

# Factsheet

## Making a complaint to the Overseas Students Ombudsman



*This factsheet provides an overview of the role of the Overseas Students Ombudsman (OSO) and how to make an effective complaint to the OSO.*

### What is the Overseas Students Ombudsman?

The OSO is an independent complaints handling body. It can investigate complaints made by overseas students about private education providers (e.g. schools, universities or colleges).

### What complaints can the OSO investigate?

The OSO can only investigate a complaint if:

- The complaint relates to a 'private education provider' which is registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS), 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 arose, or
  - an *intending* overseas student who has taken 'any steps towards becoming an overseas student'

The OSO will usually investigate complaints from overseas students that involve breaches of the *Education Services for Overseas Students Act 2000* (Cth) ([ESOS Act](#)), and the *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007* (Cth) ([National Code](#)). Together, the ESOS Act and National Code form the rules education providers must follow in relation to international students. You can find more information about the ESOS

framework on the Australian Government Department of Education and Training website: [https://internationaleducation.gov.au/Regulatory-Information/Documents/ESOSFrameworkfactsheetfinaldraft9May2014\(2\).pdf](https://internationaleducation.gov.au/Regulatory-Information/Documents/ESOSFrameworkfactsheetfinaldraft9May2014(2).pdf)

Some examples of matters the OSO can investigate include students' complaints about:

- Refunds and fees
- Private education providers' refusal to allow a student to transfer to another private education provider
- Private education providers' decision to report students to the Department of Immigration and Border Protection (DIBP) for unsatisfactory attendance or course progress
- Cancellation of enrolment (non-commencement of study, non-payment of fees, misbehaviour, etc.)
- Private education providers' refusal to grant a deferral or temporary suspension of studies
- Education agents
- Admissions refusals
- Grades
- Completion certificates and academic transcripts
- Private education providers' internal complaints and appeals processes

### What complaints will the OSO not investigate?

#### **Public education providers**

The OSO can only investigate complaints that relate to 'private registered education providers'. A

'private registered education provider' is an education provider that is registered on [CRICOS](http://cricos.education.gov.au/) (the Register can be accessed online at: <http://cricos.education.gov.au/>). A *private* registered provider means a registered provider that is not owned or run by the Commonwealth or a State or Territory.

If your complaint relates to a *public* education provider (an education provider that is owned or run by the Commonwealth or a State or Territory), the OSO cannot investigate your complaint. However, you may be able to make a complaint to the relevant government Ombudsman. You can find more information about the NSW Ombudsman for instance here: <http://www.ombo.nsw.gov.au/>

### Other complaint handlers

The OSO will not investigate a complaint if it would be better dealt with by a different **government** complaint-handler. For example, if you wish to complain about the quality of education you are receiving, the OSO will not investigate. In that case the more appropriate complaint-handler is either:

- [The Australian Skills Quality Authority \(ASQA\)](#), or
- [The Tertiary Education Quality and Standards Agency \(TEQSA\)](#)

Similarly, if your complaint relates to a breach of the Australian Consumer Law (found in [Schedule 2 of the Competition and Consumer Act 2010 \(Cth\)](#)), the more appropriate complaint-handlers are state and territory consumer protection regulators, like *NSW Fair Trading*.

### Internal complaints

The OSO will not accept your complaint unless you have finalised a complaint with your registered private education provider. You must have completed all of the provider's internal dispute resolution and appeals processes. Simply lodging a complaint with your provider is not enough; you must go through all of the provider's relevant complaints and appeals processes before you can complain to the OSO.

Unfortunately, internal complaints and appeals processes can take months to complete. An

investigation by the OSO can take just as long. This is a problem for many overseas students whose complaints are time sensitive. Accordingly, you should try to settle any disputes with your provider directly where possible.

### What will the OSO consider when deciding whether to investigate my complaint?

The OSO can choose to investigate your complaint or not. The OSO may decide not to investigate your complaint for the following reasons:

- Your complaint is not serious, is simply designed to annoy your provider, or is not made in good faith, or
- You do not have a sufficient interest in the subject matter of the complaint, or
- You have not yet raised the complaint with the registered provider, or
- The problem about which you wish to complain happened more than 12 months before you made the complaint, or
- You have, or had, a right to have your complaint reviewed by a court or by a tribunal but have not done so

### If the OSO does investigate, how can my complaint be fixed?

The OSO conducts investigations independently and does not take sides. It does not represent overseas students, nor does it represent private education providers.

After investigating a complaint, the OSO may try to decide the complaint in the following ways:

- If the provider has *not* breached the law, by deciding the complaint in favour of the provider
- If the provider has breached the law, by deciding in favour of the student and identifying how the provider should help fix the student's problem
- If there is fault on both sides, by negotiating a solution
- By suggesting to providers how they might improve their policies, practices and staff training to avoid such complaints in the future, and
- By giving providers advice on how to best

settle complaints directly with overseas students

Education providers are required under Standard 8 of the National Code to follow any directions the OSO gives in support of an overseas student. Education providers must also carry out any preventative actions (designed to make sure other international students do not suffer from the same problem) recommended by the OSO.

### **Does an education provider have to comply with the OSO's recommendations?**

Although the National Code requires education providers to follow the OSO's recommendations, if the provider chooses not to do so, the OSO has no power to make an education provider follow its recommendations. The OSO does, however, have the power to report providers of concern to national regulators, such as ASQA or TEQSA, and the State or Territory schools regulators.

Once the OSO has explained its concerns to the relevant regulator, it is up to the regulator to decide what action, if any, it should take.

ASQA or TEQSA have the power to cancel a registered private provider's CRICOS registration, which would stop the provider from being able to offer courses to overseas students.

Accordingly, the OSO's power to express its concern about a particular education provider to ASQA or TEQSA provides strong incentive for providers to comply with recommendations made by the OSO.

### **How can I contact the OSO?**

The OSO's services are free. The website is: <http://www.oso.gov.au>

*Produced by the Redfern Legal Centre.*

*This factsheet is not a substitute for legal advice. If you have a problem with an education provider, please seek legal advice from your local community legal centre or other legal advisors.*

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