

## **Overseas Students Ombudsman Annual Report 2013-14**

The Overseas Students Ombudsman has three roles:

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

### **Complaint trends and themes**

In 2013–14 we received 518 complaints about private-registered education providers in connection with overseas students. This reflects an increase of 14 per cent from last financial year.

We started 233 complaint investigations and completed 244 investigations, compared to 189 investigations started and completed last year. This includes some investigations commenced in the previous financial year.

The top four types of complaints the Overseas Students Ombudsman received were about:

- refunds and fees disputes (200 complaints)
- providers' decisions to refuse a student transfer to another provider under Standard 7 of the National Code (107 complaints/external appeals)
- providers' decisions to report students to the Department of Immigration and Border Protection (DIBP) for failing to meet attendance requirements under Standard 11 (95 complaints/external appeals)
- providers' decisions to report students to DIBP for failing to meet course progress requirements under Standard 10 (55 complaints/external appeals).

We closed 282 complaints without the need to investigate, compared to 258 last year, because:

- we were able to form a view on the basis of the documents provided by the student, without the need to contact the education provider to investigate, or
- we referred the student back to their education provider's internal complaints and appeals process first, or
- we transferred the complaint to another complaint-handling body which could deal with the issue more effectively, as required by s 19ZK of the Act.

In 2013–14 we transferred 81 complaint issues to other complaint-handling bodies arising from 75 complaints, including:

- two complaints about discrimination to the Australian Human Rights Commission (AHRC) (one last year)
- 34 complaints to the Australian Skills Quality Authority (ASQA) relating to the quality or registration of a course (22 last year)
- three complaints to the Office of the Training Advocate relating to private education providers in South Australia (none last year)
- 40 complaints to the Tuition Protection Service (TPS) (14 last year) about provider closures and provider refunds due to student visa refusals
- one complaint to the Victorian Registration and Qualifications Authority (VRQA) relating to the quality or registration of a Victorian school (none last year).

### **Reports to the regulators**

The Overseas Students Ombudsman has the power to disclose information regarding providers of concern to the national regulators, ASQA or the Tertiary Education Quality Standards Agency (TEQSA).

In 2013–14 we used our power on five occasions to report to ASQA details of complaints where it appeared to us that a private provider may have breached the *Education Services for Overseas Students Act 2000* or the National Code, and we considered it was in the public interest to advise the national regulator of the details. Last year we reported on eight.

Once we provide this information, it is up to ASQA 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**

#### **Problems with written agreements**

We have been investigating more complaints about student refunds and fee disputes due to the high incidence of non-compliant written agreements prepared by education providers and signed by overseas students. A written agreement sets out the terms and conditions of their enrolment, including the refund policy.

In February and June 2014 we developed and delivered training on common mistakes providers make that invalidate their written agreements. This training was done through the professional development programmes of the peak bodies, English Australia (EA) and the Australian Council for Private Education and Training (ACPET).

## **Case study:**

*Ferdinand withdrew from his English language course and requested a refund from his provider, which was refused. We investigated the student's complaint and asked the provider for a copy of the written agreement. The provider gave us a copy of a signed application form, which did not list the courses or itemise the fees. It also provided a letter of offer which contained the terms and conditions of enrolment and the itemised list of fees. However, the letter of offer had not been signed by the student. The provider did not supply our office with evidence that the student had otherwise accepted the terms and conditions set out in the letter of offer. It instead relied on payment of the fees listed in the letter of offer as acceptance of the terms and conditions. Our office decided that payment was not sufficient evidence of acceptance under the ESOS Act and Standard 3 of the National Code. We recommended that the provider refund the student as required by section 47E of the ESOS Act, which the provider did.*

## **Written agreements issues paper**

We have drafted an issues paper on written agreements, which will be circulated to the education provider and international student peak bodies in the first quarter of 2014–15. The purpose of the paper is to consult with them about the best way to improve provider compliance with the legal requirements for written agreements/enrolment contracts.

This may include the development of standard-form clauses to minimise the opportunity for error, leading to disputes and the education provider having to pay a refund or not pursue outstanding fees when they would otherwise be able to.

## **Overseas Student Health Cover issues paper**

In 2013–14 we identified problems with some private-registered education providers failing to arrange Overseas Students Health Cover (OSHC) for students who had paid them the premium. In each case the provider had also falsely reported to the Department of Education (DE) and DIBP that they had arranged the cover. This caused the students to breach their visa conditions and left them without cover, until our office investigated the matters.

We reported the providers to the regulator. We also used the complaints to consider the administration of OSHC by education providers, DE, DIBP, the Department of Health and the five OSHC insurers more broadly. After consulting with these organisations we identified a number of areas for improvement. These will be detailed in an issues paper on the topic to be published in the first quarter of 2014–15.

## **Overseas student complaint statistics**

In 2012–13 the Overseas Students Ombudsman worked with the state and territory Ombudsman offices and the South Australian Training Advocate to explore ways to generate overseas student complaint statistics that can be compared across jurisdictions. Given that offices collect different data, we concluded this was something to aspire to over the longer term. We continue to publish quarterly statistics on our website at [www.oso.gov.au](http://www.oso.gov.au) which will allow the identification of trends in complaint issues relating to private-registered providers over time.

## **Stakeholder engagement and promoting best-practice complaint handling**

In 2013–14 we promoted best-practice complaint handling through our e-newsletters to overseas students and private-registered education providers. We also delivered presentations at key industry conferences including training to overseas students at the Council for International Students Australia conference and presentations to education providers at the Australian Council for Private Education and Training and English Australia conferences.

We met with relevant stakeholders to discuss issues relating to overseas student complaints. This included meetings, workshops or other events with the Australian Federation of International Students, Victorian International Student Care Service, Consumer Action Law Centre Victoria, Redfern Legal Centre's International Student Legal Advice Service, Council for International Students Western Australia, Independent Schools Council Queensland, Office of the Training Advocate South Australia, Western Australian Private Education and Training Industry Association, Western Australian International Education Conciliator, Australian Human Rights Commission and the Fair Work Ombudsman.

In addition, we held regular liaison meetings with ASQA, TEQSA, the TPS, DE and DIBP to discuss issues relating to international education and overseas student complaints.