

**Overseas Students Ombudsman
Quarterly Report 1 January – 31 March 2016**

Role of the OSO

The Overseas Students Ombudsman (OSO) has three functions:

- investigate complaints about actions taken in connection with overseas students by private registered education providers
- give private registered providers advice and training about best practice complaints handling for overseas student complaints
- report on trends and systemic issues arising from our complaint investigations

This report sets out the OSO’s activities from 1 January – 31 March 2016 in relation to each of these functions.

Key points from this report:

- complaint numbers are up 19% on the January to March quarter last year
- complaints about written agreements, fees and refunds continue to increase
- we investigated and closed 8.5% more complaints this quarter (39%)
- 59 complaint issues were decided in favour of the provider, 18 in favour of the student, and 13 in favour of neither party.

Complaints received about private providers 1 January – 31 March 2016 ¹

Complaints received 199	Closed 129	Closed without investigation	109
		Investigated and closed	20
	Still open 70	Under assessment	14
		Investigation underway	56

¹ Complaints data generated from the Overseas Students Ombudsman’s complaint management system, Resolve on 4 April 2016. Data on number of providers by State/Territory and main course sector provided by the Department of Education from the *Provider Registration and International Student Management System* (PRISMS).

Complaint outcomes²

The 76 complaints that the OSO investigated and closed during the January to March quarter raised 90 separate issues (please note: 20 complaints were received, investigated and closed within the quarter. A further 56 complaints were investigated and closed during the quarter which were received in the previous quarter). Of these 90 issues, 59 were decided in favour of the provider, 18 in favour of the student and 13 were in favour of neither party. Generally where we find in favour of neither party this is because the matter is referred back to the education provider either because the internal complaints and appeals process was not exhausted or new information has come to light that the provider agrees to consider.

The OSO finalised 194 complaints during the January to March 2016 quarter, having investigated 76 of these. We finalised 118 complaints in the quarter without contacting the provider. An investigation involves contacting the education provider to request information to help us consider the complaint. We do not investigate every complaint that we receive.

Where we are able to form a view from the documents the student provides, without contacting the education provider, it is not considered to be an 'investigation'. We are often able to form a view based on the documents, which gives the student a faster decision and saves education providers time by not having to provide documents to us.

We may also close a complaint without investigating because a student has not yet been through the education provider's internal complaints and appeals process. We usually refer students back to their provider's internal complaints and appeals process before we consider investigating.

Complaint issues

The OSO received 199 complaints and external appeals in January to March 2016 concerning 233 issues. This represents a 19% increase from the 161 complaints received in the same period the previous year (January to March 2015) and a 6.5% decrease on the last quarter (213 complaints received in October to December 2015). This shows a continuing trend of increasing complaint numbers overall whilst also reflecting the trend of receiving fewer complaints in the January to March quarter than the October to December quarter.

The top four complaint issues were:³

- Standard 3 – provider refunds, fee disputes, written agreements (72)
- Standard 7 – transfer between registered providers (37)
- Standard 11 – attendance (20)
- Standard 10 – course progress (20)

Standard 3 complaints about provider refund refusals and fee disputes remain our number one complaint issue. In this quarter, standard 3 complaints increased to 36% of all complaints received compared to 28% in the October to December 2015 quarter.

² Please note this analysis refers to all complaints closed in the January to March 2016 quarter, including complaints received prior to the commencement of the quarter.

³ Including Standards 1 – 14 from the *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007*.

Complaint issues compared to previous quarters

1 January – 31 March 2016

Issue type	Jan – Mar 2016	Oct – Dec 2015	Jan – Mar 2015
Standard 3 – provider refund/fee dispute/written agreement ⁴	74	59	62
Standard 7 – transfer between providers	37	26	23
Standard 11 – monitoring attendance	20	37	9
Standard 10 – monitoring course progress	20	16	13
Standard 13 – deferring, suspending or cancelling enrolment	18	14	6
Academic transcript	9	5	3
Grades/assessment	8	15	10
Standard 14 – staff capability, resources, premises	7	14	5
Out of jurisdiction to investigate (OOJ) ⁵	7	5	2
Provider default	5	2	6
Standard 2 – student engagement before enrolment	4	1	2
Graduation completion certificate	4	3	7
Standard 12 – course credit	4	2	5
Overseas Student Health Cover	3	0	2
Standard 8 – provider complaints and appeals process	3	14	11
Standard 4 – education agents	2	5	2
Standard 9 – completion within expected duration	2	1	1
Work placement/experience	2	0	2
Bullying or harassment	1	1	1
Standard 6 – student support services	1	1	0
Standard 1 – marketing information and practices	1	2	3
Employment	1	0	0
Discipline	0	0	1
Standard 5 – younger students	0	2	0
TOTAL	233	228	176

⁴ Of the 74 written agreement complaints received, we received and investigated 14 fee disputes and 55 refund disputes. ⁵ written agreement complaints were 'other'.

⁵ Out of jurisdiction means the provider was in jurisdiction but the student was out of jurisdiction because they were not on or did not previously hold a student visa or the issue complained about was out of jurisdiction e.g. discrimination, employment or privacy issues.

Complaints issues by education sector

Most complaint investigations that we undertook and completed during the quarter related to Higher Education and Vocational Education and Training (VET) and ELICOS courses. For both Higher Education and VET complaints, standard 10 course progress monitoring and standard 11 attendance monitoring were the most common complaint issues. The number of investigations for ELICOS, Non-award and Schools were small with standard 11 attendance monitoring being the top issue for ELICOS and non-award and standard 10, course progress monitoring, being the most common issue for schools.

Complaints investigated and closed by education sector 76 complaints with 90 issues

Sector	Jan – Mar 2016	Oct – Dec 2015	Jan – Mar 2015	Number of providers in OSO jurisdiction by PRISMS 'main course sector' ⁶
ELICOS ⁷	20	11	6	92
Higher Education	24	27	17	71
Non-Award	8	2	0	8
Schools	4	3	3	382
VET	20	15	19	417
TOTAL	76	58	45	970

Issues investigated and closed – ELICOS 20 complaints with 21 issues

Issue	Number of issues
Standard 11 Monitoring attendance	17
Standard 3 Provider refund/fee dispute/written agreement	3
Standard 13 Deferring, suspending or cancelling the student's enrolment	1
Total	21

⁶ Excludes South Australian (SA) providers as, while they are in jurisdiction, we transfer complaint about SA providers to the SA Training Advocate, as recommended by the 2010 Baird Review.

⁷ English Language Intensive Courses for Overseas Students

**Issues investigated and closed – Higher Education
24 complaints with 27 issues**

Issues	Number of issues
Standard 10 Monitoring course progress	7
Standard 11 Monitoring attendance	4
Standard 7 Transfer between providers	1
Standard 3 Provider refund/fee dispute/written agreement	10
Standard 13 Deferring, suspending or cancelling the student's enrolment	3
Standard 8 Provider complaints and appeals processes	9
Grades and assessment	1
Academic transcript	1
Total	28

**Issues investigated and closed – Non-Award
8 complaints with 8 issues**

Issues	Number of issues
Standard 11 Monitoring attendance	7
Standard 3 Provider refund/fee dispute/written agreement	1
Total	8

**Issues investigated and closed – Schools
4 complaints with 4 issues**

Issues	Number of issues
Standard 11 Monitoring attendance	2
Standard 3 Provider refund/fee dispute/written agreement	1
Standard 10 Monitoring course progress	1
Total	4

**Issues investigated and closed – VET
20 complaints with 28 issues**

Issues	Number of issues
Standard 10 Monitoring course progress	4
Standard 11 Monitoring attendance	3
Standard 13 Deferring, suspending or cancelling the student's enrolment	5
Standard 14 Staff capability, resources, premises	3
Standard 3 Provider refund/fee dispute/written agreement	4
Standard 7 Transfer between providers	6
Grades and assessment	1
Standard 8 Provider complaints and appeals processes	2
Total	28

Complaints received by state/territory

State/Territory	Jan – Mar 2016	Oct – Dec 2015	July – Sept 2015	April – June 2015	Number of CRICOS registered providers in OSO jurisdiction ⁸
New South Wales	75	89	90	70	260
Victoria	71	65	76	58	247
Queensland	34	32	35	21	246
Western Australia	13	16	20	18	82
Australian Capital Territory	0	2	0	3	13
South Australia	2	2	3	2	77 ⁹
Northern Territory	0	2	0	1	5
National	4	5	6	0	31
Tasmania	0	0	0	0	9
Total	199	213	230	173	970

Complaints transferred by the OSO to another authority

Under s 19ZK of the *Ombudsman Act 1976*, the OSO must transfer a complaint to another statutory complaint handler if it could be more effectively dealt with by that complaint handler.

The OSO transfers complaints about the quality of the education provider's teaching, staff or facilities to an appropriate regulator such as the Australian Skills Quality Authority (ASQA). The OSO transfers complaints about provider defaults and provider refunds in visa refusal cases to the Tuition Protection Service (TPS).

The increase in transfers to the TPS is perhaps a reflection of the increase in refund complaints we have received and the decrease in transfers to ASQA reflects a reduction in the number of complaints about quality of premises, staff and resources.

⁸ From PRISMS data 7 April 2016

⁹ SA providers are within our jurisdiction however we transfer complaints about SA providers to the SA Training Advocate, as recommended by the 2010 Baird Review.

Complaint issues transferred under s 19ZK to another authority

Authority	Jan – Mar 2016	Oct – Dec 2015	July – Sept 2015	Apr – Jun 2015
Australian Skills Quality Authority	2	6	7	9
Tuition Protection Service	22	9	7	7
South Australian Training Advocate	1	3	4	3
Tertiary Education Quality Standards Agency	0	0	0	1
Australian Human Rights Commission	1	0	0	0
Fair Work Ombudsman	1	0	0	0
Total	27	18	20	19

The OSO may also make disclosures under s 35A of the Act to regulatory bodies or public authorities where it is in the public interest to do so. The OSO made one disclosure during the quarter, to the Australian Skills Quality Authority, regarding a non-compliant written agreement. In this case the provider had failed to include terms and conditions about refund in its written agreement instead referring to the policy as stated in its application form. The provider did not accept our recommendation that it should refund the student in accordance with s.47E of the ESOS Act and we reported the provider to ASQA.

Outreach and engagement activities

In this quarter, the OSO:

- participated in a panel at the Australian Federation of International Students (AFIS)/Study Melbourne International Student Information Day in Melbourne
- presented on the role of the Ombudsman at the Independent Schools Council Queensland (ISCQ) orientation day
- participated in the Commonwealth, State and Territory International Education Roundtable
- participated on an exhibition stall at the Asia-Pacific Association for International Education conference in Melbourne
- participated on an exhibition stall at the Universities Australia conference in Canberra
- presented on the role of the OSO to the South Korean Bilateral Working Party
- participated in the New South Wales Ombudsman’s University Complaint Handlers Forum
- presented to the Study Melbourne Advisory Network on four years of OSO operations and best practice complaints handling
- met with the TPS, ASQA, TEQSA, the DET and the Department of Immigration and Border Protection (DIBP).

Publications

In this quarter the OSO published:

- An updated Written Agreements Issues Paper and Checklist reflecting recent changes to the ESOS Act
- The Overseas Students Ombudsman Quarterly Report for October to December 2015.

Submissions

In this quarter we did not make any submissions. Previous submissions can be found on our [website](#).