

Overseas Student Factsheet: Making a complaint to the Commonwealth Ombudsman

What is the Commonwealth Ombudsman?

The Office of the Commonwealth Ombudsman is an independent government organisation that provides free assistance to investigate and resolve complaints between **private education providers** and international students.

A *private education provider* means a registered education provider that is not owned or run by the Commonwealth or a State or Territory. This can be a school, university, or college in Australia.

Find out more about the Commonwealth Ombudsman at: <https://www.ombudsman.gov.au/How-we-can-help/overseas-students>.

What type of complaints does the Ombudsman investigate?

The Ombudsman may investigate complaints about a range of matters, including:

- refunds and fees;
- admissions refusals;

- transfers between providers and courses;
- attendance and course progression;
- academic results;
- cancellation of enrolment;
- a provider refusing to grant a deferral or temporary suspension of studies;
- education agents;
- completion certificates and academic transcripts;
- private education providers' internal complaints and appeals processes;
- accommodation or work arranged by your education provider;
- education providers not giving you services or products included in your written agreement.

Who can the Ombudsman investigate?

The Ombudsman can only investigate a complaint if:

- The complaint relates to a **private education provider** which is registered on the CRICOS (Commonwealth Register of Institutions and Courses for Overseas Students), and
- The complaint relates to a problem experienced by:
 - a **current** overseas student studying in Australia on a student visa, or
 - a **former** overseas student who was studying in Australia on a student visa when the complaint happened, or
 - > an **intending** overseas student who would like to study on a student visa.

The Ombudsman will usually investigate complaints about education providers breaching the ESOS Act or the National Code.

What will the Ombudsman consider when deciding to investigate my complaint?

The Ombudsman will not investigate every single complaint. In deciding whether to investigate a complaint, the Ombudsman will consider the following matters:

- whether the complaint is serious;
- whether the complaint is reasonable, honest, or fair;
- whether you have completed the internal complaints and appeals process with your education provider;
- whether the complaint happened more than 12 months ago; and/or

- whether you have, or had, the right to have your complaint investigated by a Court or Tribunal, and you chose not to do so.

What complaints will the Ombudsman not investigate?

Public education providers

The Ombudsman can only investigate complaints that relate to a 'private' registered education provider.

If your complaint relates to a *public* education provider (an education provider that is owned or run by the Commonwealth or State or Territory), the Commonwealth Ombudsman cannot investigate your complaint. Instead, you can make a complaint to your state or territory Ombudsman, or the Australian Competition and Consumer Commission.

Other complaint handlers

If your complaint is already being dealt with by another organisation, the Ombudsman will not investigate your complaint.

Before complaining to the Ombudsman, consider whether another organisation is better suited to dealing with your complaint. For example, any complaints related to the quality of education should be directed to either:

- the Australian Skills Quality Authority (**ASQA**), or
- the Tertiary Education Quality and Standards Agency (**TESQA**)

Internal complaints

The Ombudsman will not accept your complaint unless you have finished the

internal complaints and appeals process with your education provider.

For more information about your options in this process, please see the Redfern Legal Centre factsheet on 'Making a complaint about your education provider' (see: www.rlc.org.au).

If the Ombudsman investigates my complaint, how will they help?

The role of the Ombudsman is to independently investigate the complaint. The Ombudsman does not take sides, and it does not "represent" overseas students or private education providers.

After the Ombudsman investigates a complaint, the Ombudsman may:

- make findings in favour of the provider (if the provider has not breached the law);
- make findings in favour of the student (if the provider has breached the law) and identify ways the provider should help fix the student's problem;
- if both student and provider are at fault, encourage the parties to find a solution;
- suggest improvements to the provider's internal practices to avoid similar complaints in the future; and/or
- give education providers advice on how to deal with complaints directly with overseas students.

Does my education provider have to follow the recommendations made by the Ombudsman?

Education providers must follow any directions issued by the Ombudsman to fix your issue (National Code, 10.4). The provider must also follow extra actions recommended by the Ombudsman to make sure other students do not experience the same problems (National Code, 10.4).

Further Reading

- Office of the Commonwealth Ombudsman, 'Overseas Students' (<https://www.ombudsman.gov.au/How-we-can-help/overseas-students>)
- Office of the Commonwealth Ombudsman, 'Factsheets' (<https://www.ombudsman.gov.au/publications/brochures-and-factsheets/factsheets>)

Published on 05 April 2022.

Produced by Redfern Legal Centre.

This factsheet is not a substitute for legal advice. If you have a problem, please contact RLC's International Student Legal Service NSW at www.rlc.org.au/contact or phone 02 9698 7645.