

## Issues Paper

# Issues in the administration of the international student protection framework identified through the investigation of complaints about an education agent

### Executive Summary

Australia's **National Strategy for International Education 2025** notes that Australia has 'one of the strongest and most effective student protection arrangements in the world, with safeguards at every stage of their education'<sup>1</sup>. The Education Services for Overseas Students (ESOS) legislative framework forms Australia's rigorous quality assurance and student protection arrangements.

The Agent Code of Ethics (ACE)<sup>2</sup> is a critical component of this framework and provides a set of Australian specific principles for Australia's education agents. It outlines the expected professional behaviour of individual agents and agencies working with Australian international students and aims to support Australia's education and training providers to meet their obligations under the ESOS framework.

In 2017, the Office of the Commonwealth Ombudsman identified an emerging issue from a significant number of complaints about an education agent based in Queensland, allegedly defrauding overseas students of tuition and other fees. Students informed the Office that they paid the agent tuition and other fees to enrol them with private education providers in Australia and to apply for a student visa, however, the agent:

- failed to enrol them
- failed to pass some (if not all) of the fees on to the education provider, and/or
- lodged poor quality visa applications that often resulted in visa refusals.

Some students who were successfully enrolled but had their student visa applications refused and were unable to start their courses as intended, allege the agent failed to pass on the refunds paid by providers.

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<sup>1</sup> [National Strategy for International Education 2025](#), p16

<sup>2</sup> Australian International Education And Training Agent Code of Ethics  
[www.internationaleducation.gov.au](http://www.internationaleducation.gov.au)

## **Issues Paper: Complaints about an Education Agent**

Information provided by multiple agencies<sup>3</sup> indicates that around 100 overseas students, predominantly from South American countries, were affected. The Office's investigation identified 17 private education providers that were also affected. The total unconfirmed financial loss claimed (before any financial remedies) was around \$500,000 ranging from \$500 to over \$22,000.

Australian Commonwealth and state government agencies responded to the incident with a coordinated approach. As a result of the Office's investigations and the valuable collaboration and support of other departments and agencies, positive results were achieved for students who were validly enrolled (i.e. accepted students) but had not been paid a refund they were entitled to under the ESOS Act. However, those who were not yet enrolled (i.e. intending students<sup>4</sup>) had limited protections under ESOS.

While the actions of one agent are not indicative of a system failure, the event has highlighted opportunities for improvement. Steps have already been taken to make improvements including critical incident response protocols, strengthening requirements relating to education agents and changes to the ESOS Act to support reporting of agent performance.

It is important that the lessons learned from this unfortunate incident are used to examine what more can be done to protect intending international students from unethical agent conduct as well as safeguarding the reputation of the Australian international education sector into the future.

This Issues Paper provides information about these issues and includes questions for sector stakeholders to consider.

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<sup>3</sup> Data compiled from lists of affected students provided by the Department of Home Affairs, the Colombian Embassy, the Mexican Embassy and the Office of Fair Trading Queensland. This data was compared by the Office on 3 February 2017 with its list of students who had complained about an education agent.

<sup>4</sup> 'Intending overseas student' means a person (whether within or outside Australia) who intends to become, or who has taken any steps towards becoming, an overseas student (s5 ESOS Act).

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### Role of the Commonwealth Ombudsman

The Overseas Student Ombudsman became a function of the Office of the Commonwealth Ombudsman (the Office) in April 2011<sup>5</sup> to:

- investigate complaints about the actions and decisions of private registered<sup>6</sup> education providers in connection with intending, current and former international students
- provide information about best practice complaint-handling to help private education providers manage internal complaints effectively
- publish reports on problems and broader issues in international education that the Office identifies through investigations.

### Introduction

Australia's National Strategy for International Education 2025 notes that Australia has 'one of the strongest and most effective student protection arrangements in the world, with safeguards at every stage of their education'<sup>7</sup>.

The intent is to offer appropriate protections for intending, current or former overseas students. However, investigations of complaints regarding alleged fraud by an Australian education agent reveal the protection for intending students who have not secured enrolment with an Australian education provider may be limited.

When the Office receives a complaint about an education agent, the Office can only investigate the matter if that agent has an agreement with a registered private education provider to formally represent it<sup>8</sup>. The Office cannot investigate the actions of an education agent who acts independently and does not have such an agreement.

Whilst some of the intending students who used the abovementioned agent had secured enrolment and were therefore covered by the protection framework, others did not secure an enrolment and fell outside of the protection framework. The agent took the fees paid by the student but did not contact any education providers on their behalf.

It is important that intending students understand where available protections begin and end and actions they might also need to take to protect themselves in a similar scenario.

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<sup>5</sup> Part IIC of the *Ombudsman Act 1976*.

<sup>6</sup> 'Registered' means registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) to deliver courses to people studying in Australia on student visas <http://cricos.education.gov.au/default.aspx>

<sup>7</sup> [National Strategy for International Education 2025](#), p16

<sup>8</sup> The Office does not have jurisdiction to investigate education agents that do not have an agreement to represent a private education provider as the Overseas Students Ombudsman jurisdiction is over the private registered education provider.

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The issues arising from this incident demonstrate a need for a clear understanding about when intending students are covered by the provider and student default provisions of the ESOS Act.

While standards and guides have recently been updated, it is important that providers have access to detailed guidance about how to appropriately monitor the activities of their agents.

### **Definition of an overseas student**

The Office is authorised to investigate the actions of registered private education providers in relation to current, former or intending overseas students, within the meaning of the ESOS Act<sup>9</sup>.

The definitions 'overseas student' and 'intending overseas student' are defined in s 5 of the ESOS Act. An overseas student is defined 'as a person who holds a student visa'<sup>10</sup>. An intending overseas student is defined as 'a person (whether within or outside Australia) who intends to become, or who has taken any steps towards becoming, an overseas student'.

While the intent is to offer appropriate protections for intending overseas students, intending students may not have access to the same protections available to students who have secured enrolment.

### **Complaints concerning alleged fraudulent activity by an education agent**

In January 2017, the Office identified an emerging issue from a significant number of complaints received in late December 2016 and early January 2017 about an education agent based in Queensland, allegedly defrauding overseas students of tuition and other fees.

Students informed the Office that they paid the agent tuition and other fees to enrol them with private education providers in Australia and to apply for a student visa, however, the agent:

- failed to enrol them
- failed to pass some (if not all) of the fees on to the education provider, and/or
- lodged poor quality visa applications that often resulted in visa refusals.

Some students who were successfully enrolled but had their student visa applications refused and were unable to start their courses as intended, allege the agent failed to pass on the refunds paid by providers.

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<sup>9</sup> Section 19ZJ(3) *Ombudsman Act 1976*

<sup>10</sup> ESOS Act Section 5, excluding students of a kind prescribed in the regulations.

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Information provided by multiple agencies<sup>11</sup> indicates that around 100 overseas students, predominantly from South American countries, were affected. The Office's investigation identified 17 private education providers that were also affected. The total unconfirmed financial loss claimed (before any financial remedies) was around \$500,000 ranging from \$500 to over \$22,000. Losses claimed included tuition fees, Overseas Student Health Cover (OSHC) premiums, visa application fees and fees paid to the agent for its services. One student claims to have also paid the agent for accommodation in Australia.

Australian Commonwealth and state government agencies responded to the incident with a coordinated approach which included liaison with the Australian Embassies in Brasilia and Santiago. Due to the alleged criminal nature of the incident, consumer protection and law enforcement agencies also became involved. This group included:

- Department of Education and Training (DET)
- Department of Home Affairs (Home Affairs)
- Tuition Protection Service (TPS)
- Australian Skills and Quality Authority (ASQA)
- Tertiary Education Quality Standards Agency (TEQSA)
- Queensland Trade and Investment (QTI)
- Queensland Office of Fair Trading (OFT)
- Austrade
- Department of Foreign Affairs and Trade (DFAT).

### Remedies for affected students

This incident demonstrates the efficiency of the ESOS framework to protect many accepted overseas students seeking enrolment through an education agent in Australia. As a result of the Office's investigations and the valuable collaboration and support of other departments and agencies, positive results were achieved for students who were validly enrolled (i.e. accepted students) but were not paid a refund they were entitled to under the ESOS Act. However, those who were not enrolled (i.e. intending students) were not able to rely on the same support.

Following the Office's recommendations, some providers have paid refunds directly to the students. Other outcomes include education providers offering:

- a replacement course free of charge to the student
- assistance to find an alternative agent
- enrolment with an Australian education provider
- to cover the cost of an OSHC premium, or
- a full or partial refund of tuition fees.

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<sup>11</sup> Data compiled from lists of affected students provided by the Department of Home Affairs, the Colombian Embassy, the Mexican Embassy and the Office of Fair Trading Queensland. This data was compared by the Office on 3 February 2017 with its list of students who had complained about an education agent.

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Some affected students contacted the TPS with the assistance of the Australian Embassy. Our Office also transferred several cases to the TPS under s 19ZK of the *Ombudsman Act 1976*<sup>12</sup>. The TPS has assisted affected students who were enrolled with a provider to obtain a financial remedy.

However, the TPS does not have the legislative authority in any circumstance to direct a provider to meet their default obligations under the ESOS Act, including in cases where students have evidence of enrolment—such as a signed letter of offer (written agreement) with confirmation of payment of tuition fees, but do not have a Confirmation of Enrolment (CoE). This is discussed further below.

The approximate total of financial remedies obtained to date for affected students by both the Office and the TPS is almost \$40,000. Some affected students received refunds or other remedies through their early direct engagement with the education provider. Data is not available to quantify the value of these financial remedies.

While the Office endeavoured to assist all affected students, those intending students who were not enrolled had limited protections under ESOS.

### Recent changes: The Provider Integrity Act

On 17 August 2017 the [Education Legislation Amendment \(Provider Integrity & Other Measures\) Act 2017](#) (Provider Integrity Act) was enacted. The Provider Integrity Act allows the Secretary of DET or the ESOS agencies, ASQA and TEQSA<sup>13</sup> to share information about the functions of education agents with providers. They can also publish this information more broadly for the purposes of promoting compliance with the ESOS legislative framework or student visa conditions.

This increases available information about education agents' performance and assists both international students and education providers to use high quality agents. DET is developing an agent performance reporting function in the Provider Registration and International Student Management System (PRISMS), which will provide education providers with data on the performance of their agents, linked to the outcomes for the students they recruit.

DET has started sharing data on agent performance, including enrolment outcomes, with education providers. Enhanced transparency of education agents' performance will help providers make better decisions about which agents they work with.

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<sup>12</sup> Under s 19ZK of the *Ombudsman's Act 1976* the Office must transfer a complaint to another statutory complaint handler if it could be more effectively dealt with by that complaint handler.

<sup>13</sup> From 1 July 2016, ASQA, TEQSA and the Secretary of the DET are referred to as 'ESOS agencies' (<https://internationaleducation.gov.au/regulatory-information/provider-registration/regulatoryauthorities/pages/esosagencies.aspx>)

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TEQSA has launched a revised website that more readily enables students and other members of the public to make complaints to TEQSA in relation to providers. The revised website has an improved mechanism for incorporating any complaints into an intelligence-gathering system that informs regulatory action. TEQSA anticipates that this will enable further improvements in monitoring a range of activities, including activities relating to providers' use of agents.

ASQA has advised the Office that it will continue to monitor how registered providers ensure the actions of their agents are appropriate and respond appropriately when unethical behaviour becomes apparent.

Although the policy and regulatory component of agent engagement is outside the scope of Austrade's remit, Austrade acknowledges that agents are an important decision-making influencer for intending international students. The management of reputational risk to Australia's international education sector associated with any issues with agent activities is an area of interest for Austrade. Following on from the aforementioned incident, Austrade undertook a targeted social media campaign in Latin America.

### The role of education agents

Education agents are a major influence on international students' decision to study in Australia, above the influence of parents, friends and alumni<sup>14</sup>.

Information published in the International Student Survey 2014 states that education providers engage the services of agents to recruit students for them, often by contracting education agents to act as advisors and intermediaries. Over half of international students report that agents helped them choose their study destination and an upward trend also suggests that education agents' influence is growing.

It is clear that Australia's continued success as a destination for international students in a globally competitive market, relies on education agents based both in Australia and offshore.

Most students report that they receive a high quality service from their education agent. Whilst the Office received some complaints concerning education providers in relation to their education agent, it should be noted that complaints about education agents are proportionately low in comparison to other complaint issues<sup>15</sup>.

A summary of the complaint issues relating to education agents received by the Office is set out in Appendix A, along with further information about the role of agents in the sector.

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<sup>14</sup> <https://internationaleducation.gov.au/research/research-papers/Documents/ISS%202014%20Report%20Final.pdf>

<sup>15</sup> <http://www.ombudsman.gov.au/publications/oso-publications/reports/oso-quarterly-reports>

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### Self-regulation and governance

In Australia, as in many other countries, the governance of education agents is not directly regulated. A limitation to regulating education agents is that many are based offshore and are therefore, beyond Australia's legislative jurisdiction.

The actions and decisions of both onshore and offshore education agents are governed by an industry-based voluntary code of conduct, therefore governance of agents' actions are monitored through their contractual relationship with education providers.

In 2010, a Roundtable on the Integrity of International Education initiated the development of a joint international code of ethics. The meeting was attended by representatives from the United Kingdom, Australia, Canada, Ireland, New Zealand and the United States of America. Australia agreed to the outcome of that meeting, the 'Statement of Principles for the Ethical Recruitment of International Students by Education Agents and Consultants' (the London Statement) in October 2015.

On 21 October 2016, the Minister for Education and Training, Senator the Hon Simon Birmingham, announced the Australian International Education and Training Agent Code of Ethics (Agent Code of Ethics)<sup>16</sup>, which was endorsed by Australia's education peak bodies. The Code of Ethics builds on the London Statement and mirrors the requirements for education providers in the ESOS Act and National Code. The International Education Association of Australia (IEAA) website notes that 'it is hoped that Australia's education providers will require all of their contracted agents to adhere by this world-first code'.

This governance framework relies on education providers to establish a system of accountability and to manage and support their education agents in accordance with Standard 4 of the National Code. The responsibility of education providers to monitor their agents is discussed below.

Information about industry associations and accreditation is set out in the Appendix A.

### Education providers' responsibilities concerning the use of education agents

The *National Code of Practice for Providers of Education and Training to Overseas Students 2018* is a set of nationally consistent standards that governs the protection of international students and the delivery of courses to those students by providers registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS).

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<sup>16</sup> <https://internationaleducation.gov.au/News/Latest-News/Documents/Australian%20International%20Education%20and%20Training%20-%20Agent%20Code%20of%20Ethics.pdf> and <https://www.ieaa.org.au/research-projects/education-agent-quality-assurance>



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The National Code 2018 replaces the National Code 2017 and commenced on 1 January 2018<sup>17</sup>. DET has published the National Code fact sheets<sup>18</sup> to help providers interpret and apply the new code. The standards set out specifications and procedures to ensure that registered providers of education and training courses can clearly understand and comply with their obligations under the National Code<sup>19</sup>.

Standard 4 of the National Code 2018 requires education providers to enter into a written agreement with each education agent engaged to formally represent the provider, to monitor the activities of its agents and to take corrective action or terminate an agent if the provider becomes aware of the agent engaging in certain unethical behaviours.

The National Code 2018 includes the following requirements in Standard 4 for education providers:

*This Standard requires registered providers to meet certain standards when engaging an agent to represent them. Registered providers must require their agents to act ethically, honestly and in the best interests of students. The Standard clearly outlines the registered provider's obligations in the event of an agent acting dishonestly or unethically. This includes taking action where registered providers become aware or have a reason to believe that the agent, or an employee or subcontractor of that agent, has not complied with the agent's responsibilities.*<sup>20</sup>

The standard continues to require education providers to immediately terminate their relationship with an agent where the provider becomes aware that, or has reason to believe, the agent is engaging in false or misleading recruitment practices.

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<sup>17</sup> National Code of Practice for Providers of Education and Training to Overseas Students 2018, <https://www.legislation.gov.au/Details/F2017L01182>

<sup>18</sup> <https://internationaleducation.gov.au/Regulatory-Information/Pages/National-Code-2018-Factsheets-.aspx>

<sup>19</sup> National Code of Practice for Providers of Education and Training to Overseas Students 2017. Preamble—The National Code and its purpose <https://www.legislation.gov.au/Details/F2017L00403>

<sup>20</sup> <https://www.legislation.gov.au/Details/F2017L01182/Explanatory%20Statement/Text>

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### Issues for Discussion

In considering options, stakeholders in the sector including providers, peak bodies and government, may like to consider the following:

#### 1. ESOS protections for intending overseas students

- Does the ESOS framework clearly articulate when an intending student is covered by the provider and student default provisions?
- What are the benefits or risks in expanding the protections available to intending overseas students?

An issue highlighted by the complaints received by our Office and discussions with other agencies, is the fact that Australia's strong student protections for intending overseas students who have not yet secured enrolment with an Australian education provider are in some cases limited.

The Office has been able to help students who successfully enrolled with a provider and were later owed a refund under the provisions of the ESOS Act. The TPS has assisted students with a CoE to obtain a financial remedy, and indicated its willingness to assist where any education providers refuse to implement the Office's recommendations to pay a refund under the ESOS Act. However, the assistance the TPS, the Office and others can provide to students who did not secure enrolment with an Australian education provider is limited.

The Office notes the difficulties associated with obligating providers or the Australian Government to provide recourse to intending overseas students who cannot be clearly linked to an Australian education provider.

There is a need for guidance to providers explaining when an intending student is covered by the provider and student default provisions under the ESOS Act. A guidance note could clarify what constitutes an intending student under the ESOS Act.

#### 2. Clear industry standards for agent governance

- Does the National Code provide sufficient guidance for providers' management of their education agents?
- What further guidance would the sector benefit from and who is best placed to develop this guidance?

The National Code 2017 and current explanatory guidelines give education providers guidance in determining how to monitor their agents. Compliance is assessed by the ESOS agencies and is measured against the National Code requirement for providers to have processes for monitoring the activities of the education agent. Providers have discretion to determine and justify the most appropriate processes for their agent monitoring.

The Office understands that the National Code 2017 and National Code 2018 intentionally only provides broad guidance for providers, as providers are seen as best positioned to make the final judgment in the specific circumstances and in the context of their historical

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relationship with the agent. This is similar to other National Code standards in that it sets broad parameters for providers' policies and procedures.

However, without any clear industry standards for agent governance, this non-specific guidance and context-relevant approach means that it is difficult for providers to assess whether their arrangements for governance of their agents are adequate and compliant. This may result in subjective and vastly different governance arrangements across the 1,403 CRICOS-registered education providers<sup>21</sup>, the ESOS agencies and external complaint-handlers.

It is a reasonable expectation that providers have a greater level of certainty about the regulatory requirements imposed on their industry and an assurance that the requirements are being applied consistently. A shared set of best practice principles may assist providers to gauge the appropriateness of their practices alongside other providers operating in the sector.

The Office's [submission](#) to the consultation draft of the National Code included comments in relation to education agents<sup>22</sup>. This included our suggestion that the code specifically require education agents to abide by the code of ethics for agents and for providers to include this as a requirement in their written agreement with their agents, which has been adopted under Standard 4 of the National Code 2018.

A submission by the Association of Australian Education Representatives in India (AAERI) suggested that agents should be members of self-regulated industry associations, where available. AAERI's submission explains that it is a self-regulated independent agent association with a strict code of conduct and an active disciplinary committee. AAERI members agree to abide by the Code of Ethical Practices which is based on ESOS requirements. They stipulate that the members must provide services to students in a manner which reflects the established practices of Australian education and training institutions.

The Office understands that the sector is considering an association, to be recognised by providers and government, for education agents. The Office supports the steps being taken by sector stakeholders to explore the option of an industry association for education agents, including a membership requirement to adhere to the Agent Code of Ethics and an active disciplinary committee.

The international education industry, including education providers and education agents themselves may like to consider developing best practice principles for agent monitoring and termination, with support from the Australian Government.

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<sup>21</sup> Based on number of educational institutions showing as registered on the CRICOS website <http://cricos.education.gov.au/Institution/InstitutionSearch.aspx> on 9 May 2018.

<sup>22</sup> <http://www.ombudsman.gov.au/publications/oso-publications#submissions>

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## **Conclusion**

The fraudulent actions of one education agent has affected overseas students, education providers and has also potentially impacted Australia's reputation as a quality international education destination.

While the actions of one agent are not indicative of a system failure, the event has highlighted opportunities for improvement. Steps have already been taken to make improvements including critical incident response protocols, strengthening of the National Code requirements relating to education agents and changes to the ESOS Act to support reporting of agent performance.

It is important that the lessons learned from this unfortunate incident are used to examine what more can be done to protect intending international students from unethical agent conduct as well as safeguarding the reputation of the Australian international education sector into the future.

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## **APPENDIX A**

### **Complaints about education agents**

Since commencement in 2011, the Office has seen issues arise in complaints involving an education agent, including that the agent:

- Provided false or misleading advice about a course or provider.
- Enrolled a student with one provider while telling the student they had been enrolled with a different provider.
- Accepted tuition fees before the student signed the written agreement.
- Failed to pass on tuition fees to the provider.
- Failed to give the student a copy of the written agreement, including the refund policy.
- Received a refund on behalf of a student when not authorised to do so in the student's written agreement with the provider.
- Received a refund on behalf of a student when authorised to do so but then failed to give the refund to the student.
- Arranged sub-standard accommodation in Australia and failed to assist the student when they complained.
- Delayed lodgement of a withdrawal request so the student was not eligible for a refund.
- Provided immigration advice or assistance in Australia when not a registered migration agent—including failing to lodge a student visa application on time so the student became unlawful.

### **Case Studies**

#### ***Case study: Intending overseas student with no enrolment***

An intending overseas student complained to the Office about the actions of an education agent based in Australia. The student signed a letter of offer issued by an Australian education provider, sent it to the agent and paid the agent more than \$22,000 for tuition fees, health insurance and other costs associated with his and his family's intended stay in Australia.

The student subsequently withdrew from the course and sought a refund of the monies he paid to the agent, after becoming aware that the advice the agent had provided about being able to work in Australia and pay the money back was wrong. However the agent did not respond to his requests to withdraw him from the course or for a refund of the fees.

The student then contacted the education provider directly to seek a refund, however the education provider advised the student that they had never received any payment from the agent for the student's tuition fees and had not enrolled the student.

The student complained to the Office about the actions of the education agent. In this case the education provider had a formal agreement with the education agent to recruit international students on its behalf. The Office asked the education provider to consider what action, if any, it may be able to take to remedy the situation for the student given the apparently fraudulent actions of its agent.

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Given the student's circumstances and as an act of goodwill, the provider offered the student a replacement course free of charge, assisted him to find a new agent to help with his student visa application and agreed to cover the cost of the student's OSHC fees.

***Case study: Agent steals student's refund***

An international student applied through the college's agent to enrol in an English language course signing the written agreement setting out the terms of the enrolment and paying the required fees to the college through the agent. The student later decided to cancel his enrolment, as he was dissatisfied with the information about work rights in Australia given by the agent.

The agent notified the college of the student's withdrawal and negotiated a partial refund with the college, which represented 80 per cent of his initial tuition fees. However, the college paid the refund to the agent, not the student, even though the written agreement did not list the agent as a person specified by the student to receive any refund.

The agent advised the college it would pass on the refund to the student but failed to do so. When the college queried the agent's failure to pay the student, the agent advised that the matter was 'complicated' and was now with the agent's lawyers and no refund had been paid to the student.

The student subsequently complained to the Office about the agent's actions and the unpaid refund. The Office investigated and recommended the education provider pay the refund directly to the student, since the college had breached s 47D of the ESOS Act by paying the refund to a person not listed in the written agreement. The Office also recommended the college take immediate corrective and preventative action in relation to its agent as the college had not at that stage ended its agreement with the agent for the agent to continue to recruit students for the college.

As a result of our investigation, the college paid the refund to the student directly, updated its refund policy in its written agreement to state that all refunds are to be issued directly to the student and advised the Office that it had terminated its agreement with the agent due to dishonest conduct.

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### The Role of Education Agents

In an inquiry into the international education sector in 2015, the Productivity Commission (PC) reported that the use of education agents by Australian providers is extensive and risky, noting that:

- On average, Australian education providers tend to pay higher commissions to agents relative to other countries, creating an incentive to maximise quantity over quality.
- It received considerable anecdotal evidence during its inquiry that suggested unscrupulous behaviour of agents is an issue, particularly in relation to providing false or misleading advice and information, and the onshore poaching of international students.
- Agents are faced with inherent conflicts of interest—they work on behalf of both education providers and students<sup>23</sup>.

In 2015 the New South Wales (NSW) Independent Commission Against Corruption (ICAC) also recognised that, as a key supplier of international students to education providers in Australia, education agents have significant power in the market<sup>24</sup>. The ICAC reported that all universities in NSW experienced some form of misconduct by some of their agents:

*Without exception, all universities contacted by the Commission had experienced instances of agents submitting false documentation, assisting students to corruptly pass admission processing or attempting to bribe staff to approve certain student applications.*

The Commission reported that some providers were using more than 200 agents spread across many markets, resulting in due diligence and control challenges, and making the logistics of oversight difficult. Inherent challenges in the agent-provider relationship include that, in some cases, education agents have significant market power with the option to divert students to other universities if there are onerous demands placed on them by any one university. This limits the ability of the education provider to enforce contracts, demand audit access or demand tighter checking of students.

The Commission reported that some universities in NSW have taken steps to improve the situation by:

- altering incentive structures applied to agents to better encourage the provision of quality students
- reducing the number of overseas agents
- increasing due diligence on and monitoring of agents, particularly focusing on the use of fine-grained data analysis of student issues
- forming closer relationships with trusted agents
- developing partnerships with overseas institutions as an alternative to agents.

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<sup>23</sup> <http://www.pc.gov.au/research/completed/international-education/international-education.pdf>

<sup>24</sup> <https://www.icac.nsw.gov.au/documents/preventing-corruption/cp-publications-guidelines/4595-learning-the-hard-way-managing-corruption-risks-associated-with-international-students-at-universities-in-nsw/file>, p21

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Although the policy and regulatory component of agent engagement is outside the scope of Austrade's remit, Austrade acknowledges that agents are an important decision-making influencer for intending overseas students. The management of reputational risk to Australia's international education sector associated with any issues with agent activities is an area of interest for Austrade. Following on from this incident, Austrade undertook a targeted social media campaign in Latin America.

### Industry Associations and Accreditation

In 2007 the international education association ISANA published an online National Code tutorial. The tutorial aims to assist international education professionals to understand specific standards under the National Code 2007<sup>25</sup>. This initiative was supported by the Australian Government through the former Department of Education, Science and Training. Unfortunately the tutorial for Standard 4 doesn't provide any further guidance for providers' governance of their education agents.

Similarly, the former Department of Education, Employment and Workplace Relations published guidance in 2009 for education providers using education agents. This publication included very limited guidance on providers' governance of their agents<sup>26</sup>.

NEAS is a quality assurance organisation that endorses English Language Training centres which meet NEAS quality standards. The NEAS standards provide some limited guidance to education providers in relation to education agents but does not extend to governance arrangements. For example, Quality Principle F1 requires providers to give their agents accurate and comprehensive information about living and studying in Australia and centre-specific information about the classroom environment<sup>27</sup>.

DET and the then Department of Immigration and Border Protection (DIBP) previously provided funding to support the development of the PIER Online Education Agent Training Course (EATC), which enables agents who complete the course to become Qualified Education Agent Counsellors (QEACs) listed in the [QEAC database](#). The [EATC website](#) states: *'Becoming a qualified counsellor helps demonstrate your professionalism to prospective students, their parents and educational institutions'*.

The education agent subject to the complaints received by the Office is listed as a QEAC agent who previously completed the EATC course. While this course appears to be a useful resource for education agents and those using their services, it is not possible to guarantee that agents who voluntarily subscribe to such measures will continue to conduct themselves in a professional and ethical manner. This highlights the limitations of voluntary schemes in preventing unethical and fraudulent behavior.

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<sup>25</sup> <http://www.isana.org.au/national-code-online-tutorial/>

<sup>26</sup> [http://www.acpet.edu.au/uploads/files/Media-Releases/Attachment%203%20Using\\_Education\\_Agents\\_pdf.pdf](http://www.acpet.edu.au/uploads/files/Media-Releases/Attachment%203%20Using_Education_Agents_pdf.pdf)

<sup>27</sup> [http://www.neas.org.au/wp-content/uploads/NEAS\\_QualityAssuranceFramework\\_LR\\_20160531.pdf](http://www.neas.org.au/wp-content/uploads/NEAS_QualityAssuranceFramework_LR_20160531.pdf)