

## **Common issues with written agreements, course progress and complaints handling**



**Association of  
Independent Schools of SA**  
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# Overseas Students Ombudsman

- We investigate complaints from overseas students about private schools, colleges and universities (we transfer complaints about SA providers to the SA Training Advocate)
- We work with education providers to help them improve their internal complaints and appeals processes
- We report on trends and systemic issues we see through our complaints investigations



# Systemic issues

- **Overseas Students Health Cover (OSHC)** – problems with some private providers taking the money but not arranging the cover for the student
- Some providers start the cover too late – placing the student in breach of their student visa condition
- We worked with the Departments of Education, Immigration, Health, the Private Health Insurance Ombudsman and the OSHC Insurers to explore OSHC administration issues
- We published an Issues Paper on 5 August with recommendations for Education, Health and Immigration



# Systemic issues

- **Written Agreement Problems** –many providers have written agreements that do not comply with the *Education Services for Overseas Students Act 2000* (ESOS Act) or National Code requirements
- Errors result in providers having to pay refunds/forego fees
- Many providers lack a cancellation fee policy as it is not (currently) required by the ESOS Act or National Code
- OSO Issues Paper sent to ISCA and other stakeholders in July for comment by 1 September 2014
- OSO written agreements checklist and survey sent to providers with our July provider e-newsletter
- Final paper and checklist to be published soon!



# Systemic issues

- **OSO Submission on the ESOS Reforms** sets out other issues we have noted through our complaints investigations including:
  - The need for greater clarity and guidance on **guardianship for under 18 year olds** as not all ‘guardian’s are ‘legal guardians’ including Student Guardian Visa holders who may only be a ‘suitable nominated relative’ for immigration purposes but not for the purpose for signing written agreements
  - Other providers have accepted the signature of a homestay parent or other relative who was not the student’s legal guardian



# Written Agreements

- Best practice:
  - Clear written agreement with course name, study periods, itemised list of fees signed or otherwise accepted by student, parent or legal guardian
  - Refund policy included (not a link or reference to it elsewhere, such as the student handbook)
  - Clear terms and conditions
  - Fees paid concurrently with or after agreement signed
  - Refunds owed paid within provider obligation period either under the written agreement or s 47E of ESOS Act

# Written Agreements

- Poor practice:
  - Invalid written agreements missing essential details or signed by under 18 year old or non-legal guardian
  - Tuition fees accepted by provider or agent, before agreement signed
  - Failure to make new written agreement when course details/dates changed
  - Refund policy not included
  - Refund policy contradicts ESOS Act/National Code
  - Contradictory or confusing terms and conditions
  - Failure to pay refunds owed



# Course Progress

- Best practice:
  - Having a course progress policy that clearly defines
    - satisfactory course progress
    - when the student is deemed to be ‘at risk of not meeting satisfactory course progress’
    - unsatisfactory course progress
  - The course progress policy includes an intervention strategy designed to assist students to improve to satisfactory levels





# Course Progress

- Best practice:
  - The intervention strategy is implemented as soon as the student is identified as being 'at risk' of failing to meet satisfactory course progress
  - If the intervention strategy is implemented and the student still fails to meet satisfactory course progress, the provider sends the student the notice of report with appeal rights
  - The student has the opportunity to lodge an internal and external appeal, and the provider awaits the outcomes, before reporting the student



# Course Progress

- Poor practice:
  - Provider's course progress policy does not define satisfactory and unsatisfactory course progress
  - Policy does not state the point at which the student will be deemed to have failed or applies a different standard
  - Failing to implement an intervention strategy at all, not meaningful or implementing it too late
  - 'Cancelling' the intervention strategy mid way



# Course Progress

- Poor practice:
  - Failing to report the student after they fail to meet course progress (after the intervention strategy has been implemented)
  - Sending the notice of intent to report to the wrong address
  - Failing to the give the student appeal rights before reporting the student
  - Reporting the student on different grounds in PRISMS

# Internal Appeal & Complaints

- Best practice:
  - Provider's internal complaints and appeals policy available on its website
  - Provider helps students access the appeal process
  - Provider deals with complaints/appeals objectively based on relevant facts and applicable policy/legislation
  - Provider identifies any errors made and remedies them
  - Provider gives student a written outcome which details the reasons for the decision and external appeal rights



# Internal Appeal & Complaints

- Poor practice:
  - Complaints and appeals policy hard to find and not on website
  - Provider argues with students by email rather than directing them into the internal appeal process & giving them a written decision with full reasons
  - Provider refusing to consider an internal appeal due to outstanding fees – breach of Standard 8



# Internal Appeal & Complaints

- Poor practice:
  - Provider not assessing whether they have followed their own policy and relevant National Code standards/ESOS Act requirements as part of the internal appeal process
  - Provider failing to identify their own errors
  - Providers considering irrelevant factors/information
  - Conflict of interest with the person complained of being the person who considers the internal complaint/appeal



# Internal Appeal & Complaints

- Poor practice:
  - Failing to give a written outcome to the student
  - Poorly written decisions that do not explain the reasons for the internal appeal outcome
  - Failing to advise the student of their internal or external appeal rights

# OSO Better Practice Complaint Handling Guide



## Better Practice Complaint Handling for Education Providers

February 2011

### Complaint Handlers' Checklist

- ☐ Do you have written complaint handling procedures? Are they easy to understand and apply?
- ☐ Do you acknowledge complaints promptly?

**ACKNOWLEDGE**  
all complaints quickly







# Publications and resources

- We send out a **provider e-newsletter** to all private providers twice a year with useful tips and advice
- We also send out a **student e-newsletter** twice a year
- You can subscribe to our newsletters on our website:

[www.oso.gov.au/publications-and-media/](http://www.oso.gov.au/publications-and-media/)



# Questions ?