

Document 1

STANDARD OPERATING PROCEDURE – PRINCIPLES-BASED APPROACH TO NSO COMPLAINT INVESTIGATIONS

ENDORSED JULY 2025

About this document	
Purpose	This Standard Operating Procedure (SOP) sets out for National Student Ombudsman (NSO) staff the principles for investigating complaints from students.
User/s	All staff conducting investigations into higher education providers using the NSO investigation powers in Part IIF of the <i>Ombudsman Act 1976</i> , added via the <i>Universities Accord (National Student Ombudsman) Bill 2024</i> .
Publication/release to other sites	This SOP will be published on the VOLT platform, which is internal to the Office of the Commonwealth Ombudsman (the Office). It has not been published on an external website and is not intended for external publication.
Outcome	This document is intended to guide staff undertaking complaint investigations in the NSO jurisdiction.
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Introduction and background

This document gives National Student Ombudsman (NSO) complaint investigators principles and guidance for effectively investigating complaints from higher education students (students) about their higher education providers (providers).

A key function of the NSO under s 21AC(b) of the *Ombudsman Act 1976*¹ is to investigate complaints from or on behalf of students about the actions, other than excluded actions, of providers registered by the Tertiary Education Quality and Standards Agency (TEQSA).²

What is an investigation?

An investigation is a process of gathering evidence of **what happened** in a complaint, comparing it to **what should have happened**, and identifying whether there are any differences between the two that the provider should take action to address.

Generally, the NSO will try early resolution options to resolve the complaint before investigating, unless a good reason to investigate first (see 'why investigate a complaint', below).

Commencing an investigation enables us to use additional powers under the Ombudsman Act, including the power for the Ombudsman to report to the provider with specific recommendations for action. While an investigation is generally an escalation, choosing to investigate does not mean we are sure the provider has done something wrong; rather that we need more information to assess what has happened in a particular case.

Why we investigate complaints

The goal of investigating a complaint is to:

- assess whether the provider's actions were lawful, reasonable, and fair, and hold them accountable if not
- resolve a student or group of students' complaints about their provider
- make formal recommendations to providers to improve their practices, for the benefit of students and the wider higher education sector.

¹ Throughout this document, legislative references are to the *Ombudsman Act 1976* (Cth) unless otherwise specified.

² See s 21AD for more information about who can make a complaint, and what can be complained about.

Other relevant documents

Users of this SOP ought to also familiarise themselves with:

- the Office's [Investigations Policy](#), which covers the scope, underlying principles, record-keeping and risk management responsibilities for all complaint investigators
- the [Australian Government Investigations Standard](#) (AGIS), which is the whole-of-government standard for the entities conducting investigations under an enactment
- the Office [Recommendations, Suggestions and Comments policy](#) (RSC Policy)
- the [Office Monitoring and Assessment of Comments and Suggestions policy](#) (MARS Policy)
- the Office Delegations instrument, delegating powers under the *Ombudsman Act 1976*: [Delegations made under the Ombudsman Act 1976 and AFP Act 1979](#).

Principles

Investigation principles

Some key principles that guide our investigations are:

Impartiality: Our role is to be impartial, and not to take the side of the student or the provider. We do this by:

- thoroughly understanding both perspectives
- not drawing any conclusions or agreeing with either party before assessing all the evidence
- giving the parties procedural fairness, in accordance with our general duty to accord procedural fairness under s 21AZD
- regularly considering conflicts of interest that may create a real or perceived bias and reporting and manage it appropriately (see the Office's [conflict of interest guidelines](#)).

While the NSO is impartial, we do acknowledge the power imbalance that exists between the university as an organisation and an individual student.

Trauma-informed: The NSO's service is informed by trauma-informed practice, incorporating the principles of safety, trustworthiness, collaboration, choice and empowerment. This means we strive to:

- be non-judgemental, understanding and empathetic, acknowledging the student's experiences with their university and the impact on them, especially when communicating decisions.
- offer students clear choices with how they want to interact with us on their complaint
- be transparent about our processes, and that our role is to assess whether the evidence shows the provider's actions were lawful, fair and reasonable
- ensure that students feel safe when contacting the NSO.

Confidentiality: NSO complaint investigations are conducted in private (s 21AU(2)), and staff must observe their confidentiality obligations under s 35. Staff must not disclose the details of any complaint or investigation to anyone outside of the NSO without exercising a valid legislative discretion.

Thoroughness: Consistent with administrative law principles and AGIS, investigators have a duty to consider all relevant information and evidence before making a decision. This includes considering what information they do *not* have but could reasonably obtain before making a decision.

Curiosity: Complaints should be considered with an investigative mindset. See page 5 of the Investigations Policy and s 1.4.3 of the AGIS for more information. Investigators should not limit themselves to only considering and pursuing matters that the student has raised.

Part of the NSO's role is to facilitate improvements for providers and the education sector, not just to resolve individual complaint issues. Where a complaint raises issues beyond the individual student, the NSO may investigate the broader underlying issue. Investigators should also consider flagging interesting case studies, and sharing information about emerging topics of interest with their supervisor, or the broader branch.

Decisiveness: Decisions should be made on the merits of that complaint and not just by reference to similar cases, as all complaints have unique features. Investigators should make decisions quickly, and avoid leaving students 'in limbo', even if the student may be dissatisfied with a decision. If we identify that we cannot assist a student with their concerns, we should let them know as soon as possible and consider if another organisation may be able to help.

Flexibility: Investigators should not take a 'one-size-fits-all' approach; they should be aware of and consider which legislative powers they can and should use, including less-frequently-used or novel powers.

Responsiveness: We should ensure students are satisfied with our service by communicating regularly, responding to requests from students,³ and being accessible. Investigators should provide students regular updates on the status of their complaint, and on decisions or major actions on their complaint.

Quality record-keeping: Quality record-keeping is essential and [a requirement for all APS employees](#). Good records assist the whole Office to function effectively.

Investigators **must** document:

- all contact with any party to a complaint, whether written or verbal
- all decisions, and the reasons for those decisions
- research taken on a file, and information obtained other than from the student (e.g. from the provider or any third parties).

Ideally, anyone should be able to look at any Resolve approach and gain an understanding of the complaint from only looking at the actions on file.

³ Note that this does not extend to unreasonable persistence or other types of unreasonable complainant conduct, which should be handled in line with our [Unreasonable complainant conduct, threats, and risks of harm](#).

Conducting investigations

Why investigate a complaint

Decisions on how to deal with a complaint should be informed by considering whether an investigation is the best option. Reasons you might choose to investigate a complaint are:

- The NSO has already tried other options that have not resolved the complaint – generally, if we have tried a closed-loop referral, facilitated resolution or inquiry and it is not resolved, we should either investigate, refer to another team or decline to deal with the complaint further.
- The complaint has evidence that raises concerns that the provider's actions were unlawful, unreasonable, unfair or otherwise wrong.
- The complaint highlights issues that are negatively impacting the student or students and we believe that recommendations or suggestions could improve student experience on a systemic scale.
- The complaint is about the provider's handling of a sensitive issue, such as sexual misconduct or gender-based violence, or is otherwise an issue of interest.
- The complaint raises concerns of a systemic issue with a provider or in the sector beyond the scope of the individual complaint that we can examine by investigating.
- The matter is complex, and other options are unlikely to provide the information we need to understand what has happened. This may include examples where there is conflicting evidence or information that may not be readily obtained except by investigating.
- A provider has not constructively engaged in other processes (e.g. our early resolution options, or conciliation) and by investigating we can use our formal powers to obtain the information we need.

Assessing a complaint before investigating and communicating with the student and provider

The NSO Complaint Investigations team may receive complaints either by direct allocation from incoming complaints, or after referral from another team. Not every complaint we receive will be suitable for an investigation.

When allocated a complaint, assess the complaint yourself to ensure you make your own informed, evidence-based decision on what steps to take next by:

- read the referring team's briefing (if applicable)
- read the relevant information, documents, correspondence and other material the student has provided.
- consider the action already taken by NSO on the complaint (if applicable)
- consider legislation, policy and provider resources relevant to the complaint and begin to identify whether the provider's actions may have been wrong, or meet other criteria set out in "Why investigate a complaint" above.

If no early resolution options have been tried, consider whether another option might be more suitable to resolve the complaint from [the Complaint Pathways Quick Guide](#).

If early resolution options have been tried, there are further options our team can consider other than going to an investigation:

Referral to the Conciliation and Restorative Engagement team – Refer to the [Conciliation Quick Guide](#) and the [Restorative Engagement Quick Guide](#) for information about suitability.

Make inquiries – If you don't have enough information to decide whether to investigate – ask the student for information or make inquiries of the provider (see below).

Recommendations following a closed-loop referral – If the NSO has already tried a "closed-loop referral" under s 21AK and you have enough information from the response to assess that the provider's actions were wrong and there is some action they should take, the NSO can go straight to making recommendations to the provider. This is delegated to EL2, so propose this to your supervisor where applicable.

Closure without an investigation – If you have enough information to assess what happened and either:

- consider that the provider's actions were reasonable, or
- further action is unlikely to lead to a better outcome

it may be better to exercise your discretion to not deal with the complaint under s 21AJ early.

When closing a complaint without an investigation if you do think there are areas the provider's actions could have been better, you can include these

observations in our closure letter under s 12(1). Letters with observations should have Director level approval.

Example: You asked the provider about a student's application for late withdrawal due to special circumstances, which they have not decided on for over 8 weeks, when their policy says they will decide within 28 days. The provider responds to our inquiry and advises they have approved the student's application. We may not consider an investigation warranted because the student's complaint is resolved, but may want to note in our closure letter that the delay was excessive.

Initial contact and requesting information from the student – prior to and during an investigation

When you are first allocated the complaint, contact the student (preferably by phone) to:

- introduce yourself
- clarify your understanding of their complaint
- explain your proposed plan on the complaint.

When communicating with the student in general, consider:

- prioritising phone communication, while considering the student's communication preferences – it is often quicker and simpler to clarify over the phone.
- any language barriers that might inhibit effective communication. Consider whether to adjust written and/or verbal language when contacting a student, as well as communicating with a student with an interpreter present.
- consider any adjustments they may require because of individual communications needs or vulnerabilities.
- consider whether communicating with someone acting on the student's behalf changes the nature of the interactions.

You may also need further information from the student before or during an investigation to properly understand their concerns, assess the complaint or understand what has happened.

When requesting information from the student:

- ensure you are not asking the complainant to repeat their story, and consider if you could get this information from the provider instead.

- give a reasonable timeframe for the student to respond to the request (5 days if verbal, 10 days if written only). Invite them to contact us before then if they need more time, and advise that if you don't hear from them by that date, we may close their complaint file; however, that just means we won't be progressing it at that time, and they are welcome to return to us at any time afterwards.
- if the student doesn't respond, consider whether to try calling one more time. If not, close the approach as lapsed, and if the student returns later, open a new complaint for them.

For more information, consider the communication principles in the [Parliamentary Complaint Handling Procedures](#) particularly section 2.4-2.6. While NSO guidance supersedes it, the procedure further discuss principles around confidentiality, impartiality, record-keeping obligations, frequency of contact and how to manage unsuccessful contact attempts, as well as preferred communication methods.

Inquiries of the provider – before investigating

Under s 21AZ, the NSO has the power to make inquiries before investigating for the purpose of determining:

- whether the NSO is authorised to conduct an investigation,⁴ or
- whether and how to conduct an investigation.⁵

See [the Complaint Pathways Quick Guide](#) under "Ask the provider for more information" more information about this option.

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Step 1: Initiating an investigation and gathering information

Actioning your decision to investigate

⁴ Section 21AZ(a),

⁵ Section 21AZ(b).

Once you've decided a complaint might be suitable to investigate:

1. Contact the student, explain the investigation process, and obtain and document the student's consent to their complaint being investigated (s 21AG(2)).
2. If the student consents, plan your investigation, documenting:
 - a. The reasons for deciding to investigate
 - b. The key issues in the complaint to be investigated, and
 - c. The questions you propose to ask, and the information you have decided to seek
 - d. What the proposed plan of action is to address each issue
 - e. The possible outcomes of the investigation.
3. Seek approval of the plan by your supervisor.

You can then commence an investigation by informing the provider and the provider's Principal Executive Officer (PEO) of the investigation under s 21AU(1). The notice will almost always include a written request for information under s 21AZ(d).

While we have nominated complaint contact points with providers, under s 21AU(1) we **must** notify the PEO. For efficiency, the notice may be sent to the PEO and the provider's nominated contact area at the same time.

Requesting information from the provider during an investigation

Investigators use the same legislative power to request information in an inquiry as during an investigation (s 21AZ), but it is for a different purpose (s 21AZ(d)).

When requesting information during an investigation:

- You can request information in writing or verbally. However, we are not limited in how we request information, so investigators should be flexible and consider other options, such as meetings with the provider, interviews, site visits or surveys, as appropriate to the complaint being investigated.
- Contact any nominated contact point(s) the provider has given to start. However, investigators can consider whether to request information from other persons as they see fit, such as specific officers working at a provider.
- Only request information relevant to the issues being investigated in the investigation plan. Consider what information and evidence you would need to decide whether the provider's actions were correct, lawful, etc.

Released under the Freedom of Information Act 1982 (Cth)

- Draft questions in a neutral, impartial way. Generally, avoid 'compound questions' - have one focus or topic per question. Consider if you should ask open or closed questions.
 - Closed questions will help if you know the exact information you need, are seeking an answer to a specific questions, or copies of specific documents.
 - Open questions can allow the provider to draw out what happened, and add supporting information and context. Ensure you ask for supporting evidence.
- if putting the student's complaint to the provider for response, ensure to use phrasing such as '[student] states...' so it is clear it is the opinion of the student, not the NSO.
- Sometimes we receive detailed complaint information from students. When working out how much background information to include in a request for information notice, consider if specific background details are linked to a specific question asked. If not, it may be suitable to exclude the detail.
- Give a reasonable timeframe for a response, appropriate to the volume or complexity of the information being requested. This may be anywhere from 10-20 business days.

Escalation – requiring information and other powers

If you are meeting resistance in your engagement with a provider, the NSO has options for escalation. While we want to work with providers to resolve issues, the NSO will use the powers we have been given to obtain the information we need in investigations.

If you think the NSO needs to escalate a matter, discuss with your supervisor as soon as possible, noting that many are delegated to EL2 and above. Options we have are set out in the Investigations Policy and include:

- Raising the matter further internally, for example by briefing your Director, NSO's SAO or FAO, the Deputy Ombudsman or the Ombudsman.
- Proposing we issue a notice *requiring* a provider or person to give information or provide records, under s 21AZA. Non-compliance with an s 21AZA notice potentially carries criminal penalties.
- Making an authorised disclosure to TEQSA, the Minister, the Secretary of the Department of Education or another prescribed body under s 21AZG.
- Notifying the PEO of a provider of misconduct by an officer of the provider, under s 21AZH.

- Examining witnesses under oath, under s 13.
- Conducting an in-person investigation, under s 14.
- Requiring a provider to give us remote access to its systems, under s 14A.
- Finalising the investigation and publicly reporting under s 21AV with the information we have available (see below).

Step 2: Assess information

A key part of investigating is assessing the information gathered to establish what happened, and compare it to what should have happened. A structured assessment will ensure that any conclusions drawn are reasonable, evidence-based and consider all relevant factors (and no irrelevant factors).

When you have received the required information from the provider:

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If there is a large volume of information to assess, consider using an assessment framework, such as the one linked here: [Example - assessment framework for NSO.docx](#) to help structure your assessment of the facts.

Authorities

When determining what *should* have happened, consider what is required by law and policy, as well as what is best practice and what is reasonable.

In the Higher Education sector, key authorities include (but are not limited to):

- the [Tertiary Education Quality and Standards Agency Act 2011](#), [Higher Education Standards Framework \(Threshold Standards\) 2021](#) and TEQSA's commentary and guidance on the threshold standards: [TEQSA HESF commentary](#).

- the [Higher Education Support Act 2003](#) (HESA), related legislation and the Department of Education's guidance on the HESA: [Higher Education Support Act 2003 and Guidelines - Department of Education, Australian Government](#).
- the [Education Services for Overseas Students \(ESOS\) Framework](#), including the ESOS Act and the [National Code of Practice for Providers of Education and Training to Overseas Students 2018](#).

Further authorities you may need to have reference to include decisions of the *Administrative Review Tribunal* or *Administrative Appeals Tribunal*, guidance and best practice in the sector.

In addition, always consider whether the provider's actions were reasonable and fair. While we should be guided the law and policy, there are instances where law and policy may be silent on a matter, or where we believe the policy itself is unfair or leading to unfair outcomes.

Requesting further information

If the provider's initial response is insufficient, or more information is required, investigators can conduct further inquiries or take further action on the complaint. Some options for further action are:

- making further written or verbal enquiries under s 21AZ
- organising a meeting with the provider under s 21AZ
- sending preliminary views of our assessment to the provider for comment using s 21AZ (discuss with your supervisor)
- using our coercive powers as discussed above to ask for information or interview relevant provider staff or other witnesses, under s 21AZA or s 13 as appropriate (discuss with your supervisor).

Step 3: Finalising an investigation

Once you have gathered and assessed all the required information in the investigation, develop your findings – these are your conclusions about what happened, what should have happened, whether there was any gap, and whether there is any action you believe the provider should take to address it.

The NSO can then finalise the investigation in two main ways:

- by deciding to no longer investigate by exercising a discretion under s 21AJ not to continue dealing with a complaint, notifying the provider (potentially including comments and suggestions) and the student; or

- by the Ombudsman formally reporting to the provider with recommendations under s 21AV.

You may also consider that the complaint should be referred to the CaRE team, for conciliation or restorative engagement.

Finalising an investigation – s 21AJ discretion

The NSO may stop investigating by exercising the discretion under s 21AJ to cease dealing with a complaint.

The discretions under s 21AJ set out when investigators may decide to no longer deal with a complaint. The most appropriate discretion after an investigation has commenced is usually that continuing to deal with the complaint is not warranted having regard to all the circumstances (s 21AJ(g)). Reasons continuing an investigation may no longer be warranted include:

- The investigation leads the provider to agree to resolve the complaint.
- After assessing the information, there is insufficient evidence to conclude the provider's actions were wrong.
- The issue will be addressed on a systemic level or own motion investigation, and there is no utility in continuing to investigate the individual complaint.
- The student withdraws consent for the NSO to investigate (in which case it is not discretionary; the investigator must stop investigating).
- The action that has been investigated raises issues that warrant either comments or suggestions for action or improvement from the NSO to the provider, but does not meet the threshold for s 21AV reporting discussed below.

Actioning a decision to stop investigating under s 21AJ

Once an investigator decides that continuing to investigate is no longer warranted, there are two steps:

1. Notify the student of our intention to stop investigating and provide them with the opportunity to comment on the proposed decision. If the student disagrees, the investigator can consider and respond to their concerns accordingly.
2. Once we have finalised our decision, under s 12(1) notify both the student and the provider of their decision to stop investigating under s 21AJ, specifying which discretion they are applying, providing reasons for that decision, and under s 12(3) giving particulars of the investigation.

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Suggestions and comments must be made in line with the [Recommendations, Suggestions and Comments Policy](#).

Finalising investigation – s 21AV Report

If an investigator forms the view during an investigation that a provider has taken action that is unlawful, unreasonable or otherwise wrong, and that the provider should take some corrective action, they must raise it with their supervisor as a potential obligation that the Ombudsman report to the provider under s 21AV(2).

The person holding the Office of National Student Ombudsman (the Ombudsman) has the power under s 21AV, and this cannot be delegated.

Reporting to the provider:

- is the NSO's strongest method of raising an issue with the provider.
- may contain recommendations about any matter that the Ombudsman thinks fit to make.
- may be private to the provider or, may be made public (but de-identified) under s 35A.
- opens the possibility of requesting the Higher Education Minister table the report in parliament.

If the triggers in s 21AV are met, the Ombudsman **must** report accordingly to the provider.

When assessing the action investigated, investigators **must** consider whether it meets the triggers in s 21AV, being:

- the provider's action being investigated was contrary to law, unreasonable, unjust, oppressive, discriminatory, or 'otherwise in all the circumstances wrong' (see 21AV(1)(b)), **and**
- there is some specific corrective action that the provider could or should take to rectify or mitigate the effects of their action (see 21AV(1)(c)).

Investigators should also consider if another option might achieve a better resolution.

Actioning your decision

If you believe an investigation you are conducting might meet the threshold for an s 21AV report, raise it with your supervisor. The team will need to brief the Ombudsman early to seek their view on whether it meets the threshold. The decision on whether the action being investigated does trigger the requirement to report under s 21AV is the Ombudsman's alone.

The NSO has a general duty to afford providers procedural fairness, under s 21AZD. Providers must have the opportunity to respond before an s 21AV report is published or provided to the student. The NSO will do this by sharing a PDF of the draft report with the provider, prior to publication, for comment and correction of errors of law or fact.

The [Investigations Policy](#) has more detailed policy on drafting reports under s 21AV, and the [Recommendations, Suggestions and Comments](#) has policy for drafting recommendations.

Refer also to the [Monitoring and Assessment of Recommendations and Suggestions \(MARS\) Policy](#) for guidance on following up our formal recommendations and suggestions made to Providers.

Document 2

GUIDANCE – NATIONAL STUDENT OMBUDSMAN COMPLAINT PATHWAYS QUICK GUIDE

ENDORSED JULY 2025

About this document	
Purpose	This Guidance document outlines the various delegated options complaint-handling staff (teams in the Users detailed below) have to progress a complaint at first instance, after it has been received and registered.
User/s	National Student Ombudsman (NSO) Student Complaints, Complaint Investigations, Strategic Investigations, and Conciliation and Restorative Engagement teams
Publication/release to other sites	This Guidance document will be published on the VOLT platform, which is internal to the Office of the Commonwealth Ombudsman (the Office). It has not been published on an external website and is not intended for external publication.
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Options for dealing with complaints

Generally, when the NSO receives an in-jurisdiction complaint,¹ the officer allocated the complaint will initially deal with it by taking one of these pathways, exercising powers which are delegated under the *Ombudsman Act 1976* to all NSO staff:

- 1) [Encourage the student to complain to the provider](#), and close under s 21AJ(g).
- 2) [Warm Transfer of the complaint to the provider](#) under 21AZ(b), and close under s 21AJ(g).
- 3) [Ask the provider for information](#) under s 21AZ(a) or (b).
- 4) Conduct a [facilitated resolution](#), using s 21AZ(b).
- 5) Refer the complaint to the Higher Education Provider to investigate and report back (a [closed-loop referral](#)) under s 21AK.
- 6) [Close the complaint](#) for another reason without further action, by deciding not to deal with it under s 21AJ.

There are other options which are outside of the scope of this document because they are escalated pathways pursued by specific teams and have separate guidance.

- **Investigations** under ss 21AT and 21AU are the purview of the Complaint Investigations and Strategic Investigations teams. The Complaint Investigations and Strategic Investigations teams may undertake inquiries or investigations – for complaint investigations, see the [Standard Operating Procedure – Principles-based approach to National Student Ombudsman complaint investigations](#).
- **Conciliation and restorative engagement** processes are the responsibilities of the Conciliation and Restorative Engagement (CARE) team.

¹ To determine if something is in jurisdiction and can be dealt with by the NSO, see [Guidance – National Student Ombudsman Jurisdiction](#).

Encourage the student to complain to the provider

What is involved in encouraging a student to complain?

Usually, the most efficient and effective pathway for a complaint to be resolved is directly between the student and the higher education provider who will have the most information and understanding about a particular issue. Where a student hasn't first complained to their higher education provider about the complaint issues, or has an appeal process open to them at the provider, we should encourage the student to access those options themselves.

Assisting a student to complain can be as simple as informing them that their provider will have a complaints policy (which may also be referred to as a grievance policy) and guiding them on how to navigate the process.

Beyond this initial guidance, we play a crucial role in complaint support coaching. This involves having a more detailed discussion to help students identify their key concerns, work through any challenges they may face in contacting their provider and explore possible options.

This support assists the student to develop the skills needed to engage directly with their provider and is a more effective way of resolving some complaints in the first instance.

Consider referring a student back to their provider if:

- It doesn't appear the student has exhausted the available complaint options directly with their provider.
- It would be reasonable in all the circumstances for them to complain to the provider first.

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If that is the case, consider if another option such as a facilitated resolution or closed-loop referral may be more appropriate.

Process

- When taking an inbound call, ask the student if they are aware of their provider's complaint process and assist them by providing information about the most appropriate complaint pathway (usually available on a provider's website).
- Before calling a student who complained via webform, research the most appropriate complaint pathway(s) (usually available on a provider's website) and provide the student with:
 - how and where to lodge a complaint
 - the expected timeframes for a response
 - any further escalation pathways they may have if they are dissatisfied with the first outcome
 - consider also providing the student a link to our "How to make an effective complaint" guidance note.
- If the student is happy to raise the complaint themselves, advise the student that their complaint will be closed, but they are welcome to return and lodge a new complaint if they encounter any problems with the provider or exhaust all options directly with the provider and are still dissatisfied – we can then consider taking further action.
- **Resolve:** Document your decision using the 's 21AJ complaint not investigated' action. and close the complaint, using the Issue String outcome "Advised to pursue elsewhere > Agency complained of."

What's next

Once we close a complaint because we have referred a student back to the provider, no further action needs to be taken.

If a student returns to us with new information after contacting the provider, then this is generally treated as a new complaint. Create one and refer it for assessment following usual processes.

Warm Transfer to provider

What is a Warm Transfer?

A Warm Transfer is transferring the complaint to the provider and asking them to assess under their own policies and processes, without requiring the provider to provide the outcome (compare with: Closed-loop referral). We are asking the provider to handle the complaint essentially as if the student made it themselves.

When would I use a Warm Transfer?

A Warm Transfer is most useful where the provider has not had an opportunity to respond to the student's complaint under their own complaints policies and processes, but the student is reluctant to complain or it is more efficient to transfer it directly to the provider.

Ensure we are confident that the provider's complaint processes will be able to address the complaint. If we want to see the provider's response, or we have any concerns about the provider's ability to handle the complaint and wish to review the outcome ourselves, consider a facilitated resolution or closed-loop referral instead.

Process

Resolve workflow: New Procedure > NSO > Warm Transfer to HEP.

- Contact the student to discuss and seek their consent, preferably by telephone call, and explain that we will:
 - Transfer the complaint to the provider.
 - Ask the provider to contact them within 5 days to confirm they've received it.
 - Ask the provider to handle the complaint under their complaint process and work with the student directly.
- Manage the student's expectations by making it clear we have no power to make the provider take a particular action. Ensure you inform the student that if they encounter issues with the provider, or they're dissatisfied with the provider's response, they can return to us. They can also access the provider's appeal process.
- Email the complaint to the provider, asking them to confirm receipt.

- Close the complaint under s 21AJ(g), completing the “Transfer Details” section of the NSO tab (Select “Higher Education Provider”, Transfer Type “Warm”) and use the Issue String outcome “Advised to pursue elsewhere > Agency complained of”.
- If the complainant returns to us dissatisfied with the process or the outcome, open it as a new complaint.

Ask the provider for information

The NSO has broad powers to ask providers questions or for information under our ‘inquiries’ power in s 21AZ, which we use across all our functions. At this early stage of the process, we can use this to ask providers a simple question, or make a quick request for documents, to help decide what to do with the complaint.

If you find you are asking detailed or complex questions about the actions complained about, consider whether to use a Warm Transfer, facilitated resolution or closed-loop referral, or otherwise whether it should be referred to the CARE team or Complaint Investigations.

Why would I ask the provider for more information?

Examples of times where it might be useful are:

- You need some information from the provider to figure out what stage the complaint is up to or what has happened, and it would be reasonable for the provider to give us this instead of the student.
- You want copies of relevant documents, such as correspondence with the student, complaint outcomes, or decision letters.
- You need to figure out if the matter is in jurisdiction, or if a matter is (or isn’t) an excluded action.
- You want copies of provider policies, procedures or other documents that aren’t otherwise readily available.

Process

Resolve workflow: Preliminary inquiry

- Ensure you have the student’s consent to contact the provider.
- Call, or if you don’t have a phone number, write to the provider with your questions.

- Advise the student that you are contacting the provider and give them an estimate for when they will next receive an update.

Timeframes: Usually 5 business days is appropriate for these simple, straightforward questions or requests for documents. Consider what has been done for previous complaints on file and be prepared to negotiate with the provider to determine what a reasonable time is.

What's next

Once you have the provider's response, decide whether to take another action (Warm Transfer, facilitated resolution, closed-loop referral, closure) or refer to another team if warranted.

Facilitated resolution

What is a facilitated resolution?

Similar to an inquiry, it is an exercise of s 21AZ; the difference is that in a facilitated resolution (FR) we are using s 21AZ to **ask the provider to do something**, rather than asking for information/documents to inform our decision.

It is important to note that you don't have to know the answer before you ask. There is no requirement to be confident that the provider can or should take further action. An appropriate (and the most frequent) use of the FR power is to simply ask if there is anything the provider *can* do to assist the student. This is often an effective way of informally resolving a complaint.

When would I do a facilitated resolution?

It may be appropriate where:

- You think the provider might be able to resolve or respond to the complaint by taking some straightforward action.
- There is an obvious administrative issue that you want to draw the provider's attention to because they may be able to deal with it informally.

Process

Resolve workflow: New Procedure > NSO > NSO Facilitated Resolution

- Ensure you have student consent to contact the provider. When contacting the student to explain the facilitated resolution, ensure that

you manage the student's expectations, that we cannot make a provider take a particular action, but that we will ask the provider what they can do to assist the student.

- Call/email the provider, explain the issues the student approached us with and ask whether there is anything they can do to assist the student.

Timeframes for written facilitated resolutions are similar to closed-loop referrals. Ten business days may generally be appropriate, but a shorter or longer time can be used depending on the complexity of the issue.

What's next

Await the provider's response; if the provider resolves the issue to the satisfaction of all parties, close the complaint. If not, consider other options, or if referral to the CARE Team or Complaint Investigation team is warranted.

'Closed-loop' referral

What is a closed-loop referral?

It is where you 'package up' the student's complaint and refer it to the provider for them to investigate, under s 21AK of the Act. It is a 'closed loop' because we also ask the provider to report back to us on the outcome of their investigation.

It differs from the Warm Transfer because when using the closed-loop referral, we are asking the provider to investigate the matter we are referring, identify themselves if there were any issues with their handling of the issue complained about and report back to us, rather than handle the complaint under their own processes.

When would I do a closed-loop referral?

It can be a useful pathway if:

- The provider *has* responded to the complaint, but there is some further action the provider could take but hasn't, or there are aspects of the complaint you think the provider hasn't responded to, or could do a better job responding to.

Process for closed-loop referrals

Resolve workflow: New Procedure > NSO > NSO Closed-loop Referral to HEP

- Ensure you have student consent to contact the provider. Manage the student's expectations by making it clear we have no power to make the provider take a particular action, but we will ask the provider to investigate their complaint (or aspects of their complaint) and report back to us, for us to assess.
- Draft the letter to the provider and advise the complainant once it is dispatched – templates are available.
- You may choose to provide copies of documents the student has given us to the provider, if it will help the provider understand the complaint. Always seek the student's consent to provide documents.

Timeframes: The standard timeframe for a closed-loop referral is 10 business days. This timeframe may be extended for more complex matters or at the request of a provider. Where a longer period may be appropriate or a provider has requested an extension discuss this with your supervisor.

When referring it to the provider, you can specify that the provider only needs to provide an explanation of their response and does not need to provide extensive documentation. If the provider is able to resolve the matter to the student's satisfaction, a short explanation is sufficient to close the case. If the provider can't solve the matter, we would expect them to succinctly explain why and provide key documents only. If their explanation isn't satisfactory or we require more information, then the matter likely needs to be escalated.

What's next

Keep the complaint open pending the provider's response. If the provider resolves the issue, consider closing the complaint (on the grounds that no further action is warranted, since the issue is fixed).

If the issue is not resolved, consider whether the provider's actions were reasonable, or if it warrants further action or referral to the Complaint Investigations or CARE team.

Closing a complaint with no action – s 21AJ

What is a closure?

Although we should try, we can't always help with or resolve every complaint. The NSO has a wide discretion in determining how to deal with a complaint,

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and s 21AJ provides discretions where the NSO may choose not to deal further with a complaint.

When would you consider closing a complaint without action?

Generally, this is appropriate if you form the view there is no other action that *should* be taken. Some (not exhaustive) examples are below:

- The matter being complained about is an [excluded action](#) under s 21AD(3).
- The matter has already been sufficiently dealt with by another agency, or a different regulator or Ombudsman, or has been (or could be) reviewed by a Court or Tribunal (s 21AJ(e) and s 21AJ(f)).
- You already have enough evidence to assess the provider's actions, and there is no indication the provider has done something wrong, or is acting unfairly or unreasonably (s 21AJ(g)).
- The outcomes the student is seeking cannot be achieved and there are otherwise no different or better outcomes that could be achieved by taking action with the complaint (s 21AJ(g)).
- The student does not want their personal details or the details of their complaint to be shared with the provider, and this prevents obtaining an individual resolution (in some instances, you may be able to still raise the concerns in an anonymised fashion to seek information or a change in approach from the provider) (s 21AJ(g)).
- The matter is already resolved, or resolves while you are considering the complaint (s 21AJ(g)).
- The student withdraws the complaint or withdraws consent for us to take further action with the complaint (note this is **not** a discretion; the NSO **must not take action** if the student withdraws the complaint, under s 21AG(3)).

Process

- Create a 's 21AJ complaint not investigated' action in Resolve, and either call or write (using the template in the "Tasks" button in the action) to the student explaining your decision.
- Close the complaint.

What's next

Generally, no more action needs to be taken after a complaint is closed. If the student returns with new information, it can be considered as a new complaint.

Students have the right to request a different outcome; if a student disagrees with your decision, follow the review procedure, process 14 of the [Parliamentary Complaint Handling Procedures](#), to conduct a reconsideration and/or refer the matter to an independent review officer as appropriate. Discuss with your supervisor how best to handle this if you are unsure.

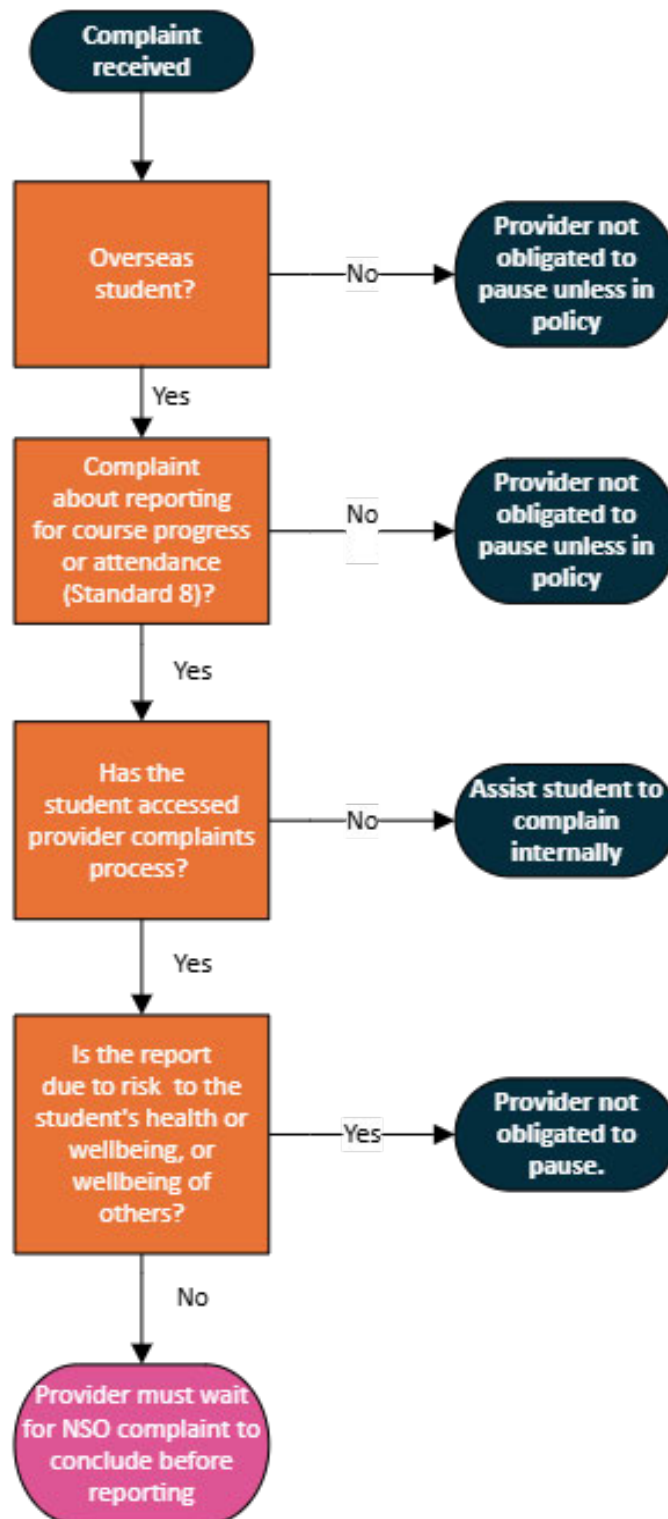
Document 3

GUIDANCE – ADVICE SHEET: PROVIDER OBLIGATIONS TO PAUSE INTERNAL PROCESSES DURING NSO COMPLAINTS

ENDORSED JULY 2025

About this document	
Purpose	This Guidance document, which incorporates an advice sheet that contains a process flowchart and related instructions, provides National Student Ombudsman (NSO) staff information about when Higher Education providers must pause internal processes during an NSO complaint.
User/s	All staff handling complaints in the NSO jurisdiction.
Publication/release to other sites	This Guidance document will be published on the VOLT platform, which is internal to the Office of the Commonwealth Ombudsman (the Office). It has not been published on an external website and is not intended for external publication.
Outcome	Staff will provide accurate advice to students and providers, and handle complaints appropriately.
Version number	1.0
Consultation	NSO Directors - Strategic Investigations, Complaints, Conciliation and Restorative Engagement
Approved/endorsed by	§ 22 [REDACTED] – Director, NSO Student Complaint Investigations, NSO Branch
Date approved/endorsed	July 2025
Next review date	January 2026
Contact team	NSO Complaint Investigations, NSO Branch

Advice sheet – Provider obligations to pause internal processes during NSO complaints: Process flowchart



Summary

There are **two situations** in which a provider must not take further action while an NSO complaint is underway.

1. When an **overseas student** complains to us about a provider's intention to report them to the Department of Home Affairs for:

- **Unsatisfactory course progress**
- **Unsatisfactory attendance**

the provider must not cancel the student's enrolment while the student's complaint is under external review following the provider's internal complaints process. External review includes by the NSO. There is no legislated timeframe for external review. This is under the [Education Services for Overseas Students Act 2000](#) (ESOS Act) and the [National Code of Practice for Providers of Education and Training to Overseas Students 2018](#) (National Code). There is no such requirement for domestic students.

2. If the provider's **policies** require them to wait until external review has been complete before proceeding with a process, the provider **must** comply with its own policies and not complete the process until the NSO complaint is finalised.

For all other complaints, providers are not required to pause internal processes while the student's complaint is with the NSO. The provider may choose to, but it is not a requirement.

What must a provider do for course progress and attendance complaints for overseas students?

The obligations are set out in full in Standards 8, 9 and 10 of the [National Code](#) - refer directly to the standards and the [fact sheets](#). Key obligations once a provider has determined the student has breached their course progress and attendance requirements are:

- Standard 8.13 – The provider must give the student a "Notice of intention to report" and allow the student 20 working days to access the provider's internal complaints and appeals process. The provider must not cancel the student's enrolment while this process is underway, unless the student's health or wellbeing, or wellbeing of others, is at risk.
- Standard 10.2.3 – The provider must commence their internal process within 10 working days of receipt of the complaint from the student.
- Standard 10.3 – Where the student is unsuccessful in the internal appeal process, the provider must advise the student within 10 working days of concluding the internal process of the student's right to access an external complaint handling and appeals process, with contact details. This includes but is not necessarily solely the NSO.
- Standard 8.14 – The provider must not proceed to report the student until either:

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- The external appeal process has concluded, noting there is **no legislated timeframe for accessing or undertaking an external appeal process including complaint to NSO**; or
- The student chooses not to access the external complaints process; or
- The student withdraws from the external complaints process in writing.

What to tell a student

When a student advises us that their provider intends to report them to the Department of Home Affairs for not meeting their conditions for course progress or attendance, first check whether they have accessed the provider's internal complaints and appeals process. If not:

- Advise the student to do so and how to complain. You may consider a Warm Referral.
- If they do not want to, ask them why. The provider must have this process under legislation, and the student should access it before the NSO reviews the complaint (unless the complaint is about the lack of a complaint process).
- Invite the student to return once the internal process is complete.

If the student is appealing an internal complaint decision, tell the student:

- They should contact their provider and tell them that they have lodged a complaint with the NSO. It may help to give the student an email confirmation they have lodged a complaint that they can show to their provider.
- They must continue to comply with the other terms of their enrolment and written agreement during the appeal, including for example payment of fees, course attendance, etc., with the provider even while the external complaint is underway. If a student fails to pay their fees or otherwise breaches their agreement, the provider may proceed to terminate their enrolment for that breach.
- If the student believes their provider has reported them already, advise the student to also contact the Department of Home Affairs immediately to discuss their visa.
See: [homeaffairs.gov.au](https://www.homeaffairs.gov.au) for contact details. You may consider taking immediate action to notify the provider we have received the student's complaint.

What about other issues?

- If a student approaches us about other issues, depending on the provider's policies, the provider may not need to wait for the outcome of the NSO complaint before taking action, including reporting overseas student to the Department of Home Affairs. The provider may in fact be *obligated* to report the overseas student to the Department of Home Affairs, despite the NSO's external appeal being underway.
- For instance, providers may proceed to cancel an overseas student's enrolment for non-course progress and attendance matters (e.g. non-payment of fees or misconduct) if the provider has met its internal appeal requirements under Standards 9 and 10 of the National Code, even where the student has complained to the NSO.

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- Advise students that they should assume that the provider's decisions from their internal processes are in effect and comply with those requirements until the NSO's complaint process finishes, unless the provider's policies state otherwise.
- For overseas students, providers can also immediately cancel and report a student if there is a risk to the safety of the student or others, or the student's wellbeing, even if the student has not yet accessed the internal complaints and appeals process. This applies even to course progress and attendance complaints.

Further reading and relevant legislation

For further information about provider obligations for overseas students, see the Education Services for Overseas Students framework (ESOS framework), in particular:

- Standards 8, 9 and 10 of the [National Code](#) (see also: Standards fact sheets [here](#))
- section 19 of the [ESOS Act](#)
- part 3 – Obligations on registered providers, Division 1 – Giving information about accepted students of the [Education Services for Overseas Students Regulations 2019](#) (ESOS Regulations)

For further information about provider obligations for domestic students (noting these also apply to overseas students), see the [Higher Education Standards Framework \(Threshold Standards\) 2021](#) (HES Framework) as enabled by section 58 of the [Tertiary Education Quality and Standards Agency Act 2011](#) (TEQSA Act), in particular:

- Standard 2.4 for complaints and grievances
- Standard 5.2 for academic and research integrity
- Standard 7.2 covers information a higher education provider must give to a student, covering student obligations (7.2.c) and complaint processes (7.2.f).

For further information relating to obligations on providers under the [Higher Education Support Act 2003](#) (HESA), see:

- section 19-45 of HESA covers student grievance and review procedures
- sub-section 19-45(2) excludes Table A providers listed in s 16-15 of HESA from grievance procedure requirements for academic and non-academic matters
- sub-section 19-45(5) requires providers to comply with their own grievance and review procedures (this includes Table A providers, too)
- the [Higher Education Provider Guidelines 2023](#) (HES Guidelines).

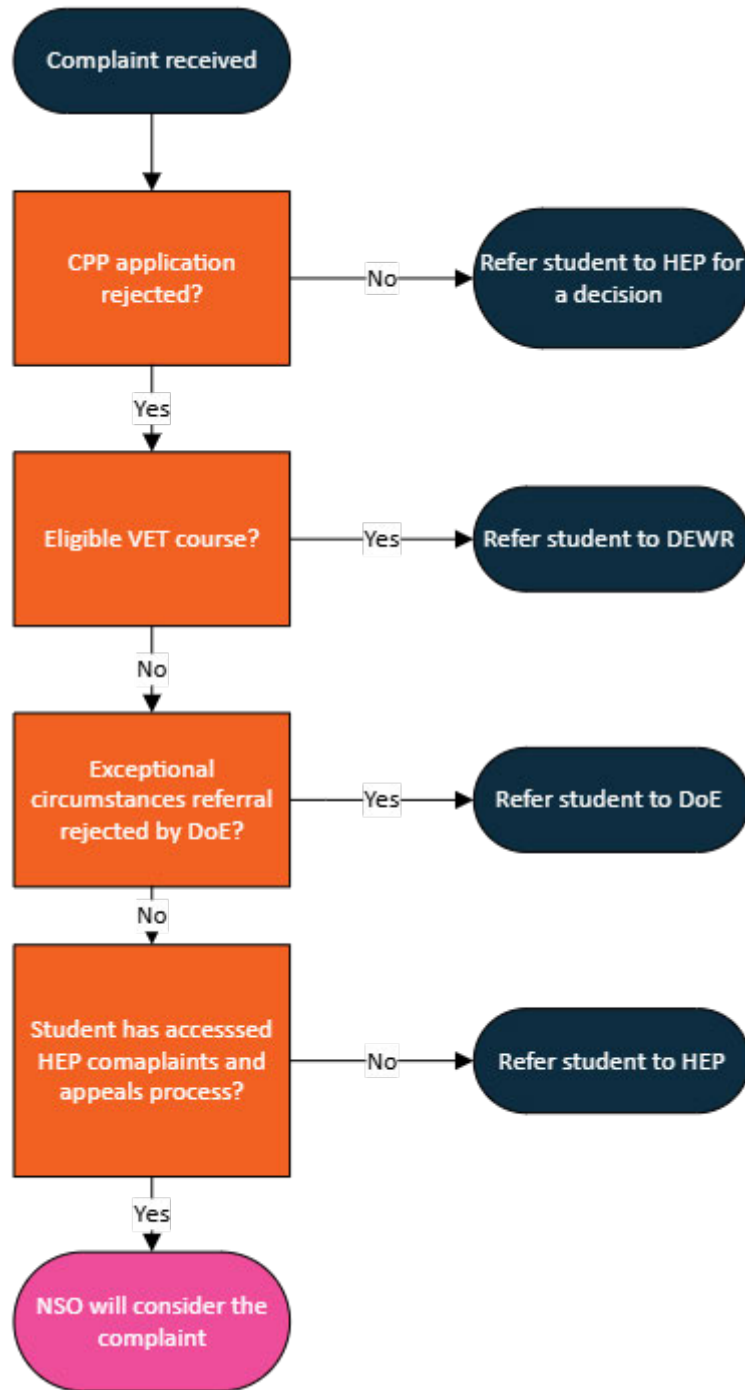
Document 4

GUIDANCE – ADVICE SHEET: NSO COMPLAINTS AND THE COMMONWEALTH PRAC PAYMENT

ENDORSED AUGUST 2025

About this document	
Purpose	This Guidance document provides National Student Ombudsman (NSO) staff with information about the Commonwealth Prac Payment (CPP).
User/s	All staff handling complaints in the NSO jurisdiction.
Publication/release to other sites	This Guidance document will be published on the VOLT platform, which is internal to the Office of the Commonwealth Ombudsman (the Office). It has not been published on an external website and is not intended for external publication.
Outcome	Staff will provide accurate advice to students and providers, and handle complaints appropriately.
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Consultation	NSO Directors - Strategic Investigations, Complaint Investigations, Conciliation and Restorative Engagement
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Date approved/endorsed	August 2025
Next review date	February 2026
Contact team	NSO Complaints, NSO Branch

Advice sheet – NSO Complaints and the Commonwealth Prac Payment (CPP): Process flowchart



Summary

The Commonwealth Prac Payment (CPP) is available to eligible domestic students studying a Bachelor's or Master's degree in teaching, nursing, midwifery, social work and a Diploma of Nursing.

Students enrolled in a Bachelor's or Master's degree in the relevant disciplines apply through their higher education provider.

The CPP is not a wage nor a wage subsidy; it is cost of living support while a student undertakes a mandatory placement to help alleviate financial costs associated with undertaking the placement.

The CPP is paid at a weekly rate benchmarked to the single Austudy rate (i.e. if the Placement is for a period of 4 weeks, the 2025 payment to the eligible student should be \$1,326.60 (4 x \$331.65)).

The maximum number of weeks of CPP that an eligible student may receive is linked to the minimum period of placement required by the relevant accrediting body to achieve entry-to-practice in the eligible discipline.

Eligibility

To be eligible for the CPP a student must be:

- a domestic student
 - enrolled in a unit of study that is being delivered as part of an eligible course of study that leads to entry-to-practice in teaching, nursing, midwifery and social work, that requires the student to participate in mandatory placements that:
 - ordinarily involves the student's participation in the placement for an average of 30 hours or more per week for the duration of the placement (which is linked to the same field of education as the course of study)
- OR
- requires the student to participate in a mandatory placement as part of course of study in midwifery known as a continuity of care model placement, which prevents the student from being able to maintain paid work due to the need to ensure their availability during the placement
 - enrolled in a Commonwealth Supported Place (CSP) in relation to the unit, or is expected to be enrolled in a CSP for the unit
 - the unit of study forms part of an eligible course of study that leads to the award of a Bachelor's or Master's degree.

Exceptional Circumstances

Providers can consider whether a student should receive CPP in exceptional circumstances on a case-by-case basis and make a recommendation to the Department of Education (DoE) for a final decision.

Students who are not exceptional circumstances students, must also meet the following requirements:

- participate in a mandatory placement: for an average of 30 hours or more per week for the duration of the placement:
 - that is known as a continuity of care model placement as part of course of study in midwifery, which prevents the student from being able to maintain paid work due to the need to ensure their availability during the placement

OR

- be currently in receipt of an eligible Income Support Payment

OR

- has a need to work where students show that they need to work during their normal studies by demonstrating they worked on average more than 15 hours a week either in the four weeks prior to applying for CPP or the four weeks prior to the student commencing their placement, whichever is earlier ('Need to Work Test').

AND

- did not earn more than \$1,500 per week gross (before tax), on average within the same 4-week evidentiary period, including amounts of scholarships or similar financial cost of living assistance from the Commonwealth, States and Territories.

Complaints

Providers must manage student disputes and complaints in line with their existing disputes resolution and complaints management policies. Students can complain to the NSO about the provider's actions or process in administering applications for the payment.

Where the Provider has informed the student that their application under exceptional circumstances has not been successful a student may lodge a complaint to the DoE. If students do not agree with the way the department has handled a complaint, they may complain to the Commonwealth Ombudsman.

Payments for Vocational Education and Training (VET) students eligible for the CPP are administered by the Australian Government Department of Employment and Workplace Relations (DEWR) and are out of jurisdiction for the NSO.

Provider Responsibilities

The Provider is responsible for:

- complying with relevant legislation and guidelines
- promoting the CPP to potentially eligible students through specific, targeted and accessible communication products
- managing an accessible CPP application process including dispute resolution and complaints management in line with their positive obligation work with students accessing the CPP
- ensuring there is a clear human decision maker within their institution for all CPP applications (including where third parties are used to deliver CPP)
- ensuring there are appropriate processes in place to assure the human decision maker that an applicant is eligible for CPP
- making timely payments to recipients
- if a recipient is found to be ineligible for payment, considering whether it is appropriate to recover the payment from the recipient

Additional information on eligibility criteria

Eligible Courses of Study

Eligible courses of study are entry-to-practice Bachelor's or Master's degrees in teaching, nursing, midwifery, and social work that are accredited/approved by the relevant professional standards body.

Note: for dual degrees, where an eligible Field of Education (FoE) is recorded as a secondary FoE, the course remains an eligible course of study where the practicum undertaken leads to entry-to-practice in an eligible discipline and the course is at the Bachelor's or Master's level.

Eligible Units of Study

Eligible practicum units are units that are being delivered as part of an eligible course of study that leads to entry to practice in teaching, nursing, midwifery, and social work that require the student to participate in one or more mandatory placements that:

- ordinarily involves the student's participation for an average of 30 hours or more per week for the duration of the placement

OR

- for a mandatory placement for a course of study in midwifery known as a continuity of care placement – prevents the student from being able to maintain paid work due to the need to ensure their availability during placement.

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The units usually align to the following FoE codes, as reported in the Tertiary Collection of Student Information (TCSI):

- Teaching Practice: 070100, 070101, 070103, 070105, 070107, 070113, 070199
- Nursing: 060300, 060301, 060305, 060307, 060309, 060311, 060313, 060399
- Midwifery: 060303, 060315
- Social Work: 090501

Eligible Income Support Payments (ISP)

The following payments are considered to be ISPs for the purposes of CPP eligibility:

- Centrelink ISP:
 - Age Pension
 - Austudy
 - Carer Payment
 - Disability Support Pension
 - JobSeeker Payment
 - Parenting Payment
 - Special Benefit
 - Farm Household Allowance
 - Youth Allowance
- Department of Veterans' Affairs (DVA) payments:
 - Age Pension
 - Income Support Supplement
 - Service Pension
 - Veteran Payment
 - Education Allowance
- ABSTUDY
 - ABSTUDY Living Allowance

Further reading

Further information including detailed guidelines for providers can be found [here](#)

Information on the VET CPP can be found [here](#)

Document 5

GUIDANCE – SPECIAL CIRCUMSTANCES RE-CREDITS

ENDORSED SEPTEMBER 2025

About this document	
Purpose	This Guidance document informs National Student Ombudsman (NSO) staff of the special circumstances requirements and review process under the <i>Higher Education Support Act 2003</i> (HESA).
User/s	All staff handling complaints in the NSO jurisdiction.
Publication/release to other sites	This Guidance document will be published on the VOLT platform, which is internal to the Office of the Commonwealth Ombudsman (the Office). It has not been published on an external website and is not intended for external publication and is not intended for external publication.
Outcome	Staff will provide accurate advice to students and providers, and handle complaints appropriately.
Version number	1.0
Consultation	Director, NSO Complaints Director, NSO Strategic Investigation Director, NSO Conciliation and Restorative Engagement
Approved/endorsed by	Director, NSO Complaint Investigations
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Next review date	April 2026
Contact team	NSO Complaint Investigations, NSO Branch

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Special Circumstances Re-credits: Process Flowchart

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Summary

Generally, a student who does not successfully complete a unit of study and who has not withdrawn by the census day remains liable for the cost of the unit of study.

However, if a student experiences 'special circumstances' after the census date that prevent them from successfully completing their study, they may be able to apply for a re-credit¹ of a Higher Education Loan Program (HELP) loan used to pay their higher education provider (provider) for a unit of study.

This Guidance is focused on the special circumstances rules that apply to providers for domestic students who paid fees for a unit of study through a HECS-HELP, FEE-HELP or STARTUP-HELP loan.

The [Higher Education Support Act 2003](#) (HESA) has provisions for domestic students with a HELP loan that cover:

- application periods to apply for a re-credit due to special circumstances
- extensions of time for applications
- when a provider must be satisfied that special circumstances apply to a student
- timelines and processes for reconsideration and review of decisions.

As a result, the NSO generally decides not to deal with a special circumstances complaint if a student has not yet applied for a special circumstances re-credit or exercised their right to reconsideration of the decision by the provider. Additionally, under HESA students can apply for a merits review of a provider's reconsidered special circumstances decision by the Administrative Review Tribunal (ART).

Overseas students and full fee-paying domestic students

Overseas students and full-fee-paying students are not within the scope of special circumstances decision making under HESA. In practice, many providers (especially universities) still apply their special circumstances policy to both domestic and overseas students with the outcome of a refund of fees paid or a credit toward future fees rather than a re-credit of Commonwealth assistance. A provider policy may refer an overseas student to the NSO for review of a reconsidered or appealed special circumstances decision.

For overseas students, any options for fee refund or fee credit in special circumstances for overseas students must be in line with the signed written agreement, the [Education Services for Overseas Students Act 2000](#) and Standard 3 of the [National Code of Practice for Providers of Education and Training to Overseas Students 2018](#) (ESOS Code).

If an overseas or full fee-paying domestic student has received a decision under a special circumstances policy, **the NSO may act as the external complaints body for this decision under Standard 10 of the ESOS Code.** NSO Officers should assess the complaint under usual

¹ Students may apply for a *re-credit* of HECS-HELP, FEE-HELP and Student Learning Entitlement (SLE) and a *reversal* for STARTUP-HELP.

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NSO process. The provider policy may allow reconsideration of this decision prior to an external complaint, so it is generally appropriate to refer the student to ask for a reconsideration from the provider if they have not completed this step prior to contacting the NSO.

The special circumstances test

Initially, a provider must establish whether a student meets the threshold criteria for a special circumstances application. This means a student must:

- have been enrolled in the unit of study; and
- have not completed the requirements (or passed) the unit of study;
- apply in writing within 12 months of the notice of withdrawal or of the end of the relevant study period (see further information about timeframes below).

The special circumstances test has three requirements that must be met and supported with evidence for special circumstances to be established.

Special circumstances apply to the person if the higher education provider is satisfied that circumstances apply to the person that:

1. are beyond the person's control;
2. do not make their full impact on the person until on or after the census date for the unit in question; and
3. make it impracticable for the person to complete the requirements for the unit in the period during which the person undertook or was to undertake the unit.

There is further detail in how this test is to be applied within the [Higher Education Support \(Administration\) Guidelines 2022](#).

What to tell a student?

When a student lodges a complaint with the NSO, check:

- Is the student an overseas student, full fee-paying domestic student or a student with a HELP loan? The available pathways for review will differ.
- Is the issue within the scope of the special circumstances provisions?
 - If so – has the student accessed the provider's special circumstances application process and reconsideration process?
 - If not – refer them back to the provider to undertake the relevant process.

Under law, providers must have a policy consistent with HESA requirements. You can usually find the provider's special circumstances policy on its website.

Complaints about the initial decision – refer to provider reconsideration process

- If a student disagrees with the provider's decision on whether they meet the special circumstances criteria, then the student may follow the reconsideration and review process set out under the provider's policy. The policy may call this an 'internal review' or 'appeal'.
- Under HESA, students can apply to the provider for reconsideration within 28 days of the original decision. HESA also gives the provider discretion to extend the application time.
- The provider may then decide to confirm the original decision, vary it, or set it aside and substitute a new decision.

Complaints about the reconsideration decision – refer to the ART

- If the student is dissatisfied with the provider's reconsidered decision, the student can apply to the [ART](#) for external merits review within 28 days of the reconsideration decision, as per rules 5–6 of the Administrative Review Tribunal Rules 2024.
- The ART has discretion to extend an application period for review in certain circumstances, as per s 19 of the [Administrative Review Tribunal Act 2024](#)
- The ART can confirm, vary or set aside a decision based on all the evidence available. This can include evidence the original decision maker did not have at the time.
- There is a standard application fee to apply to the ART, however students can request a fee reduction due to financial hardship or other concessional circumstances. [Fee information is available on the ART website.](#)

The NSO and the ART

- Explain to the student that the NSO can only make recommendations and does not have the power to substitute a new decision under the HESA special circumstances provisions – while the provider and the ART can. The NSO may decline to deal with the complaint by referring the student to the provider's internal reconsideration and the external ART review.

When not to refer

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- We can influence a provider to reconsider the decision under s 209–5 of HESA, which allows a provider to reconsider a decision if they are satisfied there is sufficient

reason to do so. The provider can reconsider it regardless of whether there has been an application for reconsideration or review, and there is no specified timeframe.

Complaints about delays

Providers must consider applications as soon as practicable. If a complaint is about a provider's delay in making a special circumstances decision or finalising a reconsideration:

- It may be suitable to refer a student to the provider's complaints process to raise their delay concerns, but if you have concerns you may wish to warm transfer the complaint or contact the provider to seek an update.
- If a student has formally complained to the provider about delay and not received a response within a reasonable timeframe, the delay may warrant further action in line with our usual processes.
- Please note that subsection 209-10(6) of HESA means that a provider is taken to have confirmed its special circumstances decision if the student does not receive the reconsidered decision (also called a 'decision on review') within 45 days of the student's written reconsideration request. The student may then [apply for external review at the ART](#).

What if the complaint does not meet the special circumstances criteria?

If the student accepts that their complaint does not meet special circumstances criteria but believes they should be entitled to a refund or that the actions of a provider have been unfair or unjust, we should confirm whether the student has complained directly to the provider (if no other specific refund process is available).

If the student has not, advise the student to lodge a formal complaint and let them know how to. You may also consider a warm referral to the provider.

If the student has already completed the provider's internal complaint process, then the NSO can assess the complaint in line with our usual processes. Reviewing the provider's response to the student's complaint can assist us to assess whether they have acted appropriately. If the provider's actions do not appear to be contrary to law, unreasonable or based on an unfair policy, then the Complaints Officer may decline to deal further with the complaint. Other circumstances that may be relevant are specified [below](#).

The special circumstances application period

Initially, a provider must establish whether a student meets the application period criteria for a special circumstances application. This means a student must make their application in writing for a unit of study within 12 months of:

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- when the provider gave notice to the student that the student's withdrawal from the unit of study has taken effect, or
- if they did not withdraw, during the period of 12 months after the end of the period during which the person undertook, or was to undertake, the unit.

HESA allows providers to waive the requirement that an application is made before the end of the application period if it 'would not be, or was not possible' for the application to be made before the end of the period. If the provider decides not to waive the application period, the provider must provide written reasons why and offer the student review rights for that decision.

Additional information

Other reasons for re-credits

For reference, other circumstances that may allow for a re-credit under HESA include:

Reason	Programs	HESA references
The student has no tax file number	HECS-HELP	97-27, 193-5, 36-24B
	FEE-HELP	104-27
	STARTUP-HELP	128E-20
Not a genuine student	HECS-HELP	36-5(5), 97-50 and 19-42
	FEE-HELP	104-43, 104-1(1AA) and 19-42
	STARTUP-HELP	128B-10 and 19-42
No entitlement	HECS-HELP	97-50, 90-1 and 36-24BC
	FEE-HELP	104-1 and subdivision 104-A
	STARTUP-HELP	Section 128E-30 and division 128B
No assessment of whether a student is academically suited	HECS-HELP	97-50, 90-1(c), 36-10(ba) and 19-42
	FEE-HELP	104-44(3), 104-1(ac) and 19-42
	STARTUP-HELP	128E-35 and 19-42
Provider defaults (note: Table A providers are exempt unless a Minister decides otherwise)	Default criteria	166-10
	HECS-HELP	97-42, 36-24A
	FEE-HELP	104-42
Provider completes request for assistance	HECS-HELP	97-45, 36-24BB
	FEE-HELP	104-44: not applicable to Open Universities Australia (OUA)
	STARTUP-HELP	128E-25
Material non-compliance found in provider's internal audit of the course	STARTUP-HELP	128E-40
Withdrawal prior to census date	HECS-HELP	169-15(3), 169-17, and 36-40
	FEE-HELP	169-15(3), 169-17
	STARTUP-HELP	169-16 and 169-18
	All the above	Section 38 of the HEP Guidelines

This table uses non-standard hyphens to help search [HESA on legislation.gov.au](https://www.hesa.gov.au).

For domestic students that are not otherwise eligible for a re-credit, waivers may not be available. See 19-85 and 169-15 of HESA and [26. Waiving fees - Department of Education, Australian Government](#)

We have not formed a view as to whether the ACL may still apply.

Adjusting re-credits for HECS-HELP and FEE-HELP debts incurred on or before 1 June 2025

If a person receives a re-credit for a HECS-HELP or FEE-HELP debt that was incurred on or before 1 June 2025, the re-credit will cover 80% of the original debt's value. This is due to a 20% re-credit that was applied to remaining HECS-HELP and FEE-HELP loans in the [Universities Accord \(Cutting Student Debt by 20 Per Cent\) Act 2025](#).

Open Universities Australia

As Open Universities Australia (OUA) is not a higher education provider, special circumstances decision making by OUA is currently considered out of jurisdiction for the NSO. A Complaints Officer should add OUA matters to the Issue of Interest IOI-2025-800016 and refer the student to OUA's review pathway.

Waiver of debt

In some circumstances, it may be appropriate to make a [waiver of debt](#) referral to the Department of Finance. Waiver of debt is a discretionary power and generally an avenue of last resort. Waiver of debt is on the basis of inequity or financial hardship and can be considered where no other options are appropriate or available. Complaints Officers are encouraged to discuss with a Team Leader if they think this may apply.

Australian Consumer Law

This Guidance doesn't include consideration of what fee refunds may be available under the Australian Consumer Law (ACL). It is open to a student to seek legal advice about what options are available to them under the ACL.

Further reading and relevant legislation

[Higher Education Support Act 2003 \(HESA\)](#)

HESA covers special circumstances in:

- division 97—Re-crediting of HELP balances in relation to HECS-HELP assistance
- subdivision 104-B—Re-crediting HELP balances in relation to FEE-HELP assistance
- subdivision 79-A—Re-crediting a person's SLE amount in special circumstances
- for STARTUP-HELP, subdivision 128E-A—Reversal in special circumstances.

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[Higher Education Support \(Administration\) Guidelines 2022](#)

The Department of Education also publishes [Higher Education Administrative Information for Providers](#), which covers topics like:

- [re-crediting, remission and repayment of debts from loans, such as FEE-HELP and HECS-HELP](#)
- the [Guide to special circumstances decision-making – Department of Education, Australian Government](#)
- [grievance and review procedures](#)
- the [Code of Practice for Notification of Reviewable Decisions and Rights of Review by the Administrative Review Tribunal](#)
- [definitions of domestic and overseas students for the purposes of HESA](#)
- [fee waivers, including the restriction on fee waivers for domestic students that are Commonwealth-supported students](#)
- [the Department of Finance-administered waiver of debt process](#) for debts owed to the Commonwealth.

[Higher Education Support \(Student Learning Entitlement\) Guidelines 2021](#)

Document 6

GUIDANCE – ADVICE SHEET: ACADEMIC JUDGEMENT**ENDORSED OCTOBER 2025**

About this document	
Purpose	This Guidance document, which incorporates an advice sheet that contains a process flowchart and related instructions, provides National Student Ombudsman (NSO) staff information about how to handle cases involving academic judgement.
User/s	All staff handling complaints in the NSO jurisdiction.
Publication/release to other sites	This Guidance document is being released to the VOLT platform, which is internal to the Office of the Commonwealth Ombudsman (the Office). It has not been published on an external website and is not intended for external publication.
Outcome	Staff will provide accurate advice to students and providers, and handle complaints appropriately.
Version number	1.0
Consultation	All teams in the NSO Branch
Approved/endorsed by	§ 22 [REDACTED] – Director, NSO Strategic Investigations and Reporting
Date approved/endorsed	October 2025
Next review date	October 2026
Contact team	NSO Strategic Investigations and Reporting, NSO Branch

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Purpose

When establishing the NSO, the Australian Government decided that the NSO should not deal with matters that involve academic judgement. This exclusion has been included in Section 21AD of the *Ombudsman Act 1976 (Cth)*, which explains that any matter involving the 'exercise of academic judgement' is an excluded action. Where a complaint only raises an academic judgement concern, a complaint is out of jurisdiction (OOJ) for the NSO.

We can still deal with some complaints that involve academic judgement. Student complaints that initially appear as a matter of academic judgement can still involve concerns about the administrative action(s) a provider has taken during or after an academic judgement has been made. Other complaints might involve a combination of academic and administrative decisions where the line between the two seems blurred.

This advice sheet has been designed to:

- explain what academic judgement is and is not
- provide guidance on how to approach complaints that involve both academic and administrative decisions, and
- provide examples of decisions that involve academic judgement.

What is academic judgement?

Academic judgement is a judgement where scholarly knowledge or expertise in a field of study is essential to the decision-making process. Academic judgement can include a decision on:

- ❖ the grade a student is awarded for a specific assessment, course or program
- ❖ a student's failure to meet course requirements or academic milestones, leading to possible exclusion or suspension from their program
- ❖ the appropriateness of a student's research methodology, use of content and sources, or argumentation when completing Higher Degree Research (HDR) activities like a doctoral thesis
- ❖ the appropriateness of course content, including learning materials, activities and assessments to the outcomes of a course or program of study
- ❖ the overall quality of a course or program of study
- ❖ the suitability of a tutor, lecturer or supervisor to teach a given course or guide students in a specific area of study (including possible concerns about their teaching style), and

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- ❖ the likelihood that a student has engaged in academic dishonesty (as identified manually or via text-matching detection software like Turnitin), such as in cases of plagiarism, collusion or contract cheating.

How to identify and handle complaints involving academic judgement

The following questions can assist officers to assess whether a complaint raises academic judgement, and how to deal with complaints that involve academic judgement issues:

1. Is academic expertise central to the decision or complaint?

If 'yes' is the answer to question 1, then consider if the student has raised other subject matter in their complaint that could potentially be dealt with by the NSO. If they have not, the complaint is likely to be OOJ.

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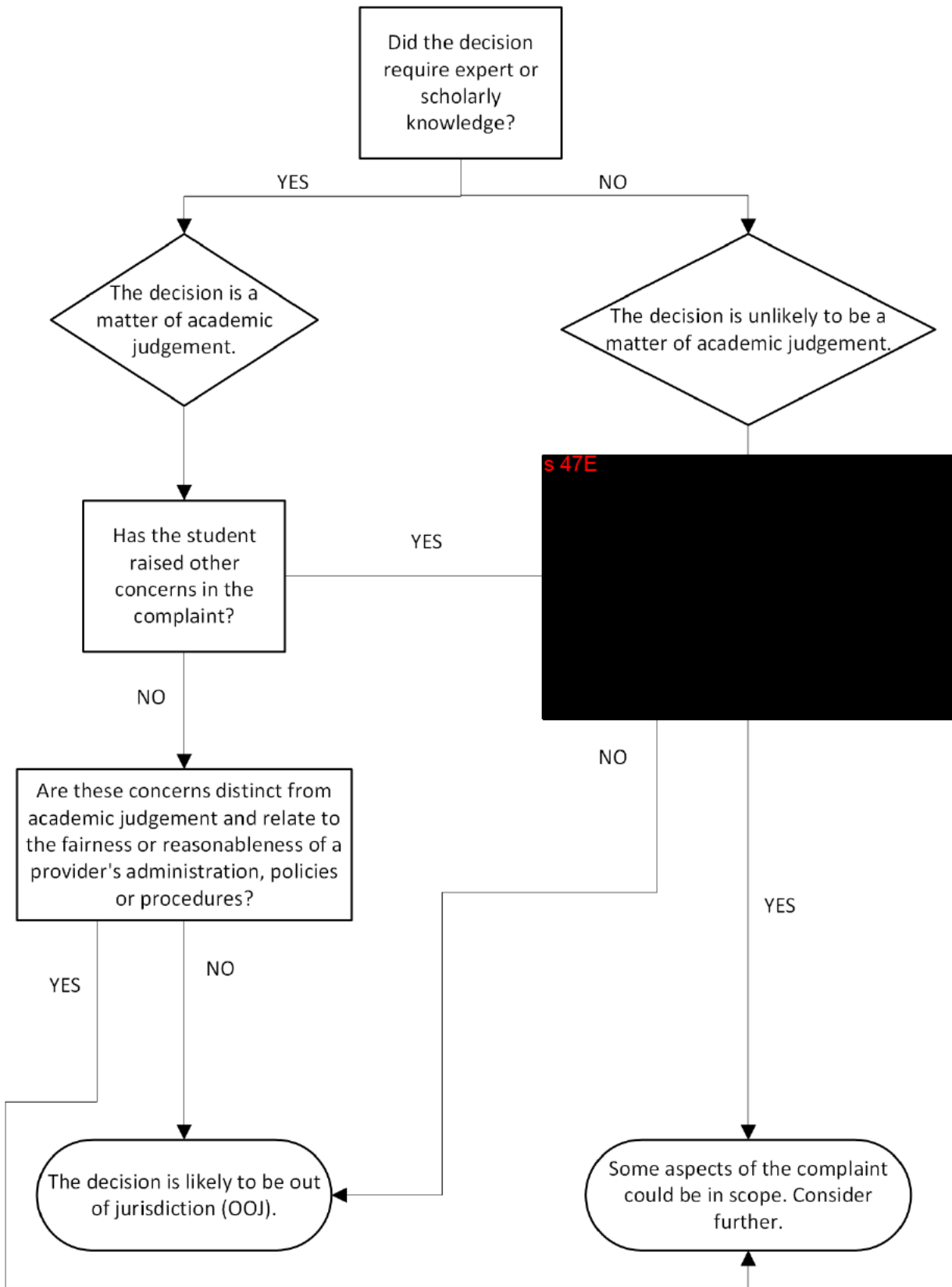


If 'yes' is the answer to any part of questions 2 or 3, then it is possible that some aspects of the complaint in connection with academic judgement are in scope.

If 'no' is the answer to any part of questions 2 or 3, then the complaint is likely to be OOJ.

The next page of this advice sheet includes a flowchart to help officers visualise pathways for a complaint that involves academic judgement.

Process Flowchart: How to deal with complaints that involve academic judgement



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Document 7

GUIDANCE – NATIONAL STUDENT OMBUDSMAN JURISDICTION

ENDORSED FEBRUARY 2025

About this document	
Purpose	This Guidance document sets out the jurisdiction of the National Student Ombudsman (NSO) for NSO staff, including similar jurisdictional responsibilities in other Commonwealth and state/territory government agencies.
User/s	All NSO staff
Publication/release to other sites	This Guidance document will be published on the VOLT platform, which is internal to the Office of the Commonwealth Ombudsman (the Office). It has not been published on an external website and is not intended for external publication.
Outcome	This Guidance document is intended to ensure staff are well positioned to understand and accurately apply the NSO jurisdiction.
Version number	1.1
Consultation	<p>§ 22 [REDACTED] – Director, NSO Investigations</p> <p>§ 22 [REDACTED] – Director, NSO Complaints</p>
Approved/endorsed by	§ 22 [REDACTED] – Director, NSO Strategic Investigations
Date approved/endorsed	February 2025 (Version 1.0) September 2025 (Version 1.1)
Next review date	September 2026
Contact team	NSO Strategic Investigations, NSO Branch

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About the NSO

The National Student Ombudsman (NSO) was established to create a nationally coordinated approach to handling higher education student complaints and can investigate student complaints about higher education providers. We consider whether a higher education provider has acted unfairly or unreasonably. We are a free, independent and impartial service.

The establishment of the NSO is a recommendation of the [Australian Universities Accord Final Report](#). The NSO also forms part of the [Action Plan Addressing Gender-based Violence in Higher Education](#). We are committed to providing a trauma-informed service to support and improve the student experience in higher education.

All higher education students (students) including domestic, international and higher degree research students, who have a complaint about their higher education provider, can raise a matter with the NSO. This provides a simplified complaints pathway for students.

Who can make a complaint?

The NSO can handle complaints made by or on behalf of students about their higher education provider. A “higher education provider” is a provider [registered with the Tertiary Education Quality and Standards Agency \(TEQSA\)](#). This includes both public and private higher education providers.

The complaint may be about any action taken by a higher education provider, unless it is one of the actions specifically excluded from the NSO’s jurisdiction.

A “higher education student” is any prospective, current or former student of a higher education provider, except those students who are enrolled, were enrolled, or intend to enrol only in a Vocational Education and Training (VET) course. The [Australian Qualifications Framework](#) provides guidance on qualification complexity, with levels 1-4 in the framework covering VET courses and 5-10 covering higher education courses.

What actions does the NSO not handle complaints about?

The NSO does not handle complaints about:

- the exercise of academic judgement, such as marking and grading. However, the NSO may consider complaints about related administrative processes, such as the academic appeals process.
- employment conditions or other employment-related complaints from employees of the higher education provider. In some circumstances where the complaint is not about employment-related action the NSO may consider complaints from students who are also employees.¹

¹ Section 21AD(3) of the Act describes the following as an excluded action: ‘any action taken with respect to a person employed by a higher education provider, being action taken in relation to that employment’

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- the appointment of a person to an office of a higher education provider
- VET courses. The Office of the Commonwealth Ombudsman can handle complaints about a VET course where:
 - as the VET Student Loans Ombudsman (VSLO) – the complaint is from a student who has a VET FEE-HELP or VET student loan debt and the complaint is about the debt.
 - VET course complaints for select higher education providers (per Table 1 below).
 - some matters where a student is enrolled in both a VET-course and a higher education-course (if the complaint is not specifically about the VET course, for example the complaint is about a provider action that does not relate to the non-VET course or is about the higher education course).
- student accommodation not owned, operated or associated with the higher education provider (see the FAQs for further information).

Office of the Commonwealth Ombudsman jurisdictions, and state and territory parliamentary Ombudsmen

As well as the NSO, the Office of the Commonwealth Ombudsman also includes the Overseas Students Ombudsman (OSO) and the ACT Ombudsman. Some complaints about higher education providers in the jurisdiction of the Commonwealth Ombudsman, the OSO, or the ACT Ombudsman can also be handled by the NSO.

Note: Where a complaint received after 1 February 2025 could be handled by either the NSO or another function in the Office of the Commonwealth Ombudsman, the complaint will be handled by the NSO. Where a complaint comes through to a different area but is in the NSO's jurisdiction, other areas of the office will refer the complaint to the NSO.

Overseas Students Ombudsman

The OSO handles complaints from international students about private schools, colleges, institutes and universities in Australia registered on the [Commonwealth Register of Institutions and Courses for Overseas Students \(CRICOS\)](#). About 117 private education providers offer higher education courses and are registered with TEQSA and CRICOS (and are within the NSO's jurisdiction) with a further 815 private CRICOS registered education providers that are not TEQSA registered and are outside of the NSO's jurisdiction.

ACT Ombudsman and Commonwealth Ombudsman Complaints

Background on the ACT Ombudsman

The ACT Ombudsman can handle complaints about ACT government bodies and tertiary education providers which includes the Canberra Institute of Technology (CIT) and University of Canberra (UC). Both are higher education providers registered with TEQSA.

Background on the Commonwealth Ombudsman

The Commonwealth Ombudsman can handle complaints about Commonwealth Government bodies, which includes the Australian National University (ANU). The ANU is a higher education provider registered with TEQSA.

The ACT Ombudsman and Commonwealth Ombudsman will continue to handle complaints about higher education providers that are out of jurisdiction for the NSO. These include:

- complaints that do not come from a student. This can include complaints from staff members (where they are not also students) or community members about the provider.
- complaints that relate to improper conduct/corruption allegations (see the Frequently Asked Questions below for more details).
- complaints that relate to VET courses where the student is not also enrolled in a higher education course.

Other state and territory Parliamentary Ombudsmen

State and territory parliamentary ombudsmen also have jurisdiction over higher education complaints where they relate to public providers, creating an overlap with the NSO's jurisdiction. The state and territory ombudsmen have jurisdiction in some higher education settings that the NSO does not, including for:

- complaints made by students only enrolled in VET courses
- complaints made about higher education providers where the complaint is not made by a student (e.g. from a staff member or a member of the community)
- complaints about improper conduct supported by a public interest disclosure process – further details below.

Contact details for the state and territory ombudsmen are included in Attachment A.

The National Training Complaints Hotline

For a VET student who is a domestic student with a private provider, the NSO can refer the student to the [National Training Complaints Hotline](#).

Table 1: Where a complaint goes: Overview of jurisdiction

Provider is registered with TEQSA only (not CRICOS)			
Course	Student (domestic/international)	Provider	Team responsible
Higher education	Any	Any	National Student Ombudsman

VET*	Any	Australian National University (ANU)	Commonwealth Ombudsman
		Canberra Institute of Technology (CIT) or University of Canberra (UoC)	ACT Ombudsman
		Public providers	External state/territory ombudsman referral
	Domestic only	Private Provider	National Training Complaints Hotline
Student enrolled in both VET and higher education courses	Any	Any	National Student Ombudsman
Provider is registered with CRICOS only (not TEQSA)			
Course	Student	Provider	Team responsible
Any	International	Private	Overseas Student Ombudsman
	Domestic	Private	National Training Complaints Hotline
Provider is registered with both TEQSA and CRICOS			
Course	Student	Provider	Team responsible
Higher education	Any	Any	National Student Ombudsman
VET*	Domestic	Private	National Training Complaints Hotline
	International	Private	Overseas Student Ombudsman
	Any	ANU	Commonwealth Ombudsman
		CIT or UoC	ACT Ombudsman
		Public providers	External state/territory ombudsman referral
Student enrolled in both VET and higher education courses	Any	Any	National Student Ombudsman

*Complaints about VET FEE-HELP or VET Student Loan debts should be referred to the VET Student Loans Ombudsman team.

Other agencies – overlapping and related jurisdiction

Improper conduct and public interest disclosures

State and territory governments have established protocols to provide whistleblower protections for people raising concerns about improper or corrupt conduct of public officials. As the NSO does not have access to a whistleblower process, where we assess that a matter raises content that could potentially meet state or territory legislative thresholds for a public interest disclosure, we attempt to refer the complaint to the state or territory so that a complainant has access to these protections. In some circumstances, a matter that could be referred will remain with the NSO where a complainant indicates they do not wish to have access to whistleblower protections and prefer for their complaint to be managed by the NSO.

The following steps are used to refer a complaint that raises improper/corrupt conduct to a state / territory agency:

Public interest disclosure complaints can be complicated and need to be discussed initially between the NSO and state/territory governments on a case-by-case basis. If you believe a complaint raises improper or corrupt conduct by a higher education provider official, consult a Team Leader/Assistant Director for assistance in implementing the following steps

1. If the person raising the complaint is a student and not a staff member, check the table below to see if a student can raise a disclosure in that jurisdiction.
2. Check the definition of public interest disclosure for the relevant state/territory to see what types of matters are covered. Check also that the public interest disclosure legislation in that jurisdiction includes the higher education provider as a 'public authority'.
3. Discuss with the person raising the complaint that their matter has raised (improper conduct/corruption/waste of public funds) and it appears to meet the threshold for a public interest disclosure.
4. Explain the benefit of whistleblower protections, but that a referral may mean their complaint takes longer to be handled if referred. Seek the person's agreement (consent) to transfer their matter to the relevant state or territory body.
5. Refer the complaint to either the state and territory ombudsman for that jurisdiction, to one of the anti-corruption bodies or, if the disclosure concerns a criminal matter, to the state/territory police. Contact details are included in Attachment A.
6. Outline to the receiving body that if the complaint is not assessed by them to be a public interest disclosure, they should discuss with the complainant if they prefer for the matter to remain in that jurisdiction or be referred back to the NSO.

As outlined in Table 2, some jurisdictions only allow a public official to raise a public interest disclosure. In these jurisdictions, a student who is not employed by the higher education provider is unable to make a public interest disclosure and complaints that raise improper conduct continue to be handled by the NSO. Complaints relating to improper conduct by higher education officials should be treated with caution though, and leadership advice should be sought in most cases before contacting the higher education provider about the complaint.

Table 2: Overview of State/Territory Public Interest Disclosure Frameworks

State/Territory	Who can disclose	What counts as a Public Interest Disclosure	Are higher education providers public authorities?	Legislation
ACT	Public officials and members of the public	Conduct that could appear to be corruption, maladministration, or misuse of public resources	Public: yes Private: no	<i>Public Interest Disclosure Act 2012 (ACT)</i>
NSW	Public officials, including employees and contractors of NSW public universities	Conduct that appears to be corrupt conduct, maladministration, serious and substantial waste of public money, and government information contravention	Public: yes Private: no	<i>Public Interest Disclosures Act 1994 (NSW)</i>
NT	Public officials and members of the public	Conduct that appears to be improper conduct, including corruption, maladministration, and misuse of public resources	Yes	<i>Public Interest Disclosure Act 2008 (NT)</i>
QLD	Public officials, including employees, members and officers of QLD public universities	Conduct that appears to be corrupt conduct, maladministration, substantial misuse of public resources, and dangers to public health or safety	Yes	<i>Public Interest Disclosure Act 2010 (QLD)</i>

State/Territory	Who can disclose	What counts as a Public Interest Disclosure	Are higher education providers public authorities?	Legislation
	Members of the public	Conduct that appears to be a reprisal or would endanger the environment or a person with disability		
SA	Public officials and members of the public	Conduct that appears to be corruption, maladministration, and serious and substantial waste of public resources	Yes	<i>Public Interest Disclosure Act 2018 (SA)</i>
TAS	Public officials and members of the public	Disclosures about improper conduct, including corruption, maladministration, and misuse of public resources	Yes	<i>Public Interest Disclosures Act 2002 (TAS)</i>
VIC	Public officials and members of the public	Disclosures about improper conduct, including corruption, maladministration, and misuse of public resources	Yes	<i>Public Interest Disclosures Act 2012 (VIC)</i>
WA	Public officials and members of the public	Disclosures about improper conduct, including corruption, maladministration, and misuse of public resources	Yes	<i>Public Interest Disclosure Act 2003 (WA)</i>

Incompatible actions with human rights

The role of the NSO to consider unfair and unreasonable decision making extends to human rights considerations. In addition to considering whether a provider has acted incompatibly with legislation, or with policies and procedures, we consider whether they have acted incompatibly with one of the following categories of human rights within Australia:

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1. Across Australia – consistency with the Universal Declaration of Human Rights and related Covenant and Convention articles that Australia is a signatory party to. Additional information can be found here: [What are human rights? | Australian Human Rights Commission](#).
2. In Victoria – the [Charter of Human Rights and Responsibilities Act 2006 \(Vic\)](#), obliges all public authorities to consider human rights when making decisions and act compatibly. Public authorities as defined under the legislation will often (but not always) include higher education providers.
3. In Queensland – public universities and other public providers must consider the [Human Rights Act 2019 \(Qld\)](#). This means that they must act and make decisions that are compatible with the 23 included rights and can only limit rights where it is reasonable and justifiable.

Frequently Asked Questions

Q: Does the NSO handle complaints about private higher education providers?

A: Yes. If a private provider is [TEQSA-registered](#), the NSO can handle the complaint.

Q: Is there a time limit on a student making a complaint to the NSO?

A: No. Provided the higher education provider continues to be registered with TEQSA, students can make historical complaints. If there is no clear outcome that can be achieved for a historical complaint received, discuss with your team leader / Assistant Director.

Q: What if a higher education provider was but is no longer registered with TEQSA?

A: The NSO can handle complaints about deregistered providers if the action complained about occurred while the provider was registered, and the NSO receives the complaint within 12 months of the deregistration time.

The NSO can also handle the complaint if a TEQSA-registered provider merged with or succeeded the now deregistered provider. The NSO will treat the complaint as if it were about the registered provider.

Q: What if the student is also an employee of their higher education provider?

A: The NSO can consider some complaints from students who are also employed by their higher education provider. We must consider what aspects of the complaint relate to that employment. Raise queries with your Team Leader / Assistant Director on how to handle a complaint that relates to a student's experience and their employment with a higher education provider.

The Fair Work Ombudsman may be more appropriate for some complaints that raise employment-related issues.

Q: A State or Territory Ombudsman has already given an outcome for the complaint. Will the NSO consider the complaint?

A: In most cases, the NSO will not take further action on a complaint that has previously been assessed and given an outcome by another complaints handling agency. However, where participation in a restorative engagement or alternative dispute resolution process may deliver a better outcome the NSO may consider the matter.

Q: What if the complaint is about a higher education provider as registered with TEQSA, but the complainant is not a higher education student as defined in the Act?

A: The complaint can be referred as follows:

Person category	Referral
The person is an international student but is outside of the NSO Act's definition of a higher education student	If the provider is on the CRICOS register - Refer to OSO
The person is a VET student and the complaint is about a VET FEE-HELP or VET Student Loan debt	Refer to VSLO
The person is another type of student outside of the NSO Act's definition of a higher education student	If it is a public provider - refer to State or Territory Ombudsman
The person is not a student	If it is a public provider - refer to State or Territory Ombudsman

If the complainant is enrolled, was enrolled, or intends to enrol in any higher education course with the provider, they are a higher education student. This applies even if the student also is enrolled, was enrolled, or intends to enrol in a VET-course.

If the person is a higher education student who is also enrolled in a VET course, the NSO can review complaint issues that don't relate specifically to the VET course.

Q: What if the complaint relates to student accommodation?

A: The NSO handles complaints relating to student accommodation unless the higher education provider is not associated with the accommodation. Some higher education providers own and/or operate student accommodation and have direct responsibility for the student accommodation experience.

Other higher education providers are associated with an accommodation provider through governance, contractual, promotional or other business arrangements. Through that association the higher education provider can take actions to influence the accommodation provider. Such actions are within the NSO's jurisdiction. These distinctions and their relationship to NSO jurisdiction are summarised in the following table:

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Relationship between higher education provider and student accommodation	Within the NSO's jurisdiction?
Provider owns and/or operates the accommodation	Yes
Provider does not own or operate the accommodation but is associated with it	Yes (consult Team Leader / Assistant Director for advice as needed)
Provider is not associated with the accommodation	No

Attachment A: External agencies relevant to the NSO's jurisdiction

STATE AND TERRITORY OMBUDSMEN				
State/ Territory	Role/ Jurisdiction	Contact options for complainants	Email for OCO staff	Website
ACT	ACT public universities and TAFEs	Contact details	s 47E	ACT Ombudsman
NSW	NSW public universities and TAFEs	Contact details	info@ombo.nsw.gov.au	NSW Ombudsman
NT	NT public universities and TAFEs	Contact details	nt.ombudsman@nt.gov.au	NT Ombudsman
QLD	QLD public universities and TAFEs	Contact details	s 47E	QLD Ombudsman
SA	SA public universities and TAFEs	Contact details	ombudsman@ombudsman.sa.gov.au	SA Ombudsman
TAS	TAS public universities and TAFEs	Contact details	ombudsman@ombudsman.tas.gov.au	TAS Ombudsman
VIC	Victorian public universities and TAFEs	Contact details	s 47E	VIC Ombudsman
WA	WA public universities and TAFEs	Contact details	mail@ombudsman.wa.gov.au	WA Ombudsman

STATE AND TERRITORY ANTI-CORRUPTION AGENCIES				
State/ Territory	Agency	Contact options for complainants	Email for OCO staff	Website
ACT	ACT Integrity Commission	Contact details	info@integrity.act.gov.au	ACT Integrity Commission
NSW	Independent Commission Against Corruption (ICAC)	Contact details	icac@icac.nsw.gov.au	ICAC NSW
NT	Independent Commissioner Against Corruption (ICAC)	Contact details	icac.nt@icac.nt.gov.au	ICAC NT

QLD	Crime and Corruption Commission (CCC)	Contact details	mailbox@ccc.qld.gov.au	CCC QLD
SA	Independent Commission Against Corruption (ICAC)	Contact details	enquiries@icac.sa.gov.au	ICAC SA
TAS	Integrity Commission	Contact details	contact@integrity.tas.gov.au	Integrity Commission TAS
VIC	Independent Broad-based Anti-corruption Commission (IBAC)	Contact details	info@ibac.vic.gov.au	IBAC VIC
WA	Crime and Corruption Commission (CCC)	Contact details	info@ccc.wa.gov.au	CCC WA

OTHER EXTERNAL AGENCIES		
HUMAN RIGHTS		
Agency	Description	Links
Australian Human Rights Commission	<p>Scope: These agencies are limited to complaints about certain unlawful discrimination, harassment and human rights breaches under applicable state, territory or Commonwealth laws.</p> <p>Resolution method: Conciliation-only. The agencies do not influence complaint resolution through findings or recommendations.</p> <p>The national, NT and Victorian agencies may make recommendations aimed at improving compliance.</p> <p>Time limit. Most agencies consider a complaint only if the incident occurred within the past 12 months (24 months for ACT).</p> <p>Some agencies may consider complaints about older incidents only in exceptional circumstances.</p> <p>Best-practice promotion: Only the national, Tasmanian and Victorian</p>	Homepage Contact details Information about complaints
ACT Human Rights Commission		Homepage Contact details Information about complaints
NSW Anti-discrimination Board		Homepage Contact details Information about complaints
NT Anti-discrimination Commission		Homepage Contact details Information about complaints
QLD Anti-discrimination Commission		Homepage Contact details

	agencies have the power to issue practice guidelines.	Information about complaints
SA Equal Opportunity Commission	Reporting: Each agency does very limited or no reporting on higher education.	Homepage Contact details Information about complaints
Equal Opportunity Tasmania		Homepage Contact details Information about complaints
VIC Equal Opportunity and Human Rights Commission		Homepage Contact details Information about complaints
Equal Opportunity Commission of WA		Homepage, contact details and information about complaints
EDUCATION QUALITY		
Tertiary Education Quality and Skills Authority (TEQSA)	<p>TEQSA regulates the higher education sector.</p> <p>While TEQSA can take certain complaints, TEQSA is not a complaints resolution body. As such, TEQSA typically does not address complainants' grievances.</p> <p>TEQSA may consider a complaint if it indicates a broader, systemic issue regarding a higher education provider.</p> <p>TEQSA is limited to considering compliance issues within the TEQSA legislative framework.</p>	Homepage Contact details Information about complaints TEQSA legislative framework
Australian Skills Quality Authority (ASQA)	<p>ASQA is the VET sector regulator.</p> <p>Like TEQSA, while ASQA can take certain complaints, ASQA is not a complaints resolution body.</p> <p>ASQA will consider complaint information that helps ASQA identify risks to quality and integrity in the VET sector.</p>	Homepage Contact details Information about complaints

Skills Canberra	Skills Canberra manages the VET sector in the ACT. Skills Canberra can handle complaints from students about VET providers.	Homepage Contact details Information about complaints
Training Services NSW (TSNSW)	TSNSW is part of the NSW Department of Education and manages the VET sector in NSW. TSNSW can handle student complaints about VET providers.	Webpage Contact details and information about complaints
SA Skills Commission (SASC)	SASC regulates the skills sector (including VET) in South Australia. SASC can handle student complaints about VET providers. SACS can seek resolution for complainants.	Homepage Contact details Information about complaints
Victorian Registration and Qualifications Authority (VRQA)	VRQA regulates the skills sector (including VET) in Victoria. VRQA can handle student complaints about non-compliance of VET providers. VRQA does not offer resolution to complainants.	Homepage Contact details Information about complaints
WORKPLACE RIGHTS		
Fair Work Commission (FWC)	The FWC is the national workplace relations tribunal. The FWC resolves disputes between employers and employees through mediation, conciliation and arbitration.	Homepage Contact details Information about complaints (disputes)
Fair Work Ombudsman (FWO)	The FWO is the national workplace relations regulator. The FWO investigates breaches of and enforces compliance with Australia's workplace laws.	Homepage Contact details Information about complaints

CONSUMER RIGHTS		
ACCC	<p>The ACCC is the national competition, consumer, fair trading and product safety regulator.</p> <p>The ACCC can take complaints about breaches of the Australian Consumer Law, but the agency focuses on issues that can result in widespread harm. The agency does not resolve individual complaints.</p>	<p>Homepage</p> <p>Contact details and how to report an issue</p>
Access Canberra	<p>Each local consumer protection agency enforces the Australian Consumer Law in the relevant state/territory.</p> <p>The agencies can resolve individual complaints about consumer rights breaches.</p>	<p>Homepage</p> <p>Contact details</p> <p>Information about complaints</p>
NSW Fair Trading		<p>Homepage</p> <p>Contact details</p> <p>Information about complaints</p>
NT Consumer Affairs		<p>Homepage</p> <p>Contact details</p> <p>Information about complaints</p>
Office of Fair Trading Queensland		<p>Homepage</p> <p>Contact details</p> <p>Information about complaints</p>
SA Office of Consumer Business Services (CBS)		<p>CBS</p> <p>Contact details</p>
Tasmania Consumer, Building and Occupational Services (CBOS)		<p>Homepage</p> <p>Contact details</p> <p>Information about complaints</p>
Consumer Affairs Victoria (CAV)		<p>Homepage</p>

		Contact details Information about complaints
WA Consumer Protection		Homepage Contact details Information about complaints

**Document 8****In-Person NSO Complaint Checklist for
Complaint Handlers**

This checklist is to be used as a guide by staff in the Complaints Branch and the Investigations Branch to capture NSO complainant information during an in-person complaint interaction for new NSO complaints in Resolve.

-
- Does the complainant require an interpreter or accessibility adjustments?
-

COMPLAINANT PERSONAL INFORMATION

-
- | | |
|---|--|
| <input type="checkbox"/> Name and date of birth | <input type="checkbox"/> Aboriginal or Torres Strait Islander |
| <input type="checkbox"/> Contact phone number and address | <input type="checkbox"/> Email Address |
| <input type="checkbox"/> Student ID number | <input type="checkbox"/> Domestic or International student on a visa (include expiry date) |
-

NEW COMPLAINT INFORMATION

-
- Which Higher Education Provider is the complaint about?
- Is the complainant a former, current or intending student who is/was/will be enrolled in a course of study?
- Mode of study (whether via Distance/Online, Hybrid, On-Campus)
- What is the course they are, were or intend to study and enrolment dates and their course level (Bachelor, Honours, Masters, graduate diploma, etc.)
- Details of complaint
- what is the complaint about?
 - who has been involved?
 - how has the complaint come about?
 - If relevant, where has the complaint taken place?



-
- What steps have been taken to resolve the complaint?
- Has the student raised the complaint with their Higher Education Provider?
 - If so, when and how?
 - Have they received a response? If yes, what was the response? Can they provide copies of this?
- Has the complainant had any other relevant contact with the Higher Education Provider or other agency that may be investigating the complaint?
- If so, who and what action is/has/may be undertaken
- Desired action or outcome
- Consent for the NSO to contact the provider during first contact stages

NEXT STEPS

If you **are** confident in progressing a complaint:

- Assign complaint in your name and provide complainant with their complaint reference number. Progress in accordance with normal process.

If you **are not** confident in progressing the NSO complaint:

- Assign complaint to 'Allocation NSO Web Cases' as an unactioned web case and provide complainant with their complaint reference number.
- Advise complainant that an NSO Complaint Handler will be in contact with them once their complaint is allocated for review.
- Send an email to s 47E inform of the complaint to be actioned