



# Education Agent Engagement Policy

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### **OVERVIEW**

This policy outlines the principles and procedures for the administration of the University's relationships with Education Agents to ensure compliance with all applicable Acts, Regulations and Standards.

The aims of the policy are to ensure:

- a) Education Agent Relationships are established, monitored, reviewed, performance managed and terminated in a consistent and appropriate manner;
- b) The University partners with high quality, reputable, honest, ethical and knowledgeable Education Agents, who are skilled in enrolling students in Australia;
- c) Thorough due diligence is undertaken prior to the appointment of any new Education Agent;
- d) Education Agent performance is monitored on an ongoing basis and regular Education Agent reviews are undertaken to identify any Education Agents who are underperforming or in breach of their contractual and other obligations, including Education Services for Overseas Students Act 2000 (ESOS) and National Code of Practice for Providers of Education and Training to Overseas Students 2018 (National Code) requirements;
- e) Associated value and risks are assessed and managed appropriately;
- f) Immediate corrective action is taken when the University becomes aware that, or has reason to believe, an Education Agent is in breach of its Agency Agreement.

### **SCOPE AND APPLICATION**

This policy applies to all Education Agent Relationships with the University, both overseas and within Australia.

All University staff and stakeholders engaged in the development, maintenance and review of Education Agent Relationships are required to comply with this policy.

Implementation of this policy will be carried out in accordance with the University's [Code of Conduct](#). Any attempts to exert pressure improperly or influence actions or decisions made pursuant to this policy must be reported in accordance with the [Fraud and Corruption Control Policy](#).

## POLICY PRINCIPLES

In establishing, managing, supporting, reviewing, renewing and terminating Education Agent Relationships, the University will ensure Education Agents:

1. Have a reputation for quality and operate in territories which are strategic priorities for the University;
2. Are provided with adequate training and information, including their obligations under the ESOS Act, National Code, and the Australian International Education and Training Agent Code of Ethics;
3. Are managed in a transparent, fair and ethical manner;
4. Do not pose an unacceptable or inappropriate risk to the University's reputation, operations or relationships, offer value and are financially sustainable over the long term;
5. Are regularly performance reviewed, with corrective action taken where required;
6. Are governed by Agency Agreements which:
  - a) comply with the requirements of the National Code;
  - b) are approved and signed in accordance with the University's governance framework and delegations as set in the [Authority Register](#);
  - c) clearly articulate the rights and obligations of the parties;
  - d) clearly state the University's rate of commission for the Education Agent's service provision;
  - e) give a specified duration of no longer than three-years unless the business case strongly supports a longer term;
  - f) are reviewed and monitored for continued compliance, relevance and impact on the University's activities.

## AUTHORITIES

<b>Key</b>	<b>Authority Category</b>	<b>Authority</b>	<b>Delegation Holder</b>	<b>Limits</b>
Academic	Education Agency Agreement	Authority to approve and sign the establishment, variation, extension or termination of an Education Agency Agreement	Deputy Vice-Chancellor (External Engagement)  Vice-Chancellor and President  University Council	\$1,000,000  \$12,000,000  \$12,000,001+  On recommendation of the Executive Director (Future Students) in accordance with procedures 1.2 and 2.1  Council approval required for a major strategic initiative or a significant commercial activity as per section 9(1)(b) and (h) of the University of Adelaide Act 1971.

<b>Key</b>	<b>Authority Category</b>	<b>Authority</b>	<b>Delegation Holder</b>	<b>Limits</b>
Academic	English Language Centre Agency Agreement	Authority to approve and sign the establishment, variation, extension or termination of a dedicated English Language Centre Agency Agreement	Deputy Vice-Chancellor (External Engagement)  Vice-Chancellor and President  University Council	\$1,000,000  \$12,000,000  \$12,000,001+  On recommendation of the Executive Director (Future Students) in accordance with procedures 1.2 and 2.1  Council approval required for a major strategic initiative or a significant commercial activity as per section 9(1)(b) and (h) of the University of Adelaide Act 1971.
Academic	Schedule A: Due Diligence Checklist	Authority to amend Schedule A at any time	Deputy Vice-Chancellor (External Engagement)	

## PROCEDURES

### 1. Proposal

- 1.1 Where a potential Education Agent Relationship is identified, the Proposer must conduct an appropriate preliminary assessment:
- To ensure that the proposed relationship meets the Policy Principles and University business needs;
  - In consultation with the applicable Proponent Area to confirm the proposed relationship meets University recruitment objectives;
  - The potential Education Agent must be notified in writing if the assessment does not satisfy procedure 1.1a or 1.1b.
- 1.2 Where the proposed relationship satisfies procedure 1.1a and 1.1b the relevant Proponent Area must complete the quality assessment and due diligence checks as specified in Schedule A<sup>1</sup> before proceeding in any substantive way with the establishment of a new Agency Agreement. Where the potential Education Agent is a Foreign Entity, the Proponent Area must complete a [Foreign Engagement Compliance Review](#) to gain endorsement from the Chief Security Officer to proceed with the arrangement. This due diligence process will be appropriate and proportionate for each potential Education Agent, and must include consultation with the Associate Director, Global Partnerships where the potential Education Agent is embedded at or holds primary responsibility for a Partner Education Provider.

<sup>1</sup> Schedule A is subject to change and may be amended by the Deputy Vice-Chancellor (External Engagement) at any time

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- 1.3 The potential Education Agent must provide all necessary documents to the Proponent Area including:
    - a) Completed *Education Agent Application Form*;
    - b) Certificate of registered business name and trading name (if different);
    - c) Contact details of at least 3 referees;
    - d) A company brochure, handbook or profile documents;
    - e) Marketing strategy and plan for recruiting prospective students to the University;
    - f) A declaration of any real or perceived conflicts of interest;
    - g) Any additional information to support the potential Education Agent's application.

- 1.4 The Proponent Area will assess the potential Education Agent's application for suitability to enter into an Agency Agreement.

- 1.5 The University reserves the right to refuse to enter into an Agency Agreement.

## 2. Endorsement and approvals

- 2.1 For all Education Agency Agreements endorsement must be received from the Director, International Recruitment and for all English Language Centre Agency Agreements endorsement must be received from the General Manager, English Language Centre.

- 2.2 The Executive Director (Future Students), will make a recommendation to the relevant delegation holder as specified in the Authorities.

- 2.3 Potential Education Agents must be advised of the outcome of their application in writing, by the relevant delegate. The notification will explain the reasons for the decision. The Proposer and Associate Director, Global Partnerships (when involving a Partner Education Provider) must be informed.

## 3. Agreement drafting and signing

- 3.1 The Agency Agreement will be prepared once the potential Education Agent has been approved in accordance with Procedure 2.

- 3.2 The Proponent Area will initiate the Agency Agreement drafting process which will involve the Proponent, Legal Services (if required) and any other relevant area depending on the nature of the agreement.

- 3.3 The Proponent Area must nominate an Agreement Manager for each Agency Agreement.

- 3.4 The Agency Agreement must be signed by the relevant delegate as specified in the Authorities.

## 4. Record keeping

- 4.1 After the Agency Agreement has been signed by all parties, the Proponent Area will submit the University's original fully executed version along with the legal document lodgement form to Records Services in accordance with the [Contracts and Agreements Policy](#).

- 4.2 Communications with internal and external stakeholders in relation to establishment, management and review of the Agency Agreement are required to be recorded in accordance with the University's [Information Management Policy](#) and the [Contracts and Agreements Policy](#).

- 4.3 The Proponent Area will ensure current Education Agent information is maintained in all relevant systems, including but not limited to PRISMS, by providing timely updates.

## 5. Implementation, monitoring and review

- 5.1 Responsibility for the management of the Agency Agreement, including ongoing monitoring and review of Education Agent performance rests with the Agreement Manager.

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- 5.2 Agreement Managers will provide Education Agents with an induction and regular training to ensure Education Agents understand their compliance obligations, and provide accurate and up to date information about the University and its programs and services.
- 5.3 Education Agent performance and activities will be monitored and reviewed and an Annual Agent's Performance Review prepared. Monitoring and review will consider any aspect of Education Agent's performance, including, but not limited to:
- a. compliance with written contract, and all applicable Acts, Regulations and Standards;
  - b. quality of prospective student applications;
  - c. student or stakeholder feedback;
  - d. data obtained from PRISMS;
  - e. publicly and non-publicly available materials and resources;
  - f. visa approval, refusal and cancellation data;
  - g. conversion rates from application to offer, offer to acceptance and acceptance to commencement;
  - h. any other relevant information lawfully received by the University.
- 5.4 Where the University 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 the National Code or Agency Agreement, the University will take immediate corrective action. Corrective action may include:
- a. additional targeted training, information or counselling (costs to be agreed between the parties);
  - b. suspension of the Agency Agreement in one or all territories;
  - c. termination of the Agency Agreement;
  - d. non-renewal of the Agency Agreement;
  - e. legal action for any loss or damage incurred by the University; and
  - f. any other corrective action at the University's discretion.
- 5.5 The Agreement Manager may recommend additional training, suspension or termination of agreement if in their opinion a review of Education Agent performance is unsatisfactory. If the outcome is to suspend or terminate the agreement or take legal action the decision must be endorsed and approved in accordance with procedure 2.1, 2.2 and the Authorities.
- 5.6 The Agreement Manager will advise [International Compliance](#) within three business days should they become aware of the Education Agent or any of its employees or subcontractors, being convicted of an offence, or subject to cancellation, suspension, disciplinary, remedial action or conditions as described in Section 17 of the [ESOS Act](#).

## 6. Renewal

- 6.1 The Proponent Area will initiate the process of renewal or non-renewal of the Agency Agreement no less than six months prior to the expiry of the Agency Agreement.
- 6.2 A Renewal Review must be prepared and consider the Education Agent's past performance, compliance with the terms of the Agency Agreement, and Policy Principles prior to renewal, to inform renewal recommendation.
- 6.3 Where the Agency Agreement involves a Partner Education Provider, a recommendation on renewal or non-renewal of the Agency Agreement will be made in consultation with the Associate Director, Global Partnerships.
- 6.4 The Agreement Manager will complete the renewal form and recommend renewal or non-renewal of the Agency Agreement based on the assessment of the expected outcomes as originally proposed, the Renewal Review and Annual Agent's Performance Review, and whether there is a justification for the continuation of the Agency Agreement.

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- 6.5 The criteria for non-renewal of Agency Agreements include but are not limited to:
- a) No student commencements or negligible commencements during the period of the Agency Agreement;
  - b) Instances of fraud, negligence, misleading information, poor student service; or any other activity which places the University's reputation at risk;
  - c) Known or reasonable suspicion of breach of Agency Agreement;
  - d) The initial business case or value proposition are no longer viable;
  - e) Changes within the Education Agent's business which adversely impacts the original business case.
- 6.6 Recommendations for renewal or non-renewal of an Agency Agreement must be endorsed and approved in accordance with procedure 2.1, 2.2 and the Authorities.
- 6.7 The Education Agent will be advised in writing of the University's decision by the relevant Proponent Area. The Proposer and the Associate Director, Global Partnerships (when involving a Partner Education Provider) must be informed.

## 7. Termination

- 7.1 Termination of an Agency Agreement must be carried out in a manner that ensures the University's interests are protected, including the interests of University of Adelaide students, and with advice and assistance from Legal Services.
- 7.2 When making the recommendation to terminate an Agency Agreement, the University will consider:
- a) rationale for termination;
  - b) adequate transition arrangements;
  - c) legal, financial and reputational implications;
  - d) other areas of the University, directly and individually involved in the partnership, and
  - e) compliance with relevant regulatory and legislative requirements.
- 7.3 Agency Agreements will be terminated immediately if the University believes, or has reason to believe, an Education Agent, or an employee or subcontractor of that Education Agent is engaging in false or misleading recruitment practices.
- 7.4 Recommendations for termination of an Agency Agreement must be endorsed and approved in accordance with procedure 2.1, 2.2 and the Authorities.
- 7.5 The notice of termination will be sent to the Education Agent by the Agreement Manager. The Agreement Manager will liaise with the Proponent, Legal Services and any other relevant area depending on the nature of the agreement. The notification to the Education Agent must include:
- a) the grounds for agreement termination; and
  - b) reference to the corresponding termination clause(s) of the Agency Agreement.
- 7.6 The Agreement Manager will notify all relevant external and internal stakeholders of the termination of the Agency Agreement.

## 8. Annual Report

An annual report will be submitted to the Academic Board summarising activities undertaken under procedures 5, 6 and 7.

## DEFINITIONS

**Agency Agreement** refers to a formal document recognising the establishment of a relationship between the University and an Education Agent for student recruitment activities.

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**Agreement Manager** refers to the University staff member responsible for the management of a specific signed agreement including liaison with both internal and external stakeholders as applicable. They may also be the Proponent Area.

**Annual Agent's Performance Review**

A comprehensive assessment in which the Regional Manager evaluates an Education Agent's performance in relation to conversion rates, enrolled student numbers, withdrawals, visa refusals, compliance and any other issues that may have arisen during the year. During the review the Regional Manager will discuss strengths and weaknesses that have been identified, and provide more training to the Education Agent if required.

**Education Agent** refers to a person or organisation (in or outside Australia) who recruits overseas students and refers them to education providers. In doing so, the Education Agent may provide education counselling to overseas students as well as marketing and promotion services to education providers. Education Agent does not refer to an education institution with whom an Australian provider has an agreement for the provision of education (that is research and teaching activities).

**Education Agent Relationship** means a relationship between the University and Education Agent whereby the Education Agent has been appointed as an authorised representative to facilitate the recruitment of students to the University.

**Foreign Engagement Compliance Review** is the University's core mechanism for ensuring international engagement is in line with Australia's foreign compliance regimes, and the University's interests.

**Foreign Entity** as defined in section 8 of *Australia's Foreign Relations (State and Territory Arrangements) Act 2020* and, for the purposes of the Foreign Arrangements Scheme, includes foreign governments as well as universities that are located in a foreign country and lack institutional autonomy.

**Partner Education Provider** is an entity (University or private) which delivers education study programs outside of Australia, and with whom the University has an established or proposed written agreement.

**Proponent Area** refers to the University's business units that are responsible for management of the University's network of Education Agents and associated student recruitment outcomes for both English, Study Abroad or award programs in a defined region or country.

**Proposer** refers to the University staff member proposing the establishment, renewal or variation of an Agency Agreement.

**Recruitment** is defined as the promotion and marketing of the University by the Education Agent with the goal of having students apply and enrol in a University course or program in return for a financial payment to the Education Agent.

**Regional Manager** is a position within a University of Adelaide business unit that is responsible for the day to day management of the University's network of Education Agents and associated student recruitment outcomes for both English, Study Abroad or award programs in a defined region or country.

**Renewal Review**

A review in which the Regional Manager assesses an Education Agent's suitability for Agency Agreement renewal. The Regional Manager will assess the Education Agent's past performance, including compliance and their future capacity and capabilities to perform the duties and responsibilities required in the Agency Agreement.

**Significant Commercial Activity** is an undefined term used within the University of Adelaide Act 1971 (SA). For the purposes of this policy, this term will be assessed on a case-by-case basis.

<b>RMO File No.</b>	F.2022/4281
<b>Policy Custodian</b>	Deputy Vice-Chancellor (External Engagement)
<b>Responsible policy officer</b>	Executive Director, Future Students
<b>Endorsed by</b>	Academic Board on 3 May 2023 Vice Chancellor's Executive on 17 May 2023
<b>Approved by</b>	Vice-Chancellor and President on 18 May 2023
<b>Related Documents and Policies</b>	<a href="#">Code of Conduct Policy</a> <a href="#">Contracts and Agreements Policy</a> <a href="#">Fraud and Corruption Control Policy</a> <a href="#">Information Management Policy</a> <a href="#">International Engagement Policy</a> <a href="#">Risk Management Policy</a> <a href="#">Fees for Award Programs and Courses Policy</a>
<b>Related Legislation</b>	<a href="#">Education Services for Overseas Students Act 2000 (ESOS Act)</a> <a href="#">National Code of Practice for Providers of Education and Training to Overseas Students 2018</a> <a href="#">Education Services for Overseas Students Regulations 2019</a> <a href="#">Migration Act 1958</a> <a href="#">Migration Regulations 1994</a> <a href="#">Migration Amendment (Streamlining Visa Processing) Bill 2019</a> <a href="#">Tertiary Education Quality and Standards Agency Act 2011</a> <a href="#">Higher Education Standards Framework (Threshold Standards) 2021</a> <a href="#">Higher Education Provider Guidelines</a> <a href="#">Australian Qualifications Framework</a> <a href="#">Guidance to Counter Foreign Interference in the Australian University Sector</a> <a href="#">Foreign Relations (State and Territory Arrangements) Act 2020</a> <a href="#">Foreign Influence Transparency Scheme Act 2018</a> <a href="#">Defence Trade Control Act 2012</a> <a href="#">Autonomous Sanctions Act 2011</a>
<b>Superseded Policies</b>	None
<b>Effective from</b>	1 June 2023
<b>Review Date</b>	31 May 2026
<b>Contact for queries about the policy</b>	Michael Aust, Director: International Recruitment <a href="mailto:michael.aust@adelaide.edu.au">michael.aust@adelaide.edu.au</a> (08) 8313 2174



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## Schedule A: Due Diligence Checklist

This checklist outlines the minimum due diligence required prior to the establishment of an Agency Agreement.

### Due Diligence will include:

- Confirming the Education Agent conducts legitimate business and has the appropriate licences to operate in each of the countries and regions identified in the *Education Agent Application Form*.
- If already well represented in recruitment region, identifying key points of difference the new Education Agent can provide.
- Assessing the likely recruitment opportunities in the country/region balanced against the anticipated number of commencements from the Education Agent nominated in the *Education Agent Application Form*.
- Assessing the Education Agent's knowledge and understanding of the ESOS Act, National Code, Streamlined Visa Processing and other legislative issues affecting international students seeking to enter Australia, and confirming a strong record of compliance.
- Assessing whether the Education Agent has appropriate educational qualifications.
- Assessing knowledge of tertiary education in Australia.
- Ensuring the Education Agent offers professional, knowledgeable and well-trained counselling staff.
- Confirming the Education Agent has high quality infrastructure, in particular an accessible office located in a reputable location, an adequate resource centre/library for prospective students and adequate local and international communication facilities.
- A reputation for ethical business behaviour and credibility in the local community.
- A reasonably sufficient and consistent period in operation.
- Demonstrated success in placing students in Australia.
- Demonstrated financial viability and soundness.
- Charges reasonable costs for attending agent events and other promotional activities.
- Investigating social media presence, including accessing the company's website, Facebook and others, including corroborating owner details and qualifications via LinkedIn.
- Checking and receiving positive reports from the Education Agent's nominated referees.