



## IIBT Schedule 1

### Schedule 1 General Terms & Conditions

This is Schedule 1 referred to in the Agreement entered into between IIBT and the Agent. Agreement:

#### 1. Definitions

The following definitions apply to this entire Agreement including all schedules and attachments:

“Agent’s Promotional Materials” means promotional material, information brochures, relevant publications and other material prepared by the Agent and in respect of which the Agent has complied with Clause 5

“Attachment A” means the part of this Agreement titled “Attachment A - Details of Agency Agreement”.

“Commencement Date” means the date specified in item 2.2 Attachment A.

“Commission” means a percentage of gross Relevant Tuition Fee payable, or a set amount, as detailed in Attachment A.

“Confidential Information” means any information, either orally or in writing or in any other form, that is by its nature confidential or indicated as being proprietary or confidential information, but does not include information to the extent that information:

- (i) was developed by the Agent independently of the disclosure and such development is verified by documentary evidence provided to IIBT; or
- (ii) is in or becomes part of the public domain other than through breach of this agreement or an obligation of confidence owed to IIBT; or
- (iii) is required to be disclosed by law.

“Delegations” means the delegated admissions authorisation granted to the Agent by IIBT.

“Documentation” means promotional material, information brochures, relevant publications and other material provided by IIBT.

“eCoE” means electronic confirmation of enrolment.

“ESOS Act (2000)” means the Education Services for Overseas Students Act 2000 (Cth)

“Guidelines” means any guideline issued in accordance with Clause 7.6

“Intellectual Property” means all patents, inventions, modifications or improvements, copyright, registered or registrable designs, rights in relation to trade secrets, know how and other Confidential Information, and all other kinds of Intellectual Property as defined in Article 2 of the Convention establishing the World Intellectual Property Organisation of July 1967.

“Law” means any common law rights and obligations and any legislation or code including any statutory amendment or replacement or any subordinate or delegated legislation.

“National Code” means the National Code of Practice for Providers of Education and Training to Overseas Students, as may be amended from time to time, as established in accordance with the Education Services for Overseas Students Act 2000.

“Partial Processing Fee” means the fee detailed in Clause 6.10.

“Privacy Laws” means the Privacy Act 1988 (Cth), and any legislation (to the extent that such legislation applies to the Company or the Contractor or any other recipient of the Personal Information) from time to time in force in any Australian jurisdiction (which includes the Commonwealth of Australia and any State or Territory of Australia).

“Prospective Student” means a person in the Territory to whom the Agent provides Agent services and who may be eligible to enrol in a course of IIBT.



"Recruitment Target" means the Agent's target total of commencing Student enrolments at IIBT during a Year.

"Relevant Tuition Fee" has the meaning set out in Clause 6.2

"Service" means a service provided by or on behalf of IIBT, including but not limited to accommodation, health care, guardianship or living expenses or stipend.

"Student" means a Prospective Student who has enrolled at IIBT

"Termination Date" means the date specified in Attachment A.

"Territory" means the territory specified in Attachment A.

"IIBT" means the International Institute of Business and Technology (Australia) Pty. Ltd. "Year" means the period from 1st January of one year to 31st December of the same year.

## 2. Appointment

**2.1.** IIBT appoint the Agent to recruit students in the Territories.

**2.2.** The Agent is appointed to recruit students who will enrol as international students at IIBT.

## 3. Responsibilities of IIBT

### 3.1. Documentation

IIBT agree to provide Documentation to the Agent for use by the Agent in recruiting Students in the Territory in accordance with the terms of this Agreement.

### 3.2. Referral fee and commission

IIBT agree to pay the Agent a referral fee or commission for each Prospective Student who is recruited in accordance with Attachment A and Clause 6 or as otherwise varied from time to time in writing by consent of the parties

## 4. Agent's Responsibilities

### 4.1. The Agent agrees

**4.1.1.** to carry out all obligations under this Agreement in a professional manner and with due care and skill, and to ensure that its staff involved in recruiting Students are suitably skilled and trained in counselling of Students to study in Australia;

**4.1.2.** to act honestly and in good faith in all dealings with Prospective Students, applicants, IIBT and any third parties in the course of carrying out its obligations under this Agreement;

**4.1.3.** to ensure that at all times the information it provides is accurate, complete and not misleading.

**4.1.4.** to comply with the provisions of the Australia ESOS Act (2000) and the National Code 2018.

### 4.2. Services on behalf of IIBT

The Agent agrees to recruit genuine Students for IIBT by

**4.2.1.** attending to inquiries from prospective students by providing accurate information about course availability; course objectives; and course entry requirements

**4.2.2.** distributing promotional material, information brochures, relevant publication and other material which:



- (a) are provided by IIBT; or
- (b) are prepared by the Agent and in respect of which the Agent has complied with Clause 4.

**4.2.3.** placing advertisements (where final artwork is approved in writing in advance by IIBT)

**4.2.4.** Conducting information seminars

**4.2.5.** communicating with IIBT (as appropriate) on behalf of the Student

**4.2.6.** obtaining certified copies of all documents required in an application as required

**4.2.7.** ensuring that all information required in an application is complete, including the applicant's personal contact address, mobile telephone number and email

**4.2.8.** ensuring the authenticity of all documents submitted in support of a Prospective Student's application to IIBT, and to the relevant visa issuing post for the Prospective Student's visa application

**4.2.9.** undertaking any financial checks of the Students as required under IIBT's Streamlined Visa Processing requirements

**4.2.10.** providing to IIBT all information in the Agent's knowledge or possession which relates to the activities of actual or potential competitors of IIBT; or developments in the areas of education and the provision of educational products and services and which is not confidential to a third party;

#### **4.3. Services on behalf of the Prospective Student**

The Agent agrees to provide the following services for Prospective Students

**4.3.1.** to assist the Student to comply with formal requirements involved in applying for admission to Courses; and

**4.3.2.** to communicate with IIBT (as appropriate) on behalf of the Prospective Student

**4.3.3.** to provide a copy of the offer letter to the Student within 48 hours of receipt of that offer letter from IIBT

**4.3.4.** to apply for a relevant visa on Students' behalf, preparing the required educational and financial documentation required by both IIBT (under its streamlined visa processing obligations) and the Australian government; and undertake necessary liaison with the relevant Australian visa issuing post.

#### **4.4. Payment of and advice on fees to Prospective Students**

**4.4.1.** The Agent must not receive fees from the Prospective Students or Students in connection with any Programs or Services of IIBT, and must instruct the Prospective Student or Student to make payment directly to IIBT.

**4.4.2.** The Agent will not direct a Prospective Student or Student to make payment to the Agent's account, nor accept payments from a Prospective Student or sponsor even if requested by the Prospective Student or sponsor to do so.

**4.4.3.** The Agent may only instruct the Student to make payment for the amounts required by IIBT.

**4.4.4.** Under no circumstances may the Agent deduct any commission amount or direct the Student to pay a fee to IIBT net of a tuition fee which may be due to IIBT.



**4.4.5.** The Agent must declare to the Prospective Student any fees charged by the Agent to the Prospective Student.

**4.4.6.** The Agent must not charge the student and provider for the same service.

## 5. Agent Limitations

**5.1.** The Agent agrees not to assess applicants for admissions nor make offers of admission, except where specifically authorized for Agents with Delegations.

**5.2.** The Agent agrees not to enter any commission sharing arrangement with the Student or offering discounts on tuition fees charged by IIBT.

**5.3.** The Agent agrees not to facilitate or promote the application of a Student to IIBT where it has reason to believe the Student will not comply with the conditions of his or her visa.

**5.4.** The Agent must not use the name or logo of IIBT in any Agent's Promotional Materials without the prior written consent of IIBT, and IIBT may in its absolute discretion withhold such consent.

Where the Agent's Promotional Materials make any reference to IIBT, the Agent must comply with all guidelines issued by IIBT.

**5.5.** The Agent must not represent any service provided or contracted by the Agent to the Prospective Student as a service of IIBT (e.g. guardianship, accommodation or airport-pick up) unless it is provided by IIBT or its approved subcontractors.

## 6. Conditions Relating to Payment of Referral Fees or Commissions

### 6.1. Commission rates and commissionable courses

The Commission payable on the Relevant Tuition Fee is specified in Attachment A.

All courses specified in Attachment A are courses for which Commission is payable.

Where a commission structure based on increasing percentages applies, the period is set to start from the Contract Commencement Date for one calendar year.

### 6.2. Relevant Tuition Fee

The Relevant Tuition Fee upon which Commission is based is the actual fee paid by or on behalf of the Student, i.e. the fee specified in the final unconditional offer letter and CoE that relate to the session of commencement.

Where a discounted tuition fee applies to a course, the Relevant Tuition Fee will be the discounted fee.

### 6.3. Requirement for fees to have been received to claim commission

A commission will only be paid if IIBT has received payment for the course, whether this is paid or payable by the Prospective Student or by the Prospective Student's sponsor.

### 6.4. Requirement for Student to be enrolled at census date

No commission will be paid on a Student who withdraws from a course prior to census date for that course.

### 6.5. Other requirements to claim commission

**6.5.1.** Payment of commission will not be made to a third party and will not be deposited in a third party's bank account.

**6.5.2.** A commission will only be paid where the Agent has



**6.5.2.1.** returned two copies of the Agency Agreement to IIBT at PO Box 819, IIBT, Victoria Park, WA, 6979, Australia or by electronic mail to agents@iibt.wa.edu.au

**6.5.2.2.** provided the Australian Business Number (ABN) (where the Agreement is with a business operating in Australia).

**6.5.2.3.** sent to IIBT an invoice in the form required by IIBT.

**6.5.2.4.** nominated a bank account for payment in the name of the Agent's name which appears in this Agreement.

#### **6.6.** Timing of commission payments

All commission is payable within 4 weeks after the Census date of the course/program.

#### **6.7.** Tracking of Students moving from one commissionable course to another

Where a Student progresses or articulates from one Commissionable Course to another Commissionable Course it is the Agent's responsibility to maintain contact with the Student and issue a new invoice for the starting date in the subsequent Course. IIBT will NOT notify the Agent when the Student progresses or articulates.

#### **6.8.** Time limitations on commission claims

Claims for a referral fee or commission must be received by IIBT within nine (9) months of the commencement date of the Student's Course. If a claim is made after this time, no referral fee or commission will be payable.

#### **6.9.** Dispute over claims by more than one Agent

**6.9.1.** Where an Agent recruits a Student, it is the Agent's responsibility to verify that the Course in which the Agent seeks to enrol the Prospective Student is not commissionable to another Agent

**6.9.2.** Where an Agent recruits a Student it is the Agent's responsibility to verify that the Student is not being counselled or has not been counselled by another Agent.

**6.9.3.** The Agent to whom the commission is paid will be determined by IIBT in their absolute discretion as the Agent who has carried out the more extensive and effective counselling and service on behalf of the Student, as evidenced in IIBT copy of the Student file.

**6.9.4.** The receipt of a letter signed by a Student to state that s/he wishes another Agent to deal with her/his enrolment will determine the Agent that IIBT will communicate with for further contact with the Prospective Student, but does NOT entitle the nominated Agent to payment of commission for that Student.

**6.9.5.** Where some processing of an application is performed by an Agent other than the Agent that originally submitted the application and the part processing incurs a commission, this amount will be deducted from commission payable

#### **6.10.** Commission payable for partial processing

Where a Student requests an Agent's representation after an offer letter has been issued by IIBT and where the Student pays through or has the eCoE issued through that Agent, a Partial Processing Fee will be paid.

### **7.** Conditions relating to compliance with laws, codes and guidelines; Agent relationship with IIBT; sub-Agents; privacy and sharing of information





- 7.1.** The Agent must comply with all laws and applicable guidelines or policies issued by any government department or authority in Australia and any amendments to them during the term of this Agreement.
- 7.2.** The Agent must ensure that it holds all licences and authorities required to carry out its obligations under this Agreement in Australia and in the Territory.
- 7.3.** The parties agree to comply with and be bound by the National Code
- 7.4.** The Agent must comply with all laws in force in the Territory during the term of this Agreement.
- 7.5.** If there is any inconsistency between the laws in force in the Territory and the laws in force in Australia, the Agent must immediately notify IIBT.
- 7.6.** The Agent agrees to comply with all guidelines issued by IIBT in respect of the matters referred to in this Agreement.
- 7.7.** The Agent agrees not to carry out any activity on behalf of IIBT, other than activities specified in Clause 4, without prior consultation with and written approval of the relevant IIBT nominee;
- 7.8.** The Agent agrees that it may only carry out the activities specified in Clause 3 in the Territory;
- 7.9.** The Agent agrees that it has no authority to bind IIBT in contract or otherwise at law, and must not represent that it has;
- 7.10.** The Agent agrees that nothing in this Agreement constitutes a relationship of employer and employee or partnership between IIBT and the Agent;
- 7.11.** The Agent agrees that it must take all action reasonably required by IIBT so that the public is notified of the nature and limits of the relationship between IIBT and the Agent.
- 7.12.** The Agent may liaise with the representatives of the Government of the Territory, and with other public officials of the Territory, as required in order for the Agent to fulfil its obligations under this Agreement.
- 7.13. Responsibility for sub-agents**
- Where the Agent engages a third party (for example, a subcontractor or sub-agent) to assist in performing the Agent's responsibilities under this Agreement, the Agent remains responsible for all acts of the third party under this agreement. The Agent is responsible at all times for the actions of any sub-agents appointed by the Agent, or through which applications are accepted by the Agent on behalf of IIBT.
- 7.14. Sharing of information about the Agent with government authorities**
- 7.14.1** During the term of this Agreement the Agent irrevocably consents to: the IIBT accessing any information which DIBP might possess concerning the Agent and the Agent's conduct or performance as an education agent irrespective of whether or not that information is confidential information either in contract or equity.
- The Agent gives (if it is a sole trader) and undertakes to obtain from all staff, contractors, agents, consultants, and other persons involved in the recruitment of students, consent for their current or future Personal Information to be:
- recorded in PRISMS (such information may include individuals' names, business email address, phone number and address);



- accessed by the Australian Government Department of Education and Training, Department of Immigration and Border Protection and other Commonwealth agencies that access PRISMS;
- used to administer or monitor compliance with the Commonwealth legislation e.g. Education Services for Overseas Students Act 2000, Migration Act 1958; and
- disclosed by the Australian Government Department of Education and Training to other Australian Government entities (including, but not limited to ASQA and TEQSA), education institutions and publicly. The Australian Government Department of Education and Training will share individual agents' performance publicly as aggregated data (but will not identify agent - provider relationships). Agent-provider relationships will only be identified when data is shared with education providers and other Australian Government entities.

7.14.2 To the extent that any governmental or regulatory authority ('previous authority') referred to in clause 7.14.1 is renamed or is replaced in function by another authority ('new authority') then the reference above to the old authority shall be taken to include reference to the new authority.

#### 7.15. Keeping and Inspection of Records

The Agent agrees to keep accurate and complete records of the Agent's activities carried out under this Clause 4 and to allow IIBT to examine such records, or to furnish a copy of such records to IIBT, upon IIBT making a request in relation to the records by giving the Agent at least seven (7) days notice in writing.

#### 7.16. Privacy

**7.16.1.** The Agent acknowledges that IIBT are organisations which are bound by the Privacy Laws in respect of Personal Information held in connection with this agreement.

**7.16.2.** The Agent agrees that it must comply with all Privacy Laws, in relation to the Personal Information held in connection with this agreement whether or not the Agent is an individual or organisation bound by the Privacy Laws.

**7.16.3.** The Agent must use any Personal Information held in connection with this agreement only for the purposes of fulfilling its obligations under this agreement or as required by applicable law.

#### 7.17. Confidential Information

The Agent agrees:

**7.17.1.** to protect and keep confidential any Confidential Information of IIBT and not disclose such information without the prior written consent of IIBT;

**7.17.2.** not to improperly acquire or misuse the Confidential Information of a third party;

**7.17.3.** ensure that its employees comply with Clause 7.1, 7.2, 7.3 and 7.4.

**7.18.** If part or all of any clause of this Agreement is illegal or unenforceable it will be severed from this Agreement and will not affect the continued operation of the remaining provisions of



this Agreement; and the parties will attempt to replace that severed part with a legally acceptable alternative clause that meets the parties' commercial objective.

**7.19** If a party has a right arising from another party's non-performance of an obligation under this Agreement and delays in exercising or does not exercise that right, that delay in exercising or failure to exercise is not a waiver of that right or any other right.

**7.20** This Agreement is governed by the laws applicable in the State of Western Australia, Australia and each party submits to the non-exclusive jurisdiction of the courts of that state.

**7.21** This Agreement including its schedules and attachments:

**7.21.1** constitutes the entire Agreement between the parties as to its subject matter;

**7.21.2.** in relation to that subject matter, supersedes any prior understanding between the

parties and party; and

**7.21.3.** subject to clause 7.22 may only be amended in writing signed by both parties.

**7.22** Where an amendment to this Agreement is required due to changes in the Laws, policies, codes and Guidelines in force in Australia, IIBT may amend this Agreement to give effect to such changes by:

**7.22.1** providing written notice to the Agent of the amendments to this Agreement;

**7.22.2.** and such amendments will become effective 7 clear days after the date on which IIBT issued the written notice to the Agent.

**7.23** To the extent that any variations to the clauses in this Agreement are applicable, these variations are detailed in Attachment A. To the extent of any conflict between clauses in the schedules and other clauses of the Agreement, the clauses in Attachment A will prevail.

## 8. Intellectual Property

**8.1** All Intellectual Property disclosed by IIBT to the Agent remains exclusively vested in IIBT.

**8.2** The Agent must only use IIBT's Intellectual Property for the performance of the Agent's responsibilities in accordance with Clause 4 of this Agreement.

**8.3** The Agent must, if requested to do so by IIBT:

**8.3.1** assign all Intellectual Property rights in the Agent's Promotional Materials to IIBT; and

**8.3.2** execute all documents and do all other things necessary to ensure that the assignment under Clause 8.3.1 is valid and enforceable.

**8.4** The Agent must ensure that its employees comply with Clause 8.1, 8.2 and 8.3.

## 9. Agent's Warranty and Indemnity

**9.1** The Agent indemnifies IIBT against all liabilities, losses, expenses, damages and costs (on a full indemnity basis) suffered or incurred by or awarded against IIBT arising out of:

**9.1.1** any breach of this Agreement by the Agent;

**9.1.2** any negligent, wilful or unlawful act or omission of the Agent; or 9.1.3 any false, misleading or deceptive conduct of the Agent.

## 10. Exclusion and Limitation of Liability

**10.1** Except where to do so would contravene any statute or cause any part of this Agreement to be void, IIBT:





**10.1.1** exclude all implied conditions and warranties;

**10.1.2** limit their liability (whether that liability arises in contract, negligence or statute) to the Agent for claims or proceedings to the amount of commission paid to the Agent in the Year in which the claim or proceedings arise or are commenced.

## 11. Resolution of Disputes

**11.1** The parties record their intention that, if any dispute or difference arises out of or in relation to this Agreement, it will be resolved in a spirit of good faith and on a commercially realistic basis by negotiation or mediation.

**11.2** In the event that a more formal method for dispute resolution is necessary, the parties agree:

**11.2.1** All disputes arising out of or in connection with this contract will be settled by Mediation conducted by the Asia-Pacific Institute for Dispute Management (APIDM). If Mediation does not result in a settlement, then the dispute will be settled by arbitration which will be conducted by the Asia-Pacific Institute for Dispute Management (APIDM).

**11.2.2.1** the appointing and administering body will be the Asia-Pacific Institute for Dispute Management;

**11.2.2.2** the language of the arbitration will be English; and **11.2.2.3** the place of arbitration will be Perth.

**11.2.2.3** the applicable law will be the law of Western Australia

**11.2.2** Nothing in this clause prevents a party from commencing court proceedings.

## 12. Term of Agreement

**12.1** This Agreement will commence on the Commencement Date.

**12.2** This Agreement will terminate on the Termination Date. Prior to the Termination Date, the parties will review the continuation of the Agreement

This review will comprise IIBT review of the Agent's activities and performance under this agreement, including: recruitment volume, application conversion rates; visa success rates; quality of applicant documentation; Agent compliance with the National Code; and market potential.

Following the review the parties will decide whether

**12.2.1** to extend the Agreement for a further term;

**12.2.2** to amend the Agreement and extend it for a further term; or

**12.2.3** to terminate the Agreement, either by consent or by the operation of the Termination Date.

**12.3** A party may, by advising the other parties in writing, immediately terminate this Agreement prior to the Termination Date if:

**12.3.1** another party breaches this Agreement; and

**12.3.2** fails to rectify such breach within 14 days after the first-mentioned party has given a written request for the breach to be rectified.

**12.4** Despite anything else in this Agreement IIBT may by advising the Agent in writing immediately terminate this Agreement prior to the Termination Date if:

**12.4.1** the Agent, its employees, Agents or contractors breaches the National Code;



**12.4.2** IIBT has reasonable grounds to believe that the Agent, its employees, Agents or contractors has breached the National Code; or

**12.4.3** in the reasonable opinion of IIBT the Agent, its employees, Agents or contractors have engaged in conduct which is detrimental to the reputation of IIBT or any other Australian educational institution.

**12.5** IIBT may withdraw a notice given under clause 12.4 if within 14 days of the issue of the notice the Agent provides evidence satisfactory to IIBT in their absolute discretion that:

**12.5.1** the conduct was carried out by an employee of the Agent acting outside the scope of their employment by the Agent and the Agent has validly terminated that employee; or

**12.5.2** the conduct was carried out by an Agent or contractor of the Agent, without the knowledge or direction of the Agent, and the Agent has validly terminated its relationship with that Agent or contractor.

**12.6** In addition to the above paragraphs of Clause 12, a party has the right to terminate this Agreement in any case by giving ONE (1) month written notice to the other parties.

### 13. Continuing Obligations

**13.1** On termination of this Agreement:

**13.1.1** the Agent's appointment as Agent terminates and the Agent must immediately:

**13.1.2** stop performing the activities set out in Clause 4 of this Agreement;

**13.1.3** return to IIBT all documents, Intellectual Property (including the Documentation) and Confidential Information of IIBT; and

**13.1.4** if requested by IIBT, confirm by letter signed by a director of the Agent that it has complied with all of its obligations under Clause 13.1

**13.1.5** unless IIBT has terminated the Agreement as a result of breach by the Agent, the Agent is entitled to payment for services provided up to the effective date of termination and is not entitled to any compensation for early termination.

**13.2** Clauses 5 (Agent Limitations); 7 (Confidential Information); 8 (Intellectual Property); 9 (Agent's Warranty and Indemnity); 10 (Exclusion and Limitation of Liability); 11 (Resolution of Disputes); and 13 (Continuing Obligations) continue to apply to the parties to this Agreement (in addition to any permitted assignee) after assignment or termination of this Agreement.

### 14. Monitoring Process

(May be selected from but not limited to the following process)

Visits to the Agent's offices

Site inspections – including monitoring office suitability

Counsellor training – destination and product knowledge

Review of accuracy and currency of promotional materials used

Review of IIBT Brand presence within office, websites and the activities/operations of the Agent Bi-annual review

Regular reports of agent activities

Student interviews

IIBT student and/or their parent surveys



## Agent surveys

Analysis of enrolment performance against agreed targets

### 15. Notices

#### 15.1 Method of giving notices

A notice or other communication (each a “notice”) under this agreement must be in writing, addressed to the person to whom it is to be given and:

**15.1.1** delivered to that person’s address;

**15.1.2** sent by pre-paid mail to that person’s postal address;

**15.1.3** transmitted by facsimile to that person’s facsimile number; or **15.1.4** sent by electronic mail to that person’s email address.

#### 15.2 Time of receipt of Notice

A notice given to a party in accordance with the clause is treated as having been given and received:

**15.2.1** if delivered to a person’s address, on the day of delivery if a business day, otherwise on the next business day;

**15.2.2** if sent by pre-paid mail, on the third business day after posting;

**15.2.3** if transmitted by facsimile to a person’s facsimile number and a correct and complete transmission report is received, on the day of transmission if a business day, otherwise on the next business day; or

**15.2.4** if sent by electronic mail and the sender does not receive a message from its internet service provider or the recipient’s mail server indicating that it has not been successfully transmitted, on the day of sending if a business day, otherwise on the next business day.

#### 15.3 Address of parties

For the purposes of this clause, the address of a person is the address set out below or another address of which that person may from time to time give notice to each other person:

International Institute of Business and Technology Attention: International Centre  
 Address: PO Box 819, Victoria, Western Australia 6979 Email: agents@iibt.edu.au

#### Agent

Attention: as specified in Attachment A of this Agreement Address: as specified in Attachment A of this Agreement Facsimile: as specified in Attachment A of this Agreement  
 Email: as specified in Attachment A of this Agreement



## Attachment 1: Standard 4 of the National Code of Practice for Providers of Education and Training to Overseas Students 2018

### Standard 4

#### *Education agents*

**4.1** The registered provider must enter into a written agreement with each education agent it engages to formally represent it, and enter and maintain the education agent's details in PRISMS.

**4.2** The written agreement must outline:

**4.2.1** the responsibilities of the registered provider, including that the registered provider is responsible at all times for compliance with the ESOS Act and National Code 2018

**4.2.2** the registered provider's requirements of the agent in representing the registered provider as outlined in Standard 4.3

**4.2.3** the registered provider's processes for monitoring the activities of the education agent in representing the provider, and ensuring the education agent is giving students accurate and up-to-date information on the registered provider's services

**4.2.4** the corrective action that may be taken by the registered provider if the education agent does not comply with its obligations under the written agreement including providing for corrective action outlined in Standard 4.4

**4.2.5** the registered provider's grounds for termination of the registered provider's written agreement with the education agent, including providing for termination in the circumstances outlined in Standard 4.5

**4.2.6** the circumstances under which information about the education agent may be disclosed by the registered provider and the Commonwealth or state or territory agencies.

**4.3** A registered provider must require its education agent to:

**4.3.1** declare in writing and take reasonable steps to avoid conflicts of interests with its duties as an education agent of the registered provider

**4.3.2** observe appropriate levels of confidentiality and transparency in their dealings with overseas students orienting overseas students

**4.3.3** act honestly and in good faith, and in the best interests of the student

**4.3.4** have appropriate knowledge and understanding of the international education system in Australia, including the Australian International Education and Training Agent Code of Ethics.

**4.4** Where the registered provider becomes aware that, or has reason to believe, the education agent or an employee or subcontractor of that education agent has not complied with the education agent's responsibilities under standards 4.2 and 4.3, the registered provider must take immediate corrective action.

**4.5** Where the registered provider becomes aware, or has reason to believe, that the education agent or an employee or subcontractor of the education agent is engaging in false or misleading recruitment practices, the registered provider must immediately terminate its



relationship with the education agent, or require the education agent to terminate its relationship with the employee or subcontractor who engaged in those practices.

**4.6** The registered provider must not accept students from an education agent if it knows or reasonably suspects the education agent to be:

- 4.6.1** providing migration advice, unless that education agent is authorised to do so under the Migration Act
- 4.6.2** engaged in, or to have previously engaged in, dishonest recruitment practices, including the deliberate attempt to recruit a student where this clearly conflicts with the obligations of registered providers under Standard 7 (Overseas student transfers)
- 4.6.3** facilitating the enrolment of a student who the education agent believes will not comply with the conditions of his or her visa
- 4.6.4** using PRISMS to create CoEs for other than bona fide students.

## **Attachment 2: Standard 5 of the National Code of Practice for Providers of Education and Training to Overseas Students 2018**

### **Standard 5**

#### *Younger overseas students*

**5.1** Where the registered provider enrolls a student who is under 18 years of age, it must meet the Commonwealth, state or territory legislation or other regulatory requirements relating to child welfare and protection appropriate to the jurisdiction(s) in which it operates.

**5.2** Registered providers must ensure students under 18 years of age are given age-and culturally-appropriate information on:

- 5.2.1** who to contact in emergency situations, including contact numbers of a nominated staff member and/or service provider to the registered provider
- 5.2.2** seeking assistance and reporting any incident or allegation involving actual or alleged sexual, physical or other abuse.

**5.3** Where the registered provider takes on responsibility under the Migration Regulations for approving the accommodation, support and general welfare arrangements (but not including guardianship, which is a legal relationship not able to be created or entered into by a registered provider) for a student who is under 18 years of age, the registered provider must:

- 5.3.1** nominate the dates for which the registered provider accepts responsibility for approving the student's accommodation, support and general welfare arrangements and advise Immigration, which is responsible for administering the Migration Regulations, of the dates in the form required by that department
- 5.3.2** ensure any adults involved in or providing accommodation and welfare arrangements to the student have all working with children clearances (or equivalent) appropriate to the jurisdiction(s) in which the registered provider operates
- 5.3.3** have and implement documented processes for verifying that the student's accommodation is appropriate to the student's age and needs:

- 5.3.3.1** prior to the accommodation being approved
- 5.3.3.2** at least every six months thereafter.





- 5.3.4** include as part of their policy and processes for critical incidents under Standard (Overseas student support services), a process for managing emergency situations and when welfare arrangements are disrupted for students under 18 years of age
- 5.3.5** maintain up-to-date records of the student's contact details as outlined in Standard 3.5, including the contact details of the student's parent(s), legal guardian or any adult responsible for the student's welfare
- 5.3.6** advise Immigration in the form required by that department:
- 5.3.6.1** as soon as practicable if the student will be cared for by a parent or nominated relative approved by Immigration and a Confirmation of
- 5.3.7** Appropriate Accommodation and Welfare (CAAW) is no longer Required
- 5.3.6.2** within 24 hours if the registered provider is no longer able to approve the student's welfare arrangements have documented policies and processes for selecting, screening and monitoring any third parties engaged by the registered provider to organise and assess welfare and accommodation arrangements.
- 5.4** If the registered provider is no longer able to approve the welfare arrangements of a student, the registered provider must make all reasonable efforts to ensure that the student's parents or legal guardians are notified immediately.
- 5.5** If the registered provider is unable to contact a student and has concerns for the student's welfare, the registered provider must make all reasonable efforts to locate the student, including notifying the police and any other relevant Commonwealth, state or territory agencies as soon as practicable.
- 5.6** Where Standard 5.3 applies and the registered provider suspends or cancels the enrolment of the overseas student, the registered provider must continue to approve the welfare arrangements for that student until any of the following applies:
- 5.6.1** the student has alternative welfare arrangements approved by another registered provider
- 5.6.2** care of the student by a parent or nominated relative is approved by Immigration
- 5.6.3** the student leaves Australia
- 5.6.4** the registered provider has notified Immigration under Standard 5.3.6 that it is no longer able to approve the student's welfare arrangements or under Standard 5.5 that it has taken the required action after not being able to contact the student.
- 5.7** If the registered provider enrolls a student under 18 years of age who has welfare arrangements approved by another registered provider, the receiving registered provider must:
- 5.7.1** negotiate the transfer date for welfare arrangements with the releasing registered provider to ensure there is no gap
- 5.7.2** inform the student of their visa obligation to maintain their current welfare arrangements until the transfer date, or have alternate welfare arrangements approved or return to their home country until the new approved welfare arrangements take effect.