

Outcome 2: Managing and monitoring agents

02

 [Link to outcome 2 in the Code](#)

Signatories must effectively manage and monitor their agents (that is, those agents that signatories have contracted to represent them) to ensure that those agents:

- (a) provide international students with reliable information and advice about studying, working and living in New Zealand; and
- (b) act with integrity and professionalism towards prospective international students; and
- (c) do not breach the law or jeopardise the signatory's compliance with this Code.

The intent of this outcome is to ensure that agents always act with the utmost integrity and are clear about their obligations, and that you have robust management and monitoring procedures that ensure agents provide students and their families with the best possible information and support.

2019 amendments to outcome 2

Process requirements for monitoring and managing agents have been added to the Code to clarify expectations (⇒ see clause 14(ba) and (bb)).

This means that your policies and processes must include agent monitoring activities as well as the appropriate interim actions you will take should you discover misconduct by an agent that is not serious enough to warrant contract termination, but nonetheless still requires management and a remedial response.

Navigating these guidelines

Under 18 year old and/or under 10 year old students

Headings specific to under 18 year old and/or under 10 year old students are highlighted in blue.

Icons are used throughout the document to help signatories locate information:

-  'Star icon' signals suggestions for good practice
-  'Arrow icon' draws attention to website resources.

Good practice when using agents

It is important that New Zealand provides international students with a quality education through an experience that meets and exceeds their expectations.

Agents play a key role in achieving this goal, as they are often the first point of contact with international students and families and can greatly influence their enrolment decisions.

Signatories play a vital role by effectively managing and monitoring their agents.

The guidelines below outline the minimum process requirements and provide some examples for practice.

For further suggestions for good practice, please see the information provided in NZQA's online [Code Toolbox, outcome 2](#). This information has been gathered from a range of schools and TEOs.

14. Process

I4(a)

Reference checks

You must undertake and document reference checks on all potential agents. You can seek verbal or written references. As a signatory, you need to decide the level of detail of reference checks sought and how many are appropriate.

Ensure that your systems for reference checking and recording are robust and that they give you the assurance that, as far as possible, the agent is a trustworthy professional.

Reference checking is complete when you have sufficient information to be confident that the agent will:

- provide quality advice to international students
- work with professionalism and integrity
- not breach the law or jeopardise your organisation's compliance with the Code.



References can be sought from a range of sources, i.e.:

- other signatories
- the student's family
- NZ Government agencies
- past employers.



See the [Code Toolbox, outcome 2](#) for more suggestions on reference checking and undertaking due diligence on agents.

I4(b)**Written contracts**

You must enter into a written contract with each agent you engage to represent you and who offers a service for payment, whether it be for recruitment, accommodation, or another service.

A written contract sets out the terms and conditions for the partnership. The contract may be developed by you or the agent. The written contract must be signed by both parties. Regularly check that your agent contracts meet your requirements as a signatory. A robust contract will help ensure that your agent acts in a way that supports the intent of this outcome.

**Consider:**

- seeking independent legal advice on any agent contract, including templates
- whether to offer an agent your contract or accept the agent's contract
- a one-year probation period
- having expiry dates on your contracts. This will allow you to review your agent's performance and discuss the services they have provided before deciding to renew the contract
- whether new/renewed agent contracts need to be updated following the 2019 amendments to this Code outcome, to ensure your agents are aware of how they will be monitored and the consequences of any misconduct.



For more guidance on agent contracts, see [Code Toolbox, outcome 2](#).

I4(ba)**Monitoring agent activities and performance**

It is important to have a policy and ongoing process for monitoring the performance of agents you have contracted, according to the terms and conditions of the agent contract, the requirements of the Code, and your agents' other legal obligations.

As signatory, it is your responsibility to determine how you will monitor your agents.

**Consider, for example:**

- gathering regular feedback about agent conduct through surveys, meetings, and interviews with international students, parents/legal guardians, residential caregivers, and/or staff
- developing a joint appraisal process with signatories using the same agent
- reviewing the history of successful placements by the agent
- assessing the agent's engagement with your organisation to determine if future partnership is desired
- spot-checking the information provided by agents to your students
- having procedures in place for managing issues and complaints about agents
- conducting annual performance reviews

I4(ba) (continued)

Monitoring agent activities and performance



Consider, for example:

- requiring agents to provide evidence of good performance, for example:
 - vetting waiver authorising Immigration New Zealand to provide relevant data regarding the agent
 - their offers of place acceptance rate
 - copies of visa decline letters that the agent has received
 - robust verification of student documentation prior to submission to provider and/or INZ
 - attend compulsory training programmes with your education organisation or through an external provider (may be delivered online). For example, training on the Code requirements.
- requiring agents to make formal declarations regarding, for example:
 - potential conflicts of interest
 - acting in accordance with the [New Zealand Immigration Advisors Licensing Act 2007](#) and with the [Code](#)
 - adhering to the ethical standards outlined in the [London Statement of Principles](#)
 - ensuring that any of your organisation's promotional material translated by the agent is consistent with the English language version.

Monitoring activities are sufficient when you have gathered enough evidence to be confident that your agents are performing as required.

As you monitor, keep the outcomes of the Code in mind to help you identify unhelpful or unethical behaviour.



Examples of questionable behaviour could include:

- transferring an international student to another signatory without a valid reason or for the purpose of obtaining additional commission
- producing materials with unsubstantiated claims. For example, regarding the right to live and work in New Zealand
- representing your education organisation in a misleading or dishonest manner
- providing inadequate or unsafe accommodation
- not aligning the international students' needs to the programme and level of study.

Follow up immediately on any suspected misconduct identified through your monitoring or brought to your attention through other means.

I4(bb)**Managing agents**

You must take action if you have evidence that suggests agent misconduct.

Your management response will depend on the seriousness of the misconduct, the quality of your evidence, and the associated level of risk to your international students. As signatory, it is your responsibility to determine which actions are appropriate based on the available information.

Action taken is appropriate if it gives you confidence that any risk to your international students, as regards the outcomes of the Code, has been mitigated.

If the agent's misconduct meets the threshold outlined in clause 14 (bb) (i.) (A) (B), you are required to terminate the contract.

If you determine, based on the available information and any further investigation, that the agent's conduct falls short of the threshold for contract termination, you need to take appropriate action to manage the agent's performance and prevent future misconduct.

**When deciding what action to take, consider:**

- the agent's track record
- the quality of your evidence relating to the alleged misconduct
- whether more information is needed
- the best interests of your international students.

**Appropriate action may include:**

- discussing the concerns with your agent
- requesting a formal written response regarding the alleged misconduct
- clarifying the expectations of your agent regarding their contract and the Code
- issuing a formal warning letter
- conducting a formal investigation
- following your internal grievance procedures
- outlining corrective measures for your agent to action
- requiring your agent to upskill by signing up for more training
- setting a probation period with clear outcomes your agent must meet
- terminating the agent's contract.

**The following links may be useful:**

[Managing misconduct by an employee](#)

[Managing disciplinary process](#)

[Employment relationship problem resolution](#)

[Code Toolbox, outcome 2 \(in particular, the section "Manage risk"\)](#)

I4(d)**Ensuring agents have access to up to date information**

The signatory-agent relationship is two-way.

Ensuring your agents have the information they need to understand their obligations is critical for enabling them to act appropriately.

You must support your agents to meet their responsibilities as agreed in your contract with them by making sure they understand the expectations of your education organisation and your obligations under the Code.

Regular checks of your processes and systems should assure you that your agents have up to date, accurate information as agreed in your contract with them.

**Consider:**

- developing an agent handbook that includes expectations for both the agent and the signatory
- sending regular newsletters to keep agents informed of any changes, such as changes to your programmes or to government policy
- visiting your agents to share information and get their feedback
- requesting that your agents visit your organisation, so they know what their international students can expect
- offering regular training to upskill agents so they can provide accurate, useful information to students and where relevant, parents and legal guardians
- referring agents to Education New Zealand's new online tool for agents, [AgentLab](#).



For more information and advice on supporting your agents, see the [Code Toolbox, outcome 2](#).

Additional information on agents' legal obligations

Licensed Immigration Advisers

Under the Immigration Advisers Licensing Act 2007 (the IALA), any person providing New Zealand immigration advice anywhere in the world must be licensed by the Immigration Advisers Authority, unless they are exempt.

There is a narrow exemption for offshore student advisers providing immigration advice in relation to student visas only. This exemption does not apply in New Zealand and does not allow an offshore adviser to provide advice to applicants, or secondary or related applicants, on any other visa type, including work, visitor or guardian visas. If an offshore adviser wishes to provide advice on both student and other visa types, they must apply for a license.

Immigration New Zealand is required by the IALA to refuse to process applications for visas that have been made by unlicensed advisers.

If students or signatories know or suspect an agent is providing immigration advice outside the scope of the exemption, the matter can be referred to the Immigration Advisers Authority.

Full details of the licensing regime are available from the Immigration Advisers Authority's website at www.iaa.govt.nz.

London Statement of Principles

New Zealand is a signatory to the London Statement of Principles. These principles promote best practice among education agents and consultant professions supporting international students.

They require agents and consultants to:

- practice responsible business ethics
- provide current, accurate and honest information in an ethical manner
- develop transparent business relationships with students and signatories through the use of written agreements
- protect the interests of minors
- provide current and up-to-date information that enables international students to make informed choices when selecting which agent or consultant to employ
- act professionally
- work with New Zealand signatories to raise ethical standards and best practice.

Agents are required to abide by these ethical principles at all times. They provide a useful framework to support signatories in monitoring and managing the conduct of partner agents.



The **Code Toolbox, outcome 2** provides a useful overview of agents' legal obligations with additional links for your reference.