

Overseas Students Ombudsman

Independent Schools Queensland

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Director



Overview

- Overview of Overseas Students Ombudsman's role
- Providers Obligations Under the National Code
- Special obligations to students under 18 years old
- Case studies



The Overseas Students Ombudsman

- The OSO investigates complaints from overseas students about private education and training providers
- We work with providers to help them improve their internal complaints and appeals processes
- We report to government on trends and systemic issues that we see from the complaints that we investigate



The Overseas Students Ombudsman

- Australia has a strong consumer protection framework for overseas students
 - Overseas Students Ombudsman
 - Tuition Protection Service
 - Industry regulators (ASQA, TESQA)
- We apply the consumer protection principles in the Education Services for Overseas Student Act and the National Code
- We also apply general Australian Consumer Law principles



The Overseas Students Ombudsman

- Most of our complaints relate to private Vocational Education and Training and English Language course providers
- We have received a small number of complaints about independent schools
- We have received more than 1,000 complaints since we began operating in April 2011



How we investigate

- We are independent and impartial
- We investigate in private
- We give the provider an early opportunity to resolve any problems
- We ask the provider to explain what they did and why they did it
- We try to get all relevant documents from both parties



Provider obligations – General

- Not to engage in misleading and deceptive conduct
- To use written agreements accurately setting out the course name, course duration, tuition fees and to accept and process payments in accordance with the ESOS Act
- Provide student support services
- Have adequate staffing resources and premises
- Have and implement documented policies and processes regarding:
 - complaints and appeals
 - course progress monitoring,
 - attendance
 - refunds



Provider Obligations – students under 18

The provider must,

- make arrangements to ensure the personal safety and social well-being of the student are appropriate, where students under 18 are not cared for by a parent or a suitable nominated relative
- advise DIAC in writing via PRISMS of the accommodation and welfare arrangements as approved by the provider
- have documented procedures for checking the suitability of the accommodation, support and general welfare arrangements
- advise DIAC via PRISMS if the student has changed living arrangements or if the provider no longer approves of the arrangement



Welfare and Accommodation

Although we cannot investigate complaints about landlords we can investigate complaints and make decisions about whether or not providers have complied with their obligation to ensure that arrangements for accommodation, welfare and support of students under 18 are suitable.



Things we look for

- Are the course and facilities what was promised in promotional material?
- Was the written agreement signed before course money was paid?
- Does the written agreement:
 - Accurately state the study periods
 - Correctly itemise the relevant fees
 - Include the provider's refund policy?



Things we look for

- Where a provider has refused to release a student who wants to transfer in the first six months of the course, has the provider:
 - Implemented and applied a student transfer policy
 - Considered whether the transfer would be detrimental to the student?
- In inadequate course attendance and progress cases
 - has the provider implemented and properly applied course progress and attendance policies
 - are these policies consistent with the requirement of the Act and the Code
 - Has the provider sent appropriate warnings?



Things we look for

- In all cases, does the provider have a fair and accessible complaints and appeals policy, and has the provider properly applied this policy?



Possible outcomes

- If we find that the provider made a mistake or acted unfairly, we can ask them to:
 - Apologise
 - Change or reconsider a decision
 - Change their policies or procedures
 - Refund part or all of the fees
 - Not report a student to DIAC for non-compliance with visa conditions
- If we find that the provider acted correctly we will provide the student with an explanation for this decision



Possible outcomes

- If we think there is a wider systemic issue that should be made public, we may publish a report
- If we consider that the provider may have breached the ESOS Act or Code, we may notify ASQA



Case Study

A 17 year old student complained to our office that her school is reporting her to DIAC for lack of course progress. Our office upheld the providers decision to report the student for lack or course progress. However, in the course of our investigation into the attendance matters we found that the school had not taken adequate steps to ensure that the accommodation and well-being arrangements for the student were appropriate.

- Our office made a number of recommendations to the provider about its practices and processes for ensuring the appropriateness of homestay accommodation.



Case Study

A 17 year old student complains to our office that he applied to study years 7-10 at X college, enrolled and paid fees. Subsequently the college decided that he could not start the course because his English skills were not adequate. He withdrew his enrolment and requested a refund of fees. The college refused to refund him. The OSO investigated and found that the enrolment agreement was signed by the 17 year old student in his own name and not by his parents or a guardian.

- The OSO recommended a refund

Case Study

Mr G complained to our office that he enrolled in year 11 and 12 at X College, with a view to doing mostly maths and science subjects. He told our office that the agent for X College had advised him that he could do a full maths science load there. However, when Mr G arrived in Australia and attended orientation he found out that the college offered maths and, if demand arose, physics but not other science subjects. Mr G withdrew and requested a refund. He told our office that he was denied a refund.

- When the OSO contacted College X it granted the student a refund. However the college advised our office that it had not received a written request from the student for a refund nor a formal complaint.

Things to remember

- Be aware of your obligations regarding the accommodation and welfare of younger students
- Ensure written agreements and payment processes meet the requirements of the ESOS Act and the National Code
- Ensure policies concerning attendance and course progress are compliant with the code, understood by staff and students and correctly implemented.



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