

## Overseas Students Ombudsman

**Australian Skills Quality Authority**

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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 private universities, VET providers and schools taken in connection with overseas students.
- 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 .





# How we investigate

- 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



# How we investigate

- 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



# How we investigate

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?



# How we investigate

- 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



# How we investigate

- 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 enrolls 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/](http://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'



## Better Practice Complaint Handling for Education Providers

February 2011

### Complaint Handlers' Checklist

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

**ACKNOWLEDGE**  
all complaints quickly





# Questions ?