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Title: Four years young: the Overseas Students Ombudsman, helping to build Australia's reputation in international education

Abstract: Established in the wake of a perfect storm in Australia's international education sector, the Overseas Students Ombudsman (OSO) is a crucial feature of the Education Services for Overseas Students regulatory framework. The OSO provides an external complaints and appeals body for international students studying at private institutions. By resolving individual problems and identifying systemic issues and trends, the OSO enhances the student experience and Australia's international reputation. Four years on, this presentation will examine what our complaints data reveals about the problems that overseas students experience with their private education providers and consider how best practice complaint handling can help to maintain the calm after the storm.

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The true value of international education lies in creating positive experiences for international students that lead to long term connections and relationships across the globe. The quality of these relationships rests in part on the experiences of overseas students with their education providers from pre-enrolment to post-graduation.

If problems arise, the availability of an independent, impartial complaints and appeals body, such as the Overseas Students Ombudsman, can be critical to resolving problems and restoring student confidence in Australia's international education services.

Many people in this room will remember the headlines from five or six years ago following a series of attacks in Melbourne against Indian international students. The media on the subcontinent reported that Indian students were not safe in Melbourne and the Indian government issued an advisory urging Indian students to be cautious in Australia¹.

¹ ABC News 1 January 2010 <http://www.abc.net.au/news/2010-01-06/melbourne-not-safe-for-students-india-warns/1199568>

This, amidst a series of revelations about poor quality providers, unscrupulous practices and a spate of provider closures, leaving students fearful they would be left out of pocket.²

Along with the high Australian dollar and the tightening of the skilled migration list, the damaging headlines saw a fall in student numbers for three consecutive years³.

Student numbers are on the rise again but it would be wise not to take that growth for granted or forget how important it is to protect students and the reputation of the sector.

In 2009, the government's response to this crisis was prompt and multi-faceted. It involved comprehensive diplomatic engagement, including a Prime Ministerial visit to India and the hosting of a cohort of Indian journalists in Australia to turn the tide of negative publicity.

On the home front, the serious work of improving oversight and protections for international students got underway. The Baird Review became the cornerstone of the Government's response to the crisis and introduced a suite of measures designed to increase protections for international students.

The Baird Review recommended an enhanced Tuition Protection Scheme and the introduction of a statutorily-independent complaints body for international students enrolled with *private* providers (the Overseas Students Ombudsman). This was to ensure international students studying in the private sector had equal access to an independent complaints body, as international students with public providers already had with the relevant State and Territory Ombudsman offices.

As Baird noted:

'The right to complain about unsatisfactory service delivery is now widely accepted as a fundamental human right that should be part of government and business administration systems. Other benefits of an effective complaint system include improved transparency, more rigorous quality assurance and a well-functioning regulatory system'⁴

² Four corners 27 July 2009 <http://www.abc.net.au/4corners/content/2009/s2637255.htm>

³ <https://internationaleducation.gov.au/research/International-Student-Data/Pages/InternationalStudentData2014.aspx>

⁴ Commonwealth Ombudsman Submission to Baird Review

The Commonwealth Ombudsman's Act and jurisdiction was extended and on 9 April 2011 the Overseas Students Ombudsman was born.

Australia now has a strong safety net for overseas students which compares favourably to most other destination countries⁵. International students in all education sectors, with public and private providers, now have access to an independent complaints and appeals body.

The Draft National Strategy for International Education outlines a vision for the future of Australian international education as:

... a transformative force in realising the potential of learners, communities and economies.

The draft strategy notes that maintaining strong consumer protections for international students is a key part of achieving this vision. So, as we move forward, what have we learnt from the past? What do complaints to the Overseas Students Ombudsman over the last four years tell us about international students' experiences with their private education providers and what more needs to be done?

Four years young and what have we done?

The OSO has three main functions:

- investigate individual complaints about the actions or decisions of private CRICOS-registered education providers in connection with intending, current or former overseas students
- work with private registered education providers to promote best-practice handling of overseas students' complaints, and
- report on trends and broader issues that arise from our complaint investigations.

There are approximately 1,000 private providers in our jurisdiction and we have received complaints about nearly a third of them. We received 2,150 complaints and appeals in our first four years of operation. We

⁵ In the UK only students with Higher Education providers have access to the Higher Education Adjudicator. New Zealand has a comparable scheme to Australia through the International Education Appeal Authority.

investigated 879 of these by contacting the provider and resolved 1,271 based on the documents the student provided. We made recommendations for improvements in many cases we investigated.

Our complaint numbers continue to rise as international student numbers increase and as students and providers become more aware of our services. For example, we have experienced a 33% increase in complaints and appeals in 2014-15 following a 14% increase in 2013-14.

What does our complaints data tell us?

When problems occur, as they inevitably do, effective complaints handling can restore student confidence in Australia's international education sector.

When students encounter problems with their education provider, it is best if they raise their concerns with their provider directly, first. The provider should try to resolve any problems promptly at the lowest possible level and advise the student of its internal complaints and appeals process if the student is not satisfied with a decision or action it has taken. The provider should clearly explain the reasons for any decision that is not in the student's favour.

Prompt resolution of complaints by the provider can protect the provider's reputation and restore the student's confidence. However, our outcomes data shows providers are not always identifying mistakes and errors they have made, even after considering the student's complaint through their internal complaints and appeals process.

For example, across our top four complaint issues we found in favour of the student in about 38% of cases because the provider made significant mistakes. We generally don't investigate until the student has been through the provider's internal complaints and appeals process first. This means in 38% of cases the education provider had an opportunity to identify and fix their mistakes but did not do so.

These mistakes, and the failure to identify and address them, affect the student's experience in Australia and the stories they tell their friends and family back home. This means complaints handling is very important to promoting the quality of Australian international education, safeguarding the student experience and protecting Australia's reputation.

Consider the experience of the VET student who applied for a deferral of studies when he had to return to his home country after his father died. The education provider did not process his deferral application and instead cancelled his enrolment after issuing him a Notice of Intention to Report for unsatisfactory attendance.

When the student returned to Australia and tried to lodge an appeal, the provider refused to consider his appeal as it said he was no longer an enrolled student. The student was extremely distressed about his immigration status by the time he contacted the OSO.

We found the provider failed to properly consider the deferral application and should not have proceeded to issue the notice of intention to report for unsatisfactory attendance when it knew the student was absent due to compassionate and compelling circumstances. The provider also breached the National Code by refusing to consider a legitimate appeal from the student.

Compare this to the experience of an English language student who complained that she had been misled by her provider's education agent about the cost of living in Sydney and the ease of finding employment with little English. When we investigated, we found the education provider had been proactive in responding to the complaint and was taking steps to remedy the problem and prevent it from happening again.

The provider held discussions with its education agent, to ensure that students were provided with comprehensive and accurate information in future. The provider even organised information workshops with an employment agency so students could access information about local job opportunities and how to apply.

In this case we were able to reassure the student that the provider was doing everything that could be reasonably expected to fix the problem. The student remained enrolled with the provider and told us that she was happy with its services. In this case the provider used effective complaints handling to restore the student's confidence in its services and achieve a positive outcome.

It is not hard to guess which of these students walked away with a better opinion of Australia's international education services. You can imagine the different stories each student told their friends overseas, some of whom may have been considering studying in Australia themselves.

Both education providers had an opportunity to resolve the problem by dealing with the complaint effectively but only one did. So, our work in promoting best practice complaint handling by education providers continues. It also highlights the need for independent, external complaints handling bodies like the Ombudsman to hear students' problems when they have not been resolved through the provider's internal complaints process.

Restoring student confidence through effective complaints handling

Students appreciate having an independent complaints body that they can contact for help when they have a problem they have not been able to resolve with their education provider. This is true when students get the outcome they want and even when they don't. This is demonstrated by the following emails we've received from students:

Thanks for your reply. I really appreciate what you have done. It would not be possible without your involvement. .. Again thank you for resolving my case.

With due respect I want to say thanks a lot for your nice co-operation in the whole matter even if the decision is not in my favour but I really appreciate that Australian Government has regulatory bodies to monitor overseas students' rights and ... I will still refer [my education provider] for diploma courses to new students.

We provide assurance to international students that they have been treated according to the rules, even when the outcome may not be in their favour. This gives overseas students confidence that they have received fair treatment and that Australia respects the rights of international students as set out in the Education Services for Overseas Students (ESOS) framework.

Where we find that a provider has not met its legislative obligations or followed its policies, we recommend a remedy for the student and improvements to ensure the same problem does not happen again.

What do students complain about?

We know that some students experience problems but do not complain. Other students complain but receive an inadequate response from their education provider.

Our complaints data shows that international students usually complain when the stakes are high and they need a specific outcome, like being able to continue to study or safeguard their student visa.

Our top four complaint issues are consistently about:

1. Refund claims and fee disputes (written agreements)
2. Provider transfer appeals from students who wish to transfer between education providers but have been refused a release letter
3. Unsatisfactory attendance appeals from students who have been advised by their education provider that they intend to report the student to the Department of Immigration and Border Protection (DIBP) for unsatisfactory attendance
4. Unsatisfactory course progress appeals from students who have been advised by their education provider that they intend to report the student to DIBP for unsatisfactory course progress.

We have increasingly found in favour of providers in transfer and course progress cases, which is encouraging as it indicates providers are improving their policies, practices and overall compliance in these areas.

However, it is the reverse for attendance appeals, refund complaints and fee disputes. After initial improvements up to 2013, we have been finding increasingly in favour of the student due to errors made by providers with non-compliant written agreements and mistakes in the attendance monitoring process. We have published issues papers and a provider checklist, to try to help providers improve in these areas.

Addressing systemic issues

One of the problems highlighted in the perfect storm of 2009 was the lack of information the sector had about the type of problems international students were experiencing.

As part of our role, we report on the issues we see through our complaints. We also highlight ways to address and prevent these problems through our:

- quarterly and annual reports
- issues papers and student fact sheets
- submissions to reviews, enquiries and research projects
- education provider and student e-newsletters
- education provider workshops, training webinars and conference presentations
- presentations at key student events.

We are proactive and consult with the industry and government about systemic issues. We published a consultation paper on written agreements last year along with a draft checklist for providers. We incorporated feedback from the sector before publishing a final issues paper and checklist to help providers ensure their written agreement is compliant and able to be relied on in the case of refund complaints and fee disputes.

Sometimes issues cut across different areas of government and the industry, without any one body having responsibility for the problem. For example, our investigation into Overseas Student Health Cover issues involved liaising with the Department of Health, the Department of Education and Training, the Department of Immigration and Border Protection, the Private Health Insurance Ombudsman and the OSHC insurance companies. By bringing the relevant parties together we were able to clarify the issues, highlight the problems we were seeing and make recommendations and suggestions for improvements.

Maintaining the calm after the storm

We can never afford to be complacent and must continue to work together to prevent problems and restore the student experience when things go wrong.

In early 2013, the Overseas Students Ombudsman established an 'overseas student complaint-handlers network', which includes the State and Territory Ombudsman's offices, the South Australian Training Advocate and the Western Australian International Education Conciliator. We meet regularly to discuss common issues and promote consistency amongst complaint handlers. We aim to ensure that

international students with a complaint about their education provider can receive consistent outcomes, regardless of which ombudsman or complaint handler they contact.

In 2014 and 2015 we held a National Overseas Student Complaint Handlers Forum to bring together a wider group of complaint handlers, the key policy departments, the national regulators, the state and territory schools regulators and other student support organisations. We discussed current issues, trends and challenges and chose two to focus on in the coming year:

1. How can we promote greater awareness amongst international students of the different complaint handling bodies and who to contact for different types of problems?
2. How can we help education providers improve their own internal complaints handling?

We will approach these issues by working together with other complaint handlers, the peak bodies for education providers, the Council for International Students Australia and the key government agencies.

Conclusion

A reputation for quality is essential in a competitive global environment and that reputation rests on the experiences of international students. By resolving individual problems and identifying systemic issues and trends, our goal is to enhance the student experience and Australia's reputation as a quality education destination.

Overall, we have observed that while we identify some instances of non-compliance with aspects of the ESOS framework, the majority of providers readily accept our recommendations to rectify problems we have identified. Additionally, our work on systemic issues has been welcomed by the sector.

We look forward to continuing to work with government, providers, students and other complaint handlers to continue to maintain a strong consumer protection framework for overseas students, to enhance the student experience and safeguard the reputation of Australia's international education sector.