

# Frequently Asked Questions



Department of  
Education and Training

## Visitor/Tourist visa enrolments

*Including –*

*Education agents as homestay providers*

*Onshore conversions to a student visa*

---

### Education agents as homestay providers for children on a Visitor/Tourist visa:

Visitor and Tourist visas permit a maximum of 3 months study at a school. Any school may choose to enrol a child on a Visitor or Tourist visa and charge the student the full international fee rate.

For CRICOS-registered schools, while the decision to enrol a Tourist or Visitor visa holder is in no way connected to the school's CRICOS registration, it is recommended that where a *parent* agent is involved in the enrolment, and that agent is also offering the visiting child homestay accommodation, it would be wise to apply the same 'agent risk-management practices' as those which have been developed under the school's CRICOS registration.

In a situation where the *school's* education agent is representing both the school and the child, the usual expectation would be that a child arriving on either a Visitor or Tourist visa will reside with their parents, other family members, or family friends. In creating the Tourist/Visitor visa category, DIBP never envisioned that it would be used by students arriving without their parents or a legal guardian. As such, these visas have not been designed with *built-in protective measures* like those that can be found under the student visa. Visitor and Tourist visas have no provisions which allow for a 3rd party carer to be assessed as 'appropriate' for the child while they reside in Australia. Therefore, in the interest of protecting *unaccompanied students*, the State regulator does not encourage schools to knowingly engage with parties who will be utilising a Visitor or Tourist visa to facilitate enrolment outside the scope of anything other than a traditional *organised* study tour program.

### Issues relating to children on Visitor or Tourist visas:

It has become increasingly common for CRICOS registered providers to receive enrolment requests for children on a Visitor/Tourist visa. Once enrolled, there may be a request from the parent (or their agent) seeking a CoE from the school to support an application for a student visa.

While many such requests are genuinely unplanned, schools should be alert to the possibility that agents and/or parents may seek to use the Visitor/Tourist visa as a type of 'back door' approach to the acquisition of a student visa. This may be because Visitor/Tourist visas (which have fewer eligibility criteria to be satisfied) often allow for faster initial entry into Australia when compared to the application process for a student visa. Parents might also view the Visitor/Tourist visa as a means by which their child can have opportunity to experience a school first hand before making any formal commitment to long term study under a student visa.

While onshore conversions from a Visitor/Tourist visa to a student visa are certainly possible, the practice must not be considered by parents, agents or CRICOS providers as the *usual means* by which long term study in Australia under a student visa is secured. Schools, in particular, need to be aware of the associated pressures and pitfalls that come with onshore visa conversions of this nature.

These include:

- *Potential excess demands on school resources and risk that student visa conditions may not be met:*

Students who are enrolled under a Visitor/Tourist visa may be accepted initially because of the mutual short term cultural benefits for both the child and the school. For these 'non-CRICOS' enrolments, the focus is often on *cultural* outcomes, and as such there is no obligation on the school to provide specified pre-enrolment information or undertake formal assessment of the child's English language and academic capability (as a provider would do for a student visa applicant under Standard 2 of the National Code).

Agreeing to issue a CoE for the purpose of converting a Visitor/Tourist visa to a student visa *changes the nature of the enrolment relationship*, and it will mean that the school must now satisfy the requirements of Standard 2. However, once the child is on the ground and part of the school community, administrative staff may fail to recognise the significance of this change in relationship, and rather than implement procedures for assessing a 'new overseas applicant' in accordance with Standard 2, they may take no additional action - perceiving the child instead to be a regular 'continuing enrolment'.

Administrative staff might also overlook their Standard 2 responsibilities if they feel a sense of *obligation to accept* the parent's CoE request, simply by virtue of the fact that the child is happily settled and none of the usual grounds for terminating an enrolment apply. Families and agents, too, might apply additional pressures on the school.

The consequence of failing to formally assess a student visa applicant's suitability for a course (as required by Standard 2) may be that the school commits itself to a long term enrolment for a child who requires considerable learning support and who may struggle to meet the visa requirements for satisfactory course progress (a *reportable* visa condition). Such a student will have slipped through a critical loophole in the school's enrolment selection process.

- *Additional administrative demands:*

Where a school agrees to support the conversion from a Visitor/Tourist visa to a student visa by issuing a CoE, the school must carefully monitor the progress of the child's student visa application. The school needs to bear in mind the 3 month maximum study limit permitted under the existing Visitor/Tourist visa and ensure that unless a student visa is granted (or a bridging visa with study rights is temporarily put in place), the child's enrolment at the school must not extend beyond the 3 month mark.

If the student visa isn't granted by the proposed start date on the COE, the school will need to enter as many *student course variations (SCVs)* in PRISMS as is necessary to defer the child's commencement (under CRICOS) until the student visa is granted.

Administrative failure to keep track of expired course start dates and amend CoEs will result in *PRISMS reporting breaches* for the school.

Therefore, the administrative burden associated with monitoring changes in visa status, and the penalties that may apply under ESOS if PRISMS records are not accurately maintained, needs to be recognised by schools.

- *Accepting welfare responsibility for unaccompanied children:*

It is important for schools to recognise that a child who initially arrives in Australia under a Visitor/Tourist visa will not have been subject to the same welfare checks as a child who has arrived under a student visa. Children on Visitor/Tourist visas may travel to Australia unaccompanied, and once onshore, they may live with anyone nominated by the parent. There are *no initial DIBP checks* undertaken to assess the appropriateness of living arrangements before the child arrives, and there are *no ongoing checks* after they have arrived.

If a school agrees to support a request to issue a CoE so that a student visa can be applied for, before issuing any CoE the school must first investigate the living arrangements that are currently in place for the child under the Visitor or Tourist visa. If the child is not (or will not be) living with a legal parent/guardian, or with someone who will be assessed and formally accepted by DIBP as 'a relative', then the school will need to take on the welfare responsibility for the child by issuing a CAAW.

A decision to issue a CAAW will mean that the rules under Standard 5 of the National Code will apply. In situations where the child is to continue living in a homestay arrangement, the school must recognise its responsibility to now take steps to assess, approve and monitor the suitability of the homestay. This responsibility exists even though the child may have already been living in that arrangement for months. It would be a tremendous risk for any school to assume that an existing arrangement is acceptable – just because it meets with the overseas parent's approval and there have been no previous concerns identified while the child has been at school.

In addition, the decision-making dynamic in relation to the child's welfare will also change as a result of the CAAW being issued. In particular, it must be made clear to all parties that the school (Principal) now has the welfare responsibility - not the homestay host. Conflict and 'power struggles' may arise if the homestay host does not understand (or accept) that they no longer have decision-making capacity when it comes to the welfare of the child.

*A particular note about children living with education agents –*

Arrangements whereby student visa holders reside in Australia with an education agent are not recommended by the State regulator. This situation is considered a conflict of interest.

The reasons for this perspective include:

- Where the education agent is formally representing both the school and the student it is not realistic to expect that each of the parties will always have their best interests looked after. Also, there is capacity for the agent to make additional arrangements with overseas families that are unknown (or may not be acceptable) to the school e.g. the agent might impose additional homestay 'service' fees above those declared by the school in its fee schedule and these fees may be paid directly to the agent without the school's knowledge or consent.

Schools must realise that they are responsible for the management (and where necessary, the refund) of all compulsory fees collected – and this would include any ‘hidden’ homestay fees collected directly by an agent.

- Agents who host overseas students receive their direction and payment from the offshore parent. The agent may therefore incorrectly view themselves as having the authority to make welfare decisions about the child on behalf of the parent e.g. conflict may arise over the child’s participation in activities outside of school hours which are permitted by the parent/agent, but are considered risky or unacceptable by the school principal who holds the welfare responsibility.
- Through their connection to the greater international student market and to other CRICOS-registered providers, there is capacity for an agent to offer homestay accommodation to other overseas students without first seeking approval from the school. Many schools specifically do not wish to have multiple overseas students residing in the one homestay – particularly where those students are from the same cultural background. Agents may also be inclined to source other homestay families from within the community on behalf of the provider. Hidden fees and undeclared business associations may emerge under such an arrangement.

**The take-home message:**

Agents can perform many useful services to schools to help secure and facilitate overseas student enrolments. However, it is important to be aware that there is currently no government regulation of education agent activities. For this reason, CRICOS-registered schools who choose to engage an agent must pay close attention to the requirements of Standard 4 of the National Code - ensuring that written agreements are current and clear, and that there is provision to monitor, take corrective action, and terminate associations with agents where necessary.

When it comes to the living arrangements for unaccompanied children (whether they be on a Tourist/Visitor visa or a student visa), it is not recommended that schools support arrangements where the agent is seeking to also be a child’s homestay provider.

With regards to onshore visa conversions (specifically Tourist/Visitor visa to student visa), genuine, one-off requests are of no cause for concern. CRICOS providers just need to be aware that the change in visa reflects a new enrolment under CRICOS and with this change comes some additional administrative burdens (as outlined above). However, a *trend of requests* from an agent/s seeking visa conversions should be treated by schools with caution.