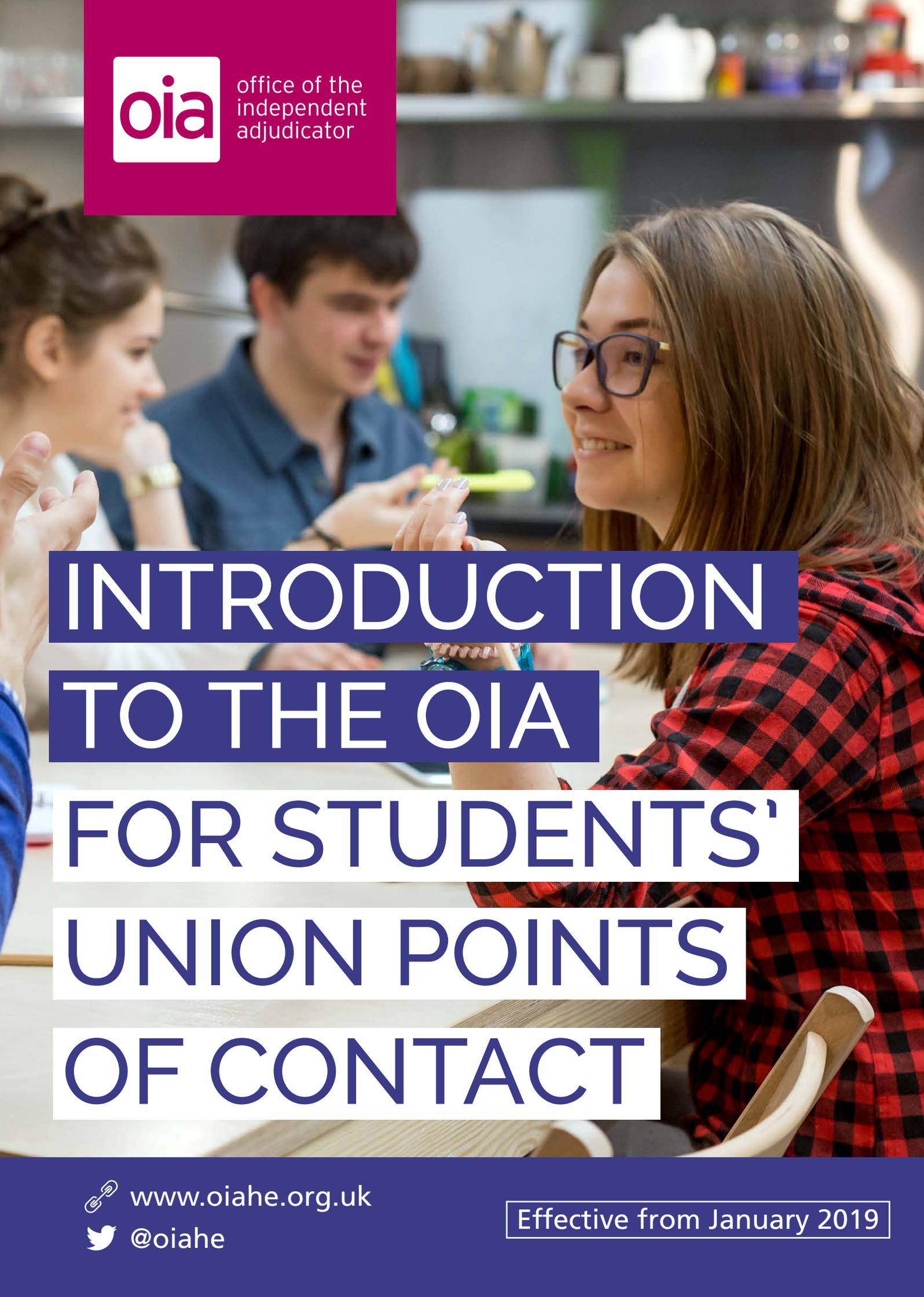




office of the
independent
adjudicator

A background photograph showing three young adults sitting around a table in a meeting. A woman with glasses and a red and black plaid shirt is in the foreground, looking towards the other two people. The man in the middle is looking at a yellow highlighter. The woman on the left is gesturing with her hand.

INTRODUCTION

TO THE OIA

FOR STUDENTS'

UNION POINTS

OF CONTACT



www.oiahe.org.uk



@oiahe

Effective from January 2019

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Students' Unions and the OIA

Students' unions and other student representative bodies (SRBs) play an important role in preventing and managing students' complaints. Most work very closely with management at the higher education provider to develop complaints handling processes and share information arising from complaints.

When advising an individual student on a complaint a students' union can:

- Help the student in seeking early resolution.
- Make sure the student understands what complaints we can and can't look at and the time limits involved.
- Help the student provide the information they need to support their complaint.
- Guide the student through the process.

This leaflet includes information and guidance about our review process to help students' unions SRBs advise students and manage students' expectations of the OIA and its remit. It should be read alongside [the Rules](#) which are available on our website. If there is any conflict between this leaflet and the Rules the Rules take priority. Further related guidance which should be read alongside this leaflet includes our [Guidance Note on the Rules](#) and our [Completion of Procedures Guidance](#).

We can provide our literature in different formats, please contact us if you have any questions regarding this or our complaints process at:



enquiries@oiahe.org.uk



0118 959 9813

About us

The Office of the Independent Adjudicator for Higher Education (OIA) provides an independent, impartial and transparent Scheme to review student complaints against individual higher education providers.

The OIA was designated as the operator of the Student Complaints Scheme in England and Wales under section 13 of the Higher Education Act 2004 with effect from 1 January 2005. The Consumer Rights Act 2015 and the Higher Education and Research Act 2017 have since extended the range of higher education providers that are required to participate in the Scheme. For ease of reference, we use the terms “higher education provider” or “provider” throughout this leaflet.



Making a complaint to us

Who can make a complaint to us about a provider?

You can [search for a provider](#) on the members page of our website to see if we can accept complaints about them.

A complaint can be made by someone who:

- is or was a student at the provider that they are complaining about; or
- is or was studying on a course leading to the grant of one of the awards of the provider that they are complaining about.

Does it make a difference which course the student is studying at the provider?

The Consumer Rights Act 2015 and the Higher Education and Research Act 2017, extended the membership of the Scheme to many Further Education and Sixth-Form Colleges, alternative providers and providers of School-Centred Initial Teacher Training (SCITTs). The term “student” includes trainees and apprentices. We are only able to consider complaints from higher education students at those providers. Students who are or were studying at a university, may complain about that university regardless of which course they are or were studying on.

Can a student complain to us about events that took place before their provider joined our Scheme?

If you are making a complaint about events which took place before the provider became a member of the Scheme, we will not consider the complaint. However, sometimes a student’s complaint relates to events which occurred before and continued after the provider became a member. In those cases, the events that occurred before the provider became a member are likely to be relevant background, which we will take into account when considering the complaint about events after the provider became a member.

When you [search for a provider](#) on the membership page of our website, it will tell you the date on which each member joined the Scheme.

Can someone complain to us on behalf of a student?

It is preferable for students to handle their own complaints. However, a student may appoint a representative eg a students' union representative, provided they give us written authority by completing section two of our Complaint Form. Where a representative is appointed, we will only correspond with that person.

Our procedures are informal and a student should not need to have a legal representative. For this reason we will not normally recommend that a provider should contribute towards legal costs even if the case is found to be Justified. Making a complaint to us does not prevent a student from bringing legal proceedings against the higher education provider if they are dissatisfied with the outcome of our review.

What type of complaints can we deal with?

We review complaints about anything a provider has done or hasn't done. This might be about:

- A programme of study
- A service provided by a provider to a student
- A final decision of a provider's disciplinary or appeal body.

We are a review body and will not normally investigate matters afresh. We normally review whether the provider has followed its procedures and applied its regulations, and whether its final decision was reasonable in the circumstances. We are entirely impartial and independent of both the student and the provider and base our decision on the evidence provided.

Complaints we can look at include but are not limited to complaints about:

- Academic appeals
- Bullying and harassment
- Discrimination (but see below)
- Fitness to practise processes
- Procedural irregularities
- Teaching provision and facilities
- Welfare
- Accommodation
- Disciplinary matters - including plagiarism
- Extenuating circumstances
- Placements
- Research supervision
- Unfair practices

Are there any complaints that we can't deal with?

We can't look at complaints about:

- Admissions, unless the person complaining is a former student of that higher education provider who is applying for re-admission, and the complaint is directly connected to their time as a student.
- Academic judgment or teaching quality
- Student employment
- Matters which already are or have been the subject of court, or tribunal proceedings or other ADR entity, unless the proceedings have been put on hold or adjourned.
- A provider that was not a member of the Scheme when the events complained about arose or a Transitional Institution.

We may decide not to review a complaint if we believe reviewing it might seriously damage our ability to run our processes effectively. For example:

- The complaint relates to events which took place over a significant period of time (more than three years) and involves a very high volume of documentation.
- A different forum is better equipped to consider the matter: for example, complaints about data protection issues will normally be better considered by the Information Commissioner's Office.
- There are other proceedings taking place within the higher education provider or elsewhere which are relevant to the complaint. For example, a student complains to us about an academic appeal and they want to be given a further resit opportunity. The student is also the subject of separate disciplinary proceedings which might result in their exclusion. If they are excluded then they would not be able to take advantage of a further resit opportunity. There would be no point in conducting a review of the academic appeal before the results of the disciplinary proceedings are known.

What if a student comes to us with a complaint about discrimination?

In considering issues related to discrimination we don't act as a court. We don't investigate or make legal findings in the same manner as a court. However, it is appropriate for us to refer to the law and guidance on discrimination to form an opinion as to good practice and to decide whether the provider has acted fairly. So, for example, we might look at whether a provider has given adequate consideration to whether its procedures are placing a disabled student at a substantial disadvantage and, if it has not, we might recommend that it does so. However, we would not make a finding that the provider had discriminated against the student.

Under the Higher Education Act 2004, students who bring a complaint to us about sex, race or disability discrimination and who decide to institute court proceedings are allowed additional time, over and above the usual time limits set by the courts. However, you should bear in mind that the time limits set by the court will start running when the original incident occurred.

How does a student complain to us about a provider?

Before a student can complain to us, they must first complete the provider's internal complaints or appeals procedures. Once they have done so, the provider should issue a Completion of Procedures Letter, within 28 days. This letter should set out clearly the issues that have been considered, the provider's final decision and the deadline for bringing a complaint to us.

Once they have received a Completion of Procedures Letter, the student needs to send us a completed and signed OIA Complaint Form within 12 months of the date of the provider's final decision.

In exceptional circumstances, we may look at a complaint where the internal complaints or appeals procedures have not been completed.

Our Complaint Form can be completed online, or downloaded and emailed or posted to us.

Please see our website for more information on [How to make a complaint](#).

What information should be included with the Complaint Form?

The student should send:

- a copy of the Completion of Procedures Letter

When filling in our Complaint Form it is useful for them refer to the guidance notes included with the form and describe the complaint as clearly and concisely as possible.

They don't need to send us any other documents at this stage.

Are there any time limits for complaining to us?

Yes. We must receive the signed OIA Complaint Form within 12 months of the date of the Completion of Procedures Letter; otherwise the complaint will be out of time. The 12 month period will normally run from the date of the Completion of Procedures Letter. For example, if the Completion of Procedures Letter is dated 7 September, we must receive the Complaint Form by 7 September the following year.

Please encourage students to submit their complaints as soon as they are able to, without waiting until the deadline. This is because the remedies we can recommend may be limited if they wait until the end of the period before complaining to us.

Does it cost anything to make a complaint?

No. There is no charge for complaining to us.

What happens when we receive a complaint?

We will usually send the provider Point of Contact a copy of the student's Complaint Form and any documents submitted by the student. This should include a copy of the provider's Completion of Procedures Letter. We may ask the provider to comment on the complaint or send us further information. All information the provider sends us will be sent to the student.

Our first step is to decide whether the complaint falls within the Rules of our Scheme. If we can't decide from the papers that the complaint is one that we can review, we will contact the provider to clarify the position. We are likely to ask for a copy of the appeal or Complaint Form and supporting papers that the provider considered prior to issuing the Completion of Procedures Letter. We will decide whether we can review a complaint. Students and higher education providers can ask us to reconsider our decision that we can or can't review their complaint (or parts of it) by writing to us within 14 days of the decision. A different reviewer will reconsider the decision and tell the student and the higher education provider the outcome. For more information about what we can and can't look at under our Rules please see the "[Can you complain to us?](#)" page on our website.

If we decide the complaint is not eligible we will write to the provider and to the student and tell them why. The student has the right to appeal this decision.

If we accept the complaint following this initial screening, the case-handler might:

- Try to settle or mediate the complaint
- Ask the provider for its comments on the complaint
- Ask the provider or the student for more information
- Issue a Complaint Outcome in respect of the complaint
- Contact the student to discuss their complaint and whether their desired outcome is achievable
- Send the student information to comment on.

We operate a transparent Scheme and all information received from the provider will be copied to the student. We will usually disregard any material sent to us which is confidential.

The student will receive further information about the review process once the complaint is received.

How do we review complaints?

We have discretion to decide how the review will progress and what information it needs. Case-handlers consider at each stage whether it might be possible to settle the complaint. Settlement is the informal resolution of a complaint brought to us. This means that the complaint is resolved without the need for a full review.

Our case-handlers gather information and evidence until they are confident that they have all the material they need to make a decision on the individual complaint.

How long will it take to consider a complaint?

Once we have all the relevant information, the case-handler will write to the student and the provider to say that the file is complete. We will normally complete our review within 90 days of receiving the complete complaint file. If we consider that the complaint is highly complex then this may take longer.

Each complaint is individual. However, it is not always possible to provide a quick fix solution and eligible complaints may take six months or longer to conclude if the information needed takes a long time to collect or the case is highly complex.

Do we hold oral hearings?

Our Rules provide that an oral hearing is an option; however, in practice we find that this is not normally necessary. If the case-handler considers that a hearing might be necessary or a student requests a hearing, the case-handler will refer the complaint to their manager.

Outcome of a complaint

Our role is to review the final decision of the provider and not normally to re-investigate the complaint that is made to the provider. We decide whether an unresolved complaint about the provider is Justified, Partly Justified or Not Justified. We consider whether the provider properly applied its regulations and followed its own procedures, and whether any decision made by the provider was reasonable in all the circumstances.

What can we do about the complaint?

If we decide a complaint is Justified or Partly Justified, we may make Recommendations. For example, we may require the provider to review or change its procedures or regulations; review or change the way in which it handles appeals and/or complaints; make a financial award, or reconsider the appeal/complaint. In these cases we will ask the provider and the student to comment on the practicality of Recommendations set out in the Complaint Outcome before they are finalised.

If we decide a complaint is Justified or Partly Justified, we normally try to put the student back in the position they would have been in if the events leading up to the complaint had not taken place. However, this may not always be possible or appropriate and in such cases we may award compensation or some other remedy. We are not a regulator and we can't punish or fine providers.

If we decide a complaint is Not Justified, we may still make good practice suggestions and/or observations for the provider to consider.

Does a provider have to comply with the decision?

Providers are expected to comply with our decisions and any Recommendations in full and in the timescale stipulated in our decisions. In our experience, compliance with our Recommendations by providers is excellent. Any non-compliance is taken seriously and is reported to our Board and published in our Annual Report. The student who has complained does not have to accept our decision or Recommendations.



Communicating with us

Please let us know if your Point of Contact changes by emailing membercontacts@oiahe.org.uk.

How can you learn more about us and handling complaints?

The [Good Practice Framework for Handling Complaints and Academic Appeals](#) sets out principles and operational guidance on setting up and running complaints and appeals processes. We will refer to the Framework in reviewing complaints received from the academic year 2015-16.

Good Practice Framework: Delivering learning opportunities with others outlines additional good practice guidance for providers to consider when handling complaints and appeals in the context of delivering higher education with others. Good Practice Framework: [Supporting disabled students](#) outlines good practice guidance for providers to consider when supporting disabled students. We will refer to these chapters of the Good Practice Framework when reviewing complaints from the 2018/19 academic year.

Our website contains a range of features including some of our recent decisions. You can also access [MyOIA via our website](#). Students, their representatives and providers can use MyOIA to track the progress of a complaint and to update their contact details. Providers will be given MyOIA login details which will enable them to track all of the complaints that we have received from their students.

We run regular workshops and webinars that are advertised through our e-newsletter.

We also run a programme of visits to providers. During these visits we endeavour to speak to the students' union at the start of the visit.

Complaints about us

Whatever the outcome of the complaint, we hope that you, students and their representatives will be satisfied with the level of service that we provide. However, if you [have any concerns](#), please refer to our website for further information.



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'for students in higher education'

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