

Are Students Protected?
An In-depth Look Into
Overseas Education Advisory Services

Executive Summary

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Executive Summary

Overview

Hong Kong as a world city is interacting and exchanging with international markets on many fronts, one of which is the provision of education services. Each year, many Hong Kong students receive education from overseas, and this participation trend will likely be on the rise in the coming years.

The benefits of a higher education, particularly one from a highly regarded overseas education institution, is typically viewed as a valuable investment in one's career development, justified by the potential financial and personal rewards that will follow. Although education is viewed as a private good, in that most of the benefits of education accrue directly to those who are being educated, the social returns and benefits of having an educated citizenry mean that education can also be viewed as a public good. The benefits to Hong Kong in having a large number of citizens who have successfully attained quality education from either local or overseas education institutions is critical for its continued success.

Students who consider pursuing higher education abroad, often funded by their parents, are making decisions involving huge investments, both in terms of time and capital. It is essential therefore that proper information and advice should be available to them, especially if they do not have any prior experience in this area.

In order to attract students, many overseas education institutions partner with local Hong Kong consultants or agencies and organise exhibitions and "study abroad" seminars to aggressively market their programmes. On occasions, financial incentives are offered by these institutions through referral fees for successful recruitment of students to their programmes.

When faced with aggressive marketing tactics from overseas education institutions, it is even more important that these students and their families not only to have proper access to accurate information on overseas education, but also be given guidance, so that rational and informed choices can be made.

With that objective in mind, the Consumer Council (the Council) undertook this study that focus on overseas education advisory services. Various research methods were employed to gather relevant information including:

- Consumer surveys conducted on students in local secondary schools.
- Trade survey on service providers to gather information on the scope of their service, pricing of their services, and their service terms and conditions.
- Interviews with key stakeholders to solicit views on the local regulatory framework and its impact on the industry; the current service providers' sales practices; and to identify areas for improvement in industry governance.
- Mystery shopping visits to provide insight into the operation of service providers, their fee structures and sales practices.

- Focus group meetings to collect views and information from parents and students on the trade practices encountered, the level of understanding of the information presented by service providers, the range of options in selecting service providers' services, and experience with complaint redress mechanisms, if any.

In summary, there were fundamental differences in findings between the Council's surveys, the focus group discussions and the mystery shopping visits. This is accounted for by the fact that the research was carried out at different points in the students' quest for information on overseas education, together with the fact that the findings could also simply be a reflection of the discrepancy between promises and reality, and expectation and experience. Such discrepancies have to be addressed by strengthening the quality and professionalism of the provision of overseas education advisory services in Hong Kong, so that students can be better protected. The results of the Council's work and its subsequent recommendations are highlighted as follows.

Demand and Supply of Post-Secondary Education

The Demand for overseas education

No matter what types of examination students will take to qualify for post-secondary education, Hong Kong is privileged to have a range of high quality choices to meet local demand in post-secondary education. Moreover, in the coming five years, Hong Kong will likely have an over-supply of places for degree programmes.

Despite ample supply, it is anticipated that there will be a high number of Hong Kong students who will continue to seek overseas education opportunities. There are a number of reasons why they may choose to do so. The results of Census and Statistics Department's 2011 Thematic Household Survey and the findings of the Council's consumer survey carried out in 2017 show that those who intended to study overseas came from households at the upper end of the income scale. The most commonly cited reasons for choosing to study outside Hong Kong were to improve English proficiency and to learn to be independent. Other reasons included: being dissatisfied with the local education system; wanting to achieve a wider academic exposure; a better learning atmosphere outside Hong Kong; and studying outside Hong Kong was regarded as providing better job prospects.

The most popular destinations for studying outside Hong Kong are the United Kingdom (U.K.) followed by Australia, and then the United State of America (U.S.A.), Canada and other markets like the Mainland, New Zealand and Taiwan.

The Market for Overseas Education Advisory Services

Types and nature of services

The supply of overseas education advisory services is a function of the demand for a customised service on overseas education options. Despite advances in technology to search for factual information on overseas education institutions, there is still strong demand for these personalised advisory services. The reason for this is diverse, ranging from the parent or student not having the necessary experience, to the time-poor parent willing to outsource his/her guidance to this service and the fact that some of the practices

of overseas education institutions would only be known through consultants. Some students might also need help to meet the entrance requirements of a particular course in which they are interested.

Agencies are typically remunerated through commissions paid by overseas education institutions, and not by charging a direct service fee to parents/students seeking information and advice. This by its nature raises the concern of lack of impartiality in the service provided, given the advice could be driven by profitability. For example, more commercial rewards offered by one overseas education institution compared to another could influence the advice given, rather than serving the best interests of and/or meeting the needs of the particular student.

However, if a service provider does not represent an overseas education institution and is independent, and compensation is through the payment of charges to the student/parent for advisory and consultancy services, the student/parent is the client and the parties' interests would, as a result, be much more aligned.

Searching for information on overseas education

A range of questions were asked through the Council's consumer surveys and focus groups meetings on how students sought information. In general, respondents felt that overseas education institutions provided the most accurate information, with local overseas education advisory service providers coming next; followed by the local school they were attending. However, in terms of sufficiency of information, overseas education advisory service providers ranked first. The line between an agent for an overseas education institution and an overseas education consultant providing general and specific advice could sometimes be blurred or misunderstood.

It is important that students and parents are aware of the relationship between the education consultants/agents and the overseas education institution. This relationship is not often advertised and this information is usually difficult for the student or parents to ascertain. Nevertheless the correlation between possible bias advice and this relationship is strong.

When it came to charges or fees, most respondents stated the advice they received was free-of-charge, except in some cases where there might be an amount for administration fees for supplementary services. It was generally understood that if rewards were paid by overseas education institutions to service providers, either consultants or agents, the service would tend to benefit the institutions. The extent of rewards paid was generally not made known to the students or their parents. As a result, there were concerns raised in relation to the lack of impartiality of the advice and the veracity of information provided.

On occasions, the findings show that even the relationship of the education advisory service providers and some local schools could possibly affect the impartiality of advice given as the service provider would arrange study seminars or interview sessions and provide overseas study information to the career masters of these local schools.

Agent or consultant

Findings from the Council's trade survey reveal that most service providers in Hong Kong marketed themselves as consultants, when in fact many acted in the capacity of an agent.

Many agents organise or participate in expos or seminars for potential consumers to attend, usually with partner overseas education institutions. Some consultants indicated that the commission charged for placing a student in an overseas education institution would usually be 10%-15% of the tuition fee for the first academic year. Findings from an overseas study show that the market for this service is indeed considerable.

As mentioned earlier, while this relationship/fee structure would raise questions of bias, the response from the trade was that in order to keep a good reputation in the market, they needed to provide a good matching service to satisfy both the institutions they work for and the students.

Some service providers were found to accept new clients through referral and charged consultation fees ranging from HK\$2,000 to HK\$180,000 for the whole engagement ending with enrolment. Consultancy fees could also involve a service package consisting of a range of services, including coaching. These types of service providers are not the main players in the market.

For the purpose of the Council's study, the term "consultant" is generally used to describe any entity that provides information to a student/parent who is seeking information on what options are available for post-secondary overseas education, unless it has been clearly indicated to the student/parent that the service provider for advising on overseas education is an "agent" of an institution.

Market oversight

The Hong Kong Government currently provides guidelines on the types of marketing materials which can be made available to guide students and parents when making choices in the local education market. However, at present there is no specific regulation or Government agency to govern the provision of overseas education advisory services in Hong Kong. Therefore, consumers would typically find it more difficult to evaluate the quality of information and materials provided by various service providers. While there are currently many league tables ranking different aspects of a higher education institution in the global market, and the information being provided by overseas education institutions is becoming more sophisticated and available, many consumers will still need information relating to entry requirements and career prospects after taking the various courses. The need for objective information from overseas education advisory service providers, given the high costs of undertaking overseas education, is therefore critical.

Consumer redress

Without a formal agreement in place between an education advisory service provider and a student/parent and the lack of a proper redress system in place in the event of a dispute, consumers are left in a vulnerable position when seeking to enforce their perceived rights as consumers, compared to their rights in other sectors of the economy. The results of the Council's trade survey reveals that there was no formal industry redress mechanism in place. The main reason given was that there was no formal agreement signed for the service provided between a consultant/agent and consumer. When asked what they would do if a student complained that the content of a programme or the supplementary service fell

below expectations, nearly half the respondents stated that they would offer assistance but only 4 out of the 29 companies that responded mentioned the possibility of some form of refund.

Business Practices of Overseas Education Consultants

Mystery shopping

The Council conducted field visits of selected consultancy offices by way of “mystery shopping” exercise with different study scenarios designed to gauge different responses to varying types of schools attended and circumstances that typical students/parents would face. While the visits elicited helpful information ranging from the provision of brochures, application forms, and information sheets, there were a number of observations made from the visits which raised issues of potential concern as listed below.

Pricing of services

One of the main observations from the exercise was that regardless of whether they were consultants or agents, service providers would not readily disclose pricing information and that most provided what they termed “free” services. There was a tendency on the part of consultants not to transparently disclose the basis of their compensation until they were directly asked for that information.

Transparent disclosure of the relationship with overseas education institutions

Notwithstanding the claims made by consultants in the trade survey, it was clear that the service providers would not transparently disclose the relationship they had with the recommended overseas education institutions. As mentioned, this relationship has a possible bearing on the impartiality of the advice given, for example, on some occasions, it was apparent that the commercial motivation arising out of the basis of compensation induced some education consultants to become biased in favour of their partner institutions and overlook or diminish a student/parent’s preference, which contradicted their own claims that they would provide a good matching service to the student in order to maintain a good reputation.

Personal information

In addition, personal one-on-one consultations were conditional upon the provision of certain personal information. It was claimed that this information was necessary to ensure that tailor-made advisory services would be given. In 33 of the 39 visits to offices, mystery shoppers were required to provide personal information prior to the visit or during the visit. Information requested included name, telephone number, address, email address, student public examination results, academic reports, HKID card/passport number, mobile app contacts such as WhatsApp/WeChat, year of study and study aspiration.

Four out of 39 even asked for financial statements. The claimed reason for the request was that the particular education institution required proof of means from students that they could afford the course. Despite the fact that some of the information required was necessary for the provision of the advisory service; information like HKID, passport details and home address could be perceived as excessive at the early stage of the consultation.

Other dubious trade practices

During one visit, in addition to advising on overseas education options, the consultant advised the parents that applying for the destination country's investment immigration programme would be a good option. The consultant claimed that it had a very good scheme for investment immigrants, and asked the mystery shopper to invest US\$500,000 into the scheme.

There were a number of other practices that raised questions as to whether the transaction between service provider and consumer was transparent, and in the consumers' best interests.

Legal position

The legal position of consumers in some of the scenarios encountered was in some doubt; particularly where the service was being provided free-of-charge. However, where students/parents were legally considered consumers of services of consultants, there was an arguable case that aggrieved consumers could look to the Trade Descriptions Ordinance (Cap. 362) (TDO) which prohibits common unfair trade practices or commence civil action for damages suffered.

Accordingly, while in some mystery shopping scenarios there might have been a course of action available to aggrieved parties when things go wrong, litigation is risky, and it takes time, effort and involves legal costs which the students/parents may not be able to afford or are willing to pay.

Leaving aside the extent to which threat of legal action acts as a constraint to business conduct, as matters currently stand, the quality of overseas education consultancy services in the sector is highly subject to the integrity and the professionalism of the individual consultant/agent concerned. Given the commercial reality borne out of fierce competition and the basis of remuneration of most of these consultants, reliance on these two values alone to afford protection to consumers is considered far from adequate. Where industry-wide problems have arisen in other sectors of Hong Kong, typically there has been an industry-wide initiative through the development of industry codes of conduct and consumer redress schemes. An industry response in this sector, along these lines, would therefore be welcome.

Consumer experiences

While its mystery shopping exercise elicited valuable information, the Council found it necessary to obtain information directly from consumers who had previously used such services. Accordingly, it set up focus group meetings with different groups of consumers to collect information on their actual experiences and asked them to evaluate the overseas education advisory services provided to them.

The experiences of these consumers generally equated with the experiences gained from the mystery shopping exercises. In particular, participants confirmed that the consultants who provided the so called "free" advisory services marketed the products, in fact could be a bias which was in favour of the partner institutions which granted the consultants a reward.

Similar practices of aggressive selling, bundled selling and poor quality services were also revealed. Various examples also indicated that some service providers had insufficient professional knowledge on matters such as the ranking of the overseas education institution, transportation facilities, and accommodation arrangements. One incident related to the safety of the student hostel and the neighbourhood in which the student was situated, and this information was not disclosed by the consultant to the student/parent beforehand. There were also indications of poor follow-up service. Students expected that they could rely on the consultants to act as a bridge in communication between them and the overseas education institutions during the period after offers were made and before arrival at the institution if problems arose. This was not the case from users' experience.

In any event, students felt that even if they were able to obtain some redress after receipt of poor advice, monetary compensation could not make up for any loss as the damage had already been done.

Safeguards for consumers

Given the manner in which the sector generally operates, there may be no contractual obligation on the part of consultants in their dealings with student/parents that would form a basis for legal redress in case of dispute or dissatisfaction with the services rendered. Seeking redress through other ways and means e.g. under the TDO or under an action in tort is time consuming, can be costly and there is no guaranteed success. The absence of safeguards to protect what are essentially "consumer interests", in an environment of asymmetric levels of information, with serious ramifications in terms of financial loss and emotional distress, raises concerns that should not be ignored.

The Council's research shows that other jurisdictions use different mixes of legislation, codes of conduct, official registration systems and training systems to regulate their markets for the provision of overseas education advice by consultants.

For example, Australia, Canada and the U.S.A. are markets which have legislation to regulate the behaviour of education institutions, with support from a strong national code of conduct to ensure that there is proper information disclosure to potential students. In New Zealand, while there is no specific legislation governing education agencies, the government has developed the Education (Pastoral Care of International Students) Code of Practice in 2016 which specifies required outcomes that education service providers and their agents need to deliver to their international students. In the Mainland, a self-regulatory industry white list, a guide to students who wish to study abroad, and official contract templates, have been published for consumers' reference in 2017.

There is also no specific legislation in the U.K.. However, the British Council has issued a "Guide to good practice for education agents" which encompasses all aspects of agents' activities and is a standard of conduct setting out best practice for both ethical behaviour and standards of professionalism for agents. In addition, the U.K. Council for International Student Affairs has promulgated a Code of Ethics for international student advisers and a certificate was developed in line with the seven principles of the London Statement, with emphases on ethical and professional behaviour. The London Statement has since

developed into a Statement of Principles for the Ethical Recruitment of International Students by Education Agents and Consultants and was agreed to by Australia, Ireland, New Zealand and the U.K..

The Council's research further indicates that there are a number of comparable jurisdictions with significant safeguards to mitigate the risks of poor advice and bias; and which tackle the issue of lack of transparency in the provision of education advisory services in their respective markets. In this regard, Hong Kong is lagging far behind. The Council considers that some effort can be made to ensure that measures are put in place whereby Hong Kong consumers can enjoy a greater level of confidence in this sector than is currently the case.

The Council's research on overseas jurisdictions shows that there are a number of measures which can be used. Importantly, the trade itself has to learn from other jurisdictions and adopt a more rigorous industry code and put in place quality assurance mechanism to strengthen the professionalism of the service providers. The Council together with other stakeholders, can play a role in educating consumers, through the dissemination of credible information, so that they have a better understanding on how the industry operates and what they should be aware of when engaging such services. The Government also has a facilitation role to play in ensuring that there is a suitable environment in which the above measures can be introduced.

Recommendations

The Council's approach to making these recommendations is one of pragmatism, with considerations made to the time and cost required from society and the overall effectiveness of the recommendations in bringing results. In referencing overseas practices to the situation in Hong Kong, the Council proposes to strengthen the current self-regulatory regime, and to implement a series of initiatives that can be taken by the various stakeholders in the sector.

Recommendations to the industry

While the Hong Kong International Education Consultants' Association (HKICEA) has a code of conduct (the Code) for its members to follow, the Code could be strengthened to cover the following areas.

Ethical standards and good industry practices – The Council encourages the HKIECA to review its Code regularly to ensure that its guidelines follow the standards and momentum of international markets.

Guidelines to cover relevant regulations for consumer protection – The Council recommends that the Code be expanded to include specific guidelines on important regulations on the protection of privacy, what constitutes unfair trade practices and the prohibition of misleading representations to ensure that industry practitioners comply with the corresponding spirit and legal requirements.

Disclosure of representation and the receipt of rewards for making referrals - To assist consumers to properly assess the impartiality of the overseas education advisers before deciding who to engage, service providers should be obliged to disclose or display the

existence of any commissions or business incentives from overseas education institutions. A price list should be properly displayed and made available to consumers on charges related to the provision of certain services.

Qualifications of consultants – Specific guidelines should be set in the Code for industry practitioners on the types of qualifications which they can present and the form of display to ensure that consumers have a better understanding of who they are dealing with, and to provide a basis on which to challenge any misrepresentations that might be made. The HKIECA should also offer consumers an easily accessible avenue to validate the legitimacy of the consultant's claims.

Professional training requirements – The Council's study shows that there is a need to strengthen the professional knowledge of some of overseas education advisory service providers through introducing a quality assurance mechanism for member consultants, in particular, with regard to a standard number of training hours they have to attend to learn its Code, to ensure that they follow the professional standards required in the industry. Furthermore, to serve as a constant reminder of acceptable conduct, regular training on relevant legislation prohibiting behaviour such as misleading representations should be organised.

Advice on safety of the proposed destination – In the course of dealing with partner education institutions, consultants should seek facts and figures from the institutions on student safety on and near the campuses, and in turn incorporate such information in the advice given to consumers at the early stage of engagement to enable them to make an informed choice on destination.

Promoting the use of service contracts – The Council is of the view that even if free overseas education advisory services are provided, a service agreement with explicit terms and conditions would greatly assist transparency and improve the professionalism of the sector. The Council recommends that the sector should advocate the use of service contracts to ensure that both consumers and consultants understand their terms of engagement clearly, fairly and in a timely manner.

A list of consultants for public reference – To facilitate the searching by consumers for services of overseas education advisers and to enable them to validate the service providers' professional identities from a credible source, the HKIECA is recommended to release a list of service providers based on its verification of individual membership profiles.

A redress mechanism for dispute resolution – The Council also recommends that, through the HKIECA, a redress mechanism with an independent complaint review committee should be created to handle unresolved complaints by aggrieved students and parents against its members.

Recommendations to the Government

The Government can play a critical role in facilitating the industry to improve its Code and equip its members with the right level of knowledge and expertise to deliver quality services, to ensure that Hong Kong's business practices meet the world's best practice.

Decision-making tools – It is important that students have some basic understanding of what they are interested in before making decisions on which career/education path to follow. The Council recommends that the Government considers increasing the subsidies provided through the existing subsidy schemes, in particular, through the Home Affairs Bureau, namely the Funding Scheme for Youth Life Planning Activities and the Career and Life Planning Grant administered by the Education Bureau. Increased funding in this area could serve to strengthen the ability and resources of career masters in local secondary schools to more effectively match students' aspirations, capabilities and personalities with a suitable choice of higher education.

Provide a signpost for consumers – In order to raise the knowledge level of consumers (i.e., student/parents) so that they are aware of what they should do when engaging the services of overseas education advisers, consumer information guides should be produced, containing vital tips and links to key professional bodies on qualification conversion and recognition in Hong Kong. The Council recommends the Government takes the lead in this regard, with support from professional bodies, the industry, as well as the Council.

Funding support to the industry – The Council considers that relying solely on the industry or the relevant associations to raise their own funds to pursue the proposed measures would most likely result in slow progress. Some form of support for the industry from the Government, no matter whether it is in the form of one-off seed capital or facilitation in funding applications, would help to accelerate the development.

Develop guidelines on promotional materials – The Council urges the Government to seek cooperation of the industry to develop advertising guidelines in order to enhance protection to students seeking overseas education advice.

Summary

An educated citizenry is a valuable resource in an economy. The future of our society largely depends on the quality of Hong Kong people through obtaining reputable and quality higher education and qualifications.

With an increasing number of local secondary school graduates opting for overseas education, improper choices and decisions made in relation to their higher education could in the long run, affect the overall human capital development of Hong Kong.

Accordingly, based on the Council's research findings in the overseas education advisory services in Hong Kong, it is believed that the Government, together with the industry, should take an active role in fostering a better and more transparent Hong Kong marketplace for the provision of overseas education advisory services and for the betterment of our next generation.