universities. Despite efforts by universities to inform and warn students about plagiarism and cheating, it remains a problem. The evidence obtained by my investigation suggests that some cases may be going unreported within universities. For some academics there are disincentives in reporting plagiarism because of the time it takes to investigate and respond to appeals. Others are uncertain about whether students are cheating deliberately or just lack the understanding or skills to avoid the problem.
253. Universities may also be underestimating the risk of bribery amongst staff and students. While my investigation spoke to a small sample of academics, over a third had experienced or knew of problems with bribery.
254. These are both high risk areas that warrant greater attention by universities. Promulgating information about the Whistleblowers Protection Act is one way of addressing the problem.
255. RMIT, Swinburne and the University of Ballarat referred to existing strategies and policies dealing with plagiarism and/or bribery in their responses to these conclusions. The Vice-Chancellor of Swinburne said:

There is absolutely no room for tolerance of any behaviour that would dilute the quality of the education we provide and the research we undertake.

We recently commissioned an external audit of staff awareness of various policies covering fraud, misconduct, Whistleblowers Protection and so on.

She said the university had commissioned training for the university’s senior leadership and was extending the training across the university.

256. RMIT and the University of Ballarat questioned the evidence in this report about bribery at universities. The University of Ballarat said 'we refute any suggestion that bribery or attempted bribery occurs at the University of Ballarat'. RMIT described some of the evidence provided to my investigation about plagiarism and bribery as 'speculation' and 'based on gossip only'. The Vice-Chancellor said 'there is no evidence presented in your report to suggest that these are high-risk areas'.
257. Again, I am concerned by this somewhat defensive approach to such an important issue. For example, a number of disclosures to my office about bribery or misconduct at universities have been substantiated.²⁸ A number of academics interviewed during this investigation gave evidence about attempted bribery. They gave their evidence under oath and, in some cases, they were speaking from first hand experiences with students. As my previous reports show, the experiences of individuals can highlight serious systemic issues with public administration. I believe evidence of this nature requires action, not complacency.

Recommendations

I recommend that all Victorian universities:

Recommendation 9

Commission an independent risk assessment of the extent of cheating and bribery amongst staff and students and the effectiveness of their existing policies and procedures by mid-2012 and provide the findings to my office.

Recommendation 10

Remind staff about their obligations to report plagiarism, cheating and other academic misconduct under university policies and procedures.

Recommendation 11

Advise all staff about the provisions of the *Whistleblowers Protection Act 2001* and provide regular training in this regard.

The universities' responses

- Deakin advised that it had initiated actions in relation to the recommendations in this report 'to ensure that there are no gaps in our systems and processes, and to address any such shortcomings'.
- In response to my recommendation that it commission an independent risk assessment regarding cheating and bribery, RMIT said it 'has in place sufficient mechanisms to deal with such matters'. The Vice-Chancellor also said RMIT has clear policies and procedures regarding reporting of misconduct and they form part of the conditions of employment of its staff. She said there

²⁸ See, for example, Victorian Ombudsman, *Annual Report 2011 Part 1*, op cit; Victorian Ombudsman, *Investigation into an allegation of improper conduct within RMIT's School of Engineering (TAFE) - Aerospace*, op cit.

is 'no evidence in your report to suggest that current compliance methods are deficient'. She also said RMIT staff are advised of the provisions of whistleblower legislation and are subject to 'regular compliance training'.

- Swinburne said my recommendation regarding an independent risk assessment is a matter for its University Council, its Audit and Risk Committee and the Academic Senate. It noted my recommendation that it remind staff of their obligations to report misconduct, and said it had already commenced a process to train staff about the Whistleblowers Protection Act.
- The University of Ballarat supported my recommendation that it commission an independent risk assessment in principle, but said it considers it 'unnecessary as we have no evidence of bribery occurring at the University of Ballarat'. It supported the other recommendations and noted they reflect current university practice.

Complaints and appeals

258. The complaints I receive from university students represent a fraction of the complaints and appeals handled within universities.
259. In 2005, I published a review of complaint handling in universities. I found that there was a strong and general awareness of the need for fair and equitable procedures for handling complaints and grievances at the most senior levels of management. However, awareness and knowledge was not as strong at less senior levels or within the student body.
260. Amongst other things, I recommended universities:
- monitor and record the number of complaints at departmental and faculty levels
 - use their induction and training processes to ensure that incoming staff are advised of internal procedures for dealing with student complaints.²⁹
261. Given the recent growth in complaints to my office, particularly from students with poor academic progress, I believe it is timely to revisit how universities are managing complaints and whether they could do more to help struggling students at an early stage.

Complaint handling at universities

Regulatory standards for complaint handling

262. Standard 8 of the National Code requires institutions with international students to have 'appropriate' internal complaint handling mechanisms. Amongst other things:
- there must be a process for students to lodge formal complaints or appeals where issues cannot be resolved informally
 - students must have an opportunity to formally present their case at minimal or no cost
 - each party must have a right to be accompanied and assisted by a support person at relevant meetings
 - the student must be given a written statement of the outcome, including details of the reasons
 - the process must commence within 10 days of the lodgement of the complaint and supporting information. 'All reasonable measures' must be taken to finalise the process 'as soon as practicable'.
263. The National Code also requires institutions to have arrangements for an independent, external body to hear complaints or appeals from its internal decisions. I serve this function in the case of public universities in Victoria.

²⁹ Victorian Ombudsman, *Review of Complaint Handling in Victorian Universities* (2005).

264. I have issued a detailed good practice guide to complaint handling for Victorian public sector agencies which also deals with issues such as privacy and confidentiality and record-keeping.³⁰

The universities' complaint and appeal processes

265. The four universities all have policies and procedures allowing students to lodge complaints and appeal decisions.

266. The universities have different systems for:

- administrative matters such as fees and university services, which are usually called complaints or grievances
- academic matters such as marking, special consideration and exclusion, which are usually called appeals
- misconduct matters, such as plagiarism and cheating.

267. Some universities also have separate systems for equity-related complaints such as discrimination or harassment.

268. The universities encourage resolution of issues within faculties and schools where possible. Deakin's complaint process, for example, requires students to discuss issues with the relevant staff member in the first instance. Students can then escalate complaints to the relevant Dean or senior manager, followed by the university's central Division of Student Administration. Academic appeals are managed by faculty academic progress and discipline committees in the first instance, after which students can appeal to a central Academic Appeals Committee.

269. RMIT also has an internal ombudsman who deals with complaints from staff and students.

The effectiveness of complaint and appeal processes

270. My investigation analysed the universities' complaint and appeal handling policies and procedures and reviewed a sample of their complaint and appeal files.

271. The universities' written policies and procedures reflect the National Code's standard in most cases, although they do not always expressly reflect requirements such as the need for written reasons for decisions or timeframes for responding to complaints and appeals.³¹

272. The universities' systems are less compliant with the recommendations in my good practice guide. My investigation identified some areas of particular concern as follows:

- accessibility
- local handling of complaints

³⁰ Victorian Ombudsman, *Good Practice Guide: Ombudsman Victoria's guide to complaint handling for Victorian Public Sector Agencies* (2007).

³¹ See, for example, Deakin's Regulation 4.01, which does not contain a right to reasons for disciplinary decisions or set timeframes for appeals; RMIT's Regulation 6.1.1, which does not provide expressly for students to present their cases, to be accompanied by a support person at disciplinary hearings or to receive written reasons; and University of Ballarat's Regulations 5.3 and 5.5, which do not expressly provide for written outcomes/reasons for assessment and unsatisfactory progress appeals.

- record-keeping
- dealing with students during appeals.

Accessibility

273. My 2005 review found that awareness and knowledge of complaint handling was not as strong amongst the student body at universities.
274. The four universities put information about how to make complaints and appeal decisions on their websites and in student guides and diaries, although information was less easy to find on Swinburne's website.
275. The complexity of the universities' policies and systems still limit their accessibility. All of the universities have multiple policies and systems for different types of complaints and appeals. For example, in response to my request for policies and procedures regarding complaints, appeals and discipline matters, Swinburne provided 22 documents totalling around 400 pages. Swinburne advised it was looking at this issue as part of a broader project which is reviewing policies across the university. In her response to this report, the Vice-Chancellor of Swinburne said that students are not given 400 pages when seeking to make a complaint or appeal. She said the university was now in the final stages of approving a single policy.
276. Students also need a degree of technical skill to navigate the universities' academic appeal processes. The universities only allow students to appeal to central committees on limited, often legalistic grounds. RMIT's University Appeals Committee, for example, requires students to demonstrate either:
- evidence that the decision was made on the basis of personal bias or ill will
 - evidence of a breach of the university's Academic Progress Policy or another relevant university statute or regulation
 - evidence that the penalty of exclusion is unreasonable, excessive or inappropriate, or
 - new, relevant evidence that was not available at the time the student was required to show cause why they should not be excluded.³²
277. Communication with students about academic progress and appeals is also complex, particularly at RMIT and Deakin. I have included an example of a standard letter that Deakin's Faculty of Business and Law sends to students excluded from their courses in Appendix 1. A student rights officer from one student union described some of his university's correspondence as 'virtually impenetrable'. An international student adviser at another university said he doubted whether even local students understood the letters.

³² RMIT, *Academic Progress Policy; Procedures for the management of unsatisfactory academic progress*.

278. Most of the universities refer students to their student unions for assistance. I understand that the student unions' resources have been affected by the introduction of voluntary student unionism. For example, at the time of my investigation there was no independent service to assist higher education students at the University of Ballarat.

Local handling of complaints

279. My 2005 review noted that universities need to do more to raise awareness about complaints at less senior levels of management.

280. The four universities encourage students to resolve complaints locally in the first instance. This requires universities to ensure that their staff, many of whom may be sessional or casual, know how to respond.

281. Student unions said that local complaint handling was still an issue at their universities. They reported that academic staff are often unaware of their university's policies or can ignore basic principles such as natural justice and privacy.

282. The four universities have taken steps to inform employees about handling complaints and appeals, including:

- written 'best practice' guidelines at Deakin and RMIT
- the appointment of central complaint handling officers, or networks of officers within schools, who can assist staff
- staff training at Deakin, RMIT and the University of Ballarat (although not all universities address these issues in detail in their induction programs)
- providing links to policies and other information on staff intranets.

283. Despite these efforts, some academics said they received no specific training about how to deal with complaints or appeals. Data provided by some universities highlighted that only a small proportion of staff, particularly within schools, had attended training.

Record-keeping

284. Universities need to record and track complaints and appeals for a number of reasons:

- To check they are complying with their own policies, particularly their timeframes for resolving complaints and appeals.
- To identify systemic issues that require attention.
- To ensure consistency and accountability. Student unions told my investigation that appeal committees can exclude some students but allow others with worse academic records to continue studying.

285. Some universities track complaints and appeals in a systematic way, but their processes can vary depending on the type of complaint. Swinburne has not had any central system for recording, monitoring and reporting on complaints, although it advised it was addressing this issue in

response to an audit of its complaint handling processes. Deakin, on the other hand, requires staff to record all complaints, including complaints managed within schools. Its Division of Student Administration analyses trends and reports to the university's audit and risk committee. Deakin's faculty-based academic appeals are not reported centrally.

Dealing with students during appeals

286. All universities told my investigation they had experienced problems with academic appeals running into later semesters.
287. Standard 8 of the National Code requires universities to maintain a student's enrolment while the complaint or appeal process is ongoing. As a result, students who appeal decisions to exclude them from university can re-enrol and may be well into their next semester or trimester by the time the university determines their appeal. One student union reported a case of a student who had re-enrolled and sat his exams while his appeal was heard, only to find out the university had upheld his exclusion and would not release his results.
288. Some universities were trying to address the consequences of these processes for their students. Some were refunding the course fees of students who had re-enrolled but could not complete the semester. University policy regarding students who improve while their appeal is underway is less clear. I have in the past asked universities to reconsider decisions to exclude students who can demonstrate that they have improved their performance.

Handling of poor academic progress

289. Most of the international student complaints I receive are from students who are facing exclusion from university. These cases usually have a lengthy history within universities and my investigation considered whether they can do more to manage poor performance at an early stage.

Regulatory standards for academic progress

290. Standard 10 of the National Code requires universities to take early action to deal with poor academic progress. Amongst other things, it requires universities to:
- Monitor the progress of international students.
 - Implement a documented intervention strategy to identify and assist students at risk of not meeting course progress requirements. Universities have to implement this strategy, at a minimum, when a student fails 50 per cent or more of the subjects in any study period.
291. The National Code requires universities to report students who do not make satisfactory progress to the Commonwealth Government. Students have 20 working days to access the complaint and appeals process before the report is made.

The universities' academic progress policies

292. The four universities have written policies for identifying and assisting 'at risk' students.
293. At RMIT, for example, Student Progress Committees within each school review the academic progress of students at the end of each teaching period. Students who have made unsatisfactory performance are identified as 'at risk'. The school is required to invite the student to an interview with an academic advisor and to develop an individual 'Academic Performance Improvement Plan' for the student.
294. If a student makes unsatisfactory progress in a later semester, the Student Progress Committee asks them to 'show cause' why they should not be excluded. The student's show cause submission is expected to disclose all relevant issues and special circumstances that have affected his or her academic performance.
295. Students excluded by Student Progress Committees can appeal to RMIT's University Appeals Committee on limited grounds. For example, students can only raise personal issues at the appeal if the evidence was not available at the show cause stage.³³

Effectiveness of intervention strategies

296. Staff at all of the universities expressed frustration that many students fail to act on advice about how to improve their performance, or wait until the last appeal stage to disclose significant personal issues.
297. Some of the students who complain to my office argue they did not receive the university's correspondence. This is a particular problem where international students return home during vacation periods.
298. All of the universities said they warn students about the need to keep their contact details up to date. Deakin said it sends hard copy correspondence to students. RMIT, Swinburne and the University of Ballarat use students' university email accounts, which are accessible overseas. Swinburne and the University of Ballarat said they follow up emails with hard copy letters.
299. Student unions raised other concerns about the university's processes. They claimed:
- Students see the processes as intimidating or punitive and are reluctant to disclose sensitive personal information.
 - The academic advice given to 'at risk' students is limited. They reported that universities sometimes only deal with students by letter or email. Others complained that, even when students do attend meetings with the university, they are 'cursory' and students are largely 'left to their own devices'.
 - The processes do not identify struggling students until they have already failed subjects.

³³ Ibid.

300. Some individual university staff said they had tried to engage students at a personal level. An academic at Deakin's School of Accounting, Economics and Finance, for example, said they had hired additional staff in the past to call students at risk by telephone.
301. Some universities were trying to identify struggling students at an earlier stage. The University of Ballarat has an 'FDL Grades' system which allows the university to automatically contact students who fail a test or do not hand in an assignment. Deakin also has a 'Succeed@Deakin' program, under which the university contacts students who fail the first assignment in a trimester by telephone.

Conclusions

302. While universities have detailed policies and systems for dealing with student complaints and appeals, the evidence obtained during my investigation demonstrates they do not always work well in practice.
303. I am concerned with the complexity of the universities' systems and the way they communicate with students about academic progress. In my view, it would be a challenge for local students to understand and negotiate these systems, let alone students who are new to Australia and may have limited English.
304. If universities continue to encourage complaint handling at a local level, they also need to do more to make sure staff know how to deal with these issues and to track the handling of complaints.
305. Academic progress appeals, in particular, potentially have very serious consequences for international students. Universities need to review the way they manage poor academic performance and deal with these issues earlier.
306. In its response to my draft report, Swinburne said it was 'continuously improving the mechanisms by which students access their rights to complaints and appeals'.
307. Deakin said it strives to ensure that it communicates effectively with students. The Vice-Chancellor said letters about exclusion are 'necessarily complex' because of the need to discuss appeal rights and notifications to Commonwealth departments, but advised the university 'will ensure simpler language and a shorter letter is utilised'.
308. The University of Ballarat said that factors such as the regulatory environment contribute to complexity in this area. The Vice-Chancellor said the university has experienced staff who can offer a ready source of information to staff and students.
309. RMIT stated that it meets its regulatory requirements under the National Code and believes it complies with my good practice guide. The Vice-Chancellor said that evidence that policies do not always work well in practice was 'despite the best efforts' of universities. She said the complexity of its systems and communications is 'the result of a need

to satisfy [my] office that all possible steps have been taken to resolve a student's problem'. However, the high number of complaints I receive from students at RMIT would suggest that RMIT has more cause than most universities to examine its own performance in this area.

Recommendations

I recommend that all Victorian universities:

Recommendation 12

Review written complaint and appeal policies and procedures against regulatory requirements and the Ombudsman's guide to complaint handling for Victorian public sector agencies.

Recommendation 13

Review the accessibility of their complaint and appeal systems, including simplifying their systems and their communication with students by mid-2012, and provide the findings to my office.

Recommendation 14

Improve information and training for staff about complaint handling, including through induction programs and the appointment of complaint officers, either centrally or in schools, to advise and assist staff.

Recommendation 15

Record and monitor all complaints and appeals, including those managed within schools and administrative areas, and report annually to their governing bodies.

Recommendation 16

Review policies and procedures for dealing with unsatisfactory academic progress, including:

- barriers to student engagement
- ways to identify 'at risk' students earlier
- communication with students during university vacations
- ways to manage students who have re-enrolled while appeals are underway.

The universities' responses

- Deakin advised that it had initiated actions in relation to the recommendations in this report 'to ensure that there are no gaps in our systems and processes, and to address any such shortcomings'.
- RMIT said the recommendations relate to matters outside my jurisdiction and are not supported by evidence in this report.

The Vice-Chancellor asserted that compliance with my good practice guide 'is not a requirement of the various regulations imposed on universities'. She said RMIT currently monitors all complaints and appeals, but its governing bodies are not subject to direction from management and any recommendation regarding those bodies should be directed to the Minister for Higher Education and Skills. She said RMIT 'is satisfied it has appropriate policies' regarding unsatisfactory academic progress and 'notes there is no evidence in [my] report to suggest the contrary'.

- Swinburne noted the recommendations.
- The University of Ballarat said it is continuously reviewing its written complaint and appeal procedures and is about to conduct a general review as part of its policy review processes. It said it provides information and training to staff about complaint handling, and also has officers within each school and the university's central administration to assist staff. It supported my recommendation that it record and monitor all complaints and appeals and said it 'believes this generally already occurs'. It also said it was 'continually reviewing' its unsatisfactory academic progress policies and procedures.

Regulation

310. Governments have put in place regulation that is meant to protect international students and Australia's reputation for quality education.
311. Universities enjoy a special status under these regulatory arrangements. They are subject to regulation, but have less external scrutiny than other education institutions. This status reflects the historical role of universities as independent centres of learning and research in society. Universities are created by their own Acts of Parliament. They have the power to accredit their own courses and to make statutes governing their own affairs.
312. The evidence identified during my investigation raises questions about how effective the regulatory arrangements for universities and international students have been in practice.
313. The Commonwealth Government began to reform this area while my investigation was underway. Victoria's experience may yield lessons about how to deal with problems better in the future.

Overview of the regulatory framework

The regulation

314. The regulatory framework for education institutions with international students is complex.
315. At the national level, the main sources of regulation include the *Education Services for Overseas Students Act 2000* and the *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007* (the National Code). At the time I conducted my investigation, the Victorian *Education and Training Reform Act 2006* imposed additional requirements.
316. The main features of the framework at this time included:
 - state approval and national registration of institutions that teach international students³⁴
 - standards that govern institutions' dealings with their onshore international students: most of these standards are set out in the National Code and cover many of the issues I have discussed in this report, including admissions, support services and complaint-handling.
317. Universities also have to comply with other regulation. In this report I have already mentioned the *Higher Education Support Act 2003*, which requires universities to operate at an 'appropriate level of quality for an Australian higher education provider' to remain eligible for Commonwealth Government funding.³⁵

³⁴ *Education and Training Reform Act 2006* (Vic) Part 4.5; *Education Services for Overseas Students Act 2000* (Cth) Part 2.

³⁵ *Higher Education Support Act 2003* (Cth) Subdivision 19C.

318. Consistent with their special status, universities are largely responsible for their own compliance with these standards. Universities have had to undergo external quality audits and audits of their compliance with the National Code only once every five years. Their main reporting obligation under the National Code is a requirement that they submit an annual declaration addressing their conformity with the Code.³⁶

The regulators

319. Responsibility for administering the regulatory framework was split between multiple agencies at the time I conducted my investigation. The main agencies were:
- The Commonwealth Department of Education, Employment and Workplace Relations (the Commonwealth department).
 - The Victorian Registration and Qualifications Authority (the VRQA). The VRQA was established on 1 July 2007 and has been responsible for registering education and training providers in Victoria, including schools and private colleges, and accrediting their courses.
 - The Australian Universities Quality Agency (AUQA). AUQA was an independent agency, funded by Commonwealth, state and territory governments, that audited and reported on quality at universities.
320. My jurisdiction extended to the administrative actions of the VRQA, but not the Commonwealth department or AUQA.
321. Other agencies with an interest in international students and universities include Skills Victoria, the state agency responsible for higher education policy, and the Commonwealth Department of Immigration and Citizenship, which is responsible for the student visa program.
322. In his response to my draft report, the Chair of the VRQA pointed out that the Department of Immigration and Citizenship has its own minimum English language standards for international students as part of its visa process. Immigration officials advised my investigation that their standards are used to manage risks in Australia's migration program, and it is the education providers who are responsible for ensuring their students have competent English language skills for their courses.

Changes to the regulatory framework

323. The Commonwealth Government was introducing major changes to the regulatory arrangements for universities and international students while my investigation was underway.
324. It made some changes to its Education Services for Overseas Students Act during my investigation in response to a 2010 review of that Act.³⁷

³⁶ *Higher Education Support Act 2003* (Cth) section 19-27; *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007* Part D.

³⁷ Commonwealth of Australia, *Stronger, simpler, smarter ESOS: supporting international students*, op cit; *Education Services for Overseas Students Legislation Amendment Act 2011* (Cth).

325. The Commonwealth Government also created new national regulators to replace AUQA and absorb some of the functions of the Commonwealth department and the VRQA. Under these new arrangements:
- the new Australian Skills Quality Authority started to regulate Victorian vocational education and training (VET) providers which have international students or operate across states from 1 July 2011
 - the new Tertiary Education Quality and Standards Agency (TEQSA) will regulate all higher education institutions from 2012.
326. Commonwealth Government officials advised that there was scope for cooperation between the two regulators to address dual sector universities, like RMIT, that offer a range of courses.
327. Under these new arrangements, I will retain my jurisdiction over universities, but will have no role in relation to the new regulators.

The effectiveness of the regulatory framework

Lack of clear standards

328. Some of the regulatory standards for universities, such as the National Code's complaint handling standard, are detailed and specific but others leave considerable discretion to universities. For example, the National Code requires universities to ensure a student's English language proficiency is 'appropriate' for their course. Commonwealth legislation also requires universities to maintain an 'appropriate level of quality'. The evidence received during my investigation shows that 'appropriate' in these contexts can be the subject of some debate.
329. Regulators have supplemented some standards with more detailed guidelines such as AUQA's *Good Practice Principles for English Language Proficiency for International Students in Australian Universities*, but these are voluntary.
330. The Commonwealth Government's regulatory reforms will give the Commonwealth education minister the power to issue higher education standards in the future. The Commonwealth Government issued a discussion paper on teaching and learning standards during my investigation, but officials advised there was no timeframe for their completion. Commonwealth officials also advised that TEQSA would be asked to take over a former AUQA project on English language standards, but again there was no timeframe for their completion.³⁸

Gaps in the regulatory framework – education agents

331. Several witnesses told my investigation there needs to be more regulation of education agents in the international student market.

³⁸ Department of Education, Employment and Workplace Relations, Commonwealth, *Developing a Framework for Teaching and Learning Standards in Australian Higher Education and the Role of TEQSA* (2011).

332. Education agents act as intermediaries between education institutions and prospective students. They give students information and advice and help with university and visa applications. Some universities reported that from half to 65 per cent of international students use the services of an agent.
333. Universities pay education agents a commission for each student they recruit. They advised that the standard commission in the sector is 10 per cent of the student's first year fees but, with the exception of RMIT, they have 'incentive schemes' under which they pay some agents higher commissions for recruiting larger numbers of students. The University of Ballarat, for example, advised it pays a 20 per cent commission to agents who recruit six or more students, and agents who recruit more than 15 students from one country get a \$10,000 bonus.
334. The National Code puts the onus on institutions to ensure their education agents conduct themselves appropriately. Some universities reported problems with some agents. A senior manager at Swinburne reported that one of its agents had tried to pressure the university to enrol a student contrary to its language standards. One of RMIT's pathway institutions reported that education agents had tried to pressure staff to pass students in the past.
335. Other reviews, including the 2010 review of the Education Services for Overseas Students Act, have also raised concerns about agents.³⁹
336. In her response to my draft report, the Vice-Chancellor of Swinburne said the university takes the management of education agents 'very seriously' and had identified a range of improvements to its agent management framework. She advised that the university refused the request from the agent who had attempted to pressure the university. The Vice-Chancellor of the University of Ballarat said his university also regularly monitors agents and is able 'to quickly identify any practices which are contrary to the National Standard and which have the potential to undermine the integrity of the University'.

The performance of the regulators

337. The success of any regulatory regime depends on the performance of its regulators as much as the content of its regulation. My jurisdiction extends to only one of the regulatory agencies in this area – the VRQA.

The role of the VRQA

338. At the time I conducted my investigation, the VRQA was responsible for providing state approval to universities to teach international students under the Victorian Education and Training Reform Act.
339. The VRQA also had joint responsibility with the Commonwealth Government for administering the national Education Services for

³⁹ Senate Standing Committee on Education, Employment and Workplace Relations, *Welfare of International Students* (2009) Chapter 5; Commonwealth of Australia, *Stronger, simpler, smarter ESOS – supporting international students*, op cit, Chapter 5.

Overseas Students Act and National Code. A Shared Responsibility Framework set out the respective roles of the Commonwealth and the VRQA. The VRQA's functions included:

- Assessing applications from institutions for national registration and making recommendations to the Commonwealth Government.
 - Assessing applications from institutions for registration of their courses and making recommendations to the Commonwealth Government.
 - Assessing applications from institutions to change their registration, for example by increasing the maximum number of international students they can enrol.
 - Receiving the universities' annual declarations of conformity and the results of their five-yearly external audits. The University of Ballarat was the only one of the four universities which had completed its audit at the time my investigation concluded. Universities are not required to submit their audit results until 1 July 2012.
340. The Commonwealth Government monitored compliance with the Education Services for Overseas Students Act and the National Code in cooperation with the VRQA.⁴⁰
341. In his comments on my draft report, the Chair of the VRQA described the VRQA's role as 'ancillary to other agencies' and 'subordinate to the Commonwealth'.

The VRQA's performance of its functions

342. The VRQA took a limited role in relation to international students at universities during its period of involvement in this area.
343. The VRQA's response to public reports about problems with English language proficiency is one example. In November 2010, the VRQA's internal Higher Education Advisory Committee discussed English language proficiency standards in the context of an application from a private education provider. It decided the VRQA should require all undergraduate programs to have a minimum English language admission standard of IELTS 6.0 (with no band less than 5.5). The VRQA advised this requirement applies to non-self-accrediting institutions, not universities.
344. When asked whether the VRQA had undertaken any work in response to reports about universities' English language standards, the Director of the VRQA said:

It's certainly an issue that is discussed by our staff but it is not an issue that we have seen that we've needed to take direct action on.

... I wouldn't say ... it was a decision. It's just that universities are self-accrediting. They're responsible for their admissions and their processes for supporting students.

⁴⁰ Department of Education, Employment and Workplace Relations, Commonwealth, *The Shared Responsibility Framework*.

345. The Chair of the VRQA also said the VRQA could see no evidence that AUQA, whose audits are drawn upon by the VRQA, had made any recommendations about English language proficiency.
346. The VRQA has carried out its specific functions under the Education Services for Overseas Students Act and the National Code, but it has been slow to establish proper processes. For example:
- An inspection of the VRQA's files identified that in late 2009 the VRQA recommended the Commonwealth Government re-register TAFE divisions at the dual sector universities for five years. One of the TAFE divisions had been audited just months earlier and was found to be non-compliant in some respects. The Deputy Director said she implemented criteria for assessing re-registration applications after she was appointed to her position, but they may not have been in place at the time.
 - The VRQA's assessment of applications from universities to increase their international student enrolments has been limited. An audit report commissioned by the VRQA in response to a 2009 application from Swinburne considered four of the 15 standards in the National Code. Audit reports for Deakin and RMIT considered only three standards. The VRQA and its contracted auditors advised that the relevant VRQA manager determines the number and type of standards for the audits at the time. The Chair of the VRQA also advised that the scope of the audit depended on the nature of the application. The Deputy Director said she recently rejected an application from Deakin to increase its enrolment cap to 8,000 students until the university provided further evidence, including steps to improve staff student ratios.
 - The VRQA has allowed universities to put brief statements about their conformity with the National Code in their annual reports, despite the National Code requiring universities to provide specific information to the VRQA. The Director of the VRQA did not write to the universities asking them to provide declarations in accordance with the National Code until 2009. Most universities reverted to their previous practice again in 2010. The Chair of the VRQA stated in response to my draft report that there was no need for universities to provide declarations in 2010 because they underwent a re-registration process that year.

Proportionate regulation and risk management

347. VRQA officers pointed to two regulatory bases for the VRQA's approach to universities.
348. First, the Director of the VRQA advised that the VRQA was 'set up with a philosophy to provide light touch, proportionate regulation for all education and training providers in Victoria'. In the case of universities, she said the approach meant 'we honour and recognise them as self-accrediting'. She noted that universities are already subject to a number of oversight bodies, including my office.

349. Second, VRQA officers stressed that they had focused in recent years on the areas of highest risk in the education sector, namely VET and private education providers. The Director of the VRQA noted this 'risk management' approach is reflected in the Shared Responsibility Framework and the Education Services for Overseas Students Act.⁴¹
350. The Chair of the VRQA said the Commonwealth Government also recognises universities as low risk. Amongst other things, he referred to the 'unique compliance arrangements' for universities.

Self-regulation by universities

351. The existing regulatory framework puts considerable trust in universities to regulate their own affairs. While the four universities take active steps to promote regulatory compliance and quality, there are questions about how well they work in practice.

University compliance programs

352. Universities have created various mechanisms to promote compliance with the Education Services for Overseas Students Act and National Code. These include:
- Advice for staff – all four universities have compliance manuals or frameworks for their staff. Swinburne offers training to staff and includes a section on the regulation in its staff induction program. Deakin advised that it was developing compliance material for its staff induction program.
 - Consultative forums – all four universities have internal compliance committees with representatives from faculties/schools and administrative areas.
 - Auditing – Swinburne and the University of Ballarat conduct their own regular compliance audits of individual schools. Swinburne advised that it also conducts external audits as part of its quality assurance system.
353. Managers at Swinburne and RMIT told my investigation that they had not detected any serious issues as a result of their compliance programs. However, this conflicts with evidence from academics, student services staff and student unions, which raised substantial concerns about English language standards and services, academic standards and the university's intervention programs for 'at risk' students. The Vice-Chancellor of Swinburne said that National Code compliance audits do not cover English language standards or services or intervention programs for 'at risk' students. I note, however, that the National Code imposes requirements regarding these issues.

⁴¹ Department of Education, Employment and Workplace Relations, Commonwealth, *The Shared Responsibility Framework; Education and Training Reform Act 2006 (Vic); Education Services for Overseas Students Act 2000 (Cth)* section 9A.

354. While compliance committees and audits involve academic staff, few of the academics interviewed during my investigation reported taking part in a university audit process. A number of academic staff expressed scepticism about their university's compliance programs. A lecturer at Deakin said, 'universities are good at "tick the boxes"'. He said he was once told his course had passed an internal review and he had not even been aware the review was taking place.
355. My investigation identified that universities do not always consult students as part of their compliance programs. Swinburne advised that it does not speak to students during internal Education Services for Overseas Students Act audits, although its Vice-Chancellor pointed out that the university does canvass the views of staff, students and other stakeholders during external panel reviews of academic units and through student surveys. The University of Ballarat advised that it did not speak to students during its most recent Education Services for Overseas Students Act audits, although its Vice-Chancellor said the auditors had spoken to students in the past and the university also conducts student surveys.
356. Some universities have student union representatives on their compliance committees. Swinburne's student association said that the university had been responsive, but another student union described this as 'a token gesture'.

The universities' record on self-regulation

Administrative issues

357. My investigation identified some examples of non-compliance with the Education Services for Overseas Students Act and National Code. For example:
- Deakin and RMIT exceeded their caps on the maximum number of international students over extended periods in 2009 and 2010. They applied to the VRQA to increase their caps after the problem was identified. The Chair of the VRQA advised that Commonwealth Government systems had been changed to prevent over-enrolments.
 - In 2009, the VRQA notified all four universities that the registration of a number of courses had lapsed and not been renewed, including Deakin's popular Bachelor of Commerce course. RMIT reported that its lapsed courses had in fact been replaced by newer courses. All of the universities reported that they had taken action to address the problem.

The universities' responses to systemic issues

358. The universities have been slow to respond to some of the more difficult issues identified in this report.

359. In the case of English language proficiency, there are independent reports and recommendations dating back at least to 2002.⁴² The issue has also been discussed within university decision-making bodies for some years. I referred to applications by schools and faculties at RMIT and Swinburne to raise minimum IELTS scores earlier in this report. In 2008, Deakin's Academic Appeals Committee, which hears appeals from students facing exclusion from the university, reported to the Academic Board that international students, students for whom English is a second language and alternative pathway students may face issues putting them at greater risk of poor academic performance. It supported an investigation into, amongst other things, why some student cohorts 'appear not to have the necessary academic skills and techniques to succeed in their studies'.
360. The four universities in this investigation were still responding to these issues years later in 2011:
- Deakin did not start collecting the type of data needed to monitor the academic performance of students who enter through different language pathways until after my investigation commenced. It is in the early stages of its university-wide English language development strategy but is not conducting a university-wide review of admission standards.
 - Swinburne has been tracking the performance of international students by English language admission pathway for some years. The Vice-Chancellor advised that Swinburne is expanding this work to include individual academic units. It was reviewing its admission standards and language services during my investigation.
 - RMIT will not start collecting and analysing data on students' admission pathways until 2013. It is also in the early stages of its English language development strategy but is not reviewing its IELTS scores. The Vice-Chancellor said the university does review programs annually and complies with all regulatory requirements.
 - The University of Ballarat has not been tracking the progress of international students who enter through different language pathways and it did not support my recommendation that it do so in future.
361. When the universities have changed their admission standards, it has often been in response to pressure from particular faculties and schools or professional bodies. In 2010, for example, the Nursing and Midwifery Board introduced a requirement that former international students demonstrate an IELTS score of 7 or equivalent to be registered to practice in Australia. Deakin and the University of Ballarat increased their minimum IELTS score for admission to nursing to 7 following the board's decision.

⁴² Victorian Auditor-General, op cit, page 45.

Gaps between management and staff

362. The universities' governing bodies need to understand what is happening in their classrooms and services to set appropriate policies and programs. My investigation, however, identified significant gaps between the evidence of university executives and the experiences reported by academic and student services staff who work with students.
363. A senior executive at RMIT said he had heard 'nothing' from academics about students' language proficiency during his employment at the university. An executive from Deakin said, while some academics engage with students from different backgrounds, others 'want to have it easy'.
364. Most of the academic staff interviewed during my investigation were either not aware of avenues for raising their concerns at a higher level or had not used them. Some academic staff had tried to raise concerns about language proficiency or quality but reported their university was not responsive. A senior academic at Deakin said he had tried to raise concerns about language problems unsuccessfully in the past. He said the university's management would argue 'You just have to teach better'. He also said the university's Academic Board had changed its assessment policy despite faculties making submissions disagreeing with the plan. An experienced lecturer at RMIT said 'my experience is, over the years, that the actual school has less and less power ... the university will make those decisions and they're imposed on us'.

Conclusions

365. I am not satisfied that the regulatory arrangements for universities and international students have been effective in addressing the problems and tensions that have arisen during the recent growth in international student enrolments.
366. Part of the problem rests with the regulation itself, particularly the lack of clear standards for universities. While the Commonwealth Government is planning to issue new teaching and learning standards and English language proficiency standards, it is not clear when these will be in place.
367. There is also a lack of effective local regulatory oversight for universities in Victoria. While the VRQA has not been the only regulator in this area, it was not proactive about investigating reports of poor English language proficiency or pressure on academic standards. Its approach has been encouraged by the so-called concepts of 'proportionate regulation' and 'risk management'. While it has been argued that universities have not been the highest risk area of the international student market, as the evidence identified by my investigation shows, this does not mean they pose no risk to Australia's reputation for high quality education.
368. While the ideal of universities as independent centres of teaching and research remains important, they are not well placed to self-regulate their dealings with international students when they are competing for those students and are reliant on them for such a large part of their revenue.

369. The universities can all point to policies, programs and plans for managing these issues, but the evidence obtained during my investigation demonstrates that they are often poorly designed or poorly implemented in practice. There is evidence of a gap between university decision-makers and staff who deal with students. There is also evidence that the universities' responses to reported problems with language proficiency have been slow, and are more focused on student services than on hard decisions about admission standards. Unless there is a change in practice, there is a risk the problems of the past will continue.

370. In its response to my draft report, Swinburne said it did not accept the conclusion that universities are not well-placed to regulate their dealings with international students. The Vice-Chancellor said:

Modern Australian universities compete across a wide range of their activities: for students (both domestic and international), for research funds, for staff, for industry connections and projects. This does not mean, however, that universities are incapable of developing compliance and quality improvement processes that ensure that they operate within the regulatory environment and seek to continuously improve where they identify deficiencies, or where external bodies – such as your office – identify deficiencies and request specific improvements.

Swinburne welcomes external scrutiny – particularly of an area as complex and important as international education. Through external scrutiny we have an opportunity to check that our processes and approaches are working as intended, and to identify areas for improvement.

371. In their responses, RMIT and the University of Ballarat both claimed their sector is 'highly regulated'. The Vice-Chancellor of RMIT said 'there is no evidence to support your claim that there are questions about how well steps taken by universities to promote regulatory compliance and quality (sic)'. RMIT again claimed these matters fall outside my jurisdiction. The Vice-Chancellor of the University of Ballarat said the university:

refutes any suggestion that policies, programs and plans are implemented poorly and/or are ineffective in practice. In addition, there is no evidence presented of a gap between University decision-makers and staff who deal with students.

372. Despite these assertions, I consider that the evidence presented in this report speaks for itself. Universities teach a large share of Victoria's international students and set the standard for the rest of the education system. Governments have a responsibility to make sure standards remain high to protect both students and Australia's reputation for quality education.

Recommendation

I recommend that:

Recommendation 17

All Victorian universities should audit compliance with regulatory and quality standards regularly at a school and administrative division level. These audits should examine the implementation of standards in practice through consultation with academic staff and students.

The universities' responses

- Deakin advised that it had initiated actions in relation to the recommendations in this report 'to ensure that there are no gaps in our systems and processes, and to address any such shortcomings'.
- RMIT said it 'notes it is already subject to audit by various Commonwealth agencies'.
- Swinburne noted this recommendation.
- The University of Ballarat said it would support this recommendation and believes this already occurs at the university.

John R Taylor

ACTING OMBUDSMAN

Summary of recommendations

I recommend that all Victorian universities:

Recommendation 1

Review their minimum IELTS scores for admission to courses based on evidence about the academic needs and performance of students by mid-2012, and provide the findings to my office.

Recommendation 2

Amend their admission procedures to require admissions officers to verify IELTS test results submitted by prospective students and report evidence of student anomalies to testing organisations.

Recommendation 3

Require all international students, including students who have completed pathway courses, to submit results of an independent language test, taken not more than twelve months previously, prior to enrolment in higher education programs.

Recommendation 4

Monitor and report annually to their academic governing bodies from 2012 about the academic progress of international students who enter university through different English language pathways.

Recommendation 5

Conduct annual reviews of their admission standards.

Recommendation 6

Review English language services for students by mid-2012 to identify the extent to which students use existing services, including identifying any barriers to student participation and models for providing effective in-course language support to all students.

Recommendation 7

Review the extent to which academic staff, including sessional staff, use professional development resources designed to help them teach and assess diverse groups of students, and identify any barriers to staff participation and models for providing practical support to staff.

Recommendation 8

Appoint external examiners to report on their academic standards and assessment methods.

Recommendation 9

Commission an independent risk assessment of the extent of cheating and bribery amongst staff and students and the effectiveness of their existing policies and procedures by mid-2012 and provide the findings to my office.

Recommendation 10

Remind staff about their obligations to report plagiarism, cheating and other academic misconduct under university policies and procedures.

Recommendation 11

Advise all staff about the provisions of the *Whistleblowers Protection Act 2001* and provide regular training in this regard.

Recommendation 12

Review written complaint and appeal policies and procedures against regulatory requirements and the Ombudsman's guide to complaint handling for Victorian public sector agencies.

Recommendation 13

Review the accessibility of their complaint and appeal systems, including simplifying their systems and their communication with students by mid-2012, and provide the findings to my office.

Recommendation 14

Improve information and training for staff about complaint handling, including through induction programs and the appointment of complaint officers, either centrally or in schools, to advise and assist staff.

Recommendation 15

Record and monitor all complaints and appeals, including those managed within schools and administrative areas, and report annually to their governing bodies.

Recommendation 16

Review policies and procedures for dealing with unsatisfactory academic progress, including:

- barriers to student engagement
- ways to identify 'at risk' students earlier
- communication with students during university vacations
- ways to manage students who have re-enrolled while appeals are underway.

Recommendation 17

Audit compliance with regulatory and quality standards regularly at a school and administrative division level. These audits should examine the implementation of standards in practice through consultation with academic staff and students.

Appendix 1

Faculty of Business and Law



Melbourne Campus at Burwood
Burwood Victoria 3125 Australia
Telephone +61 3 9244 6555
Facsimile +61 3 9244 6520
blapcm@deakin.edu.au

Date

«Title» «FirstName» «LastName»
«Street_1»
«Street_2»
«Town» «State» «Pcode»

Student ID: «ID»
Course Code: «Ccode»
Campus: «Campus»

Dear «Title» «LastName»

Student Academic Progress - Outcome of Show Cause Hearing Notification of intention to report

In accordance with Regulation 05.03(1) – *Assessment and Academic Progress in Higher Education Award Courses*, the Faculty of Business and Law Faculty Committee (FAPC) recently considered your submission showing cause as to why the FAPC's proposal that you be automatically excluded from the M300, with no right to apply for re-admission for a minimum period of one academic year, should not be implemented.

After consideration of your case, the FAPC has decided to confirm your exclusion from the M300 with no right to apply for re-admission for a minimum period of one academic year.

In making this decision, the Committee considered your submission that you did not attend the final exams this trimester due to an accident, and that as you appealed a previous exclusion from this committee, your studies were interrupted during the trimester as you were unsure whether you could continue studying. The Committee noted that you did not provide any evidence of an accident occurring during the trimester in your submission, and did not apply for special consideration. The Committee found this especially troubling, as you were fully aware of being placed on restriction by the Academic Appeals Committee. Without documentation to support this statement, the Committee was unable to ascertain the extent to which your performance would have been impacted. The Committee also noted faculty advice that you were encouraged to continue studying as normal throughout the appeal process. Ultimately the Committee was not able to find any exceptional circumstances which might have prevented the exclusion going ahead. Accordingly, the exclusion is confirmed.

There are two courses of action available to you. You may either:

- A. accept the decision of the FAPC; or
- B. appeal the decision to the Academic Appeals Committee.

A. Accept the Decision

If you choose to **accept the decision** of the FAPC to automatically exclude you, you will be excluded from the M300 with no right to apply for re-admission for a minimum period of one academic year.

Section 19 of the *Education Services for Overseas Students (ESOS) Act 2000*, and Standard 10 of the *National Code 2007* require the University to report those students who have not achieved satisfactory course progress.

As a result, the University intends to report that you have not achieved satisfactory course

progress to the Secretary of the Department of Education, Employment and Workplace Relations (DEEWR).

Please note that the University will also advise the Department of Immigration and Citizenship (DIAC) of your discontinued enrolment. A letter titled Non-Compliance Notification will be sent by Deakin International to your most recent correspondence address.

Your visa may be at risk and you are advised to make an appointment with an International Student Adviser (ISA) to discuss the implications of this exclusion for your current (and future) student visas. If you receive a Non-Compliance Notification letter, you should make contact with DIAC.

It is important that you read the Non-Compliance Notification carefully and seek advice from DIAC as to the status of your student visa. The Non-Compliance Notification is likely to result in a change to your visa status and it is your responsibility to know your student visa status and to ensure that your student visa is valid while you are in Australia or leave Australia before your student visa status becomes invalid.

If you wish to resume your studies at the end of the exclusion period, you must apply in writing to the Faculty Committee by **30 September 2011** for re-admission to your course.

Your written application for re-admission should:

- detail the actions you have taken whilst excluded, including evidence of any studies undertaken or relevant work experience
- address why your previous academic progress was unsatisfactory, and what has now changed in your circumstances to indicate your likelihood of being able to successfully complete the requirements of the course; and
- provide any other information you consider relevant.

Please ensure you include your current postal address and student number in your application for re-admission. Please send your written application for re-admission to:

*The Secretary, FAPC
Faculty of Business and Law
Deakin University
221 Burwood Highway
Burwood Vic 3125*

or email: blapcm@deakin.edu.au

The FAPC will assess your application for re-admission and will notify you of the outcome of your application in writing.

If your application for re-admission is successful, you then need to contact Deakin International to obtain an electronic Confirmation of Enrolment (eCOE) to lodge with your student visa application.

B. Appeal the Decision

If you choose to **appeal the FAPC's decision** to automatically exclude you, you must:

- a. complete the attached Academic Appeals Committee Appeal Application Form indicating the grounds for your appeal
- b. make a written submission detailing the grounds for your appeal and outlining the case for your appeal; and
- c. provide any relevant documentary evidence in support of your case (eg. medical certificates, death certificates, Police reports etc)

Please send your written submission, documentary evidence and the completed reply slip (attached) to the address at the top of the appeal form by no later than 6 January 2011

The Academic Progress in Higher Education Award Courses procedure provides that the only ground for appealing an automatic exclusion is that there were exceptional circumstances beyond the control of the student that prevented them from complying with the previously imposed condition or restriction.

If you appeal, you will be advised of a date when the Academic Appeals Committee will hear your appeal. You may attend the hearing personally and may be accompanied by a person of your choice, who may be a practising lawyer. The University may also have legal representation.

For more information, please refer to the following documents which are available at <http://www.deakin.edu.au/current-students/handbooks/2009/introduction/academic-progress.php>:

- Regulation 05.03(1) – *Assessment and Academic Progress In Higher Education Award Courses*,
- the Academic Progress in Higher Education Award Courses procedure; and
- Academic Progress Hearings: Rules of Procedure

If you do not appeal to the AAC by 6 January 2011, the FAPC will assume that you have accepted the decision and will implement the automatic exclusion.



AAC Appeal Application Form – Academic Progress

You must complete all sections of this form and provide all relevant documentation at the time of lodging your appeal in order for your appeal to proceed.

Date: / /

University Governance Unit
Deakin University
Geelong, Victoria 3217 AUSTRALIA

I wish to appeal against the following decision of the FAPDC of the Faculty of _____ on _____
(Faculty) (show cause hearing date)

To exclude me from Code /Course _____, at the _____ Campus.

My grounds for appeal are:

- there is new mitigating evidence which the student was not reasonably able to present at the show cause hearing that may have affected the Faculty Committee's decision had it been available at the time.
(IMPORTANT: Information relating to personal circumstances such as absence overseas or changes to living arrangements or failure to collect University mail regarding your appeal are NOT considered grounds for appeal to the AAC under 'new evidence'.)
- there was a misapplication of procedures resulting in some disadvantage to the student
- having regard to the evidence before the Faculty Committee, the penalty imposed was too severe

Please complete the following checklist to ensure that you have provided the appropriate information required for your appeal to be considered by the Academic Appeals Committee.

- All sections of the appeal form have been completed.
- A written submission detailing the reason for your appeal is attached.
- Documentary evidence in support of the appeal is attached to this appeal application form. If supporting documentation is not included the appeal may not proceed further (e.g. Statutory Declaration, Medical Certificate, Death Certificate, Police report etc).
- If you are providing medical information you must provide sufficient specific information for the Committee to make an informed decision about your incapacity to meet the requirements of your course. Deakin University provides a medical certificate that can be completed by your doctor for this purpose

This form must be completed in FULL and all required documentation provided in order for the application to be considered by the Academic Appeals Committee

Signed _____

Date _____

Name _____ Student ID _____

Address _____

Phone No. (Home) _____ (Work) _____ (Mobile) _____

Email _____ Fax _____

If you have any queries regarding the academic appeal process, please contact the Executive Officer, Academic Appeals Committee phone 5227 8532, fax 5227 8551, email: ab-appeals@deakin.edu.au

The University will use your personal information collected on this form and contained in any other associated documents submitted by you for processing your current and future academic progress whilst at Deakin University. You have a right to access your personal information held by the University. Requests for access are managed under the *Freedom of Information Act 1982*.



ADVOCACY SUPPORT

If you have received a letter from the FAPC regarding your academic progress or academic misconduct, a DUSA4U Student Rights Officer can provide free assistance and advice regarding hearings and written submissions.

Advice and support can also be offered during any stage of the appeals process, including what to expect at the hearing.

We can also help you access other free services available on campus such as academic skills classes and/or provide you with information about the University's free counselling service.

Non-members are also encouraged to discuss support options with a DUSA4U student Rights Officer.

Burwood +61 3 9244 6356

Geelong +61 3 5227 3322

Warrnambool +61 3 5563 3378

or Email: dusa-advocacy@deakin.edu.au

Division of Student Life (DSL)

For information on Study Skills programs, Counselling and Personal Development and the Disability Resource Centre, please go to: <http://www.deakin.edu.au/studentlife/>

International Student Advisers

For information on the support services that are available to International students, please go to: <http://www.deakin.edu.au/current-students/international/services-support/student-advisers/index.php>

Faculty Student Advisers

For advice regarding course planning and unit enrolment please contact the student advisers in the Faculty of Business and Law

Burwood +61 3 9244 6555

Geelong +61 3 5227 1244

Warrnambool +61 3 5563 3148

Ombudsman's Reports 2004-11

2011

Investigation regarding the Department of Human Services Child Protection program (Loddon Mallee Region)
October 2011

Investigation into the Office of Police Integrity's handling of a complaint
October 2011

SafeStreets Documents - Investigations into Victoria Police's Handling of Freedom of Information request
September 2011

Investigation into prisoner access to health care
August 2011

Investigation into an allegation about Victoria Police crime statistics
June 2011

Corrupt conduct by public officers in procurement
June 2011

Investigation into record keeping failures by WorkSafe agents
May 2011

Whistleblowers Protection Act 2001 Investigation into the improper release of autopsy information by a Victorian Institute of Forensic Medicine employee
May 2011

Ombudsman investigation - Assault of a Disability Services client by Department of Human Services staff
March 2011

The Brotherhood - Risks associated with secretive organisations
March 2011

Ombudsman investigation into the probity of The Hotel Windsor redevelopment
February 2011

Whistleblowers Protection Act 2001 Investigation into the failure of agencies to manage registered sex offenders
February 2011

Whistleblowers Protection Act 2001 Investigation into allegations of improper conduct by a councillor at the Hume City Council
February 2011

2010

Investigation into the issuing of infringement notices to public transport users and related matters
December 2010

Ombudsman's recommendations second report on their implementation
October 2010

Whistleblowers Protection Act 2001 Investigation into conditions at the Melbourne Youth Justice Precinct
October 2010

Whistleblowers Protection Act 2001 Investigation into an allegation of improper conduct within RMIT's School of Engineering (TAFE) - Aerospace
July 2010

Ombudsman investigation into the probity of the Kew Residential Services and St Kilda Triangle developments
June 2010

Own motion investigation into Child Protection - out of home care
May 2010

Report of an investigation into Local Government Victoria's response to the Inspectors of Municipal Administration's report on the City of Ballarat
April 2010

Whistleblowers Protection Act 2001 Investigation into the disclosure of information by a councillor of the City of Casey
March 2010

Ombudsman's recommendations - Report on their implementation
February 2010

2009

Investigation into the handling of drug exhibits at the Victoria Police Forensic Services Centre
December 2009

Own motion investigation into the Department of Human Services - Child Protection Program
November 2009

Own motion investigation into the tendering and contracting of information and technology services within Victoria Police
November 2009

Brookland Greens Estate - Investigation into methane gas leaks
October 2009

A report of investigations into the City of Port Phillip
August 2009

An investigation into the Transport Accident Commission's and the Victorian WorkCover Authority's administrative processes for medical practitioner billing
July 2009

Whistleblowers Protection Act 2001 Conflict of interest and abuse of power by a building inspector at Brimbank City Council
June 2009

Whistleblowers Protection Act 2001 Investigation into the alleged improper conduct of councillors at Brimbank City Council
May 2009

Investigation into corporate governance at Moorabool Shire Council
April 2009

Crime statistics and police numbers
March 2009

2008

Whistleblowers Protection Act 2001 Report of an investigation into issues at Bayside Health
October 2008

Probity controls in public hospitals for the procurement of non-clinical goods and services
August 2008

Investigation into contraband entering a prison and related issues
June 2008

Conflict of interest in local government
March 2008

Conflict of interest in the public sector
March 2008

2007

Investigation into VicRoads' driver licensing arrangements
December 2007

Investigation into the disclosure of electronic communications addressed to the Member for Evelyn and related matters
November 2007

Investigation into the use of excessive force at the Melbourne Custody Centre
November 2007

Investigation into the Office of Housing's tender process for the cleaning and gardening maintenance contract - CNG 2007
October 2007

Investigation into a disclosure about WorkSafe's and Victoria Police's handling of a bullying and harassment complaint
April 2007

Own motion investigation into the policies and procedures of the planning department at the City of Greater Geelong
February 2007

2006

Conditions for persons in custody
July 2006

Review of the Freedom of Information Act 1982
June 2006

Investigation into parking infringement notices issued by Melbourne City Council
April 2006

Improving responses to allegations involving sexual assault
March 2006

2005

Investigation into the handling, storage and transfer of prisoner property in Victorian prisons
December 2005

Whistleblowers Protection Act 2001 Ombudsman's guidelines
October 2005

Own motion investigation into VicRoads registration practices
June 2005

Complaint handling guide for the Victorian Public Sector 2005
May 2005

Review of the Freedom of Information Act 1982 Discussion paper
May 2005

Review of complaint handling in Victorian universities
May 2005

Investigation into the conduct of council officers in the administration of the Shire of Melton
March 2005

Discussion paper on improving responses to sexual abuse allegations
February 2005

2004

Essendon Rental Housing Co-operative (ERHC)
December 2004

Complaint about the Medical Practitioners Board of Victoria
December 2004

Ceja task force drug related corruption - second interim report of Ombudsman Victoria
June 2004