



COMPLAINTS FROM INTERNATIONAL STUDENTS: what can they tell us about education agents?

SYMPLED, 17 September 2018
Presented by Dermot Walsh

Acknowledgement of Country

The Office of the Commonwealth Ombudsman acknowledges the traditional owners of Country throughout Australia and their continuing connection to land, culture and community.

We pay our respects to elders past and present.



Commonwealth Ombudsman

The Commonwealth Ombudsman usually investigates complaints about Australian Federal Government Agencies.

In 2011 we took on a specialist function: the **Overseas Students Ombudsman**:

- investigates complaints about problems that intending, current or former overseas students have with PRIVATE schools, colleges and universities (education providers) in Australia
- provides information about best practice complaint-handling to help private education providers manage internal complaints effectively
- publishes reports on broader issues in international education that we identify through our investigations.

Other **specialist** roles:

Private Health Insurance Ombudsman

Postal Industry Ombudsman

VET Student Loans Ombudsman



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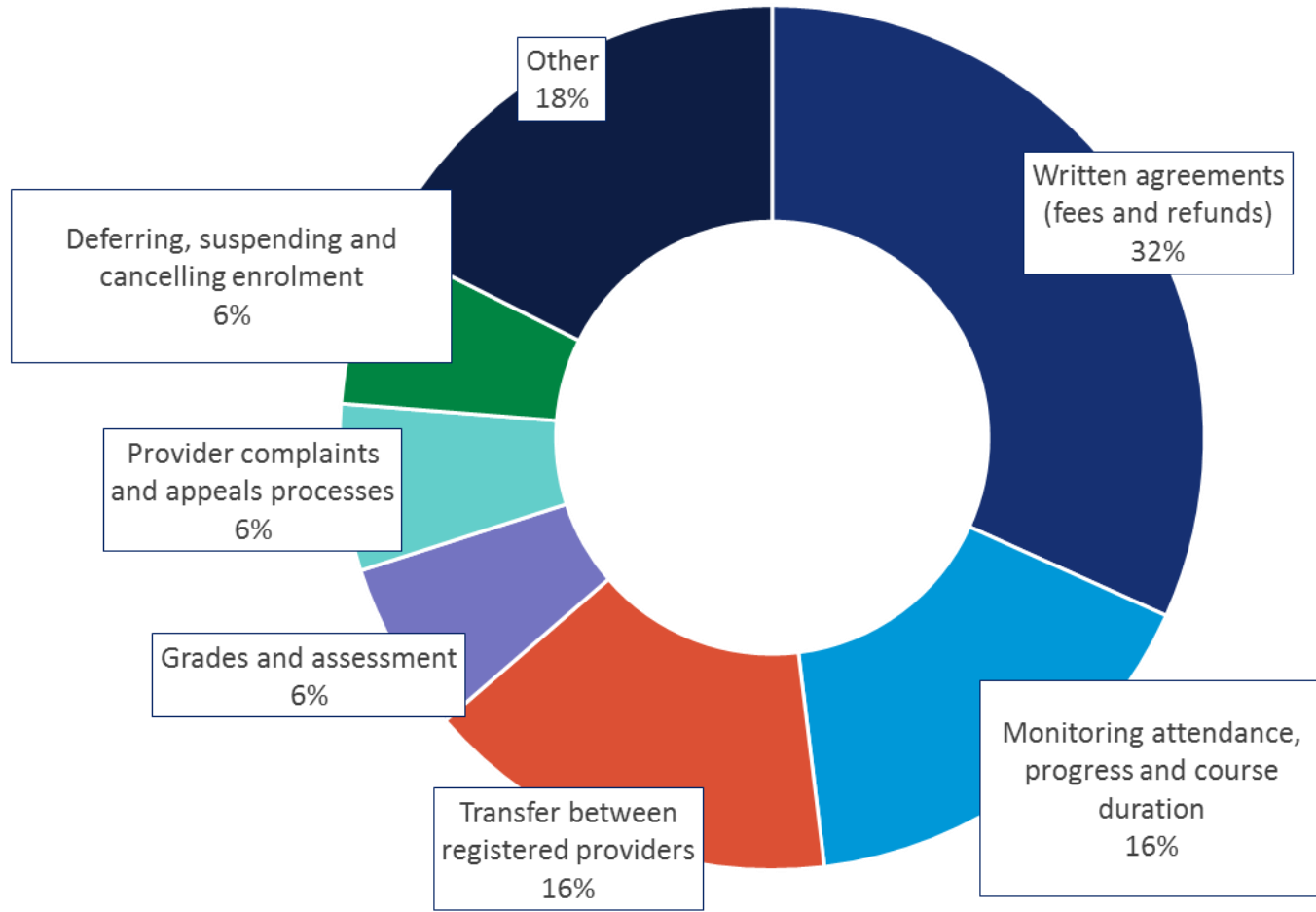


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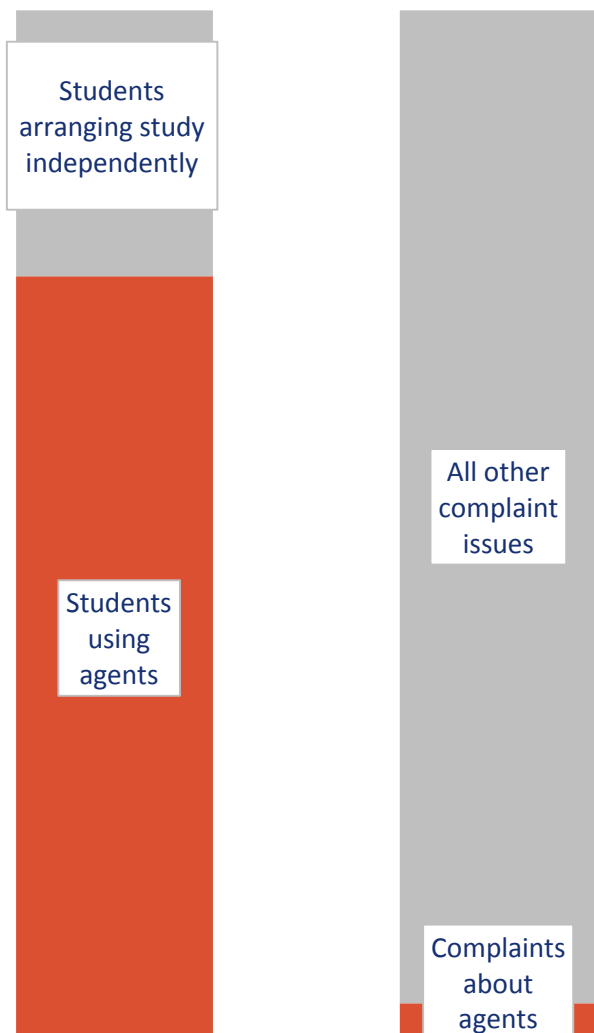


IMPARTIAL

Complaint issues: 2017-2018



Complaints about education agents



Concerns about education agents make up only 3% of the complaints we receive from international students.

Data quoted by DET recently has 74% of international students in Australia using the services of an education agent.

It is clear that

- education agents play a crucial role in Australia's international education industry, and
- the majority of education agents act ethically

Unfortunately, a small number of dishonest operators can impact on Australia's reputation as a quality international education destination.

How do we decide if a student has been treated fairly?

If we decide to investigate a complaint, we look at whether the provider has complied with:

- The *Education Services for Overseas Students Act 2000 (ESOS Act)*
- The provider's own policies, procedures and agreements, and
- general principles of Australian Law, including procedural fairness, and Australian Consumer Law



The National Code

The National Code of Practice for Providers of Education and Training to Overseas Students 2018 (National Code 2018) is part of the ESOS Act.

All education providers, including universities, TAFEs, schools and private colleges are required to follow the standards in the national code.

These standards set out the requirements for providers when dealing with international students.



Standard 4 – education agents

Education providers must:

- have a written agreement with agents formally engaged to represent them
- monitor the activities of agents in representing them
- take corrective action if agents breach their agreement, including terminating the agreement if appropriate
- require their agents to:
 - declare and avoid conflicts of interest
 - observe confidentiality and transparency in dealings with students
 - understand the Australian international education system

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*A registered provider
must require its
education agent to...
act honestly and in
good faith, and in the
best interests of the
student*

”

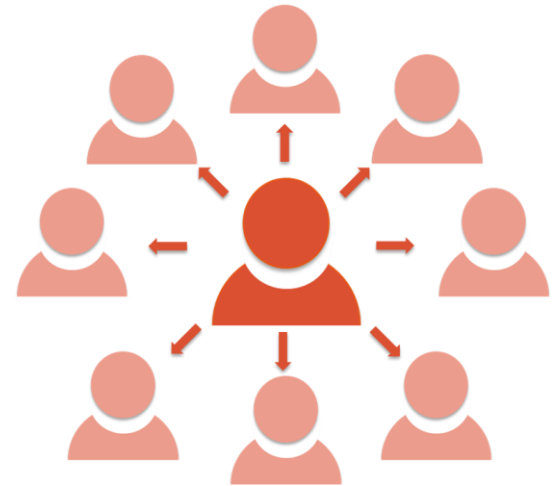
National Code 2018, Standard 4.3.3

Agency

Education agents act **as a representative of the provider**

Some problems revealed in complaints:

- agents accepting course money before the written agreement is accepted by the student
- agents providing prospective students with inaccurate course information
- agents knowingly enrolling students with a new provider during a student's restricted transfer period



Conflicts of interest

Providers must require agents to declare conflicts of interest



If an agent asks for and receives a service fee from the student, it also represents the student.

Agents should be acting in the student's best interests anyway, but the provider should be notified so that they are aware and can manage potential or perceived conflicts of interest.

Complaints about education agents who are also migration agents:

Negligent actions

- not lodging student visa applications on time for students who are in Australia, resulting in student becoming unlawful, and if more than 28 day unlawful period elapses, resulting in the student being subject to a visa exclusion period.
- not advising onshore student that visa application has been refused, leading to student remaining unlawfully
- promising migration outcomes: case anecdote

a 53yo chef was advised to study a Certificate III and IV in Commercial Cookery, followed by a Diploma of Hospitality management, as a pathway to skilled migration. He sold his overseas business, paid significant sums to relocate, only to find that he could not even find part-time work, and his age made him ineligible for migration.

Criminal actions

We are aware of reports of:

- offshore agents lodging fake documents to get a visa outcome
 - long term ramification on student, as they are barred from being granted another visa to Australia for an extended period of time, even if they didn't know what the agent was doing
- agencies stealing student tuition fees, OSHC fees, material fees, accommodation fees, visa application fees, AAT application fees
- an agency faking student's signature on a written agreement

What can the Overseas Students Ombudsman do about education agent activity?

Investigation of complaints

If a student complains to the Ombudsman about the actions of an education agent, we can investigate:

- whether the agent has acted in accordance with its agreement with the provider
- whether the education provider has taken appropriate action

We can recommend that the provider takes certain actions in relation to their agent. Our recommendations are binding under the National Code *(s10.4)*.

What can the Overseas Students Ombudsman do about education agent activity?

Reporting on systemic issues

Previous:

- publication of **issues paper**: Issues in the administration of international student protection framework identified through the investigation of complaints about an education agent.
- Submission to Department of Education and training on revision of National Code requirements

Current:

- Submission to Joint Standing Committee on Migration inquiry into Migration and Education agents
- Appearance at public hearing for above

Engagement with industry

Previous:

- presenting at ANZA events
- attending education agent seminars
- publishing fact sheet for providers and students about using education agents

Current:

- attending symposiums like this

Thank you!



For more information visit ombudsman.gov.au and select
Private Education Providers with Overseas Students