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# Video Transcription

## Our role, what we do and how we do it | OIA Webinar

**Link:** <https://youtu.be/c5lvylD-PTM>

**Duration:** 0:29:22

**Speakers:** Gemma Slade, Provider Liaison Officer – OIA (Gemma)  
Barry McHale, Student Liaison Officer – OIA (Barry)

### START VIDEO

--- OPENING SLIDE ---

**Gemma:** Hello and welcome to our webinar on The OIA's Remit and Review Process. This webinar is a core part of our outreach programme and a foundation for some of our workshops, Level 2 webinars and other outreach events. We also offer a series of other webinars that are presented live by members our case-handling staff. These webinars look at different types of complaints and our good practice guidance. You can find out more on the [outreach and events pages](#) of our website, where you'll also be able to find out about our upcoming workshops and other events. I'm Gemma Slade, the OIA's Provider Liaison Officer and I'm joined by my colleague Barry.

**Barry:** Hi, I'm Barry McHale, and I am the OIA's Student Liaison Officer.

**Gemma:** Barry and I both work as part of the OIA's dedicated Outreach & Insight Team.

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Gemma: During this presentation we'll take a look at the following areas: Who we are and the kinds of complaints we can and can't normally look at; How we review complaints and what we can do to put things right when something's gone wrong; We'll also touch on the principles of our Good Practice Framework and explain how you can find out more about the different chapters; We'll take a look at a few case studies during this session but our website also has lots of case summaries covering a range of different complaint subjects which will help to give you more of an idea of the different kinds of complaints we review. We'll let you know where you can find out more about some of the topics we cover as we go along and we'll also let you know how you can get in touch if you have any questions or need more information.

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Barry: So, who are we? The Higher Education Act 2004 required that an independent body be set up to run a student complaints scheme in England and Wales. The OIA was chosen to run this Scheme. The Act also explains which providers have to be members of our Scheme. You can find out more about this and view a list of [current members](#) of the Scheme, on our website. [Our Rules](#), which you can also find on our website, explain: how the Scheme works; who can complain; what we can and can't look at; how we review complaints; and what higher education providers should do. We'll look at some of these areas in a bit more detail later on. There is also a Guidance Note that sits alongside our Rules, which explains them in more detail. It is free for students to complain to the OIA. Providers pay a compulsory subscription fee. We are an approved alternative

dispute resolution body and it is generally expected that students will use our Scheme before they go to the courts. There may be some exceptions, however, for example in complaints where the student is looking for a legal finding of discrimination. We'll touch on this again a bit later on.

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Barry: Many students' complaints are resolved through their providers' own processes. But when a student is unhappy with the outcome of those processes, it's important that they have access to an independent and impartial review. This is what we do. If we think that something has gone wrong, we can recommend a range of remedies to put things right – both for the individual student and to improve practice at the provider. Our casework gives us a unique perspective on student complaints, appeals and other processes. Sharing our learning with providers and student organisations is a vital part of improving practice. We do a wide range of outreach work to share insights and good practice from our work reviewing complaints. Insights and learning gathered through our outreach work is shared with relevant staff internally.

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Gemma: So what kind of complaints can we look at? We can look at complaints from students and former students. A student is someone who is or was registered at a higher education provider, or someone who is or was studying for one of the higher education provider's awards. The term student can also include trainees – for example a trainee teacher at a School Centred Initial Teacher Training provider. It can also include an apprentice – for example someone on a higher education

apprenticeship who wants to complain about the provider that deals with their qualification. Students complain to us about a wide range of things and sometimes they raise a number of different issues in their complaint. Each year we produce an Annual Report which includes information about the complaints we dealt with during the previous year. Our [Annual Reports](#) are available from our website. In general, we can look at anything a provider has done or failed to do - as long as the student's complaint is eligible under our Rules. There are some complaints we can't look at under our Rules and other complaints we can't normally look at. We'll cover some of these areas over the next couple of slides – but more detail can be found in our Rules and the accompanying Guidance Note.

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Barry:

We cannot look at complaints about applications for admissions, that have been rejected or badly handled. But we could review a complaint from a registered student about the information they were given prior to admission. We could also look at a complaint from a student who registered at the provider and was then required to leave because of an irregularity in their application. We may consider a complaint about admissions from a former student of the provider who is applying for re-admission, if the complaint is directly connected to their time as a student. We cannot review a complaint about the academic judgment of a higher education provider. Academic judgment is not any judgment made by an academic; it's a judgment that's made about a matter where the opinion of an academic expert is essential. So for example, a judgment about marks awarded, degree classification, research methodology, whether feedback is correct or adequate, and the content or outcomes of a course will normally involve academic judgment. We consider that the

following areas don't involve academic judgment: decisions about the fairness of procedures and whether they have been correctly interpreted and applied; how a higher education provider has communicated with the student; whether an academic has expressed an opinion outside the areas of their academic competence; what the facts of a complaint are and the way evidence has been considered; and whether there is evidence of bias or maladministration. Decisions about professional standards and fitness to practise, normally involve 'professional judgment'. When we review complaints that involve professional judgment, we'll look at whether the provider has followed its procedures; if the procedures were fair; and whether the final decision was reasonable. We will also give great weight to the decision makers' professional judgment. We also can't look at complaints about employment. If a student is also employed by the provider, we can only look at the parts of the complaint that relate to the person's experience as a student.

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Gemma: We can't look at a complaint unless the provider is a member of our Scheme when we receive the student's complaint form. We also can't look at a complaint about things that happened before the provider became a member. Sometimes a complaint will be about things that started before and continued after the provider became a member, so for example a complaint about bullying by a lecturer where the period of bullying spanned both pre-membership and membership. In cases like this, the things that happened before the provider became a member may be relevant background that we take into account when we look at what happened after the provider became a member. We can't look at things that have already been decided on by the courts. If the matters are or become the subject of court or tribunal

proceedings, we can't look at the complaint unless those proceedings are put on hold. If any part of a complaint is being dealt with, or has been dealt with, by the courts or another body, then the student and provider should let us know. We are recognised by the Chartered Trading Standards Institute as a consumer [Alternative Dispute Resolution](#) body. We can't review a complaint that has already been considered by another ADR body. You can find more information about this on our website.

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Barry: We normally expect students to complete their providers internal procedures before they complain to us. This gives the provider a chance to investigate and, where necessary, put things right. Internal procedures include, but aren't limited, to: student complaints, academic appeals, academic and non-academic disciplinary matters, fitness to practise, fitness to study, breaches of codes of conduct and regulations. Providers must issue Completion of Procedures Letters, or 'COP Letters' for short, in line with our published guidance, which you can find on our website. This includes detailed guidance on when to issue a COP Letters and what information needs to be included. The basic principle is that the provider should issue a COP Letter at any point where the student has reached the end of the line and there are no further steps that they can take internally. This could be at the final stage of a procedure. But it could also be, for example: at any stage where the provider decides there are no grounds for the case to progress further; or when the provider decides that the student is out of time to use the procedures. Under our Rules, we can, in exceptional circumstances, decide to review a complaint even if the student hasn't completed their provider's procedures, or they don't have a COP Letter. For example, if there has been undue delay and

there appears to be no prospect of early resolution. We might also decide to review a complaint where we think the provider is obstructing the complaint or where the provider hasn't issued a COP Letter, but it should have done.

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Gemma: Students have a maximum of 12 months from the date they complete their provider's internal procedures to bring their complaint to us. This is a strict deadline. This will normally be 12 months from the date of the Completion of Procedures Letter - the Letter should include the deadline for the student to submit their complaint to us. We encourage students to bring their complaint to us as soon as they can. It can be difficult to put things right if the student waits too long because some remedies might not be possible after a certain date. The provider may no longer offer the course or the modules the student was studying. It is helpful for the provider to tell the student if there is a reason they need to bring their complaint to us as soon as possible – for example, if a completion deadline is approaching or because a course is closing.

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Barry: We're now going to have a quick look at an eligibility case study: A student has complained to us without a COP Letter. They submitted an academic appeal to their Provider against their final degree classification. Their appeal was rejected by the Provider, at the initial filtering stage, as a challenge to academic judgment, which is not allowed under the Provider's appeals procedures. The student asked the Provider for a COP Letter so he could complain to the OIA. The Provider told the student it couldn't give him a COP Letter because he hadn't completed its

appeals procedure and because the OIA cannot look at academic judgment. Is this a complaint the OIA can look at?

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Gemma: This complaint is one we can look at: The student hadn't completed all stages of the provider's appeals procedure – but they weren't able to. The provider's final decision was to reject the appeal as a challenge to academic judgment without allowing it to progress further through its appeals process. A Completion of Procedures Letter should be issued at any stage when the student has reached the end of the line and there are no further steps they can take internally. Providers should issue a Completion of Procedures Letter even if they think the complaint might not be eligible under our Rules, for example because it involves academic judgment. This is because it is for us to decide whether or not a complaint is eligible under our Rules. We can't look at a provider's academic judgment – but we can look at the fairness of the process and whether the procedures have been applied and interpreted correctly. We can review whether it was reasonable for a provider to reject an appeal as a challenge to academic judgment. For example, was the student trying to raise any issues that weren't related to academic judgment? Was there any unfairness or bias in the decision making process? If we decide a complaint like this is Justified, we would normally Recommend that the provider now looks at the student's appeal under its internal procedures.

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Barry: We'll now take a look at how most cases progress through our review process. Some case might not follow all of these stages – for example, because they might not be eligible for review



under our Rules, or they might be settled at a very early stage. There are three teams involved in our case-handling process: the Casework Support Team; the Assessment and Resolution Team; and the Adjudication Team. First off, the student submits a Complaint Form and their Completion of Procedures Letter. Most complaints are received electronically via our 'MyOIA' portal. Students can appoint a representative to deal with the OIA on their behalf if they want to. Students and providers can both use [MyOIA](#) to track complaints and update their details. The Casework Support Team acknowledge the complaint, copying their correspondence to the Provider. The Casework Support Team will also conduct a basic eligibility check. If it's very clear that the complaint is not one that we can look at under our Rules – for example because we've received it more than 12 months after the COP Letter was issued, then the complaint may be ruled 'not eligible' at this stage. Otherwise, it will be passed on to our Assessment and Resolution Team for "triage" – a more detailed consideration of eligibility and an initial review of the complaint. Sometimes we might need to ask the provider for more information, before we're able to decide whether or not a complaint is eligible. The Assessment and Resolution Team will send a summary of their understanding of the complaint to the student and the Provider. We'll ask the provider for any other documents or information we think we need for our review and any comments it wishes to make on the case. The student will be sent a copy of the provider's response and will have the opportunity to send us any further comments they want to make. Our review process is transparent, which means we exchange copies of all information received with both parties. If either party asks us not to disclose information to the other, we won't normally be able to take it into consideration during our review (unless there are very exceptional circumstances). If at any stage we decide that a complaint is not eligible, or is only partly eligible for review, we'll write to the student and the

Provider explaining why the complaint is not one we can look at under the Rules of our Scheme. Our Rules also state that both the student and the Provider can ask us to look at our eligibility decision again by appealing within 14 days.

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Gemma: Depending on the complexity of the complaint, the case could remain in the Assessment and Resolution Team with a Case-handler or it may be looked at by an Assistant Adjudicator in the Adjudication Team. The review process is the same in both teams. The reviewer will explore the best way to deal with the complaint – they might think about whether mediation or a hearing are appropriate. We can hold a hearing or face-to-face meeting if we think we need to, but in practice this is very rarely something we need to do. At all stages of our process we think about whether it's possible to reach an informal resolution by settling the complaint - we always try to resolve a complaint at the earliest stage we can. We might try to settle a complaint if there's been an obvious procedural error that could have had an impact on the case, or if any of the circumstances suggest settlement might be possible or that it would be better to resolve the issues informally. Settlement can take many forms – for example an offer to re-hear an appeal or a disciplinary case, an offer to re-instate the student or grant an additional assessment attempt, or a financial offer.

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Barry: We're going to take a look now at another case study, this time relating to Settlement. A student complained to us after their Provider rejected their Stage 3 complaint. The student's complaint had been partly upheld by the Provider at Stage 2.

The student was unhappy with the remedy offered and wanted the Provider to review the outcome at Stage 3 of its procedures. The Provider decided it would not look at the Stage 3 complaint because the student had submitted it more than 30 days after the deadline. The Provider issued a COP Letter explaining that its final decision was to reject the Stage 3 complaint as out of time, so the Stage 2 outcome would remain in place. We looked at the information the student and the Provider sent to us, to help us decide how to progress the complaint. We could see that the student had been in contact with the Provider's Complaints Office after they received the Stage 2 outcome, and it was clear they intended to submit a Stage 3 complaint. However, we were concerned that there was a lack of clarity in the information given to the student about how and when they should submit a Stage 3 complaint. Because the information given to the student had been unclear, we decided to see whether the Provider would be willing to look at the student's Stage 3 complaint, as though it were received by the deadline. This is the kind of Recommendation we would normally make if we decide it was unreasonable for the Provider to reject a complaint as out of time. The Provider agreed that it would. We put the Provider's offer to the student and they accepted it, resolving the complaint. We didn't need to conduct a full review of the complaint, or issue a Complaint Outcome.

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Gemma: Settlement is optional and won't be appropriate in every case. Both the provider and the student need to agree to the proposed settlement. If a complaint isn't suitable for settlement or a settlement attempt isn't successful, we normally conduct a full review of the complaint. Our review will usually focus on the provider's final decision – this should be set out in the provider's

Completion of Procedures Letter. If an offer was made to try to resolve the complaint, we might also take this into account in our review. We don't normally carry out a fresh investigation. Our role is to independently review the final decision and the processes that were followed. We will decide whether the complaint is Justified, Partly Justified or Not Justified.

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Barry: When coming to review a case we ask: Did the provider follow its own procedures? Were the procedures reasonable? Was the provider's final decision reasonable?

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Gemma: On the screen you'll see some of the most common reasons we decide a complaint is Justified or Partly Justified. Procedural irregularity is a common feature of the complaints that we find Justified or Partly Justified. For example, the student might not have had the opportunity to comment before a hearing, or staff on a panel might have been involved in the case at an earlier stage. Sometimes there will be insufficient evidence to show a case was dealt with properly – for example no minutes of an important meeting were kept, or the minutes don't show whether or not the provider properly considered relevant evidence or the student's extenuating circumstances. Delay is often a factor, especially if the delay was significant, had an impact on the outcome or caused the student distress and inconvenience. We'll look at any reasons for delay and whether the provider kept the student properly updated – if the delay was minor, we might be critical of the provider but it might not be enough on its own to make the case Justified or Partly Justified. Sometimes we see the student hasn't been kept updated by their provider or

properly signposted through the procedures. Or sometimes a department will give information that's incorrect or different from the handbook. Sometimes the level of teaching or supervision might be different to what was advertised, or the student won't have had access to facilities that were promised in the course prospectus. We can look at whether the provider considered the impact of discrimination issues – but some discrimination issues are better dealt with in a court. For example, we wouldn't be able to make a legal finding that a provider had discriminated against a student. But we can look at the law and guidance on discrimination to form an opinion on good practice and to help us decide whether the provider acted fairly. For example, we might look at whether the provider properly considered whether its procedures were placing a disabled student at a disadvantage.

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Barry:

At the end of our review, we'll send the student and the Provider a Complaint Outcome. This is a written document that explains whether we've decided the complaint is Justified, Partly Justified or Not Justified, and why we've made that decision. We'll take into account all of the information and comments sent to us by the student and the Provider when we review a complaint. But our Complaint Outcome might not refer to every point raised in the complaint, even though we'll have thought about all of the issues raised. We'll include all material we think is necessary to make a decision about the complaint. The Complaint Outcome might include Suggestions and Observations. These are points for the Provider to take note of. For example, we might make a 'suggestion' where we've seen poor practice, or issues with the Provider's approach that didn't disadvantage the student or affect the outcome. We might make an 'observation' that the

Provider has changed its procedures since it dealt with the student's case. Suggestions aren't monitored for compliance in the way that our Recommendations are – but if the Provider hasn't taken action to address the problem, after we made it aware of it, and we continue to see similar issues, we might make a formal Recommendation in a later complaint requiring the Provider to take action. If we decide a complaint is Justified or Partly Justified, we'll make Recommendations to put things right for the student. We set out our Recommendations in an appendix to the Complaint Outcome. Both the student and the Provider have the chance to tell us whether the Recommendations we've made are practical before we confirm them. Once we've confirmed our Recommendations, providers are expected to comply with them by any deadlines we set. We monitor the Recommendations we make to check the provider complies.

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Gemma: We take a practical approach to putting things right for the student wherever we can. We normally aim to put them back in the position they were in before whatever went wrong happened. But if this isn't possible or doesn't go far enough to put things right, we can also recommend other remedies, like financial compensation. We can't interfere with a provider's academic judgment. But we can recommend that the provider looks at an appeal or the way it applied its regulations and procedures again. This might result in a student's mark or classification being changed. As well as putting things right for the individual student, we may also make good practice recommendations that aim to put right any problems with the provider's practice or procedures that we saw during our review. For example, we could recommend that the provider changes its

procedures or delivers staff training. We can make all sorts of recommendations to put things right and we ask students to tell us in their Complaint Form what sort of remedy they're looking for. We will consider any remedy proposed by the student or the provider, but it's important the remedy is reasonable and achievable. Guidance on [putting things right](#) is available on our website. This looks at our approach to remedies in more detail, including our approach to financial compensation.

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Barry:

We're now going to take a look at another case study to give you an idea of how our review process was applied in a real case: The student submitted an extenuating circumstances application explaining the ill health of a family member and the impact it was having on them. Their application was rejected because they hadn't provided enough independent evidence to support their case. The Exam Board then withdrew the student because they hadn't made enough academic progress. The student appealed against their withdrawal. They said they felt the provider hadn't taken proper account of their extenuating circumstances and they now had more evidence. The Appeal Panel decided the student still hadn't shown why they couldn't properly engage with their studies. The student told the Provider that one of the Appeal Panel members (Panel Member A) was the person who'd previously rejected their extenuating circumstances application, so they were worried the panel member could have been biased. The Provider decided to cancel the first Appeal Panel's decision and asked a second Appeal Panel to look at the case again. The second Panel met and decided to give the student a final chance to provide more evidence. The student provided some more evidence. The Chair of the Appeal Panel responded and decided the additional

evidence wasn't strong enough. The Provider issued a COP Letter and the student complained to the OIA.

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Gemma: We sent the provider a copy of the student's Complaint Form and asked it to send us all the information it looked at during its internal processes and all the correspondence and records related to the case. We also looked the provider's procedures. Both the student and the provider had the chance to comment on all the information we looked at before we made our decision. We saw that the provider's procedures said the outcome of an appeal should be decided by a Panel. The student had also been told that the Panel would meet again to look at their evidence. But only the Chair of the Panel looked at it. When we looked at the information the provider sent to us, we saw that Panel Member A acted as an officer to the second Panel. Panel Member A forwarded the student's new evidence to the Chair of the second Panel and in their email to the Chair, they gave their opinion on the evidence. Panel Member A also incorrectly told the Chair they could decide on the outcome on behalf of the second Panel. The provider hadn't followed its procedures by allowing the Chair to decide the outcome on behalf of the Panel. Decision makers should normally come to a case afresh – this was especially important because the student had already raised concerns about possible bias at the first Appeal Panel. We were concerned that the continued involvement of Panel Member A had undermined procedural fairness and created a reasonable perception of bias. We decided the student's complaint was Justified.

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Barry:

We made both student focused and good practice Recommendations to put things right: Because a panel, and not just the Chair, should have looked at the student's evidence and decided on the outcome, we recommended that a new Panel should make a decision on the student's appeal and look at all of the supporting evidence. None of the new Panel members, or any other staff involved in the reconsideration, were allowed to have been involved in the appeal previously. We recommended that the Provider should apologise to the student and offer £250 for the distress and inconvenience caused by the way it handled their case. The procedures themselves were reasonable but the Provider hadn't followed them or taken proper steps to ensure there was no potential bias in the decision making. We recommended that the Provider should train its appeal handling staff and panel members on its appeals procedures, including on issues around perception of bias and avoiding conflicts of interest.

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Gemma:

You can find out more on Good Practice and dealing with appeals in our Good Practice Framework. On our website you'll find the various chapters of our Good Practice Framework. We published the first chapter, Handling student complaints and academic appeals, in December 2014. The chapters contain overriding principles and operational good practice guidance for providers to consider when dealing with different types of cases and supporting students. The principles of the Framework are: Accessibility, Clarity, Proportionality, Timeliness, Fairness, Independence, Confidentiality and Improving the student experience. The various chapters of the Good Practice Framework draw on our broad experience of handling complaints. The Framework has been developed in consultation

with a steering group, with additional input from a wide range of consultees. Each of the chapters informs the way we deal with complaints about those subjects – which also include academic and non-academic disciplinary procedures and good practice in supporting disabled students. The Good Practice Framework is non-regulatory – but we expect providers' procedures and practices to be consistent with the guidance. All the [chapters](#) can be downloaded from our website. You'll also be able to access any new chapters on our website as and when we publish them or make them available for consultation. We also offer a range of workshops and webinars that look at some of chapters in more detail. See our [Outreach & Events](#) webpages for more information.

--- LAST SLIDE ---

Barry:

We're now at the end of our presentation, we hope you found this information helpful. On the screen you'll see the various ways you can get in touch with us. If you'd like to discuss anything we covered in this presentation further, please contact us at [outreach@oiahe.org.uk](mailto:outreach@oiahe.org.uk) and we'll get back to you as soon as we can. Thanks very much for your time.

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