

Overseas Students Ombudsman

Annual Report 2014-15

The international education sector is back on a high growth trajectory following a major downturn from 2009 to 2011. The Overseas Students Ombudsman (OSO) has been a part of the sector's recovery, established in April 2011 to provide greater consumer protection to overseas students in the private sector, who previously lacked an independent complaints body to hear their complaints and appeals.

We can investigate appeals from students who have a dispute with their private registered education provider. If the provider has not complied with the relevant legislative requirements or its policies, we can recommend the provider to change its decision.

Providers are required to implement our recommendations, which ensures that overseas students have been treated fairly, even if the outcome is not in the student's favour.

We have been operating for four years. In that time we have received more than 2,000 complaints and external appeals from intending, current and former overseas students originating from over 68 countries – more than a third of the 975 private registered providers in our jurisdiction¹.

Eighty five percent of registered education providers are private and within our jurisdiction. We cover 41.9% of overseas student enrolments across all education sectors from schools to higher education.

Overseas students studying with private providers in our jurisdiction are in the Vocational Education and Training (VET) sector (85.6%) and English Language Intensive Courses for Overseas Students (ELICOS) sector (78.5%).²

Complaint trends and themes

We have experienced a significant increase in complaints and appeals. This may be due to the increasing number of international students studying in Australia³ and greater awareness among international students of our role and services.

It may also reflect the growing number of private providers who refer overseas students to our office as an external complaints and appeals body if the student appeals their decision. For all of these reasons, we expect the increase in complaints and appeals to continue into the future.

¹ According to PRISMS data as at 1 October 2014.

² According to PRISMS data as at 1 March 2015.

³ In 2014 the number of international students in Australia increased by more than 10 per cent on 2013 levels. www.pc.gov.au/research/completed/international-education

In 2014–15 we received 689 complaints about private-registered education providers in connection with overseas students. This reflects an increase of 33% from last financial year and follows on from a 14% increase in 2013–14.

We started 238 complaint investigations and completed 239 investigations, compared to 233 investigations started and 244 completed last year. Some investigations commenced in the 2013–14 financial year.

The top four types of complaints the Overseas Students Ombudsman received in 2014–15 reflect the same top four complaint types received each year since we began:

- refunds and fees disputes (237 complaints)
- providers' decisions to refuse a student transfer to another provider under Standard 7 of the National Code (179 complaints/external appeals)
- providers' decisions to report students to the Department of Immigration and Border Protection (DIBP) for failing to meet course progress requirements under Standard 10 (63 complaints/external appeals)
- providers' decisions to report students to DIBP for failing to meet attendance requirements under Standard 11 (61 complaints/external appeals).

Other complaint types include:

- cancellation of enrolment (non-commencement, non-payment of fees, misbehaviour)
- deferrals and temporary suspension of studies
- education agents
- admissions refusals, grades, completion certificates and academic transcripts
- providers' internal complaints and appeals processes.

Some complaints can be investigated and resolved without contacting the education provider to formally investigate. In 2014–15 we closed 441 such complaints, compared to 282 last year, because we:

- formed a view on the basis of the documents provided by the student, or
- referred the student back to their education provider's internal complaints and appeals process, or
- transferred the complaint to another complaint-handling body to deal with the issue more effectively, as provided by s 19ZK of the Act.

Table 1 Number of complaints transferred

In 2014–15 we transferred 81 complaint issues arising from 62 complaints to other complaint-handling bodies (compared to 75 last year) including:

Complaint body	Number of complaints transferred in 2014–15	Number of complaints transferred in 2013–14
Tuition Protection Service (TPS) – complaints about providers’ closures and straightforward student default refunds	33	40
Australian Skills Quality Authority (ASQA)	19	34
Office of the Training Advocate, South Australia – complaints about South Australian providers	10	3
Tertiary Education Quality Standards Agency (TEQSA)	3	0
Australian Human Rights Commission (AHRC) – discrimination complaints	0	2
Victorian Registration and Qualifications Authority (VRQA), the Victorian schools regulator – complaints about the quality of a school or under-18 welfare issues	0	1

Reports to the regulators

The Overseas Students Ombudsman has the power under s 35A of the *Ombudsman Act 1976* to disclose information regarding providers of concern to the national regulators, ASQA and TEQSA.

In 2014–15 we used our power on three occasions to report to ASQA details of complaints where we considered it was in the public interest to advise the national regulator. Last year we reported on five.

On the first two occasions we advised ASQA that we had not formed a view and believed ASQA was better placed to determine if the provider had complied with the legislation applying to Vocational Education and Training (VET) providers.

In the third case we disclosed allegations made in an anonymous complaint to the agencies those allegations related to, including ASQA, the Department of Education and Training, DIBP, the Australian Federal Police and Australia Post.

Once we refer a matter, it is up to the agency to whom we provide the information to decide what regulatory action, if any, it should take. We did not make any disclosures to TEQSA in 2013–14.

Trends and systemic issues

Strategic analysis of our complaints is a key component to identifying systemic issues and trends. The root causes of complaints forms the basis of issues papers that we publish on our website. We

did not conduct any own motion investigations in 2014–15 as we were able to use existing complaints data to publish issues papers on the key systemic issues we identified.

Refund complaints and fee disputes (written agreement complaints)

In 2014 we noted the high number of refund complaints and fee disputes we were receiving and the high incidence of non-compliance we were seeing with education providers' written agreements (which include the provider's refund and fee cancellation policies).

After consulting with the sector, we published in March 2015 our Written Agreement Issues Paper and Provider Checklist to help providers ensure they have a compliant written agreement. This helps students understand what can be relied upon when refund and fee disputes arise.

Transfers between education providers (Standard 7)

In February 2015 we presented at the ESOS Reform workshops on the issues we see with providers refusing to release students to allow a transfer to another provider. We also made a submission to the DIBP review of the Streamlined Visa Processing (SVP) arrangements, noting that our office has experienced an increase in provider transfer appeals from students of SVP providers.

Overseas Student Health Cover

In April 2015 we published a summary of the outcomes of the recommendations we made to the Department of Education and Training (DET), DIBP and the Department of Health (DH) in our August 2014 Overseas Student Health Cover (OSHC) issues paper. In response, DIBP produced a fact sheet for education providers, in consultation with DET and DH, outlining providers' responsibilities in relation to arranging OSHC for overseas students, including the importance of ensuring that OSHC begins when the student enters Australia.

DIBP also advised it revised the information it provides to international students when it grants a student visa, to give students clear guidance on the health insurance requirements. The department also published an online blog⁴ directed at prospective and current student visa holders titled 'Did you know you need to have health insurance to study in Australia?' DIBP advised that through cross-promotion on its social media platforms and the Study in Australia (Austrade) website⁵, the blog post achieved considerable international reach.

We have discussed the OSHC issues we identified with the Council for International Students Australia (CISA). We have also invited the Private Health Insurance Ombudsman to participate in our complaint-handlers panel at the 2015 CISA conference, to raise awareness among overseas students of their right to receive their OSHC membership card from their provider (where the provider arranged the OSHC cover) and to complain to the relevant Ombudsman if they experience any problems.

Course progress and attendance monitoring and reporting (Standards 10 and 11)

⁴ Available at www.migrationblog.immi.gov.au

⁵ www.studyinaustralia.gov.au

In May 2015 we published an issues paper on course progress and attendance, outlining the common mistakes we see education providers make in monitoring and reporting on overseas students' course progress and attendance. We also published a fact sheet for overseas students to help them better understand their rights and responsibilities and the OSO's role in investigating external appeals from students about to be reported to DIBP for unsatisfactory course progress or attendance.

We will continue to publish quarterly statistics on our website (www.oso.gov.au) highlighting key issues and trends in complaints from overseas students about private registered providers. In 2015-16 we expect to publish a report looking at the key issues and trends arising from our complaints data over the four years we have been operating.

Stakeholder engagement and best practice overseas student complaint handling

In 2014–15 we published three provider e-newsletters and three student e-newsletters, providing advice and tips on best-practice complaint handling and the key issues we see in our complaints.

We organised a complaint-handlers panel at the CISA national conference in July 2014 and provided training to the new CISA Executive in August 2014. We presented at the IDP Brisbane International Students Expo in August 2014. We also held an information stall at the Australian Federation of International Students (AFIS)/Study Melbourne international student information days in August 2014 and April 2015.

We were invited to join the Study Melbourne Advisory Network, which brings together a range of stakeholders to discuss emerging issues and identify potential collaborative action to improve the international student experience.

We delivered five national training webinars to education providers around Australia through EA and ACPET on refunds, fee disputes and written agreements; best-practice complaints handling; and attendance monitoring and reporting.

We presented at the ACPET, EA and NEAS national conferences and attended the Australian International Education Conference (AIEC). We presented at six education provider workshops in Sydney, Brisbane, Canberra and Adelaide, organised by ACPET, Study NSW, the International Student Advisors Network of Australia (ISANA), the Independent Schools Council Queensland (ISCQ) and the Association of Independent Schools of SA. We also attended the NSW Ombudsman's University Complaint Handlers forum, which includes two private universities in the OSO's jurisdiction.

We delivered three presentations at the DET Education Services for Overseas Students (ESOS) Reform workshops in Canberra in February 2015 on course progress and attendance monitoring; student transfers between providers; and refunds, fee disputes and written agreements. We also participated in the workshop on welfare issues relating to under-18-year-old overseas students.

We also continued to hold regular liaison meetings with ASQA, TEQSA, the TPS, DET and DIBP to discuss issues relating to international education and overseas student complaints.

Preparing for the future

As the international education sector continues to grow, we anticipate a continued increase in complaints and external appeals to the OSO. We have trained additional investigation officers to handle increased numbers of overseas student complaints.

We will continue to address the causes of complaints through a range of means, including providing advice and training to education providers, publishing issues papers on key topics and providing information and tips through our provider and student e-newsletters.

In May 2015 we provided submissions in response to the Australian Government's Draft National Strategy for International Education and the Productivity Commission's study into barriers to services exports.

We note in both submissions that our success in providing complaints and appeals services to intending, current and former overseas students could be extended to additional groups of international students by expanding our jurisdiction.

This could include international students studying on a temporary visa other than a student visa (for example, visitor visa, working holiday maker visa) and students studying with Australian private education providers offshore (transnational education).