

Overseas Students Ombudsman

Australian Skills Quality Authority Brisbane 23 March 2015 Susan Gray, investigation officer

Overview

- Why OSO?
- Our role
- How we investigate
- Complaints statistics
- Case studies
- Transfers to ASQA
- Disclosures to ASQA



Why OSO?

The Baird Review:

- An independent, robust external **complaints handling process**
- ESOS Act amended to specify that all providers must utilise a statutorily independent complaints body as their external complaints and appeals process, and amended the *Ombudsman Act 1976* to extend the Commonwealth Ombudsman's jurisdiction for those providers not already covered by a statutorily independent complaint handling body.



The role of OSO

- We investigate complaints about the actions of <u>private</u> universities, VET providers and schools taken in connection with <u>overseas students</u>.
- We work with education providers to help them improve their internal complaints and appeals processes
- We report on trends and systemic issues



The ESOS Framework

- The Education Services for Overseas Students Act 2000 (ESOS Act)
- The National Code of Practice for Providers of Education and Training to Overseas Students 2007 (the National Code),
- statutory instruments made under the ESOS Act

The ESOS Framework

The National Code sets out obligations in 15 standards relating to:

- Pre-enrolment engagement (marketing information and written agreements)
- Care for and services to students (younger students and student support services)
- Students as consumers (transfers and complaints and appeals)
- The student visa programme (attendance/course progress/cancellation)
- Staff, educational resources and premises (including change of ownership)

Common ground

Both the ESOS framework and the RTO standards set out requirements about:

- Monitoring third parties
- Quality assurance
- Managing complaints and appeals
- Information that must be provided to students
- Protection of prepaid fees

Complaint Statistics

- We have received over 2000 complaints about private CRICOS registered providers in all education sectors since we began operating in April 2011
- We investigated 859 of these complaints (41%)
- We received 845 known complaints about schools and investigated 459 of these.
- Most common issues refunds and fees, transfers between providers, course progress and attendance .



- We are independent, impartial and investigate in private
- We usually ask students to go through the provider's internal complaints and appeals process before we investigate
- We ask the provider to explain what they did and why
- We request relevant documents from both parties
- We form a view and provide an opportunity to comment before we make a final decision



- If we find the provider did things correctly, we explain this to the student
- If we find substantial errors, we make recommendations to the provider, including giving the student a remedy
- We also make suggestions for systemic improvements to providers' policies and practices
- We analyse complaints data to identify systemic issues across the sector and publish issues papers on relevant topics



In refund cases, we particularly look at:

- 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?
 - require the parent or legal guardian to sign if the student is under 18 years old?



- In transfer cases, we look at whether the provider:
 - has implemented and properly applied a student transfer policy
 - considered whether the transfer would be detrimental to the student
- In poor course progress or attendance cases, we look at:
 - has the provider implemented and properly applied course progress and attendance policies
 - sent appropriate warnings at the right time



- In almost every case, we look at whether the provider has a fair and accessible complaints and appeals policy, and has applied it properly in the particular case
- We also look for signs that other students may have been affected by the same or similar problems
 - is there a systemic issue?



Possible Outcomes

- If we consider a provider has contravened the law or acted unreasonably, we can recommend that they:
 - apologise
 - change or reconsider a decision
 - change their policies or procedures
 - pay a full or partial refund
 - not report the student to Immigration



Possible Outcomes

- If we think there is a wider systemic issue, we may investigate further and/or publish a public report
- If we consider that the provider may have breached the ESOS Act or National Code, we may notify the regulator
- If we find that the provider acted correctly, we explain why to the student



Complaint transfers to ASQA

We have transferred 59 complaints to ASQA since we commenced. We transferred these complaints because they were in-jurisdiction complaints but the matter could be more conveniently or effectively dealt with by ASQA:

- Staff capability, resources, facilities
- Graduation completion certificate/ academic transcript
- VET standards
- Grades and assessment
- Bullying and Harassment



Transfer Case Studies

To transfer or not to transfer?

- An overseas student complains to OSO that the teaching staff at the RTO don't know their stuff – one teacher admitted that he was not qualified to deliver the course.
- An overseas student complains to OSO that the provider will not give her a graduation certificate because the provider says that she is in arrears but she believes that she is not.
- An ex-staff member of an RTO which mainly enrols overseas students, complains to OSO that the provider is falsifying students attendance records.



s 35A disclosures

- The OSO can make disclosures to ASQA if it is in the public interest. If the OSO is making an express or implied criticism of a provider it must give the provider an opportunity to comment.
- The OSO has made disclosures under s 35A about 13 providers to ASQA since April 2011.



s 35A disclosures

The s 35A disclosures were made because of:

- failure to pay a refund where a student was entitled to the refund
- allegations that a provider created false enrolments
- enrolling students in a superseded course
- alleged negligence of an education agent
- failure to arrange health insurance for a student after collecting the fee for the student's health insurance.



Publications and resources

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

www.oso.gov.au/publications-and-media/

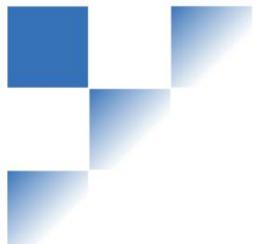


Publications and resources

- We publish quarterly complaints statistics reports
- We have produced a guide to 'Better Practice Complaint Handling for Education Providers'







Questions?

