

## Frequently Asked Questions -

### *Working with education agents*

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While education agents can perform many useful services to schools to help secure and facilitate overseas student enrolments, we advise that schools maintain full control over the following:

1. The list of agents who are approved to recruit on their behalf
2. The decision to approve or not approve each overseas student application for enrolment
3. The preparation of enrolment documents needed by applicants in order to obtain their student visa (including the written agreement, CoE and CAAW)
4. Data entry on PRISMS
5. Fee collection

This advice is elaborated upon below.

### **Know who is representing you**

Schools are advised to read their education agent contracts carefully to check whether they allow an agent to enter into 3<sup>rd</sup> party agreements with additional agents who may act on behalf of the school. The advised risk with this arrangement is that in accordance with Standard 4 of the National Code, the school remains responsible for the actions of all of its education agents - and this includes any 3<sup>rd</sup> party agents who can be signed on via a clause within an education agent agreement.

Where an agreement includes such a clause, it is recommended that the school review its decision to grant the agent open approval to enter into 3<sup>rd</sup> party agreements – and instead require the agent to first obtain individual approval from the school before any additional representatives can be signed on.

It is further recommended that in such circumstances, the school obtain a comprehensive list of all existing 3<sup>rd</sup> party agents who are currently signed to represent it.

### **The Application Process**

Under Standard 2 of the National Code, schools are responsible for assessing each prospective student's academic ability and English language proficiency to ensure that these are appropriate for the course in which enrolment is sought. Where a school delegates this service to an education agent, it loses its only opportunity to identify students who may not have the academic and English language ability to succeed in the course. Once an overseas student is enrolled, it can be extremely resource intensive to manage a student who is at risk of not achieving satisfactory course progress – either as a result of academic issues or low English language proficiency. There may also be associated concerns with course attendance or behaviour. Where the school is directly involved in the application process, there is a better chance that such issues will be identified before an enrolment is secured.

We therefore recommend that where an education agent is engaged by a school for recruitment purposes, that the school arrange its enrolment procedure so that it receives a 'recommendation for enrolment' from the agent, which is then accompanied by evidence to show that the child meets the

school's entry requirements. The school may also request the agent provide other relevant information about the student to aid its assessment.

In this way, the final decision on the suitability of each prospective overseas applicant lies entirely with the school.

## **The Enrolment Process**

### ***Written agreements***

Under Standard 3 of the National Code schools must enter into a written agreement with each prospective student. To be compliant, written agreements must address specific legislative requirements under the ESOS Act 2000 and National Code 2007.

Where a school authorises an education agent to produce the written agreement for prospective students and then forward it to overseas parents for a signature, the school must recognise the risk that once the written agreement has been signed it is bound by the contract and committed to the enrolment of the student. Should the written agreement not meet the requirements of the ESOS Act and National Code, the agreement is deemed 'not enforceable' and alternative provisions in relation to refunds will apply under ESOS legislation. These provisions, however, are not in the school's favour. Where a written agreement is found to be non-compliant, the school will not be able to apply its refund policy or any other conditions of enrolment - such as the requirement for the child to adhere to the school's accommodation policy, code of conduct, or similar.

Where schools have thus far allowed education agents to issue written agreements on their behalf, it is recommended that an internal review be conducted to ensure that copies of all current written agreements are:

- issued on a compliant written agreement template
- being held at the school as original copies
- correct in their detail – including course start/finish dates, welfare start/finish dates, estimate of course costs.

Recommended good practice is that schools assume administrative responsibility for creating all written agreements themselves. In this way, schools best ensure that each written agreement issued meets the legislative requirements, and are only being generated for overseas students who the school chooses to enrol.

### ***Generation of Confirmation of Enrolments (CoEs) and Confirmations of Appropriate Accommodation and Welfare (CAAWs)***

It is recommended that schools retain administrative responsibility for creating CoEs and CAAWs for all new enrolments in PRISMS. Where education agents are engaged, it is suggested that they should have PRISMS 'viewing rights' only.

Delegating responsibility for creating and updating CoEs and CAAWs to education agents carries the risk that a school isn't in control of data being entered into PRISMS. It is essential to understand that regardless of who enters the PRISMS data for each overseas enrolment, it is the school that is responsible for its accuracy and completion.

Data entered in PRISMS is relied upon by the Department of Immigration and Border Protection (DIBP), but its accuracy and completion is also critical for the school. Once a student is in receipt of his/her CoE and CAAW, the school is legally committed to providing for the welfare of that student as soon as the child arrives in Australia. The recommendation, therefore, is that schools retain responsibility for all PRISMS data entries. This includes the initial creation and any subsequent updating of CoEs and CAAWs.

Where a school has permitted an education agent to issue/amend CoEs and CAAWs on its behalf, it is recommended that school staff run a report through PRISMS for all current students to verify the accuracy and completion of data relating to:

- Total course cost for each student
- Welfare dates for each student
- Home addresses / contact details for each student
- Any breaches of course cost or course duration (the presence of which carry the potential for a financial penalty under the ESOS Act)
- Any variations to the details of student enrolments (course variations must be reported within legislated timeframes - a financial penalty can be imposed under the ESOS Act for failure to do so)

### ***Collection of Fees***

It is recommended that responsibility for financial transactions, including the collection of the initial enrolment fees, be managed by schools themselves. By collecting all relevant fees directly from the student, the school is in the best possible position to ensure that the correct fees have been charged.

Where an education agent manages this on behalf of a school, the associated risk to be recognised is that the school remains financially responsible for all fees collected once a written agreement has been signed. A school must always be knowledgeable of all fees that are being charged to its overseas students and where these fees are being held. This can be more challenging where a 3<sup>rd</sup> party is involved.

Additionally, where a refund is owed, the school must be in a financial position to repay the student any monies owed within the legislated timeframe. Again, this can be difficult if part or all of the funds are being held by another party for any length of time. Particular care should be taken for refunds relating to a visa refusal, since the required refund is to be calculated on the total fees paid by the student - and this amount must include any commission payment made to an education agent. Failure to pay refunds correctly, or on time, leaves the school exposed to the risk of financial penalties which can be applied under the ESOS Act.

Where a school has delegated responsibility for fee collection to an education agent, it is recommended an internal audit be conducted by the school to ensure that correct fees have been charged, that all fees paid by students are readily accessible for refund (if necessary), and that any refunds owed have been paid in full within the legislative timeframe . For more detail about timelines, check your refund policy.

## Summary –Managing the Risk of Delegation

Where a school delegates responsibility to an education agent, the individual or combined risk of the points outlined above is that the school may not be appropriately involved in the recruitment, enrolment, financial and legislative management of its own international students. Schools working with agents are therefore advised to develop policies and procedures which promote:

- Appropriate management of all education agents acting on its behalf
- School-based decision making in relation to the selection of approved overseas students
- Verification at the school level of a student’s academic and English language proficiency
- School-based creation of written agreements
- School-based generation of visa support documentation for each student in PRISMS (i.e. CoEs and CAAWs)
- School-based management of PRISMS records relating to variations to enrolment
- Collection and recording of fees (including refunds owed) by school administrators.

## Agent Management Checklist

The following is a general checklist of reminders for providers who work with education agents. For further information, refer to the requirements of [Standard 4](#) of The National Code 2007, and [ESOS Act 2000](#) section 21A(1).

- ✓ Do you have a current written agreement in place with all education agents who are engaged to recruit international students on behalf of the school? If the school intends to continue working with the agent, any expired agreements must be renewed.\*
- ✓ Have you eliminated from the list any agents who represent a student or parent, rather than the school? i.e. the school has no formal arrangement with the agent to recruit students on its behalf on an ongoing basis.
- ✓ Is there a list of current education agents (with whom you have a written agreement) published on your school website?
- ✓ Has the agent been given access to current marketing material for the school?
- ✓ What recent monitoring of the agent has occurred? Is it time to have a conversation/meeting with the agent about performance? Do you need to conduct a 'satisfaction survey' with parents and students?
- ✓ Is action required by the school in relation to any agent of concern?

*\* Note: Memoranda of Understanding (MOUs) with education agents do not satisfy the legislative requirement for a written agreement under [Standard 4](#) of The National Code 2007. Where a provider has an MOU in place with an education agent, the school must establish a formal written agreement between both parties as soon as possible to ensure compliance requirements are satisfied.*