



office of the  
independent  
adjudicator

# INTRODUCTION TO THE OIA FOR PROVIDER POINTS OF CONTACT

 [www.oiahe.org.uk](http://www.oiahe.org.uk)

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# Introduction

The Office of the Independent Adjudicator for Higher Education (OIA) provides an independent, 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.

This leaflet includes information and guidance on our review process for HE member providers and their OIA Points of Contact. It should be read alongside the Rules which are available on [our website](#). If there is any conflict between this leaflet and the Rules then 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 on:



[enquiries@oiahe.org.uk](mailto:enquiries@oiahe.org.uk)



0118 959 9813

# Higher education providers and the OIA

## What is a Point of Contact and what does the role entail?

We ask each member higher education provider to nominate a Point of Contact (POC) to liaise directly with us and respond to our queries on individual complaints. In order for us to comply with the General Data Protection Regulations (GDPR), and the Data Protection Act 1998 (and when in force, the Data Protection Act 2018), we do not routinely transfer personal data outside the UK. We require the Point of Contact to be based in the UK. If you need to transfer information about a complaint including personal data outside the UK, your provider has responsibility for putting relevant safeguards in place, as the data controller.

If you wish to delegate a complaint to another member of staff, and you wish us to deal with that person, please let us know in writing. If a student complains about you, it may be appropriate to appoint an alternative Point of Contact to deal with that particular complaint.

We need to be able to contact providers throughout the year. Students can and do submit complaints to us all year round, so it's important to make other arrangements for the times you are unable to deal with us yourself. We recommend that providers also appoint a nominated POC Delegate who will be able to help us if you aren't available for any reason. Alternative arrangements should be made if you are unavailable, for example on holiday or long term sick leave.

When we communicate with you, we will always address you formally, even in emails. We do not wish to appear to be unfriendly, however, as all communications are shared with the student it is important that we are seen to be independent and impartial.

## Responding to requests for information

Once we receive a complaint and determine eligibility we will write to you requesting all relevant information the provider considered in making its decision and any other information we consider necessary for our review. We will also ask you if you wish to make any further comment on the complaint.

Providers must comply with any reasonable request for information that we make, and this expectation is set out in our Rules and the legislation underpinning our Scheme. It is for the provider to state clearly its position and provide any comments it wishes us to take into account regarding the complaint(s) made by the student as set out in our Complaint Form. You should tell us as soon as possible if a matter has not been considered within the provider's internal processes.

We prefer to receive information electronically. Please refer to the Appendix or our website for our guidance on responding to [information requests](#).

Our requests for information will ask you to respond by a specific date. This is to help manage both your and the student's expectations as to the timeline and progress of the complaint. If you need more time to respond, please contact us as soon as possible explaining why an extension is required. We provide guidance on our approach to requests for extensions. Our process must be fair to both parties and, if a provider fails to meet a reasonable deadline, we may proceed to make a decision based on what the student has told us.

From time to time, we update our guidance on our process with respect to timescales, deadlines and extensions requests. The [latest guidance](#) on this is available on our website.

## Is all documentation sent to the student?

Our process is transparent so we will exchange all information submitted to us with both parties. When providing information about matters that affected more than one student, or involved other third parties, please ensure that any other students' names or personal details are redacted so that they cannot be read in, for example, minutes of an Appeal Board.

We will usually disregard or return information that is submitted to us in confidence although, in very limited circumstances, we may permit information to be submitted on the basis that it is not to be disclosed to the student eg where the information relates to a criminal investigation.

## Do we hold oral hearings?

Our Rules provide that we will only hold a hearing or have a face-to-face meeting with the student and/or the provider if we consider it necessary to do so. However, in practice this is rare and 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.

## Can the provider try to resolve a complaint once it has come to us?

We welcome proposals to resolve a complaint at all stages of our process before a Complaint Outcome has been issued, although we would ask that you keep us informed as we may decide to suspend our review while the resolution attempt is made.

## Who can make a complaint to us about a provider?

You can search for a provider in our [list of providers](#) we can accept complaints about.

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 higher education 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). 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.

# The Complaints Process

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

If a student is 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 which 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.

You can find out the date on which each member joined the Scheme by searching for the provider [our list of members](#).

## Can someone complain to us on behalf of a student?

Whilst it is preferable for students to handle their own complaints, students may appoint a representative eg a friend, family member or students' union adviser provided we receive written authority in our Complaint Form. Where a representative is appointed, we will only correspond with that person.

## What type of complaints can we deal with?

We can review complaints about anything a provider has done or not done.

We are a review body and will not usually 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 all 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 cannot 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
- Student employment
- Matters which already are or have been the subject of court or tribunal proceedings, unless the proceedings have been put on hold or adjourned.

## 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 are allowed additional time within which to institute court proceedings over and above the usual time limits set by the courts. Time limits set by the court start running when the original incident occurs.

## What must a student do before complaining to us about a provider?

Before a student complains to us, they must normally complete the provider's internal complaints or appeals procedures. Once they have done so, the provider should issue the student with a Completion of Procedures Letter. 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. More information about Completion of Procedures Letters and what they should contain can be found on our [website](#).

In exceptional circumstances, we may look at a complaint where the internal complaints or appeals procedures have not been completed. If a student wishes to complain to us they must send us:

- A completed and signed OIA Complaint Form
- A copy of the Completion of Procedures Letter

within the deadline stated in the Completion of Procedures Letter.

A Complaint Form must be submitted within 12 months of the date of the provider's final decision. The 12 month period will normally run from the date of the Completion of Procedures Letter. We suggest that providers 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 a year before complaining to us.

## What happens when we receive a complaint?

We will usually send the POC a copy of our Complaint Form and any documents submitted by the student. This will include a copy of the Completion of Procedures Letter issued by the provider. 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 determine whether the complaint falls within the Rules of the Scheme. If we can't decide from the papers that the complaint is eligible for review, we will contact you 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 determine whether or not a complaint is eligible.

If we decide the complaint is not eligible we will write to you and the student and tell you 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.

## 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.

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.

Once the case-handler has all the relevant information, they will write to you and the student 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. It is not always possible to provide a quick fix solution and some 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.

## Outcome of a complaint

We may decide a complaint is Justified, Partly Justified or Not Justified.

We consider whether the provider has followed its own procedures correctly and whether any decision made by the provider is reasonable. The test which we apply is whether the decision or action taken can be said to be “reasonable in all the circumstances”.

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 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 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 were in before the events leading up to the complaint took place. However, this may not always be possible or appropriate and in such cases we may award compensation or some other remedy.

Providers are expected to comply with our Recommendations 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 the Board and published in our Annual Report.

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

## Communicating with us

We retain electronic sets of regulations and procedures from all providers. It is helpful for POCs to provide us with their regulations annually, or when these are updated.

It is important that you keep us up to date with any changes to your POC details.

At the end of each calendar year we send an invoice for the core subscription for the following calendar year. Case fee elements are invoiced separately and are only payable where your provider exceeds its points threshold. For further information please visit our [subscriptions page](#) on our website. If you have any queries please contact [finance@oiahe.org.uk](mailto:finance@oiahe.org.uk).

At the beginning of each year we will write to you asking you to tell us the total number of Completion of Procedures Letters that your provider issued in the previous calendar year.

## Complaints about us

Whatever the outcome of the complaint, we hope you 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.

## How can you learn more about us and handling complaints?

The [Good Practice Framework for handing 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 recent decisions by us. You can also access [MyOIA via our website](#). Students 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 first and then to members of the provider.

## Responding to OIA information requests – Guidance for Providers' Points of Contact

In order to make a decision on a complaint, we normally consider all the information available to the higher education provider during the internal complaints procedures and when it reached its final decision.

During the initial stages of our process we request this and other relevant information from providers in order to build a complaint file. We recognise that information requests need to be proportionate and individual to the circumstances of a case. However, we need the necessary information to be provided in a logical and accessible format at the initial stage to enable us to process the complaint as quickly as possible and to prevent delays arising from additional information requests at a later stage in our process. This document provides some guidance for providers on how to present the response to our information requests.

### Case files that help us review complaints more efficiently and effectively:

#### **Include a cover letter or email that briefly summarises the central issue of the complaint and the provider's response**

This can be especially helpful when the central issue of the complaint is unclear from the student's Complaint Form or the internal complaints procedures have been protracted.

#### **Include an index or contents page of the information being provided**

An index or contents page makes it easier for us to check that the provider has provided the information requested especially if the index or contents page:

- says where the documents can be found for example, bundle 1, page 108, Stage 1 Appeal.doc
- refers to documents with the corresponding file name
- cross references the numbers used in our original request.

#### **Identify any documents that are not provided and explain why**

For example, "no minutes taken" or "not relevant to complaint".

#### **State the procedures/regulations that were used (including the relevant year) and send a copy or link if appropriate**

The regulations used should be referred to in the Completion of Procedures Letter (see guidance) and many documents are provided to us annually. However, if you are referring to regulations we should have in our regulations bank or are sending us a link to the regulations web page, it is helpful if you identify which regulations or version applied. If you think there could be any confusion, for example because the links may change as regulations are updated, please send us a copy of the relevant procedures/regulations with the case file.

**Include a chronology or timeline**

A brief chronology or timeline of key events (eg Stage 1 Appeal submitted, Stage 1 Appeal rejected) can help us check the information provided more quickly. Although it may not be proportionate in all cases, a brief chronology or timeline can be particularly useful when:

- the internal complaints procedures have been particularly protracted
- the sequence of events may not be immediately clear from the documents, or there are “gaps” that need to be explained
- the student has been through several different procedures
- the student has conflated several issues raised at different times when bringing their complaint to us.

**Take the opportunity (where relevant) to provide comments on the student’s complaint to us**

The provider may wish to comment on specific issues that the student has raised in our Complaint Form or advise us of any issues that have not previously been raised or that may be ineligible for some other reason. It is also helpful if the provider makes us aware of any events that have taken place after the COP letter was issued that may be relevant, for example, that the student has subsequently accepted an offer that was made or has passed a reassessment related to the appeal that is subject to our review. It is particularly important that the provider makes us aware of any legal proceedings that may be relevant to the complaint because this may affect our ability to complete our review.

**Provide the information in a chronological or other logical way, and clearly identify the information that was available and considered at each stage of the internal complaints procedures**

In a single file it is helpful to separate documents (using tabs/bookmarks) into different sections for each stage of the proceedings and to present each section chronologically so that we can identify what information was considered at each stage and the order/timing of events. Alternatively send separate bundles that are clearly identified eg Bundle 1 – Appeal Document, Bundle 2 – Relevant regulations and handbooks.

**Organise email correspondence by:**

- avoiding sending emails within emails which often create difficulties when we send them onto students for comment and could mean we miss something
- avoiding sending duplicates of the same chain of email messages.

**Provide the information in an accessible format**

Where possible, a single PDF should be submitted electronically because these types of file generally avoid compatibility issues when we forward information on to the student for comment and make it easier to redact any outstanding third party information. If it is necessary to send multiple files, they should have a clear and understandable file name which will enable us to easily cross reference them with either the index or contents page, or our original request.

Where file size means the provider has to send more than one email it helps if the emails are clearly labelled eg 1 of 5, 2 of 5 etc and where possible, a complete file or bundle is attached to a single email, for example one email includes the relevant regulations, handbook and procedures; and another contains the Stage 1 Appeal documents.

Where information has been sent electronically there is no need to send a duplicate paper copy.

### **Avoid unnecessary duplication**

For example if the same bundle of documents was considered at all stages of the internal complaints procedure, the provider only needs to send the bundle once but should make it clear in either the cover letter or the Index or contents page when these documents were considered. It can also reduce the file size and the time it takes to consider the file if you avoid sending duplicates of the same chain of email messages.

### **Are suitably redacted**

Providers should consider their responsibilities under the Data Protection Act 1998 when submitting information to us. For example, providers should suitably redact other students' personal data (including student numbers) from minutes of exam board meetings, mitigating circumstances committees etc before sending them to us because this information will subsequently be sent to the student to comment on. Care should be taken to ensure that information redacted electronically or hidden or filtered text cannot be disclosed. Providers may also need to redact personal information about staff or other third parties. Where documents have not been correctly redacted we may be able to remove the third party data ourselves. However, if it is extensive and would be unduly time-consuming we will return it to the provider.



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