

Standard 7 Provider Transfers Issues and Case Studies



**DE ESOS Reforms
Consultation Workshop**
17 February 2015



Overseas Students Ombudsman

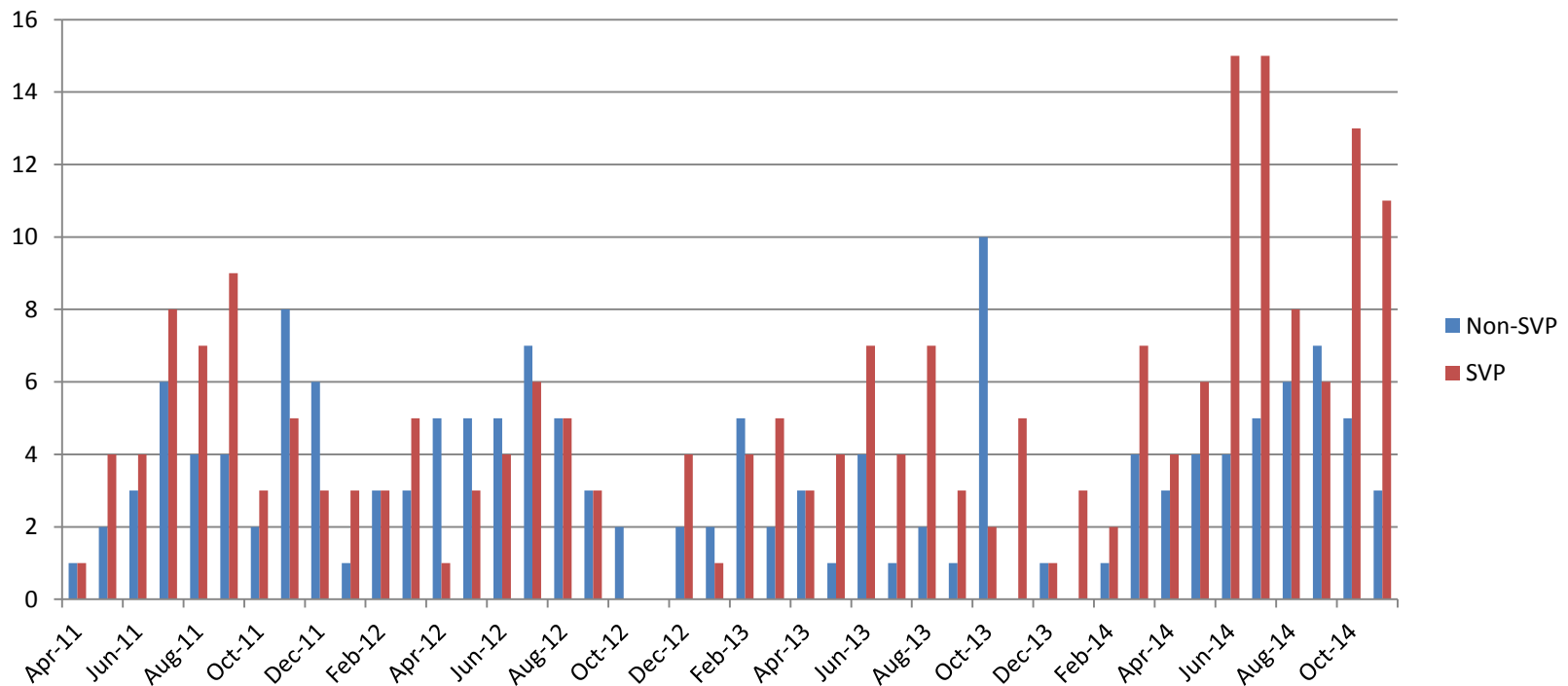
- We investigate complaints and external appeals from overseas students about private education providers with reference to the ESOS Act and National Code
- We help education providers improve their internal complaints and appeals processes
- We report on trends and systemic issues we see through our complaints investigations



Provider Transfers

- In 2014, Standard 7 was the second highest complaint issue
- Since the OSO began on 9 April 2011, we have received 375 complaints/appeals with a Standard 7 issue
- 59% increase from 2013 to 2014 (78 up to 131)
- SVP provider Standard 7 appeals have increased
- Overall complaints to the OSO are increasing as student numbers increase (up 14% in 2013-14, up 24% this FY)

Standard 7 complaints to OSO SVP and non-SVP providers



59 per cent (217) related to SVP providers and
41 per cent (151) related to non-SVP providers
(9 April 2011 – 30 November 2014)



Provider Transfers

- Best practice:
 - Having a transfer policy that clearly defines
 - the circumstances in which a transfer will be granted
 - the circumstances the provider considers provide reasonable grounds for refusing the student's request, including when a transfer can be considered detrimental to the student
 - Preamble to Standard 7 states:

'It is expected that the student's request will be granted where the transfer will not be to the detriment of the student'



Provider Transfers

- Best practice:
 - Written refusal with reasons why the provider considers the transfer would be to the student's detriment, taking into account the student's individual circumstances
 - Advising the student of their right to lodge an internal appeal
 - Considering any new information/reasons provided at the internal appeal stage and addressing these in the written outcome
 - Advising external appeal rights



Provider Transfers

- Poor practice:
 - Having a transfer policy that does not define
 - the circumstances in which a transfer will be granted
 - the circumstances the provider considers provide reasonable grounds for refusing the student's request, including when a transfer can be considered detrimental to the student
 - Provider includes irrelevant grounds in the transfer policy (e.g. DIBP Genuine Temporary Entrant (GTE) criteria)
 - Provider relies on grounds for refusal that are not included in the transfer policy (e.g. unpaid fees)



Provider Transfers

- Poor practice:
 - Provider refuses to consider a transfer request when required to by Standard 7
 - Verbal refusal without written reasons and advice of internal appeal rights (OSO refers 46% back to internal appeal)
 - Refusal letters that list a standard set of reasons, some or all of which do not apply to the individual student
 - Provider fails to show detriment when refusing a transfer



Provider Transfers

- What we consider
 - Is the provider's transfer policy compliant?
 - Has the provider shown detriment in refusing the transfer?
- In 2014, we found 50-50 in support of the provider-student
- Other cases resolved through other means (student reported for non-commencement, course progress)
- We recommend and suggest improvements to providers
- We tell students refund requests are a separate matter



Case 1

- A student was enrolled in a Diploma of IT with a private provider and a Bachelor of Science in Information Technology with the partner public university
- The student requested to transfer to a Bachelor of Business (Information Systems) at another private provider because:
 - his mother was sick
 - he had had to move out of his brother's house and was now paying more rent so wanted to move to a cheaper course
 - He was finding it hard to cope with the academic requirements of the Diploma of IT



Case 1 continued

- The provider refused the transfer because :
 - the student could defer to return home to be with his mother
 - the student had poor course progress and had failed to meet with an academic advisor
 - the provider's transfer policy said it would not approve transfers due to accommodation problems
 - the student was granted a visa on the basis of having sufficient funds
 - the student had signed a document when enrolling stating he had adequately researched courses in Australia
- We upheld the provider's refusal due to the second reason – student had poor academic progress, had not accessed assistance and was unlikely to cope with a Bachelor if failing the Diploma course. Therefore, the transfer would likely be to his detriment.

Case 2

- The parent's of an under 18 year old overseas student complained that:
 - After enrolling their child with a private college offering Years 10-12 the provider advised that students would only receive a 'record of achievement award' on completion, not the state school certificate
 - The letter noted, "It is advisable that you make your own enquiries regarding any pre-requisite qualifications that may be required for further education".
 - The student's parents made enquiries and found the student's further education opportunities would be limited.
 - The parents decided it would be better for their daughter to study at a local government high school and requested a release letter.
 - The provider refused the transfer request.



Case 2 continued

- We found:
 - the provider's transfer policy was non-compliant as it did not include the circumstances in which a transfer will be granted
 - the provider had breached Standard 7 by failing to make the transfer policy available to the parents, even after they requested a copy
 - the provider had not shown that the transfer would be to the detriment of the student
 - the provider had not provided evidence to support its argument that a transfer to a government high school was likely to result in the student failing and having to repeat Year 10
- We recommended the provider release the student

Case 3

- The student complained to OSO about:
 - a transfer refusal
 - a refund refusal
 - the actions of an education agent of the provider
 - not receiving an internal appeal written outcome
- We found the provider had not issued the student with an internal appeal outcome that explained the provider's decisions, including:
 - why the transfer would be to the student's detriment
 - why he was not eligible for a refund and what fees he still owed
 - why the provider was satisfied the agent had not misrepresented his legal qualifications
- We recommended the provider issue the outcome letter with reasons for its internal appeal decision

Case 4

- The student complained to OSO that:
 - her provider had refused her transfer request due to outstanding fees
 - she disputed the amount of outstanding fees
- We found:
 - the provider could not explain to the OSO how it had calculated the amount of fees it said the student owed
 - the provider's transfer policy did not include unpaid fees as a grounds the provider considered reasonable to refuse a transfer
- We recommended the provider release the student, not pursue fees it could not account for and revise its transfer policy to include unpaid fees as a reason for refusal if it wished to rely on this ground in future



Case 5

- The student enrolled in a Diploma of Commerce and a Bachelor of Engineering
- The student requested a transfer to a Diploma of Hospitality with another provider
- The student said he chose accounting as this was his parents' preference, but he has changed his mind since living in Australia
- The tuition fees are too high and his family can no longer afford them
- He had poor academic results



Case 5

- The provider refused the transfer for the following reasons:
 - the transfer may jeopardise the student's progression through a package of courses
 - the provider was concerned the student may seeking a transfer as a way to avoid being reported to the Department of Immigration and Border Protection (DIPB) for failure to meet academic progress requirements
- We found in support of the provider but recommended that in future it provide a better explanation of the reasons for refusal with reference to the student's individual circumstances and the points the student has raised at the internal appeal stage



Questions?

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