



# Overseas Students Ombudsman

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# Overview

- What is an Ombudsman?
- Overview of Overseas Students Ombudsman's role
- Internal complaints and appeals
- Common complaints to OSO
- What do we do with complaints?
- What we look for
- Possible outcomes
- Avoiding problems



# What is an Ombudsman?

- An Ombudsman investigates complaints about businesses or government agencies
  - Free, impartial, independent
- Different Ombudsmen deal with different governments and industry sectors
  - Eg Commonwealth Ombudsman – Australian Government agencies such as DIBP
  - Telecommunications Industry Ombudsman – telephone and internet companies
  - Fair Work Ombudsman – employment issues

# The Overseas Student Ombudsman

- The OSO investigates complaints from overseas students about private education and training providers
  - State Ombudsmen investigate complaints about public providers eg Universities
- We work with providers to help them improve their internal complaints and appeals processes
- We report to government on trends and systemic issues that we see from the complaints we investigate

# The Overseas Student Ombudsman

- Australia has a strong consumer protection framework for overseas students
  - Overseas Students Ombudsman
  - Tuition Protection Service
  - Industry regulators
  - General consumer law principles
- We mostly focus on the consumer protection principles in the Education Services for Overseas Student Act and the National Code
- We also apply general Consumer Law principles

# The Overseas Student Ombudsman

- We receive most complaints directly from students
  - Can be a former or intending student, as well as a current student
- Students can nominate someone else to complain on their behalf (in writing)
- Complaints can be made through our online complaint form, by phone or post
- We have received more than 3,000 complaints since we began operating in April 2011

# The Overseas Student Ombudsman

- You should try first to resolve the complaint directly with the provider
- You can complain to OSO if:
  - The provider refuses to deal with the complaint
  - The provider doesn't finalise the complaint in a reasonable time
  - You are unhappy with the outcome

# Internal complaints and appeals

- Providers must have a documented complaints and appeals process and must:
  - Ensure their complaints and appeals policy is easily accessible
  - Keep written records of complaints
  - Acknowledge promptly, and keep students advised of progress
  - Allow students to have a support person or representative





# Tips for complaining

- Read the provider's complaints and appeals policy
- Complain in writing
- Clearly identify what the complaint is about
- Clearly identify the outcome you want
- Be calm and polite
- Keep records – copies of emails, letters etc
- Persist – contact the provider if they do not contact you
- Make sure you get a written outcome



# Common Complaints to OSO

- Transfer between registered providers
- Refunds and fee disputes (written agreements)
- Monitoring course progress
- Monitoring attendance



# When you complain to OSO

- We consider whether we can investigate your complaint
  - Is it in our jurisdiction?
    - Action taken by a private provider (not South Australia)
    - In connection with an overseas student
  - For example we can't investigate:
    - Complaints against landlords about a student's accommodation
    - Complaints against employers about wages and conditions
    - Complaints about public providers
  - If we can't investigate, is there someone else who can?
    - Fair Work Ombudsman
    - State Ombudsmen for public providers



# When you complain to OSO

- We also consider whether we should investigate your complaint:
  - Is there a genuine problem?
  - Have you tried using the provider's internal complaints process?
  - Is there a possible remedy?
  - Is there a better avenue?
- Refunds:
  - Provider defaults and visa refusals - refer immediately to TPS
  - We are likely investigate cases where the provider and the student disagree about entitlement to or amount of refund



# How we investigate

- We are independent and impartial
- We investigate in private
- We ask the provider to explain what they did and why they did it
- We give the provider an early opportunity to resolve any problems
- We try to get all relevant documents from both parties



# How we investigate

- In refund cases, we particularly look at:
  - Was the written agreement signed before course money was paid?
  - Is the written agreement compliant



# How we investigate

- In transfer cases, we particularly look at whether the provider:
  - Has implemented and properly applied a student transfer policy
  - Considered whether the transfer would be detrimental to the student
- In inadequate course attendance and progress cases, we particularly look at:
  - has the provider implemented and properly applied course progress and attendance policies
  - sent appropriate warnings



# How we investigate

- In almost every case, we look at whether the provider has a fair and accessible complaints and appeals policy, and has applied it properly policy in the particular case
- We also look for signs that other students may have been affected by the same or similar problems
  - is there a systemic issue?





# How we investigate

- When we receive all the information we need, we decide:
  - Did the provider follow the legal rules?
  - Are the provider's policies and procedures fair and reasonable?
  - Did the provider follow their own policies and procedures?
  - Did the provider act fairly and reasonably in this case?
- We give both sides an opportunity to comment before we finalise our investigation
- Where we find problems, we try to make clear and helpful recommendations to the provider



# Possible outcomes

- If the provider made a mistake or acted unfairly, we can ask them to:
  - Apologise
  - Change or reconsider a decision
  - Change their policies or procedures
  - Refund part or all of your fees
  - Not report you to DIBP for non-compliance with visa conditions
- If we find that the provider acted correctly, we explain why



# Possible outcomes

- If we think there is a wider systemic issue, we may publish a public report
- If we consider that the provider may have breached the ESOS Act or National Code, we may notify a Regulator



# Avoiding Problems

- Before you enrol:
  - Read the written agreement carefully before you sign it
  - Read the provider's refund policy carefully as well, before signing the agreement
  - Know your student visa conditions
  - Read the provider's attendance and course progress monitoring policies – some are stricter than others



# Avoiding Problems

- When you have enrolled:
  - Get a copy of written agreement
  - Read your provider's policies and procedures
  - Tell your provider if you change address so that you receive any written warnings or important information
  - Get your Overseas Student Health Cover (OHSC) card right away when you arrive
  - Talk to your provider as problems arise (don't let things drift)

# Overseas Student Ombudsman 2016

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

The screenshot shows the homepage of the Overseas Student Ombudsman. The browser address bar displays <http://www.ombudsman.gov.au/>. The main header features a blue background with the text: "We investigate complaints from people who believe they have been treated unfairly or unreasonably by an Australian Government agency." Below this is a "find out more" link with a right-pointing arrow. On the right side, there is a "Making a complaint" section with a dropdown menu labeled "Please make a selection..." and a downward arrow. Below the dropdown are two buttons: "Make a complaint" and "Public Interest Disclosure Scheme".

Below the header, the text "We consider and investigate" is centered. Underneath, five categories are listed with icons: "Australian Government" (parliament building), "Public Interest Disclosure Scheme" (PID speech bubble), "Private Education Providers with Overseas Students" (globe icon, highlighted with a red box), "Postal Industry" (mailbox icon), and "Private Health Insurance" (first aid kit icon). A red arrow points from the "Private Health Insurance" icon towards the "Private Education Providers with Overseas Students" icon.

At the bottom, a dark blue banner contains the text "Did you know?" followed by a horizontal line.