

Provider Report No. 2

**ANALYSIS OF COMPLAINTS TO THE OVERSEAS
STUDENTS OMBUDSMAN 2011 TO 2016**

December 2016

INTRODUCTION

The Overseas Students Ombudsman (OSO) was established in April 2011 to:

- investigate individual complaints about the actions or decisions of private registered education providers in connection with intending, current or former overseas students
- 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.

Generally, we will only consider a complaint or appeal if the student has first been through the provider's internal complaints and appeals process. When we finalise an investigation, we reach an outcome that supports either the student, the provider or in some cases, neither when, for example:

- we refer the student back to the provider's internal complaints and appeals process
- where we identify that the student has provided additional evidence to our office that the provider has not had the benefit of seeing first
- where the student withdraws the complaint before our investigation is finalised or the matter lapses¹.

In November 2015 we published a report on our first four years of operations² focussing on compliant issues, trends and outcomes. The outcomes from the top four complaint issues over that period showed that providers had improved in some areas i.e. course progress and provider transfer appeals, but less so in other areas i.e. attendance appeals, fee and refund complaints.

The differing results in complaint outcomes raised three questions:

- Why do providers appear to have improved in some areas and not others?
- Do these trends apply across the board or only for some providers?
- Have providers implemented our recommendations and maintained those improvements?

To answer these questions, we analysed the complaint data relating to the education providers that we received the most complaints and external appeals about in 2011 to 2016³ and report individual results⁴.

This report concerns the complaints and appeals received in 2011 to 2016 about the provider we receive the second-most complaints about. At the request of the provider, we have de-identified this report.

¹ Where a complainant does not respond to telephone calls or written correspondence from the OSO in relation to the investigation

² http://www.ombudsman.gov.au/data/assets/pdf_file/0024/37329/Overseas-Students-Ombudsman-report-on-first-four-years-of-operation,-November-2015.pdf

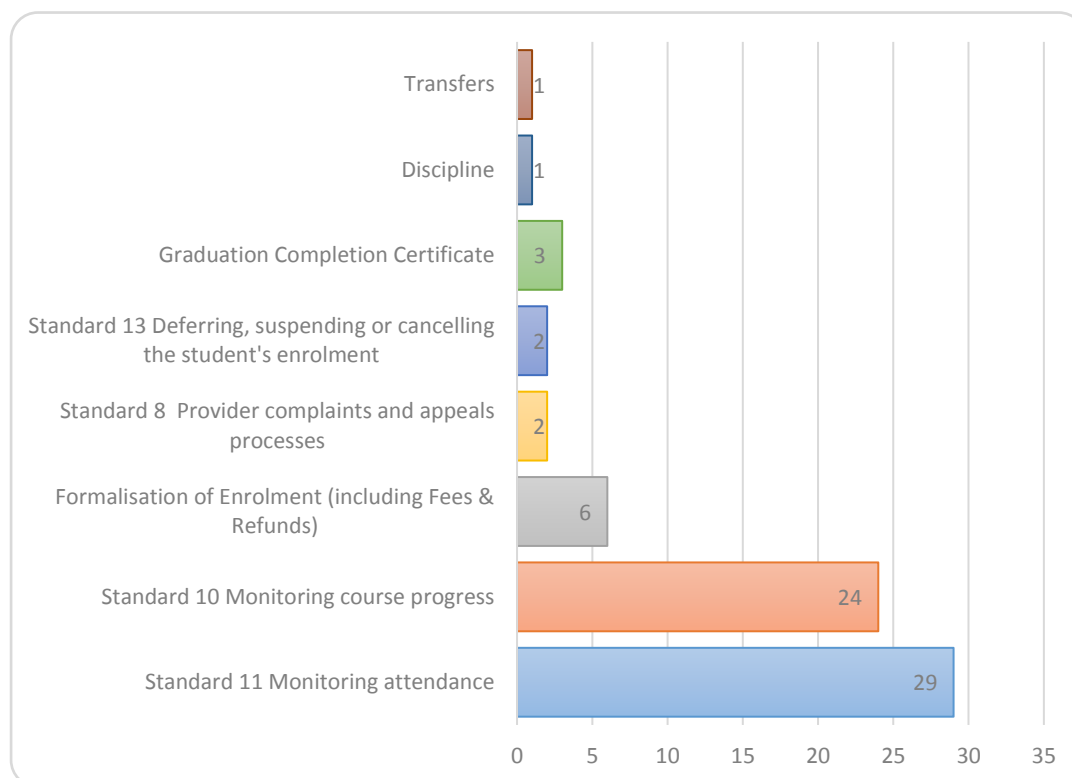
³ 11 April 2011 to 10 April 2016

⁴ The first report concerning the number one agency UTS: Insearch, was published August 2016 <http://www.ombudsman.gov.au/about/overseas-students/oso-publications/reports/education-provider-reports>

COMPLAINT ISSUES

In our first five years of operation the OSO finalised 63 complaints/appeals about the provider, which raised 68 issues⁵. The chart below shows the main complaint/appeal issues for the provider.

Figure 1. Complaint/appeal issues during the OSO’s first five years of operation for the provider we receive the second most complaints about⁶



Monitoring attendance and course progress

Education providers registered to deliver education services to international students are required under both s19 (2) of the *Education Services for Overseas Students Act 2000* (ESOS Act) and Standards 10 and 11 of the National Code of Practice for Providers of Education and Training to Overseas Students 2007 (the National Code)⁷, to report students who fail to maintain satisfactory attendance or course progress.

Education providers must have and implement appropriate attendance and course progress policies, which must be provided to students (Standard 10 and 11).

Before a student is reported, the student has the opportunity to firstly appeal the ‘intention to report’ through the provider’s internal complaints and appeals process and, if their appeal is unsuccessful, to then contact the OSO.

⁵ A complaint may contain more than one issue

⁶ For complaints/appeals finalised between 11 April 2011 and 10 April 2016.

⁷ <https://www.legislation.gov.au/Series/F2007L00646>

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Almost 80% of complaints/appeals received by students of this provider related to the provider's intention to report them to the Department of Immigration and Border Protection (DIBP) for failing to maintain satisfactory attendance or course progress.

This result is comparable with the other providers we receive the most complaints about in that the top three issues are monitoring attendance, monitoring course progress and transfers between providers. In our view, this is more a reflection of the higher number of students at these larger institutions accessing their appeal rights to challenge their provider's intention to report them to DIBP, rather than a systemic issue relating to these providers.

COMPLAINT OUTCOMES

An analysis of complaints data for this provider shows the OSO has, with the exception of 2013, found in support of the provider in the majority of cases.

In late 2012, we identified an issue with the provider's course progress policy. At the time the provider required students to attend a certain percentage of classes for particular modules (subjects) otherwise they were deemed to have failed to meet satisfactory course progress. The provider would then issue an intention to report the student to DIBP. However, the OSO found that while the provider was issuing the intention to report the students for unsatisfactory course progress, it was still marking the students as competent (successfully passing) these modules. This appeared to be inconsistent and confusing.

We explained to the provider that, in our view, while it could use attendance as a measure of course progress, it should not report students for unsatisfactory course progress while awarding them a satisfactory academic result for that module. We also recommended that the provider improve its Notice of intention to report letter to make it clear to students the grounds on which the provider intended to report them i.e. attendance or course progress.

The provider agreed with our view and revised its policy and notice of intention letter to reflect our recommendations. Since that time outcomes have predominantly been in favour of the provider because its policy complies with Standard 10.

Figure 2 Outcomes of complaints about the provider received, investigated and closed by year⁸

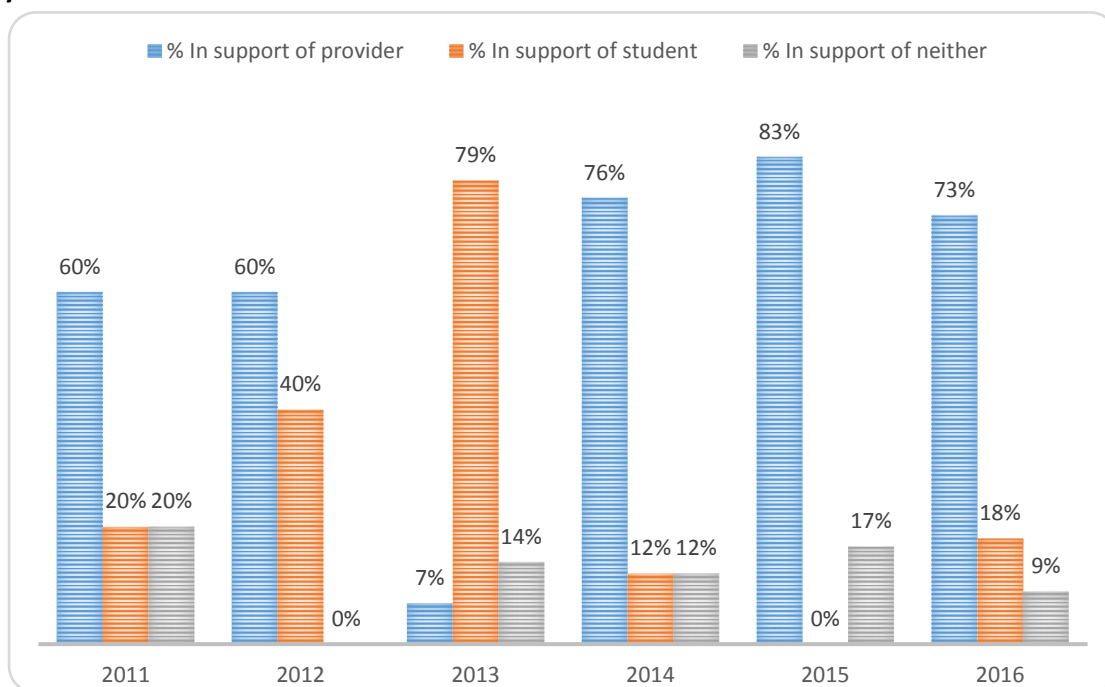


Figure 3a: Average outcomes for investigated complaints about this provider for the period 2011-16⁹

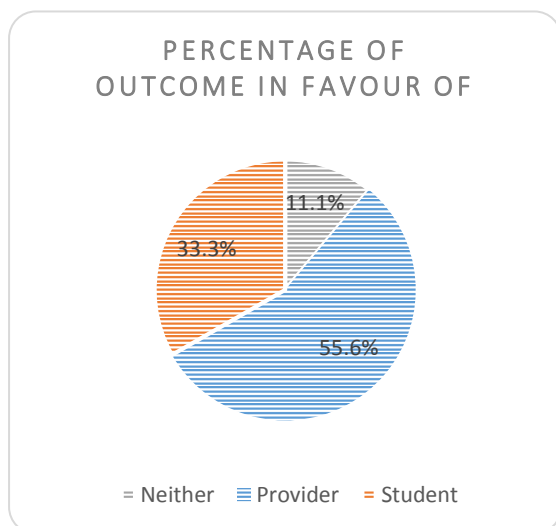
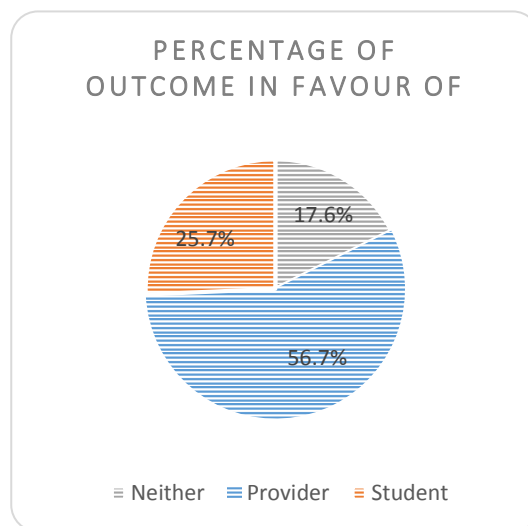


Figure 3b: Outcomes for investigated complaints/appeals about all providers in 2015-16¹⁰



While the OSO receives a high number of complaints about refunds, fee disputes and provider transfers, we receive a comparatively lower number of complaints about this provider relating to these issues.

⁸ This chart includes data from 10 April 2011 to 14 November 2016 which includes complaints received earlier but not finalised with an outcome until after 11 April 2016.

⁹ For complaints/appeals finalised between 9 April 2011 and 31 March 2016.

¹⁰ http://www.ombudsman.gov.au/_data/assets/pdf_file/0024/42378/Overseas-Students-Ombudsman-Annual-Report-2015-16.pdf

A detailed analysis of the provider's complaints data by issue is set out in the appendix.

CONCLUSION

Most of the complaints the OSO about the provider are external appeals by students seeking not to be reported to DIBP for unsatisfactory attendance or course progress. This appears to indicate that the provider is actively advising its students of their right to appeal to the OSO before being reported, as required by Standards 8, 10 and 11 of the National Code 2007.

As previously mentioned, the provider responded positively to our recommendations about course progress policy and procedures for improvements and implemented changes that have benefited not only the students who initially complained/appealed, but also its broader international student population.

In subsequent investigations about course progress issues, we continue to find in favour of the provider, which is an indication that the provider has maintained these improvements.

While the OSO receives a high number of complaints about refunds, fee disputes and provider transfers, we receive a comparatively lower number of complaints about this provider relating to these issues.

Whilst the provider is the second most complained about provider, the number of complaints received is a positive indication that the provider proactively advises its international students of their right to complain or appeal a decision to the OSO, if the student is not satisfied with the outcome.

We also consider that the nature of complaints that we receive about the provider indicates that it is vigilant about monitoring course progress and attendance as required by the National Code.

Appendix: Overview of issues and outcomes for complaints received about the provider April 2011 to March 2016

Monitoring attendance (Standard 11)

We received 29 external appeals from students of this provider who had been notified of the provider’s intention to report them for unsatisfactory attendance.

Table A: Attendance Appeals (Standard 11) outcomes

Total Received 29	NOT INVESTIGATED	Referred back to provider’s internal processes	1	3
		Not warranted	2	
	INVESTIGATED	Outcome supports provider	12	26
		Outcome supports student	11	
		Outcome supports neither	3	

Course progress monitoring (Standard 10)

We received 24 external appeals from students of the provider who had received a notice of intention to report for unsatisfactory course progress. The outcome supported the provider in 16 cases and the student in six cases. In two cases, the outcome supported neither party as the provider decided to reconsider the matters after the OSO commenced its investigation, which meant we did not need to investigate further.

Table B: Course progress monitoring external appeal (Standard 10) outcomes

TOTAL RECEIVED AND INVESTIGATED 24	Outcome supports provider	16	24
	Outcome supports student	6	
	Outcome supports neither	2	

Fee and refund disputes (Standard 3)

The OSO received six complaints about refunds or fee disputes. In four of these cases the student was seeking a refund and in two cases the student was complaining that the provider was pursuing them for outstanding fees.

We only investigated one of these cases as in the other five cases, the student had not been through the provider’s internal complaints and appeals process. However, based on the information provided by the student, we determined that an investigation would not lead to a different outcome.

The fee dispute complaint we did investigate was one in which the provider had issued a student with a notice of intention to report for non-payment of fees. We decided that it was open to the provider to report the student as the student had not paid fees that were due. However, during the course of our investigation the student and the provider resolved the matter.

In this case we suggested that the provider review the information provided to students about payment extensions and non-payment penalties in its student handbook. We also made suggestions to the provider about its complaint handling process for fee disputes in relation to Standard 8, as discussed below.

Graduation/completion certificate

We received three complaints in which students of the provider said that they had not been issued with graduation/completion certificates. We investigated one of these complaints and found in support of the provider on the basis that it had complied with its policies regarding issuing academic certificates.

We declined to investigate one complaint because the student had not yet accessed the provider's internal appeals process, and in another we closed the complaint without investigation because the student did not respond to our request to provide documents to support the complaint.

Complaints and appeals (Standard 8)

The OSO received two complaints which raised issues about the provider's internal complaints and appeal process.

In one complaint the student told us that the provider advised the outcome of the appeal was that the student could have an extension of time in which to pay the fees. However, the student did not pay the fees by this date and the provider reported the student to DIBP for non-payment of fees.

The OSO was concerned that this approach conflated the two separate decisions: first the decision to allow extra time for payment, and second, the decision to cancel the student's enrolment when the revised payment date was not met. This process appeared inconsistent with the requirements of Standard 8 of the National Code because it effectively prevented the provider from considering any changes in the student's circumstances occurring between the date that the conditional decision was made and the payment deadline.

The OSO was also concerned that this approach obviated the student's access to an internal and external appeal of the decision to cancel the enrolment.

The OSO suggested that the provider could consider an alternative process in which the provider could grant that extension but defer any actual 'decision' on the appeal until the deadline. In this way, the final decision to cancel the student's enrolment and report the student to DIBP could take into account all relevant factors, including any changes to the student's circumstances up to the date of the final decision.

In response to our suggestions, the provider advised the OSO that the student had paid the outstanding tuition fees and that the provider was no longer intending to report the student. The provider also advised the OSO that it had considered our suggestions and intended to reassess its fee policy to determine if improvements could be made.

Deferring, suspending or cancelling the student's enrolment (Standard 13)

The OSO received two complaints about the provider's decision to cancel a student's enrolment, one of which was withdrawn by the student after we commenced an investigation.

In the other matter the OSO upheld the student's appeal. This cancellation was based on the student's unsatisfactory course progress because their attendance was below 80% for

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certain modules. However, the student had been awarded a grade of competent in relation to the units where his attendance was insufficient.

As previously outlined, we recommended that the provider not report the student and other students affected by the same error in assessing course progress. We also recommended that the provider amend its policies.

Discipline

We received one complaint about a disciplinary matter for which a student had been suspended. We did not investigate as, based on the information provided by the student, we considered that the provider had acted in accordance with the National Code.

Transfers between providers (Standard 7)

We received one complaint from a student who had been refused a release letter by the provider. However, we did not investigate this complaint as the student had not yet been through the provider's internal complaints and appeals process. We referred the student back to the provider to access its internal appeal process and advised the student to contact us again if their internal appeal was unsuccessful. However, this student did not contact us again.