

Submission in Response to the Inquiry into the Regulation of Migration Agents in Australia

Introduction

The Chinese Australian Services Society Limited (commonly known as “CASS” in the community) welcomes the opportunity to provide a submission in response to the inquiry into the regulation of migration agents in Australia to the Joint Standing Committee on Migration. As a longstanding community organisation, CASS has been dedicated to assisting disadvantaged people from local communities and advocating on their behalf. Our submission is a reflection of the views and concerns that we received from our service users and people in our community, as well as observation and conclusions we made while delivering services to our clients, who are significantly affected by Australia’s welfare measures.

About Our Organisation

The CASS Group provides a comprehensive range of social and welfare services. It is widely known and promoted in the community with its brand name "CASS". It consists of a group of organisations, all of which are charities registered as companies limited by guarantee, including principally its parent entity, the Chinese Australian Services Society Ltd (founded in 1981), and the subsidiary, CASS Care Ltd (established in 2002) which is also an endorsed public benevolent institution by the Australian Taxation Office. Its services cover a 63-bed Residential Aged Care Facility in Campsie, Home Care Packages for over 150 frail seniors, Commonwealth Home Support Program for over 500 frail seniors, Community Visitors Scheme, Disability Services, Settlement and Health Services, and Children’s Services. At present, more than 2,400 families access CASS services and activities weekly.

Our response to the Inquiry into the current regulation of migration agents in Australia

We are glad to see that the Joint Standing Committee on Migration is reviewing the current regulation of migration agents in Australia. We believe some changes need to be considered to correct negative news on migration agents and sometimes media reports on frauds and scams committed where the Office of the Migration Agent Registration Authority (OMARA) has not been able to deal with dishonest migration agents effectively.

In main, we would like to raise the following issues and recommendations:

1. Service fees

Although migration agents are required to provide an agreement for services and fees according to the Code of Conduct for Registered Migration Agents, a restricted schedule on exact service fees are yet to be seen. Clause 5.1 of the Code of Conduct states that “There is no statutory scale of fees. However, a registered migration agent must set and charge a fee that is reasonable in the circumstances of the case.” Such statement is vague and ineffective because there could be cases where agents charge clients unreasonably high fees, sometimes even without any invoice or receipt. It is difficult for clients, who are not familiar with Australian laws and culture, to discern if the price is reasonable for the services provided. Specifically, people with low English proficiency, those who live in Australia for less than 5 years and seniors are susceptible to exploitations. Naturally, they are unfamiliar with their rights as locals here.

Exploitations like these will result in financial hardship as well as emotional stress which should not be tolerated. Thus, a legislated fee schedule is recommended to be in place outlining acceptable price

range corresponding to different kinds of migration assistance. Service fees across agents would then become more consistent, transparent and fair.

2. Regulating and supervising inappropriateness of migration agents

Another related issue about service fees is the lack of transparency on how money is handled and provision of service outside the scope of migration. According to clause 6.1 of the Code of Conduct, agents should keep record for possible inspections by authorities in the future, and clause 7.2 requiring agents not charging clients until services are performed completely. However, there are hearsay cases that clients are asked to make full payment before services are performed completely. There are also instances that receipts are not issued to clients. Hence, there should be more regulations incorporated within the ethics of migration agents, e.g. the process of handling money and charges to deal with payments made before completion of services — one way is to strengthen the reporting system, which would be elaborated in our following point.

3. Strengthen supervision and the report system on unregistered agents

The Migration Act clearly prohibits unregistered agents from charging fees on clients. However, there has been a phenomenon in the industry that leads to the difficulty in reporting unregistered agents: where they work under the name of registered agents to provide services and thus charge clients' fees. To overcome this problem, we suggest that each migration agent must display their license and qualifications with photo identification to prevent fraud. Registered agents should also be penalised for allowing or delegating unregistered persons to work on their behalf.

In addition, although anyone can lodge complaints against an unregistered agent online, people who need the services are usually migrants from non-English speaking backgrounds. It takes people with very high level of English proficiency and familiar with Australian laws to do this, not to mention the possible adverse impact on the complainant bearing in mind migrants often have limited social network as compared to local Australians. It is very difficult for a migrant to properly make a 'complaint' or 'report'. Thus, OMARA should take a very proactive approach to promote its role and information to culturally and linguistically diverse (CALD) communities (who are the main clientele of migration agents) and disseminate information in community languages.

Conclusion

We welcome the opportunity to provide feedback to the inquiry into the regulation of migration agents in Australia. We would appreciate if the Committee takes into account the viewpoints and concerns raised in this submission. We are happy to have a further discussion to elaborate these viewpoints and concerns. We consent to our submission made public.

Anthony Pang
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CASS Group
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