

## CONSULTATION REPORT

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# SAFEGUARDING THE STUDENT EXPERIENCE: EXTERNAL COMPLAINTS AVENUES

## INTRODUCTION

The *National Strategy for International Education 2025* notes that a positive student experience is crucial to the success of Australia's international education sector<sup>1</sup>. If an international student has a problem they cannot resolve directly with their education provider, they can complain to an external complaints body. The availability of an independent, impartial external complaints body can be critical to resolving problems and restoring the student experience.

With the launch of Australia's first National Strategy for International Education and increasing international student numbers, it is timely to assess whether the current system of external complaint and appeal bodies meets the needs of international students and the sector.

The Overseas Students Ombudsman (OSO) investigates complaints from intending, current and former overseas students about the actions of private registered education providers. The OSO publishes reports about complaint trends and emerging issues identified from complaints the OSO receives from students studying with private providers.

We published<sup>2</sup> a discussion paper concerning this issue and called for submissions from peak bodies and relevant organisations. We asked stakeholders for their views about what changes, if any, may be required to ensure future external complaint avenues meet the needs of international students.

This consultation report summarises the points raised by these organisation in their submission and will be used to inform the government of the sector's views.

## EXECUTIVE SUMMARY

### International Education external complaint and appeal bodies

In most states and territories, there are two external complaints bodies available to international students who wish to complain about, or appeal a decision made by their Australian education provider – the relevant State or Territory Ombudsman for those studying with an education provider in the public sector and the OSO for those in the private sector. In South Australia there is the South Australian Ombudsman for international students in the public sector and the Office of the Training Advocate for international students in the public and private sectors.

The current model of external, independent complaint avenues for international students with a complaint about their education provider and other related complaints, can be complex and confusing as illustrated below.

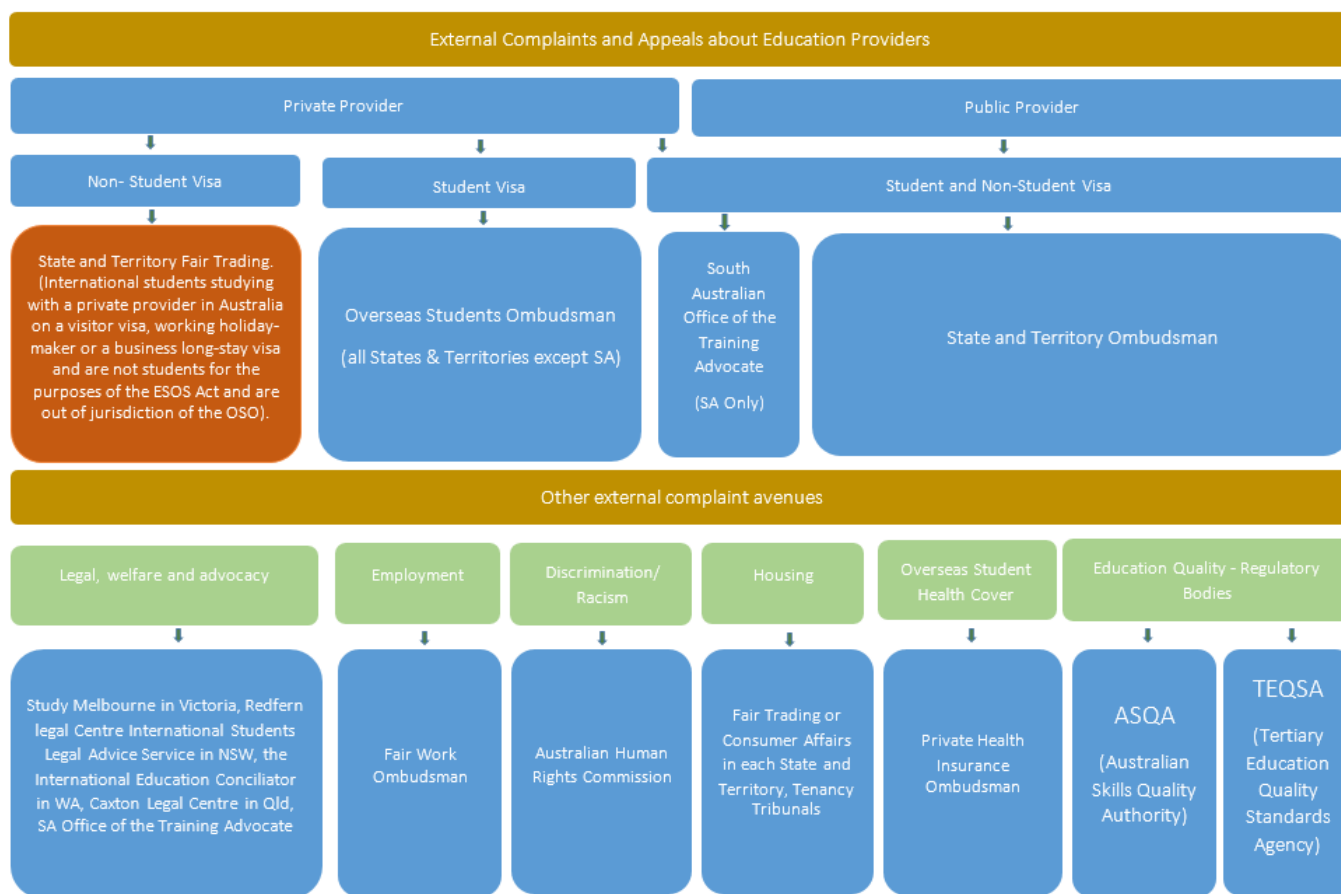
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<sup>1</sup> <https://internationaleducation.gov.au/International-network/Australia/InternationalStrategy/Pages/National-Strategy.aspx>

<sup>2</sup> [http://www.ombudsman.gov.au/\\_\\_data/assets/pdf\\_file/0016/40165/Discussion-Paper-External-complaint-avenues-for-international-students-28-June-2016.pdf](http://www.ombudsman.gov.au/__data/assets/pdf_file/0016/40165/Discussion-Paper-External-complaint-avenues-for-international-students-28-June-2016.pdf) 28 June 2016

**Issues paper: External complaints avenues for international students, November 2016**

**Figure 1: External complaint avenues for international students in Australia**



We consulted with stakeholder organisations including international students, education providers, peak bodies, policy departments, the national regulators and other complaint handlers about the current arrangements. We asked stakeholders for their views about what changes, if any, may be required to ensure future external complaint avenues meet the needs of international students

**Summary of submissions received**

Most stakeholders agreed that:

- the current arrangements can be complex and confusing, that there are inconsistencies across jurisdictions and gaps in the current external complaint and appeal framework
- there is also a lack of consistent, sector-wide data about complaints and appeals from international students to reliably inform the government and sector about international students' experience with their education providers in Australia, to inform further international education policy developments at both national and State levels.
- there is a need for a specialised complaints handler familiar with both administrative law, the *Education Services for Overseas Students Act 2000* (the ESOS Act) and the ESOS legislative framework more generally

International student associations have told the OSO that overseas students are often not aware of what assistance is available to them and who to contact.

Many stakeholders indicated a preference for one ombudsman for all international students, regardless of whether they are studying in the public or private sector. Simplicity, accessibility and national consistency were key reasons cited for the support of this model.

## Issues paper: External complaints avenues for international students, November 2016

### Where to from here?

This paper sets out the range of stakeholder views, some suggesting no change required to current arrangements and others that require significant government involvement and legislative amendment. Consideration for change to the current complaint handling arrangements for international students is a matter for government.

The purpose of this paper is to inform the government of the sector's views and possible options available to address matters raised including:

1. Consider creating a single international student ombudsman, to handle all complaints from international students across Australia whether studying in the private or public sector. This could be done by expanding the jurisdiction of the OSO to include all international students studying in Australia with private or public providers.
2. As an interim measure, the government could consider the creation of a single intake point i.e. 'No wrong-door' for international student complaints to be distributed to the appropriate ombudsman or other complaint handler
3. Existing external complaint and appeal bodies could review the information and guidance they provide to students to assist them to understand which external complaint or appeal body to contact
4. All external complaint and appeal bodies could increase the availability of training for education providers on best practice complaint handling
5. Consider the introduction of a National Reporting Standard for all external complaint and appeal bodies handling complaints from international students to ensure Australia has consistent key data available data for whole-of-sector analysis to inform international education policy developments at both national and state levels
6. All external complaint and appeal bodies handling complaints from international students could look for opportunities to the share information to support the regulator's functions i.e. ASQA, TEQSA and the state and territory schools regulators.

These options are aimed at ensuring that Australia maintains strong student protections, supporting our commitment to a high quality education experience - a key feature of Australia's competitiveness as an international study destination.

We would like to thank the industry and student peak bodies and government agencies that responded to our consultation.

## Issues paper: External complaints avenues for international students, November 2016

### BACKGROUND

The Overseas Students Ombudsman (OSO) commenced operations on 9 April 2011 to give international students studying with a private provider access to an independent, external complaint body. The OSO joined the existing system of external complaints handling offered by the eight state and territory ombudsman and the Office of the Training Advocate in SA.

The OSO's jurisdiction currently includes intending, current and former overseas students and private education providers registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS)<sup>3</sup>. This means we can investigate complaints about the actions of a private CRICOS provider taken in connection with overseas students who hold a student visa, held a student visa at the time the issue they are complaining about arose, or are an intending student taking steps towards becoming an overseas student/student visa holder.<sup>4</sup>

While the OSO has legislative jurisdiction to investigate complaints/appeals from international students about private providers in South Australia, in practice we refer these complaints to the Office of the Training Advocate. The OSO also has established protocols with the other external complaints bodies to refer students to the correct complaint handler when a student contacts the wrong one. All the external complaint handlers take a proactive and cooperative approach to ensure that students get to the right complaint handler. However, international student associations have told the OSO that international students are often not aware of what assistance is available to them and who to contact.

In addition to external complaint and appeal bodies, there are legal and advocacy services available to students in some jurisdictions.<sup>5</sup>

On 28 June 2016, the OSO released a discussion paper (see **Attachment A**) to consult international students, education providers, policy departments, the national regulators and other complaint handlers about the current complaint handlers for complaints made by international students.

A full list of organisations that provided a submission is at **Attachment B**.

### CONSULTATION RESULTS

#### The value of external, independent complaint handling

*'The re-assurance that an external independent complaint handling system exists to resolve problems, adds value to the student experience and helps to ensure Australia remains an attractive destination for study. ACPET (the Australian Council for Private Education and Training) believes this is highly valued.'* (ACPET)

All respondents agreed that international students need to have access to an external, independent and impartial complaint handling body to deal with complaints that are not able to be resolved by the

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<sup>3</sup> <http://cricos.education.gov.au/>

<sup>4</sup> The OSO is authorised to investigate action taken by a private registered provider in connection with an overseas student, an intending overseas student, an accepted student, or a former accepted student, within the meaning of the Overseas Students Act.

<sup>5</sup> Study Melbourne in Victoria, Redfern legal Centre International Students Legal Advice Service in New South Wales, the International Education Conciliator in Western Australia and the Caxton Legal Centre in Queensland, South Australian Training Authority in South Australia.

## Issues paper: External complaints avenues for international students, November 2016

education provider. Stakeholders emphasised that it is 'crucial', 'critically important' and 'essential' that international students have access to an external, independent complaint handling body to maximise the value of the student experience and maintain Australia's reputation for providing quality education and training in a rapidly growing industry.

However, views differed as to whether the current external complaint avenues for international students meet students' needs and are easy to understand and access.

### Comments on existing arrangements- ease of access for international students

*'The multilayered (matrix) of organisations divided by public and private provider types creates confusion for international students.'* (English Australia)

Many stakeholders commented that the current arrangements are complex and confusing for international students, with the exception of the State and Territory Ombudsman Offices which reported few or no issues with students knowing when and how to contact them. The Council for International Students Australia (CISA) commented that the current arrangements are also confusing for student leaders and representatives assisting international students to resolve issues.

Some submissions highlighted that international students are inundated with information on arrival in Australia and during the initial orientation period. Confusion may also arise in relation to the role of regulators in receiving complaints about education quality and other bodies for non-study related issues such as the Fair Work Ombudsman, Australian Human Rights Commission and various tenancy tribunals.

CISA commented that many providers do not have information about external complaint handling in their international student guides. The national regulators, the Australian Skills Quality Authority (ASQA) and the Tertiary Education Quality Standards Agency (TEQSA), noted that Standard 8 of the National Code<sup>6</sup> places the responsibility on education providers to provide international students with access to an independent, external complaint handling person or body, and to direct them to the appropriate complaint handler. The suggestion is that if students are confused about who to contact, this would indicate that education providers need to do more to advise students of the external complaint handler available to them.

ASQA noted that if an education provider fails to comply with their legislative obligations in this area, then a student may not be provided with the necessary guidance, further obstructing the student's legislative right to an external appeal under the National Code.

Stakeholders' comments indicated that the current external complaint handling arrangements are confusing for both students and providers, particularly where students are on a packaged course.

*'As the number of education providers who work across multiple State boundaries increases, and potential growth in students who are packaged across private and public providers is realised, it would be re-assuring to think that common areas of complaint were handled in similar ways across jurisdictions.'* (ACPET)

Some stakeholders noted the need for some of the State and Territory Ombudsman to improve their websites to make it clear that they can investigate international student complaints and the type of issues students can complain to them about. Feedback indicated that all complaint handlers could

<sup>6</sup> The National Code of Practice for Providers of Education and Training to Overseas Students 2007

## Issues paper: External complaints avenues for international students, November 2016

better explain how they relate to other complaint handlers. It is important that external complaint handlers promote the availability and the value of their services to both international students and education providers.

The Department of Education and Training noted in its submission that it is also working with CISA to identify the best way to provide information to students on their rights under the ESOS framework, including the right to complain to an external complaint body.

CISA would like to see more collaboration between education providers and student unions and associations, to support these student representatives to assist international students to resolve complaints. The OSO intends to work with CISA and the other complaint handlers to develop an interactive tool that would help students identify the appropriate complaint handler for them, depending on the type of complaint and the jurisdiction they are studying in. This tool could be made available on all the complaint handlers' websites and CISA's website to improve the information available about who to contact with different types of complaints.

There is scope for the accessibility of the current services offered by external complaint handling bodies to be improved, through greater promotion by the complaint handlers

**Option:** All external complaint and appeal bodies could review the information and guidance they provide to students to assist them to understand which external complaint or appeal body to contact.

### International students are a vulnerable group and have specific needs

Several stakeholders noted that international students are a highly vulnerable group with multiple barriers to accessing complaint services, including lack of social support systems, limited understanding of their rights under the ESOS framework and limited English language ability. It was noted that international students have different needs and experiences to domestic students and, when an internal appeal outcome is not to their satisfaction, may feel deprived of access to justice and even discriminated against based on their nationality. In addition, international students may not have the opportunity to visit an education provider before enrolling, to evaluate the quality of the course or provider before arrival.

International students are subject to visa compliance requirements which do not apply to domestic students. Fear of being reported is considered an important factor for international students who may well be scared to complain and vulnerable to exploitation.

The Queensland State Designated Authority for Schools cited additional vulnerabilities with younger students (under 18 year olds) which may further impact their confidence to exercise their rights as a consumer. Students' parents (many of whom do not reside in Australia) may feel they lack the language skills needed to successfully lodge a complaint or appeal with an overseas provider or external appeal body.

For these reasons, stakeholders commented on the need for a specialised complaint handler familiar with the legislation relating to international students. It is essential that those who do complain or appeal a decision by their education provider have their complaint dealt with by a complaint handler who understands their rights under the ESOS framework as well as administrative law. This ensures that the student is treated fairly and it also maintains the student's confidence in the Australian international education system, including in cases where an outcome may not be in their favour.

## Issues paper: External complaints avenues for international students, November 2016

### Comments on existing arrangements – education providers' needs

*For private providers, the current arrangements have significantly improved a provider's capacity to meet the requirements to the National Code... ASQA would also like to raise the value of feedback, recommendations and suggestions by the OSO to education providers, enabling providers to address issues early and improve the quality of their services to overseas students. (ASQA)*

There was general consensus amongst stakeholders that the current arrangements meet the needs of international education providers in their respective jurisdictions. However, disparities in data collection, analysis and reporting were identified as a significant gap that limits the information available to the sector to observe trends, develop solutions and inform future planning. This is discussed further below.

In South Australia, the SA Department of State Development commented that there is good coordination between the two external complaint bodies, the Ombudsman SA and the Office of the Training Advocate, with only the need to map this out more clearly for students.

The Victorian Ombudsman commented that its service is easy for students to access and that it has a constructive relationship with liaison officers in most Victorian public providers.

In relation to private providers, several stakeholder responses commented positively on providers' views about the OSO:

*'Independent schools have reported that a fair, reasonable and open approach has been taken by the OSO on the rare occasions when a student has appealed a school decision...The OSO has also been responsive to sector requests to present at professional development events on the agency's role, responsibilities, and approach to handling complaints and has provided advice and examples of good practice relevant to the sector' (Independent Schools Council of Australia (ISCA))*

The Queensland State Designated Authority noted that non-state school CRICOS-registered providers almost exclusively identify the OSO as the external complaints and appeals body.

### Education providers' need for complaints handling training

Some stakeholders indicated that there is a need for increased education and training of providers in best practice complaint handling, commenting that while most providers demonstrate a general awareness of external processes, they are inexperienced in the application of those processes.

*'Ombudsman offices should provide more systematic and robust training for education providers regarding best practice complaints handling.'* (Redfern Legal Centre)

The OSO provides training to education providers on a range of topics related to the complaints and systemic issues we see. We work with the peak bodies to deliver face-to-face provider workshops and online training webinars. We also present at the major international education conferences on a range of relevant topics as well as publishing a regular provider e-newsletter. The Victorian Ombudsman also conduct workshops for providers on complaint handling processes and publishes information on its websites such as fact sheets to assist providers. The NSW Ombudsman holds an annual University Complaint Handlers Forum with NSW Universities.

While significant training opportunities are available, there is always room for more to be done.

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**Option:** All external complaint and appeal bodies could increase the availability of training for education providers on best practice complaint handling.

### Comments on possible future solutions

We asked stakeholders for their views about what changes, if any, may be required to ensure future external complaint avenues meet the needs of international students.

Peak bodies indicated a preference for one ombudsman for all international students, regardless of whether they are studying in the public or private sector.

*'ACPET supports the simplicity inherent in having one national Ombudsman service to which all international students can escalate their concerns. The more complaint handling bodies involved in the process, the more complex arrangements will appear to students.'* (ACPET)

*'It would be ideal and preferred if there was one body that managed all international student complaints nationally.'* (English Australia)

CISA advised that its members *strongly support a single ombudsman for all international students studying with public or private providers.*

This model would enable consistent *'industry specific analyses of international student consumer issues, FAQs, advice and good practice guides to all providers in all sectors - public and private'* (ISCA).

While most stakeholders indicated that they would welcome changes to improve the access and awareness of external complaint avenues, some were not supportive of a single ombudsman for all international students, citing concerns that this may introduce new complexities and potential inefficiencies.

Some of the State Ombudsman's offices noted that such an arrangement would require public universities to deal with two different ombudsman for domestic and international students even though the decisions and actions being complained about may be the same.

The State Ombudsman's offices consider that they provide consistency by being able to investigate complaints from international and domestic students studying at the same public institution.

The Office of the Training Advocate in South Australia is unique in the industry as it is able to receive and resolve complaints from international students with both public and private providers.

The other complaint handlers either did not have a view on such a model, or commented that they believe international students and education providers understand who their external complaint body is in their respective jurisdictions and therefore there is no need for change.

The National Tertiary Education Union (NTEU) called for an ombudsman for all students – domestic and international, across the public and private sectors.



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**Option:** Consideration be given to the creation of a single international student ombudsman, to handle all complaints from international students across Australia whether studying in the private or public sector. This could be done by expanding the jurisdiction of the OSO to include students in Australia studying with private providers on non-student visas and overseas students studying in Australia with public providers. Alternatively, or as an interim measure, the government consider the creation of a single intake point i.e. 'No wrong-door' for international student complaints to be distributed to the appropriate ombudsman or other complaint handler.

### Reporting and trend analysis

*'Consistency of service and processing would support the student experience and data collection of the complaint types and frequency would significantly assist in the identification of systemic issues that require legislative or regulatory support or simply where other preventative measures could be implemented.'* (English Australia)

The OSO publishes quarterly and annual data about the number of complaints and appeals received by the OSO, complaint issues and the outcome of complaints investigated.

Stakeholders commented on the value of the complaints data and trend analysis that the OSO publishes about the private sector, noting that this sharing of statistics about the quantity and nature of complaints received and resolution outcomes supports transparency. Stakeholders also commented that OSO's reports are extremely useful because they link the outcomes from complaint investigations to provider practices under the National Code to highlight areas of improvement, systemic issues and areas of concern.

Some stakeholders noted that the sector would benefit from a consistent effort by all complaint handling bodies to share data about the common issues experienced by international students in both the private and public sector. These stakeholders commented that there is currently a significant inconsistency in relation to the data that is captured, analysed and published by the complaint handling bodies. In particular, some stakeholders would like complaint handlers in all jurisdictions to publish data similar to the OSO.

*'Valuable data could result from co-ordinated reporting across what is handled currently by various Ombudsmen and similar bodies. This would allow a whole-of-system analysis, providing insights into trends and assist in further international education policy developments at national and State levels.'* (ACPET)

The OSO observes that this is a missed opportunity for these external complaint and appeal bodies to collectively communicate their valuable work (including positive resolutions obtained for students) to education providers, and international students.

**Option:** Consideration be given to the introduction of a National Reporting Standard for all external complaint and appeal bodies handling complaints from international students to ensure Australia has consistent key data available data for whole-of-sector analysis to inform international education policy developments at both national and state levels.

## Issues paper: External complaints avenues for international students, November 2016

### Collaboration between external complaint handlers, regulators and other stakeholders

*'This type of liaison is critical to ASQA's identification of emerging and systemic risks in the sector and targeting its regulatory effort to best effect.'* (ASQA)

The OSO has the power under its legislation to disclose information about providers of concern to the relevant regulator and has made such disclosures on a number of occasions. ASQA noted the value of the Memorandum of Understanding (MoU) between it and the OSO, complaint transfers from the OSO and the quarterly liaison meeting to discuss common issues and transfer information to assist both bodies to meet statutory obligations.

The OSO also has an MOU with TEQSA. TEQSA advised that it is also eager to receive information regarding the compliance of providers with the requirements of the ESOS Act. The OSO notes that this is an opportunity for other complaint handlers to negotiate MOUs with ASQA and TEQSA to transfer complaints and disclose information and intelligence relevant to the statutory functions of the respective ESOS agencies.

**Option:** All external complaint and appeal bodies handling complaints from international students could develop MOUs with the regulators (ASQA, TEQSA and the state and territory schools regulators) (similar to those the OSO already has in place) to facilitate the sharing of intelligence to support the regulator's functions.

### CONCLUSION

This paper has set out the range of stakeholder views in relation to the issues identified in the OSO's consultation paper, for consideration by government. Stakeholder comments indicated it is crucial for international students to have access to an independent, external complaint and appeal body to resolve problems with their education provider.

There are varying views about whether the current system of multiple complaints handlers covering the public and private education sectors best meets students' and provider's needs. Based on the responses from stakeholders, the OSO has considered the ways in which complaint handlers across all jurisdictions can improve the service they provide to international students within the current system.

Improving data collection and reporting on international student complaints is a key issue. Currently only the OSO reports on complaint numbers, trends and outcomes for international students in the private sector. There is a need for similar reporting by complaint handlers dealing with complaints from international students with public education providers. Without consistent, sector-wide complaints data, it is difficult to reliably inform the government and the international education sector about international students' experience with their education providers in Australia.

As well as reporting on complaints received, all complaint handlers need to help raise awareness of their services with international students, including which complaint handler to contact. To this end, the OSO proposes to undertake a project, in collaboration with other complaint handlers and CISA, to develop an online interactive complaint tool to assist students to navigate the education provider external complaint handling system. While this will facilitate easier access to existing external complaint services, this measure could occur alongside the other options for change suggested in this report.

**Issues paper: External complaints avenues for international students, November 2016**

The OSO will also continue to provide best practice complaint handling training to private education providers and welcome other complaint handlers not already doing so to consider providing a similar service to public providers.

The OSO looks forward to continuing to work constructively with international students, education providers, policy departments, the national regulators and other complaint handlers to ensure that strong student protections are maintained, supporting Australia's competitiveness as a study destination. Ensuring external complaints avenues are easy for students to understand and access, is critical to a positive, quality student experience.

## ATTACHMENT A – 28 JUNE 2016 DISCUSSION PAPER

### SAFEGUARDING THE STUDENT EXPERIENCE:

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#### EXTERNAL COMPLAINTS AVENUES

#### INTRODUCTION

The Australian government wants international students to have a rewarding and enjoyable experience when they come to Australia to study. All registered<sup>7</sup> education providers must have internal complaints and appeals processes in place, to deal with any problems that may arise.

If an international student has a problem they cannot resolve directly with their education provider, they can complain to an independent, external complaints body. The availability of an independent, impartial external complaint body can be critical to resolving problems and restoring the student experience.

In most states and territories, there are two external complaints bodies available to international students who wish to complain about, or appeal, a decision made by their Australian education provider – the relevant State or Territory Ombudsman for those in the public sector and the Overseas Students Ombudsman for those in the private sector. In South Australia there is the South Australian Ombudsman for international students in the public sector and the Office of the Training Advocate for international students in the public and private sectors.

This paper summarises the current external complaint avenues for international students with a view to generating discussion on whether the current system best serves the needs of international students and the international education sector or whether any improvements could be made.<sup>8</sup>

#### BACKGROUND

The National Strategy for International Education<sup>9</sup> notes that a positive student experience is crucial to the success of Australia's international education sector. Complaint handling avenues for international students are key to resolving problems, restoring the student experience and ensuring Australia remains an attractive study destination.

Standard 8 of the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007 (the National Code) requires all registered education providers to:

- have an appropriate internal complaints and appeals process in place to address international student complaints and;

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<sup>7</sup> Registered on the Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) at <http://cricos.education.gov.au>

<sup>8</sup> In 2015, the Senate Enquiry into the Vocational Education and Training Sector recommended the establishment of a VET Training Ombudsman for *domestic* students. This proposal is not related to this paper, which looks at complaints avenues for *international* students only.

<sup>9</sup> <https://internationaleducation.gov.au/International-network/Australia/InternationalStrategy/Pages/National-Strategy.aspx>

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- provide access to an independent, external complaints and appeals person or body for students to use if they are dissatisfied with the provider’s internal complaints and appeals process or the outcome of that process.

The Overseas Students Ombudsman (OSO) is the independent, external complaints and appeals body for international students studying with *private* education providers.<sup>10</sup> The eight State and Territory Ombudsman’s offices offer an external complaints and appeals process for international students studying with *public* education providers.<sup>11</sup> The Office of the Training Advocate in South Australia assists international students with complaints about public and private education providers in that state.

The current model of external, independent complaint avenues for international students with a complaint about their education provider is shown below.



### Complaint handlers

	Private	Public
International students	Overseas Students Ombudsman + SA Training Advocate	State/Territory Ombudsman + SA Training Advocate
Domestic students	SA Training Advocate	State/Territory Ombudsman + SA Training Advocate



Education and training providers do not have to use a statutorily-independent complaints body such as an ombudsman or the Office of the Training Advocate in South Australia. Providers may make arrangements for another person or body independent and external to the provider to hear complaints or appeals arising from the provider’s internal complaints and appeal process. There is currently no data on how many providers use a statutorily-independent complaints body and how many make other arrangements. There are also difficulties in gaining whole of systems data regarding the number of international student complaints about education providers across public and private jurisdictions.

<sup>10</sup> In addition to our Overseas Students Ombudsman role, we also investigate complaints from domestic and international students about the Australian National University (ANU) (under our Commonwealth Ombudsman jurisdiction), and the University of Canberra (UC) and the Canberra Institute of Technology (CIT) (under our ACT Ombudsman jurisdiction).

<sup>11</sup> The ACT Ombudsman is located within the Commonwealth Ombudsman’s Office.

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The Office of the Training Advocate South Australia also assists international students to access their education provider's internal complaints process, as does the Western Australian International Education Conciliation Service and Study Melbourne.

The national regulators for education and training, the Australian Skills Quality Authority (ASQA) and the Tertiary Education Quality Standards Agency (TEQSA), receive complaints about the quality of education and training delivered by Australian education providers, which they deal with as regulatory intelligence.

Other complaints handlers assist international students with other types of issues. For example, the Fair Work Ombudsman hears complaints about work rights issues and the Australian Human Rights Commission hears complaints about racism and discrimination.

The International Student Legal Advice Clinic run by Redfern Legal Centre assists international students with a complaint about their education provider or other problems they may encounter such as work rights or accommodation issues.

This paper focuses on external complaints avenues for international students seeking to make a complaint or appeal relating to a decision or action of their education provider.

## ISSUES

### *Different external complaints bodies for different sectors*

International students and education providers often think the OSO is the ombudsman for all overseas students, as the name seems to imply. However, the OSO only covers international students in the private sector because the role was established at a time when international students were experiencing particular problems in the private education and training sector.

Prior to 9 April 2011, when the OSO began, international students studying with public education providers could complain or appeal to their State or Territory Ombudsman. In South Australia, the Office of the Training Advocate was established as a statutory authority in 2008 under the *Training and Skills Development Act 2008 (SA)* to respond to questions or complaints about the training system, including international education, as it relates to South Australia. In particular, services to international students included assistance with any aspects of living, working or studying in South Australia. However, apart from South Australia, international students studying with private education providers lacked an independent, external complaints and appeals body.

In 2009-10, the international education sector experienced what has been described as a 'perfect storm'. There were revelations of poor quality education providers; unscrupulous practices by education agents; a spate of provider closures affecting many international students; a series of attacks on Indian international students and; a high Australian dollar making it more expensive to study in Australia. The international education sector experienced a major downturn as international student numbers fell for the next three years.<sup>12</sup> In addition, there were a significant number of private training provider closures across Australia during this time and students required personalised assistance to locate and transfer to an alternative provider to finalise their training arrangements. This

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<sup>12</sup> <https://internationaleducation.gov.au/research/International-Student-Data/Pages/InternationalStudentData2013.aspx>

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was managed primarily by the Australian Council of Private Education and Training (ACPET) under the former tuition assurance scheme.

The Baird Review became the cornerstone of the Government's response to the crisis and recommended a suite of measures designed to increase protections for international students. This included the creation of the Tuition Protection Service and extension of the Commonwealth Ombudsman's jurisdiction to create the OSO within the Office of the Commonwealth Ombudsman.

The OSO commenced operation on 9 April 2011 and filled the gap for international students in the private sector. The OSO joined the existing system of external complaints handling offered by the eight state and territory ombudsman and the Office of the Training Advocate in SA.

There are currently 636,542 international students studying in Australia.<sup>13</sup> The OSO covers 965 private education providers with 278,697 international students. The eight state and territory ombudsmen and the Office of the Training Advocate<sup>14</sup> together cover 80 public providers with 357,845 international students<sup>15</sup>.

### *How do international students and education providers know who to contact?*

Overseas student associations have reported that students are often not aware of what assistance is available to them when they have a problem with their education provider and they find the navigation of the complaints system to be difficult and confusing. It can also be confusing for international students and education providers to know which ombudsman or other external complaint handler to contact regarding a complaint or external appeal. This is especially true for international students who have packaged courses across public and private providers and have a dispute that needs to be dealt with by two different ombudsmen.

International students often contact the OSO thinking it is the ombudsman for all overseas students and education providers sometimes direct international students to the wrong ombudsman in their internal appeal outcome letters.<sup>16</sup> The OSO has established protocols with other external complaints bodies to refer students to the correct complaint handler when a student contacts the wrong one. All the external complaint handlers take a proactive and cooperative approach to ensure that students get to the right complaint handler.

The State and Territory Ombudsman Offices report few or no issues with students knowing when and how to contact them. The Overseas Students Ombudsman is consulting international students through the Council for International Students Australia (CISA), to determine if there is any need to make

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<sup>13</sup> Data abstracted from the Provider Registration and International Student Management System (PRISMS) on 8 February 2016.

<sup>14</sup> The Office of the Training Advocate covers 95 international education providers, public and private, in South Australia.<sup>14</sup>

<sup>15</sup> A correction to the figures quoted in the discussion paper was provided to the OSO by the Department of Education and Training on 12 August 2016. The correct figures are as follows:  
In 2015, there were almost half a million international students studying in Australia (498,155) and over half of the courses they enrolled in were delivered by private education providers (325,000 private sector enrolments from a total of over 642,000 international student enrolments in 2015). These statistics are available at <https://internationaleducation.gov.au/research/Research-Snapshots/Documents/Student%20Numbers%202015.pdf>  
<https://internationaleducation.gov.au/research/international-student-data/pages/default.aspx>

<sup>16</sup> The OSO has transferred or referred 104 overseas students with complaints about a public education provider to the relevant state and territory ombudsman since 9 April 2011.

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improvements to ensure students know which external complaint body they can contact or otherwise better meet students' needs.

*How do the external complaint bodies work together to try to ensure consistency for international students?*

In 2013, the OSO established the Overseas Student Complaint Handlers Network to bring together the State and Territory Ombudsman offices and the Office of the Training Advocate in SA, to discuss issues relating to international student complaints. The aim of the network is to ensure consistency in the approach taken by different complaint handlers to international student complaints across the various jurisdictions by discussing common areas of complaint.

The group explored the potential for the different ombudsman's offices to classify international student complaints consistently, to make it possible to report on international student complaints across Australia, covering the public and private sectors and all states and territories. This would enable us to answer the question, 'what do international students complain about in relation to their Australian education provider?' However, some ombudsman's offices do not distinguish between international and domestic student complaints on their database, so it is not possible to achieve consistent categorisation or reporting on international student complaints. It is also not possible to apply the legislation<sup>17</sup> relating to the delivery of education services to international students to complaints without knowing whether the complainant is a domestic or international student.

The OSO recently published its 'Overseas Students Ombudsman report on the first four years of operation', which highlights the international student complaint trends it has seen across the private sector.<sup>18</sup> The OSO's complaint categories correlate with the standards of the 'National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007'.<sup>19</sup> The OSO links the outcomes from its complaints investigations to provider practices under the Code to highlight areas of improvement, systemic issues and areas of concern.

*Does the current system of external complaint avenues for international students meet students' needs and those of the international education sector?*

As the government launches Australia's first National Strategy for International Education and international student numbers continue to increase, it is timely to assess whether the current system of external complaints and appeals bodies for international students meets the needs of students and the sector.

In 2016, the OSO intends to conduct a consultation process with relevant stakeholders to examine whether the current system provides for international student needs in the best possible way. We will be working with CISA to ensure international students have an opportunity to tell us what they want and what would best serve their needs.

The OSO also intends to consult international students, education providers, the peak bodies, the state and territory ombudsman's offices, the Office of the Training Advocate, relevant Australian government agencies, such as the Department of Education and Training, and the national regulators.

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<sup>17</sup> *Education Services for Overseas Students Act 2000* (the ESOS Act); the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007 and other legislative instruments such as the ESOS (Calculation of Refund) Specification 2014.

<sup>18</sup> [http://www.ombudsman.gov.au/\\_data/assets/pdf\\_file/0024/37329/Overseas-Students-Ombudsman-report-on-first-four-years-of-operation,-November-2015.pdf](http://www.ombudsman.gov.au/_data/assets/pdf_file/0024/37329/Overseas-Students-Ombudsman-report-on-first-four-years-of-operation,-November-2015.pdf)

<sup>19</sup> <https://www.comlaw.gov.au/Details/F2010C00313>



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The results of the consultations will be summarised in a final paper, to be provided to the Minister for International Education and Tourism, the Hon. Senator Richard Colbeck. We will also publish the final paper on the OSO's website for the information of all those involved.

### NEXT STEPS

The OSO will be pleased to receive written submissions by **15 August 2016** outlining your views on the issues raised and any additional ideas you have. We would also welcome early discussions with peak bodies and relevant organisations.

Please focus your submission around the following questions:

1. Do you agree that it is important that international students have access to an external, independent complaint handling body when they have an issue with their education provider that they cannot resolve with the education provider directly?
2. Do the current external complaint avenues for international students with a complaint about their education provider meet international students' needs? Please indicate if your comments relate to the private sector, public sector or both.
3. Do the current external complaint avenues for international students with a complaint about their education provider meet international education providers' needs?
4. Are the current external complaint avenues simple to understand and easy to access?
5. If not, what would make it easier for international students to understand the external complaint avenues and to access them easily?
6. Are there any gaps in complaint handling for international students with a complaint about their education provider that you see? If so, what is the best way to address these?
7. In your view, what changes, if any, may be required to ensure future external complaint avenues for international students meet the needs of international students and the sector?

Please email your submissions to [melita.hoskin@ombudsman.gov.au](mailto:melita.hoskin@ombudsman.gov.au) or post to the Overseas Students Ombudsman, GPO Box 442 Canberra ACT 2601.

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**ATTACHMENT B – ALL ORGANISATIONS THAT PROVIDED A SUBMISSION**

Australian Council for Private Education and Training (ACPET)

Australian Skills Quality Authority (ASQA)

Council of International Students Australia (CISA)

Department of Education and Training (DET)

English Australia (EA)

Independent Schools Council of Australia (ISCA)

National Tertiary Education Union (NTEU)

NSW Ombudsman

Queensland State Designated Authority, International Quality (Schools) Unit

Queensland Ombudsman

Redfern Legal Centre (RLC)

South Australian Department of State Development, International and Higher Education

South Australian Ombudsman

South Australian Office of the Training Advocate (OTA)

Study New South Wales (StudyNSW)

TAFE New South Wales

Tasmanian Government Schools

Tertiary Education Quality and Standards Authority (TEQSA)

Victorian Ombudsman