

# International Student Factsheet

## Problems with education agents



*This factsheet provides an overview of your rights when you choose to use an education agent in Australia.*

### 1. Introduction

Finding the right education provider can often be a difficult process. You might choose to engage an education agent to assist you with finding an appropriate education provider.

Education agents are not allowed to the following:

- Provide migration advice or assistance unless they are a registered migration agent
- Make representations or statements about your likelihood of obtaining a permanent visa or migration outcome when you graduate from your chosen course of study
- Provide false or misleading information about the nature or features of a course of study
- Suggest to students that they can easily transfer to another course where the student has not completed six months of their principal course, or
- Advertise or represent himself or herself as an official agent of an education provider if s/he does not have a written agreement with the relevant education provider

### 2. Resolving a dispute with an education agent in Australia

Australia has consumer protection laws contained in the 'Australian Consumer Law' that protects students when they engage with education agents based in Australia.

To find out more details about the Australian Consumer Law, see the ACCC website:

<http://www.consumerlaw.gov.au/>

An Australian based education agent must comply with the Australian Consumer Law. If you think your agent has breached a consumer protection, you may complain to your local state or territory consumer protection agency:

<https://www.accc.gov.au/contact-us/other-helpful-agencies/state-territory-consumer-protection-agencies>

Where an education agent has breached a consumer protection, students may be entitled to a full or partial refund of fees paid.

If your education agent is also a registered migration agent or should be registered, you can lodge a complaint against them to the Office of Migration Agents Registration Authority (OMARA). Details about lodging a complaint with OMARA can be found on their website:

<https://www.mara.gov.au/using-an-agent/resolving-disputes-with-your-agent/>

### What if my education agent is based overseas?

If your education agent is based overseas and does not have an Australian office, you may have limited options to resolve a dispute in Australia.

Australian consumer protections and laws generally only apply to businesses or individuals based in Australia.

You may need to consult your country's embassy or consulate, or a local lawyer in your country for legal advice about a dispute with an overseas based

education agent.

If you engaged the services of an education agent who formally represents an education provider, you may have the option to lodge a complaint against the education provider directly.

### **3. Obligations on education providers who use education agents to recruit students**

If an education provider formally engages an education agent to represent it, the provider must enter into a written agreement with the education agent and comply with Standard 4 of the National Code.

Standard 4 of the National Code\* provides that an education provider must:

- Have processes for monitoring the activities of the education agent
- Not accept students from an education agent who it reasonably suspects is engaged in dishonest practices
- Not accept students from an education agent who enrolls students who intend to not comply with conditions of their student visa
- Not accept students from an education agent who provides migration advice when not registered to do so
- Not accept students from an education agent who deliberately attempts to recruit a student from another education provider prior to that student completing the first six months of their principal course
- Take immediate corrective or preventative action upon become aware that an education agent has been negligent, careless, incompetent or engaged in false, misleading or unethical advertising or recruitment practices

If an education provider has failed to comply with Standard 4 of the National Code and you have suffered a loss as a result of the actions of one of the education provider's agents, you may lodge a formal complaint with the education provider.

For more details about making a complaint about provider or appealing a decision made by your provider, please refer to the RLC factsheet on 'Making a complaint about your education provider'.

Alternatively, you may consider lodging a consumer complaint against the education provider for the actions of its authorised agent.

### **4. Tips for resolving disputes involving an education agent**

- Before you seek assistance from an education agent to apply for a student visa, make sure your education agent is registered as a migration agent
- You should keep a copy of all your correspondence with your education agent and make sure any representations made to you by the education agent are put in writing
- When selecting a course or education provider, carefully consider options provided to you by the education agent. It may be difficult to transfer between courses and providers at a later date, particularly for students who have not yet completed six months of their principal course. Please check RLC's factsheet on 'Transferring to another provider' for more details on transferring courses

*Produced by the Redfern Legal Centre.*

*This factsheet is not a substitute for legal advice. If you have a problem with an education provider, please seek legal advice from your local community legal centre or other legal advisors.*

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\* *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007 (Cth)*. ESOS framework refers to the National Code and the *Education Services for Overseas Students Act 2000 (Cth)*.