

**Overseas Students Ombudsman**  
**Quarterly Report 1 October – 31 December 2015**

**Role of the OSO**

The Overseas Students Ombudsman (OSO) has three functions:

- investigate complaints about actions taken in connection with overseas students by private registered education providers
- give private registered providers advice and training about best practice complaints handling for overseas student complaints
- report on trends and systemic issues arising from our complaint investigations.

This report sets out the OSO’s activities from 1 October – 31 December 2015 in relation to each of these functions.

**Complaints received about private providers 1 October – 31 December 2015 <sup>1</sup>**

Complaints received  213	Closed  155	Closed without investigation	127
		Investigated and closed	28
	Still open  58	Under assessment	6
		Investigation underway	52

**Complaints issues**

The OSO received 213 complaints and external appeals in October to December 2015 concerning 228 issues. This represents a 7% decrease on the last quarter (230 complaints received in July to September 2015) but a 34% increase from the 159 complaints received in the same period the previous year (October to December 2014 quarter). This shows a continuing trend of increasing complaint numbers overall whilst also reflecting the trend of receiving fewer complaints in the October to December quarter than the July to September quarter.

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<sup>1</sup> Complaints data generated from the Overseas Students Ombudsman’s complaint management system, Resolve on 12 January 2016. Data on number of providers by State/Territory and main course sector provided by the Department of Education from the *Provider Registration and International Student Management System* (PRISMS)

The top four complaint issues were:<sup>2</sup>

- Standard 3 - provider refunds, fee disputes, written agreements (59)
- Standard 11 attendance monitoring – (37)
- Standard 7 – transfer between registered providers (26)
- Standard 10 – monitoring course progress (16)

Standard 3 complaints about provider refund refusals and fee disputes remain our number one complaint issue. We updated our written agreements issues paper and provider checklist in January 2016, to reflect the December 2015 changes to the *Education Services for Overseas Students Act 2000*, which changed certain requirements relating to written agreements and the collection of upfront fees from students.

We have previously published a [course progress \(Standard 10\) and attendance \(Standard 11\) issues paper](#) to assist education providers to avoid common mistakes we see from external appeals on these issues.

We are awaiting the release of the revised National Code by the Department of Education and Training (DET) to see whether or not there will be any changes to the rules for Standard 7 provider transfers.

### **Complaint outcomes – closed complaints<sup>3</sup>**

The OSO finalised 191 complaints during the October to December 2015 quarter with 58 investigated and closed and 133 closed without investigation. An investigation involves contacting the education provider to request information to help us consider the complaint. We do not investigate every complaint that we receive. Where we are able to form a view from the papers the student provides, without contacting the education provider, it is not considered to be an 'investigation'. We are often able to form a view based on the papers which gives the student a faster decision and saves education providers time by not having to provide documents to us. We may also close a complaint without investigating because a student has not yet been through the education provider's internal complaints and appeals process. We usually refer students back to their provider's internal complaints and appeals process before we consider investigating.

In the October to December quarter 133 complaints were closed without contacting the provider and 58 complaints prompted contact with the provider. From these 58 complaints 62 issues were investigated. In relation to 18 of the issues raised the outcome supported the complainant. For 37 issues the outcome favoured the provider. For 7 of the issues the outcome supported neither.

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<sup>2</sup> Including Standards 1 – 14 from the *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007*

<sup>3</sup> Please note this analysis refers to all complaints closed in the October to December 2015 quarter, including complaints received prior to the commencement of the quarter.

### **Complaints issues by education sector**

Most complaint investigations that we did undertake and complete during the quarter related to Higher Education and Vocational Education and Training (VET) courses. For both Higher Education and VET complaints, course progress and attendance were the most common complaint issues. The number of investigations for ELICOS, Non-award and Schools were small with standard 11 attendance monitoring being the top issue for ELICOS and non-award and standard 10, course progress monitoring, being the most common issue for schools.

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**Complaint issues received 1 October– 31 December 2015 compared to previous quarters**

Issue type	Oct – Dec 2015 quarter	July – Sept 2015 quarter	Oct-Dec 2014 Quarter
Standard 3 - provider refund/fee dispute	59 <sup>4</sup>	68	46
Standard 11 – monitoring attendance	37	23	11
Standard 7 – transfer between providers	26	39	40
Standard 10 – monitoring course progress	16	21	13
Grades/assessment	15	12	4
Standard 13 – deferring, suspending or cancelling enrolment	14	19	10
Standard 8 – provider complaints and appeals process	14	15	5
Standard 14 – staff capability, resources, premises	14	9	3
Out of jurisdiction to investigate (OOJ) <sup>5</sup>	5	12	4
Academic transcript	5	4	2
Standard 4 – education agents	5	2	5
Graduation completion certificate	3	7	5
Standards for VET accredited courses <sup>6</sup>	3	3	3
Standard 1 – marketing information and practices	2	8	4
Standard 12 – course credit	2	3	4
Provider default	2	9	4
Standard 5 – younger students	2	0	1

<sup>4</sup> Of the 59 written agreement complaints investigated 15 were fee disputes, 38 were refund disputes (1 no/non-compliant written agreement, 11 were 47E visa refusal and 26 were 47D written agreement cases\*); 6 were 'other).

<sup>5</sup> Out of jurisdiction means the provider was in jurisdiction but the student was out of jurisdiction because they were not on or did not previously hold a student visa or the issue complained about was out of jurisdiction e.g. discrimination, employment or privacy issues.

<sup>6</sup> Vocational Education and Training sector

Standard 2 – student engagement before enrolment	1	3	4
Bullying or harassment	1	6	2
Standard 6 – student support services	1	0	0
Standard 9 – completion within expected duration	1	0	0
Work placement/experience	0	3	2
Overseas Student Health Cover	0	1	0
Discipline	0	0	0
Employment	0	0	0
Higher education standards framework	0	0	1
<b>TOTAL</b>	<b>228</b>	<b>267</b>	<b>173</b>

**Complaints received, investigated and closed by education sector**

**1 October– 31 December 2015**

<b>Sector</b>	<b>Investigations completed per sector Oct - Dec 2015</b>	<b>Investigations completed per sector July – Sept 2015</b>	<b>Investigations completed per sector Oct –Dec 2015</b>	<b>Number of providers in OSO jurisdiction by PRISMS ‘main course sector’<sup>7</sup></b>
ELICOS <sup>8</sup>	5	3	2	94
Higher Education	11	11	7	71
Non-Award/other	1	2	3	8
Schools	1	1	1	383
VET	3	9	10	404
<b>TOTAL</b>	<b>21</b>	<b>26</b>	<b>23</b>	<b>960</b>

<sup>7</sup> Excludes South Australian (SA) providers as, while they are in jurisdiction, we transfer complaint about SA providers to the SA Training Advocate, as recommended by the 2010 Baird Review.

<sup>8</sup> English Language Intensive Courses for Overseas Students

### Issues investigated and closed – ELICOS

11 complaints with 13 issues

Issue	Number of issues
Standard 11 Monitoring attendance	6
Standard 3 Formalisation of enrolment (Written agreement)	4
Standard 8 Provider complaints and appeals processes	1
Standard 7 Transfer between providers	1
<b>Total</b>	<b>13</b>

### Issues investigated and closed – Higher Education

27 complaints with 32 issues

Issues	Number of issues
Standard 10 Monitoring course progress	8
Standard 11 Monitoring attendance	5
Standard 7 Transfer between providers	5
Standard 3 Formalisation of enrolment (Written agreement)	4
Standard 13 Deferring, suspending or cancelling the student's enrolment	4
Standard 8 Provider complaints and appeals processes	2
Grades and assessment	1
Discipline	1
Bullying or harassment	1
Academic transcript	1
<b>Total</b>	<b>32</b>

### Issues investigated and closed – VET Sector

15 complaints with 18 issues

Issues	Number of issues
Standard 10 Monitoring course progress	6
Standard 11 Monitoring attendance	3
Standard 13 Deferring, suspending or cancelling the student's enrolment	3
Standard 3 Formalisation of enrolment (Written agreement)	3
Standard 7 Transfer between providers	2
Standard 8 Provider complaints and appeals processes	1
<b>Total</b>	<b>18</b>

### Issues investigated and closed – Schools

3 schools complaint investigated 6 issues

Issues	Number of issues
Standard 10 Monitoring course progress	2
Standard 11 Monitoring attendance	1

<b>Standard 13 Deferring, suspending or cancelling the student's enrolment</b>	<b>1</b>
<b>Standard 7 Transfer between registered providers</b>	<b>1</b>
<b>Standard 5 Younger students</b>	<b>1</b>
<b>Total</b>	<b>6</b>

### Issues investigated and closed – Non-award

2 non-award complaints with 2 issues

Row Labels	Count of Issue Level 1
<b>Standard 11 Monitoring attendance</b>	<b>2</b>
<b>Standard 3 Formalisation of enrolment (Written agreement)</b>	<b>1</b>
<b>Grand Total</b>	<b>3</b>

### Complaints received by state/territory

State/ Territory	Number of complaints received Oct - Dec 2015 quarter	Number of complaints received July – Sept 2015 quarter	Number of complaints received April – June 2015 quarter	Number of complaints received Jan – March 2015 quarter	Number of CRICOS registered providers in OSO jurisdiction <sup>9</sup>
New South Wales	89	90	70	69	261
Victoria	65	76	58	74	243
Queensland	32	35	21	9	238
Western Australia	16	20	18	9	82
Australian Capital Territory	2	0	3	2	12
South Australia	2	3	2	3	48 <sup>10</sup>
Northern Territory	2	0	1	0	5
National	5	6	0	0	32
Tasmania	0	0	0	0	9
<b>Total</b>	<b>213</b>	<b>230</b>	<b>173</b>	<b>161</b>	<b>960</b>

<sup>9</sup> From PRISMS data 14 January 2015

<sup>10</sup> SA providers are within our jurisdiction, however, we transfer complaints about SA providers to the SA Training Advocate, as recommended by the 2010 Baird Review.

### **Complaints transferred by the OSO to another authority**

Under s 19ZK of the *Ombudsman Act 1976*, the OSO must transfer a complaint to another statutory complaint handler if it could be more effectively dealt with by that complaint handler.

The OSO transfers complaints about the quality of the education provider’s teaching, staff or facilities to an appropriate regulator such as the Australian Skills Quality Authority (ASQA). The OSO transfers complaints about provider defaults and provider refunds in visa refusal cases to the Tuition Protection Service (TPS).

### **Complaint issues transferred under s 19ZK to another authority**

<b>Authority</b>	<b>Number transferred Oct - Dec 2015 quarter</b>	<b>Number transferred July- Sept 2015 quarter</b>	<b>Number transferred April - June 2015 quarter</b>	<b>Number transferred Jan - March 2015 quarter</b>
Australian Skills Quality Authority	6	7	9	1
Tuition Protection Service	9	7	7	9
South Australian Training Advocate	3	4	3	0
Tertiary Education Quality Standards Agency	0	0	1	0
<b>Total</b>	<b>18</b>	<b>20</b>	<b>19</b>	<b>10</b>

The OSO may also make disclosures under s 35A of the Act to regulatory bodies or public authorities where it is in the public interest to do so. The OSO made no disclosures during the quarter.

### **Provider advice and training in best practice complaint handling**

The OSO provides training to providers about best practice handling of overseas student complaints. In this quarter we:

- delivered a training webinar through the Australian Council of Private Education and Training (ACPET) on best practice complaints handling
- published a provider e-newsletter with articles on complaint trends and issues and highlighting the role of the ESOS hotline in providing ESOS policy advice.

### **Outreach and engagement activities**

In this quarter, the OSO:

- presented at the Australian International Education Conference (AIEC) in Adelaide
- presented at the International Student Advisor Network Australia (ISANA) conference in Melbourne.



- met with the Indonesian Embassy in Canberra to advise them of our role and how we can help intending, current and former overseas students
- led a teleconference meeting with other complaint handlers to discuss provider complaint handling, including ASQA, TEQSA, the TPS, the schools regulators, Study Melbourne, Study NSW, the Australian Human Rights Commission, Redfern Legal Centre's International Student Legal Clinic and the Victorian Consumer Rights Action Law Centre
- met by teleconference with the State Ombudsman offices, the South Australian Training Advocate and the Western Australian International Education Conciliator to discuss complaint handling by education providers
- met with the TPS, ASQA, TEQSA, the DET and the Department of Immigration and Border Protection (DIBP).

### **Publications**

In this quarter the OSO published:

- the [Overseas Students Ombudsman report on the first four years of operation](#)
- a [provider e-newsletter](#)
- a [student e-newsletter](#)
- an [Overseas Student Fact Sheet on Fees & Refunds](#)
- an [Overseas Students Ombudsman Quarterly Report for July to September 2015](#)

### **Submissions**

In this quarter, we made a submission to the [Senate ESOS Streamlining Bill Inquiry](#).  
Previous submissions can be found on our [website](#).