

DISCUSSION PAPER

SAFEGUARDING THE STUDENT EXPERIENCE:

EXTERNAL COMPLAINT AVENUES

INTRODUCTION

The Australian government wants international students to have a rewarding and enjoyable experience when they come to Australia to study. All registered¹ education providers must have internal complaints and appeals processes in place, to deal with any problems that may arise.

If an international student has a problem they cannot resolve directly with their education provider, they can complain to an independent, external complaints body. The availability of an independent, impartial external complaints body can be critical to resolving problems and restoring the student experience.

In most states and territories, there are two external complaints bodies available to international students who wish to complain about, or appeal, a decision made by their Australian education provider – the relevant State or Territory Ombudsman for those in the public sector and the Overseas Students Ombudsman for those in the private sector. In South Australia there is the South Australian Ombudsman for international students in the public sector and the Office of the Training Advocate for international students in the public and private sectors.

This paper summarises the current external complaint avenues for international students with a view to generating discussion on whether the current system best serves the needs of international students and the international education sector or whether any improvements could be made.²

BACKGROUND

The National Strategy for International Education³ notes that a positive student experience is crucial to the success of Australia's international education sector. Complaint handling avenues for international students are key to resolving problems,

¹ Registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) <http://cricos.education.gov.au>

² In 2015, the Senate Enquiry into the Vocational Education and Training Sector recommended the establishment of a VET Training Ombudsman for *domestic* students. This proposal is not related to this paper, which looks at complaint avenues for *international* students only.

³ <https://internationaleducation.gov.au/International-network/Australia/InternationalStrategy/Pages/National-Strategy.aspx>

Discussion paper: External complaint avenues for international students

restoring the student experience and ensuring Australia remains an attractive study destination.

Standard 8 of the [National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007](#) (the National Code) requires all registered education providers to:

- have an appropriate internal complaints and appeals process in place to address international student complaints and;
- provide access to an independent, external complaints and appeals person or body for students to use if they are dissatisfied with the provider's internal complaints and appeals process or the outcome of that process.

The Overseas Students Ombudsman (OSO) is the independent, external complaints and appeals body for international students studying with *private* education providers.⁴ The eight State and Territory Ombudsman's offices offer an external complaints and appeals process for international students studying with *public* education providers.⁵ The Office of the Training Advocate in South Australia assists international students with complaints about public and private education providers in that state.

The current model of external, independent complaint avenues for international students with a complaint about their education provider is shown below.

Complaint handlers

	Private	Public
International students	Overseas Students Ombudsman + SA Training Advocate	State/Territory Ombudsman + SA Training Advocate
Domestic students	SA Training Advocate	State/Territory Ombudsman + SA Training Advocate



⁴ In addition to our Overseas Students Ombudsman role, we also investigate complaints from domestic and international students about the Australian National University (ANU) (under our Commonwealth Ombudsman jurisdiction), and the University of Canberra (UC) and the Canberra Institute of Technology (CIT) (under our ACT Ombudsman jurisdiction).

⁵ The ACT Ombudsman is located within the Commonwealth Ombudsman's Office.

Discussion paper: External complaint avenues for international students

Education and training providers do not have to use a statutorily-independent complaints body such as an ombudsman or the Office of the Training Advocate in South Australia. Providers may make arrangements for another person or body independent and external to the provider to hear complaints or appeals arising from the provider's internal complaints and appeal process. There is currently no data on how many providers use a statutorily-independent complaints body and how many make other arrangements. There are also difficulties in gaining whole of systems data regarding the number of international student complaints about education providers across public and private jurisdictions.

The Office of the Training Advocate South Australia also assists international students to access their education provider's internal complaints process, as does the Western Australian International Education Conciliation Service and Study Melbourne.

The national regulators for education and training, the Australian Skills Quality Authority (ASQA) and the Tertiary Education Quality Standards Agency (TEQSA), receive complaints about the quality of education and training delivered by Australian education providers, which they deal with as regulatory intelligence.

Other complaints handlers assist international students with other types of issues. For example, the Fair Work Ombudsman hears complaints about work rights issues and the Australian Human Rights Commission hears complaints about racism and discrimination.

The International Student Legal Advice Clinic run by Redfern Legal Centre assists international students with a complaint about their education provider or other problems they may encounter such as work rights or accommodation issues.

This paper focuses on external complaint avenues for international students seeking to make a complaint or appeal relating to a decision or action of their education provider.

ISSUES

Different external complaints bodies for different sectors

International students and education providers often think the OSO is the ombudsman for all overseas students, as the name seems to imply. However, the OSO only covers international students in the private sector because the role was established at a time when international students were experiencing particular problems in the private education and training sector.

Prior to 9 April 2011, when the OSO began, international students studying with public education providers could complain or appeal to their State or Territory Ombudsman. In South Australia, the Office of the Training Advocate was established as a statutory authority in 2008 under the *Training and Skills Development Act 2008* (SA) to respond to questions or complaints about the training system, including international education, as it relates to South Australia. In particular, services to international students included assistance with any aspects of living, working or studying in South Australia. However, apart from South Australia, international students studying with private education providers lacked an independent, external complaints and appeals body.

Discussion paper: External complaint avenues for international students

In 2009-10, the international education sector experienced what has been described as a 'perfect storm'. There were revelations of poor quality education providers; unscrupulous practices by education agents; a spate of provider closures affecting many international students; a series of attacks on Indian international students and; a high Australian dollar making it more expensive to study in Australia. The international education sector experienced a major downturn as international student numbers fell for the next three years.⁶ In addition, there were a significant number of private training provider closures across Australia during this time and students required personalised assistance to locate and transfer to an alternative provider to finalise their training arrangements. This was managed primarily by the Australian Council of Private Education and Training (ACPET) under the former tuition assurance scheme.

The Baird Review became the cornerstone of the Government's response to the crisis and recommended a suite of measures designed to increase protections for international students. This included the creation of the Tuition Protection Service and extension of the Commonwealth Ombudsman's jurisdiction to create the OSO within the Office of the Commonwealth Ombudsman.

The OSO commenced operations on 9 April 2011 and filled the gap for international students in the private sector. The OSO joined the existing system of external complaints handling offered by the eight state and territory ombudsman and the Office of the Training Advocate in SA.

There are currently 636,542 international students studying in Australia.⁷ The OSO covers 965 private education providers with 278,697 international students. The eight state and territory ombudsmen and the Office of the Training Advocate⁸ together cover 80 public providers with 357,845 international students.

How do international students and education providers know who to contact?

Overseas student associations have reported that students are often not aware of what assistance is available to them when they have a problem with their education provider and they find the navigation of the complaints system to be difficult and confusing. It can also be confusing for international students and education providers to know which ombudsman or other external complaint handler to contact regarding a complaint or external appeal. This is especially true for international students who have packaged courses across public and private providers and have a dispute that needs to be dealt with by two different ombudsmen.

International students often contact the OSO thinking it is the ombudsman for all overseas students and education providers sometimes direct international students to the wrong ombudsman in their internal appeal outcome letters.⁹ The OSO has established protocols with other external complaints bodies to refer students to the correct complaint handler when a student contacts the wrong one. All the external

⁶ <https://internationaleducation.gov.au/research/International-Student-Data/Pages/InternationalStudentData2013.aspx>

⁷ Data abstracted from the Provider Registration and International Student Management System (PRISMS) on 8 February 2016.

⁸ The Office of the Training Advocate covers 95 international education providers, public and private, in South Australia.⁸

⁹ The OSO has transferred or referred 104 overseas students with complaints about a public education provider to the relevant state and territory ombudsman since 9 April 2011.

Discussion paper: External complaint avenues for international students

complaint handlers take a proactive and cooperative approach to ensure that students get to the right complaint handler.

The State and Territory Ombudsman Offices report few or no issues with students knowing when and how to contact them. The Overseas Students Ombudsman is consulting international students through the Council for International Students Australia (CISA), to determine if there is any need to make improvements to ensure students know which external complaint body they can contact or otherwise better meet students' needs.

How do the external complaint bodies work together to try to ensure consistency for international students?

In 2013, the OSO established the Overseas Student Complaint Handlers Network to bring together the State and Territory Ombudsman offices and the Office of the Training Advocate in SA, to discuss issues relating to international student complaints. The aim of the network is to ensure consistency in the approach taken by different complaint handlers to international student complaints across the various jurisdictions by discussing common areas of complaint.

The group explored the potential for the different ombudsman's offices to classify international student complaints consistently, to make it possible to report on international student complaints across Australia, covering the public and private sectors and all states and territories. This would enable us to answer the question, 'what do international students complain about in relation to their Australian education provider?' However, some ombudsman's offices do not distinguish between international and domestic student complaints on their database, so it is not possible to achieve consistent categorisation or reporting on international student complaints. It is also not possible to apply the legislation¹⁰ relating to the delivery of education services to international students to complaints without knowing whether the complainant is a domestic or international student.

The OSO recently published its 'Overseas Students Ombudsman report on the first four years of operation', which highlights the international student complaint trends it has seen across the private sector.¹¹ The OSO's complaint categories correlate with the standards of the 'National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007'.¹² The OSO links the outcomes from its complaints investigations to provider practices under the Code to highlight areas of improvement, systemic issues and areas of concern.

Does the current system of external complaint avenues for international students meet students' needs and those of the international education sector?

As the government launches Australia's first National Strategy for International Education and international student numbers continue to increase, it is timely to assess whether the current system of external complaints and appeals bodies for international students meets the needs of students and the sector.

¹⁰ *Education Services for Overseas Students Act 2000* (the ESOS Act); the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007 and other legislative instruments such as the ESOS (Calculation of Refund) Specification 2014.

¹¹ http://www.ombudsman.gov.au/__data/assets/pdf_file/0024/37329/Overseas-Students-Ombudsman-report-on-first-four-years-of-operation,-November-2015.pdf

¹² <https://www.comlaw.gov.au/Details/F2010C00313>

Discussion paper: External complaint avenues for international students

In 2016, the OSO intends to conduct a consultation process with relevant stakeholders to examine whether the current system provides for international student needs in the best possible way. We will be working with CISA to ensure international students have an opportunity to tell us what they want and what would best serve their needs.

The OSO also intends to consult international students, education providers, the peak bodies, the state and territory ombudsman's offices, the Office of the Training Advocate, relevant Australian government agencies, such as the Department of Education and Training (DET), and the national regulators. The results of the consultations will be summarised in a final paper, to be provided to the Minister for International Education and Tourism, the Hon. Senator Richard Colbeck. We will also publish the final paper on the OSO's website for the information of all those involved.

NEXT STEPS

The OSO will be pleased to receive written submissions by **15 August 2016** outlining your views on the issues raised and any additional ideas you have. We would also welcome early discussions with peak bodies and relevant organisations.

Please focus your submission around the following questions:

1. Do you agree that it is important that international students have access to an external, independent complaint handling body when they have an issue with their education provider that they cannot resolve with the education provider directly?
2. Do the current external complaint avenues for international students with a complaint about their education provider meet international students' needs? Please indicate if your comments relate to the private sector, public sector or both.
3. Do the current external complaint avenues for international students with a complaint about their education provider meet international education providers' needs?
4. Are the current external complaint avenues simple to understand and easy to access?
5. If not, what would make it easier for international students to understand the external complaint avenues and to access them easily?
6. Are there any gaps in complaint handling for international students with a complaint about their education provider that you see? If so, what is the best way to address these?
7. In your view, what changes, if any, may be required to ensure future external complaint avenues for international students meet the needs of international students and the sector?

Please email your submissions to melita.hoskin@ombudsman.gov.au or post to the Overseas Students Ombudsman, GPO Box 442 Canberra ACT 2601.