

# Annual Report 2015



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# Foreword by the Chair

The Office of the Independent Adjudicator for Higher Education (OIA) reviews complaints from students who remain dissatisfied after taking their complaint or appeal through all the internal stages at their higher education provider. We are the 'ombudsman of last resort' in disputes that may have started weeks, months or even years earlier.



*Ram Gidoomal*

In 2015 we closed more complaints than ever before. Behind the figures reported in the following pages lie more than 2,000 cases where a student and a provider have been unable to resolve an issue.

In each case the OIA's expert case-handlers gather all the information relevant to their decision, consider whether the provider had clear and fair processes in place and whether it followed them, and determine whether the provider reached a reasonable decision.

Over the last eight years this work has been led by Rob Behrens. Under his stewardship the OIA has gained respect across the sector, promoted early resolution of complaints, published a Good Practice Framework and maintained a high standard of case handling. The decision of the Coalition Government in 2014/15 to support legislation that increases membership of the OIA is testament to high levels of confidence in the organisation.

Rob also commanded huge personal respect across the higher education sector. It is fitting that, at the end of his last full year in office, he was appointed a CBE in the New Year's Honours.

The Board was delighted to appoint Judy Clements OBE to succeed Rob in April 2016. She brings with her extensive experience in adjudicating complaints and working in often challenging areas of public life.

During 2015 our two longest serving Board members, Chris Turner and Mike Thorne, retired from the Board. They have provided invaluable support and advice and I am immensely grateful to both of them.

My own term of office expires towards the end of 2016. I thank all the staff and Board colleagues for their sustained support in 2015 and over the preceding years. I am confident that I will be leaving the OIA in excellent hands as it continues its important work.

**Ram Gidoomal CBE**

*Chair of the Board of Directors*

# Introduction by the new Independent Adjudicator and Chief Executive

I joined the OIA in April 2016, following a career in different areas of public life. Most recently I was the Adjudicator for Her Majesty's Revenue and Customs, the Valuation Office Agency and the Insolvency Service. Before that I worked in the criminal justice arena, with roles in policing and penal services.



*Judy Clements*

While the immediate issues affecting complainants are very different in each area, the same basic principles apply. The Ombudsman's role is to provide an independent body to which people can go for a review of how their complaint has been handled. To provide an effective service it needs to be open, trusted and reliable in its decisions. It needs to be impartial between the parties involved.

This report looks back on 2015 and describes the OIA that I have joined. It reflects an impressive record of complaint closures and outlines the challenges ahead.

Students rightly see higher education as important. Fewer than one in a thousand will ever encounter an issue that leads them to the OIA, but it matters that we are here as a backstop when, despite all efforts, issues remain unresolved.

By the time a student complains to the OIA he or she will normally already have spent several months taking the complaint through the different stages at their place of study. Continued efforts to promote early resolution must remain core to the OIA's approach and guide its work with higher education providers and student organisations alike.

I am looking forward to learning more about the higher education sector. I have been made very welcome by the Board and staff of the OIA and the external colleagues I have been able to meet since the start of my term of office.

**Judy Clements OBE**

*Independent Adjudicator and Chief Executive*

# Review of 2015

2015 brought far reaching changes to the OIA and the sector in which we work. We maintained focus on resolving cases, and doing so more quickly.

The headlines from the year were:

- The Consumer Rights Act 2015 brought more than 500 new members into the OIA Scheme. This is a significant step towards a position where higher education students can bring complaints to the OIA irrespective of where they are studying.
- In 2015 the OIA received 1,850 complaints and closed 2,327.
- The revised Rules of the OIA Scheme clarify eligibility and outline a streamlined process.
- Case closure times have continued to fall and the OIA is now closing the majority of cases within six months.
- The higher education Green Paper reiterated the independence of the OIA.
- We completed a move to new premises following expiry of our lease with minimum disruption to core activities. The new premises are on a long lease that gives us financial stability.

## The higher education environment

### Extended membership – greater access for students to the OIA

New legislation (the Consumer Rights Act 2015) extended the range of providers that are required to join the OIA to include all providers offering higher education courses which are designated for student support funding and providers with degree-awarding powers. This brought more than 500 higher education providers into the OIA Scheme from 1 September 2015, including further education colleges and sixth form colleges for their higher education students, alternative providers and providers of School Centred Initial Teacher Training (SCITTs). The change is welcome as it gives more students access to independent redress. We expect this to lead to an increase in complaint numbers to the OIA.

“ I would like to thank you and the institution you represent for your handling of [my daughter's] complaint, a mixture of professionalism and unbiasedness and, at the same time, of consideration of the human side of the events.”

“Over two years ago, in my first report as Director of the Higher Education Policy Institute, I called strongly for the OIA’s coverage to expand. The restricted limits seemed unfair to many students and also brought a reputational risk for the whole higher education sector. Moreover, the OIA had shown it was up to the task of stretching its responsibilities. So the change to the law in the Consumer Rights Act 2015 was both welcome and overdue. To me, it also seems a fitting way to mark the end of Rob Behrens’s successful leadership and the transition to a new stage in the OIA’s life.”

**Nick Hillman**

*Director of the Higher Education Policy Institute*

For many new members, higher education is only a small part of what they do. The Consumer Rights Act gives the OIA discretion to work with new members to ensure that the Scheme is extended only to their higher education students. To that end, the OIA has defined those higher education courses provided by our new members that are covered by the Scheme.

The extended membership creates new opportunities for sharing effective practice between providers. We continue to work with and learn from a range of stakeholders and external organisations, including officials at the Department for Business, Innovation and Skills who worked on the legislation, and organisations such as the Association of Colleges, the Mixed Economy Group, Study UK, the National Association of School-Based Teacher Trainers, and the National College for Teaching and Leadership (an executive agency sponsored by the Department for Education).

These discussions inform our understanding of the different types of provider and the most effective way in which to work with them. They are complemented by an extensive and well-received outreach programme, in which more than 300 new members have participated.

We have aligned operational support to manage the additional administrative requirements arising from the growth in membership. We have also revised our subscriptions model to reflect the increased diversity of our membership.



## Complaints involving more than one provider

Felicity Mitchell, Deputy Adjudicator, explains the OIA's approach to complaints involving more than one provider, following the extension of OIA membership.

"The OIA has always been able to look at complaints involving more than one higher education provider, for example, collaborative partnerships between two member universities, or between a college delivering a programme validated by a member university. But the OIA can only consider a complaint about the acts or omissions of its members. That meant that, if a student was studying at a non-member college on a course leading to the award of a member university, the OIA could only look at complaints about acts or omissions of the member university.

The extension of our membership following the Consumer Rights Act 2015 means that a student studying at one provider for a qualification awarded by a different provider may be able to complain about either provider, depending on which provider is responsible for the issue giving rise to the complaint. It remains the case that the OIA can only consider complaints about acts or omissions of its members – so we cannot look at a complaint about a delivery provider or an awarding provider unless it is a member.

Where both the delivery provider and awarding provider are members of the OIA Scheme, our starting point will be the agreement between the providers which sets out the obligations and responsibilities of each of them. However, we would not expect students to have to go through multiple stages of complaints or appeals procedures at the delivery provider, and then at the awarding provider, before being able to come to the OIA. Under a validation arrangement, the awarding provider will normally need to involve itself only in the final stage of an academic appeal, or the final stage of a complaint about academic quality. Similar principles may apply under a franchised arrangement where the franchising awarding provider has delegated some responsibility to the franchisee delivery provider. We have a process in place for determining how to deal with a complaint from a student studying at a member provider for a higher education qualification awarded by an awarding body which is not a member.

We are taking a pragmatic approach in reviewing complaints involving more than one provider and will deal with them on a case by case basis. Where we think a student has complained to us about the wrong member provider, we will usually pass it on to the right member provider, and give it the opportunity to respond to the complaint.

We have published guidance on this subject on our website, including updated Guidance on Completion of Procedures (CoP) Letters, so that providers know who should issue CoP Letters, and at what point."



## The EU Directive on Alternative Dispute Resolution (ADR)

The OIA was appointed as the 'ADR Entity' for higher education for England and Wales under an EU Directive that came into force on 9 July 2015. The ADR Directive sets expectations for decisions to be taken within 90 days of the complete complaint file being received, except in highly complex cases. For student complaints the complaint file will typically include the complaint form, the relevant regulations, minutes of examination boards, hearings or appeals and any written representations made by both the student and the higher education provider.

The related government regulations required us to change the Rules of the OIA Scheme to allow students a full year to come to the OIA after their provider finishes its consideration of a complaint.

### The revised Rules of the OIA Scheme

The Report and Plan (pages 34-40) outlines the main changes to the OIA Rules, which followed consultation in spring 2015.

Many providers expressed concerns about the extension of the deadline for bringing a complaint to a full year after the higher education provider has given its final decision. This change is a requirement of the UK government regulations that implement the European Directive on ADR. The OIA advises students to submit their complaints as soon as they are able to, both because it is more likely that the people involved will still be available and to keep the widest range of options available if the complaint is upheld.

The changes to the Rules simplify and clarify the OIA process. The OIA's review now concludes with the issue of the Complaint Outcome, although the student and the provider may both comment on any Recommendations made on a Justified or Partly Justified case. There are two safeguards built in to the Rules to ensure that this change does not disadvantage the student or the provider. First, the provider has the opportunity to comment on the student's complaint, and the student has the opportunity to respond before the Complaint Outcome is issued. Second, the OIA may reopen its review where there is good reason to do so after the Complaint Outcome has been issued.

## The political and regulatory environment

Following the 2015 general election the OIA was invited to an early meeting with the new Minister of State for Universities and Science to discuss the regulation of higher education in England. The OIA continues to support the case for legislation to clarify the roles of the different agencies and give greater emphasis to the student interest.

We responded to the Green Paper published in November 2015; to the earlier consultation by the funding bodies in England, Wales and Northern Ireland on the future of quality assessment; and to the related inquiry by the House of Commons Select Committee on Business, Innovation and Skills.



The OIA welcomes in principle both the proposed establishment of an Office for Students, putting the student interest at the heart of regulation, and the introduction of the Teaching Excellence Framework. However there remain many practical issues to overcome.

The importance of retaining an independent organisation to review student complaints is widely accepted and this is reflected in the Green Paper.

We maintain close working relationships with officials in the Department for Business, Innovation and Skills, their counterparts in Wales and regulatory partners including the Quality Assessment Agency for Higher Education and Professional, Statutory and Regulatory Bodies such as the General Medical Council and the Medical Schools Council.

In March 2015 the Competition and Markets Authority (CMA) published guidance for higher education providers on consumer protection law. We worked closely with the CMA as it developed its guidance.

The OIA shares expertise and experience with specialist organisations including the UK Council for International Student Affairs (UKCISA), the Equality Challenge Unit (ECU) and the Association of University Administrators (AUA).

We work very closely with the National Union of Students (NUS) on a number of issues and are part of The Student Engagement Partnership (TSEP) project exploring student representation in non-traditional higher education providers. Local students' unions and advice centres play a critical role in advising student complainants and working with providers to improve complaints and appeals handling arrangements.

## Developments in case handling

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### Sharing good practice

#### The good practice framework

Established and new members of the OIA Scheme have made extensive use of the good practice framework to review and develop their complaints and appeals processes. The OIA hosted a number of workshops and webinars during the year to support providers and students' unions in adopting the framework.

The OIA has referred to the good practice framework in considering complaints and, where relevant, includes Recommendations and suggestions in its Complaint Outcomes. This has led to changes such as the revision of a provider's complaints process to cut the number of stages from seven to the recommended three.

Work will begin during 2016 to develop further guidance to cover particular circumstances including managing complaints or academic appeals where more than one provider is involved in a student's higher education, and applying the framework in very small organisations.



### Updated guidance

We revised guidance to providers on issuing CoP Letters. This includes setting out the principles that the OIA will apply in reviewing complaints brought by the same student or group of students against two or more providers involved in their higher education.

We also updated and simplified information for providers and students on the way the OIA deals with complaints on eligibility and provided background information for new members of the OIA Scheme.

### Outreach

We extended our established programme of outreach, running webinars to complement visits to providers, workshops and speaking engagements.

To mark ten years of the OIA we ran a series of policy seminars looking at the international, political and legal environment for higher education. We also published papers on the importance of public trust in running an ombudsman service, and on the legal principles established by Judicial Review claims against OIA decisions.

### Public interest cases

During 2015 we published more than 50 case examples that identify the higher education provider involved. These cases concerned supervision, fitness to practise, professional and clinical placements, consumer protection issues, disciplinary cases, procedural issues and complaints from international students. These examples contribute to a growing understanding of the ways that providers approach complaints and the OIA reviews the decision-making process.

### The OIA as an ombudsman

The OIA is a full and active member of the Ombudsman Association.

Until the end of 2016 the OIA will provide the secretariat for the European Network of Ombudsmen in Higher Education (ENOHE). Work in 2015 included a survey of campus ombudsmen in Europe and further afield, comparing experiences.

## Complaints received and closed

### Complaint headlines – OIA performance against the 2015 operating plan

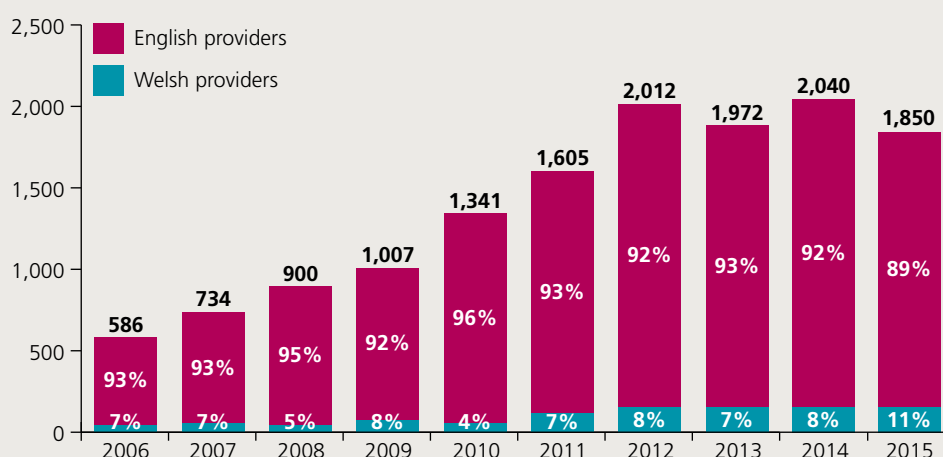
The report and plan on pages 34-40 detail the OIA's performance against key performance indicators. This includes substantial improvements in the time taken to close complaints. By the end of 2015 we were closing 59 per cent of complaints within six months, with the average number of days to close a complaint dropping from 207 at the end of 2014 to 168 by the end of 2015.

The OIA received 63 service complaints in 2015 (54 in 2014). The majority raised issues about the merits of the case itself, but in a small number of instances we apologised to complainants for delays in our process.

### Complaints received

The number of complaints received by the OIA dropped by nine per cent in 2015 to 1,850, the lowest since 2011. This is only the second time that the OIA has seen a drop in complaint numbers from one year to the next.

**Chart 1** Number of complaints received per year

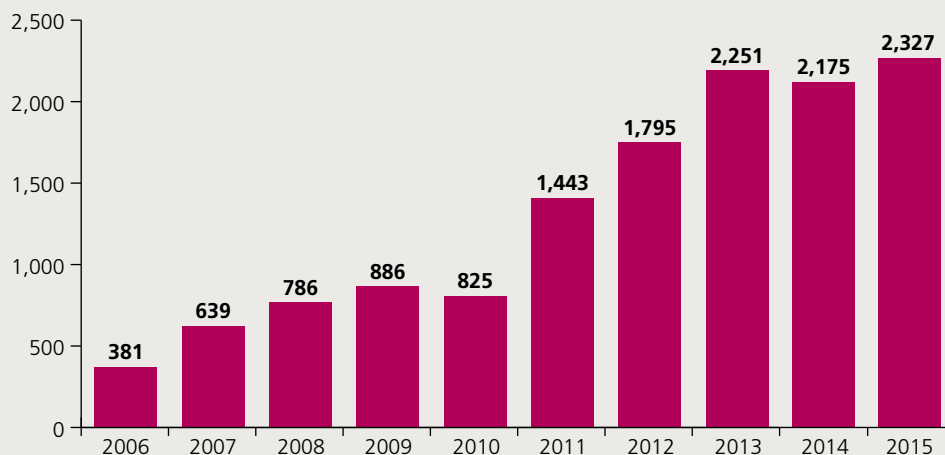


A number of factors may have contributed to the fall in complaints. Many providers report that the greater focus on early resolution at the informal stage means that fewer formal complaints are received. The change in the deadline for bringing complaints from three to twelve months, which came into effect half way through the year, may mean that some students wait longer than they might otherwise have done to bring their complaint to the OIA.

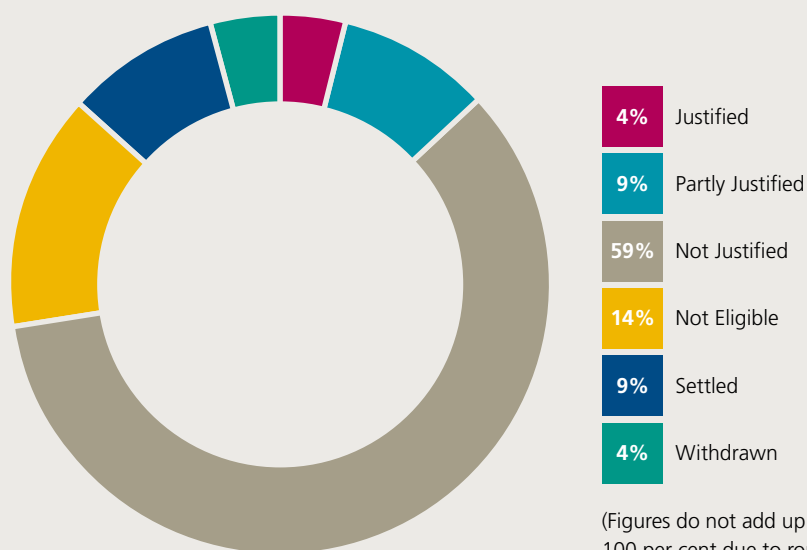
## Complaints closed

The number of complaints closed was the highest in the organisation's history.

**Chart 2** Number of complaints closed per year



**Chart 3** The outcome of complaints



(Figures do not add up to 100 per cent due to rounding)

“I wanted to let you know that the school accepted my mitigating circumstances. I wanted again to thank the OIA for considering my case as I am now once again eligible to achieve my MPharm from the University...! I am so very happy and I am grateful for the OIA.”

**“** I would like to take this opportunity to thank the OIA for the support, I am very grateful and pleased with the outcome. I accept the offer made by [the university] and I wish to get in-touch with them as soon as possible.”

The proportion of complaints found Justified or Partly Justified or settled by the OIA remains consistent. The figure of 22 per cent represents more than 500 students.

More than half of cases were Not Justified, the same proportion (59 per cent) as in 2014. Many of these complaints are brought by students who first claim extenuating circumstances after they receive a result and are unable to provide any reason or evidence as to why they did not say something at the time. Others are from students who broke examination regulations or disciplinary codes and cannot explain why they were unaware of expectations.

14 per cent of cases were not eligible for review.

## Eligibility

Before complaining to the OIA a student needs to seek resolution through the internal processes at the higher education provider or providers involved. If a complaint is brought to us before internal processes are completed it will normally be ineligible for review. Other complaints are ineligible because they are about issues outside the OIA's remit (for example, they relate to admissions), are out of time, or are about matters that had no bearing on a student's experience as a student.

Examples in 2015 included:

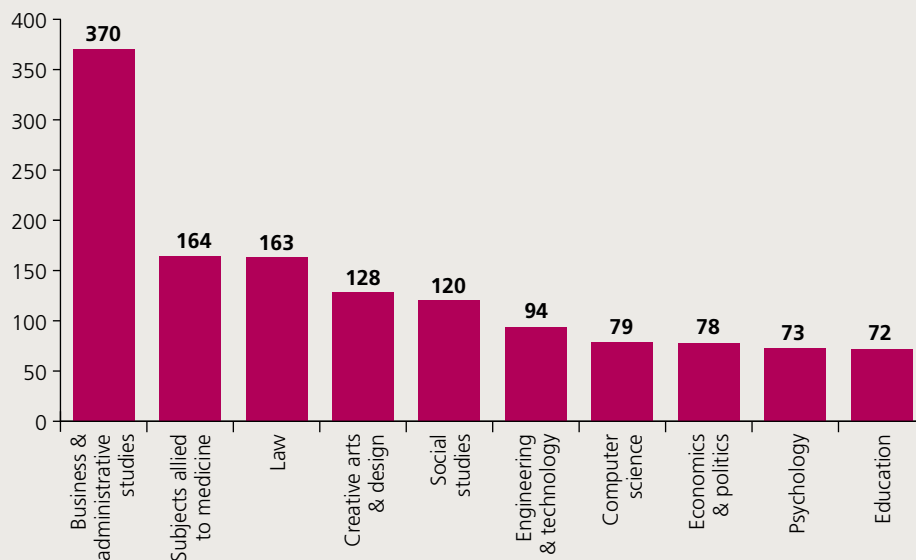
- A complaint submitted by a student who had not yet started her course, but was anticipating difficulties based on earlier experiences.
- A complaint about not being given a parking permit.
- A complaint about a refusal to refund an audition fee incurred by a student as part of his application for a music degree. He withdrew his application on the advice of his tutors. The OIA decided that this was an admissions issue and that the complaint was not eligible.

We have made significant improvements in the last three years to the time it takes to assess eligibility. In 2015 we determined eligibility or sought further information within ten days in 87 per cent of cases, compared to 74 per cent in 2013 and 83 per cent in 2014.

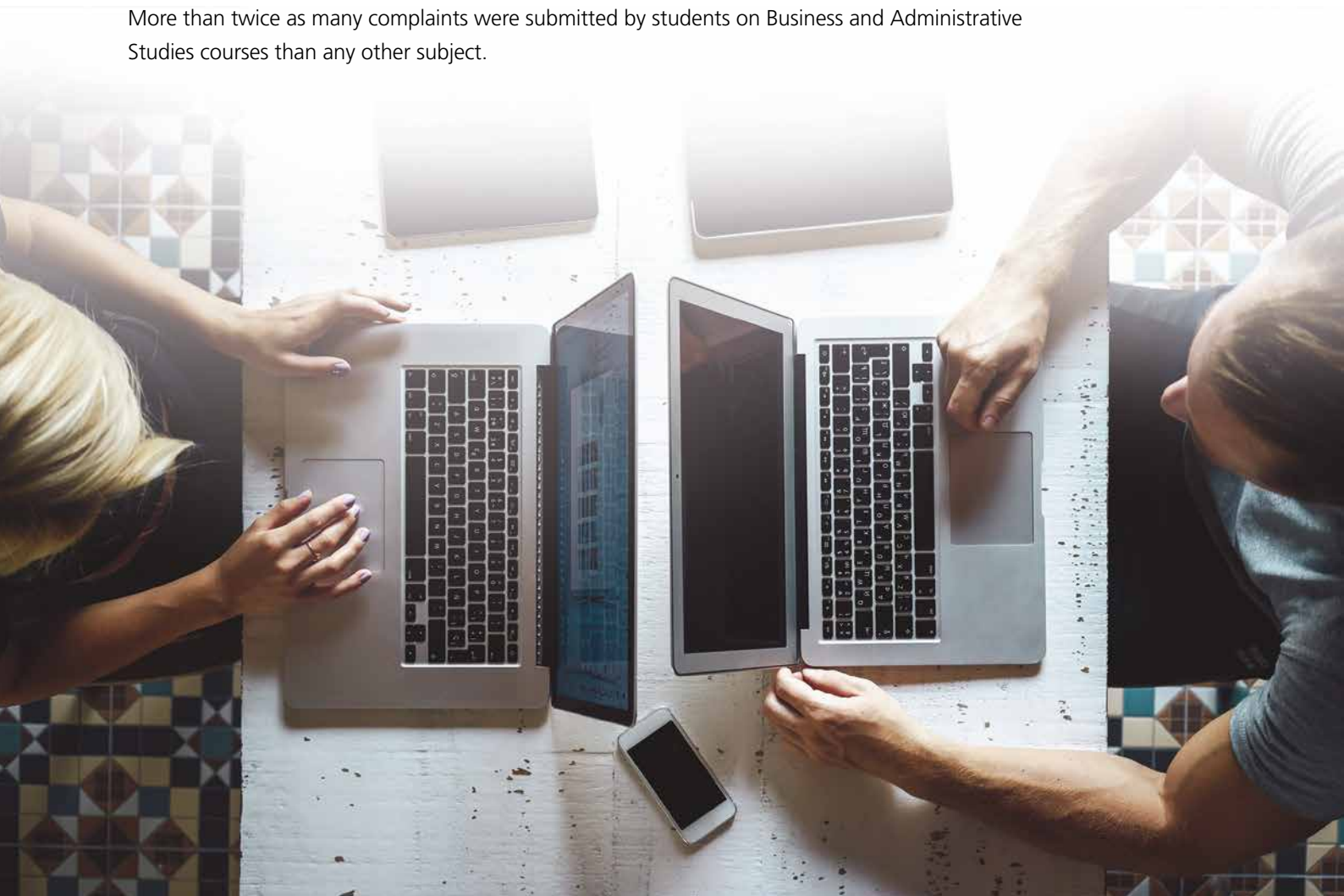
## Trends in complaints

### Who complains?

**Chart 4** Complaints received by area of study – top ten



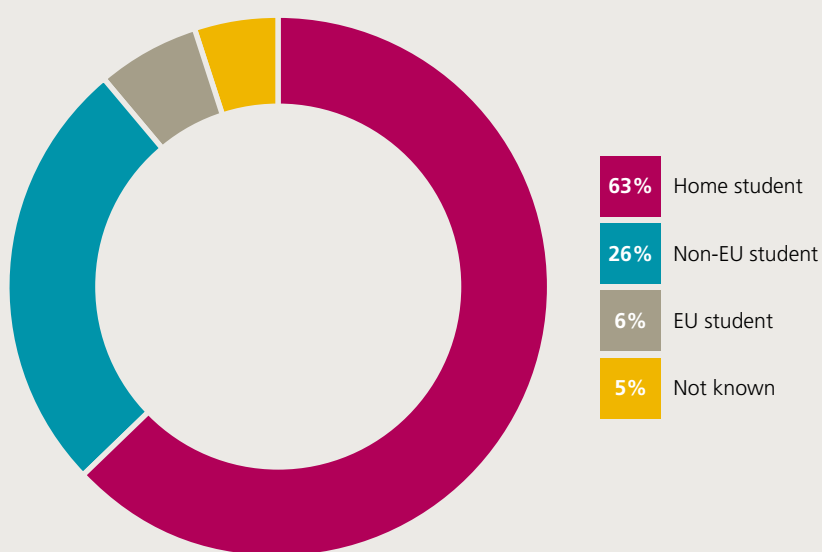
Students on vocational and professional courses are the most likely to bring complaints to the OIA. More than twice as many complaints were submitted by students on Business and Administrative Studies courses than any other subject.



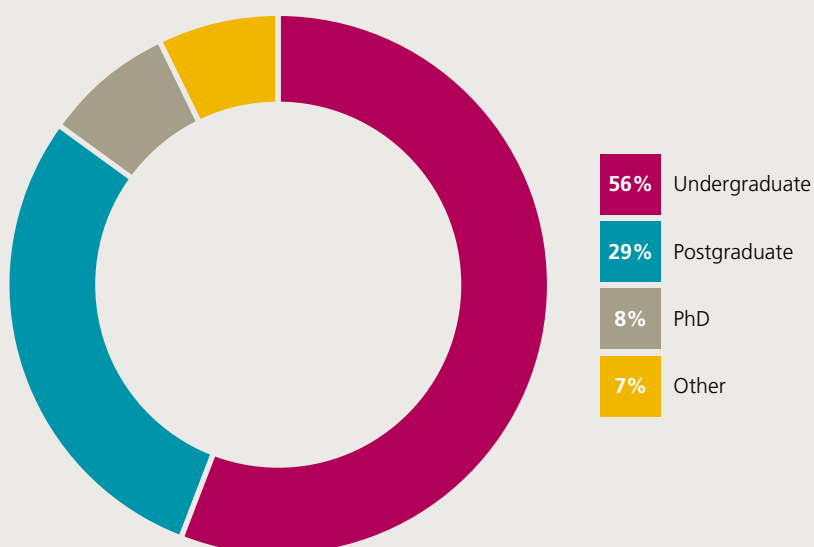
## Domicile and level of study

As in previous years, students from outside the European Union and postgraduate students are disproportionately more likely to complain. While the pattern of complaints from home and other EU students is broadly similar, students from outside the EU are more likely to complain about academic misconduct proceedings.

**Chart 5** Complaints received by student domicile



**Chart 6** Complaints received by level of study

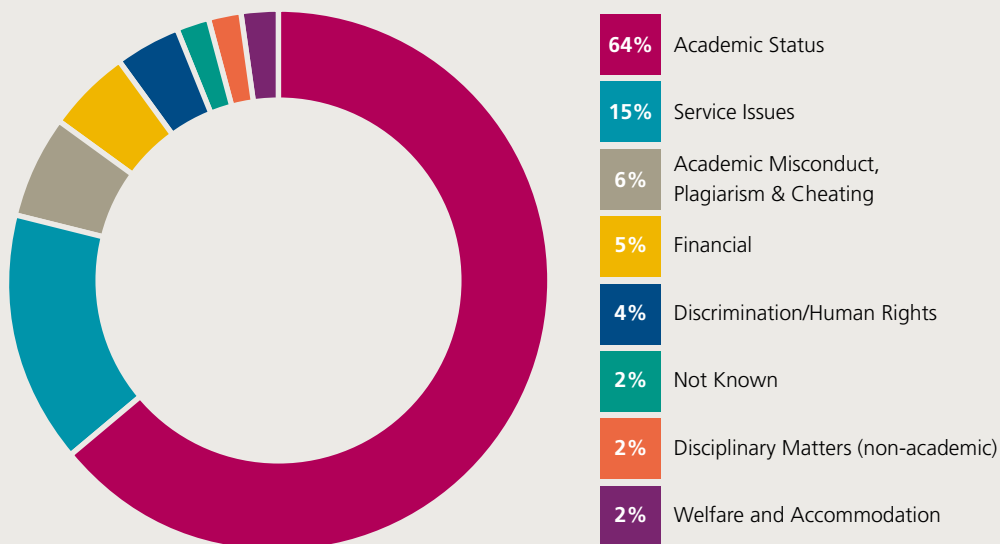




## Persistent themes

The graph below shows the main categories of complaints.

**Chart 7 Closures by complaint category**



### Academic status

As in all previous years the majority of complaints, 64 per cent, are about issues that affect a student's academic status. Very commonly students complain after they have failed an assessment or programme. The OIA cannot interfere with academic judgment, but we can look at whether the provider has correctly followed its own procedures, for example, its assessment, marking and moderation procedures, and whether there was any unfairness or bias in the decision-making process the provider followed. Where we identify procedural errors, it is often possible to settle the complaint, without the need for full review, with the provider arranging to reconsider the appeal.

#### Case studies – settlement by reconsidering the appeal

**Case study 1:** The OIA settled a complaint brought by an MSc student following an appeal against being withdrawn from the course with a Postgraduate Certificate of Higher Education. The university accepted the OIA's view that, under its regulations, the student should have been given the opportunity to submit mitigating circumstances to the appeal panel. A fresh panel was convened and the student was readmitted to the course.

**Case study 2:** The OIA identified procedural errors in a university's handling of a student's appeal against a decision not to allow him to resit an examination. When we drew these to the university's attention it agreed to allow him a fresh appeal. This was upheld and the student was granted a resit opportunity and access to resources and support to assist his preparation.

## Academic misconduct and plagiarism

There was an increase in the proportion of cases relating to academic misconduct and plagiarism.

The OIA cannot normally look at a decision that a student committed plagiarism as this involves academic judgment. We can however look at how investigations were carried out and the reasonableness of the penalties imposed.

Most of these cases were Not Justified. Commonly students fail to comply with regulations that are widely publicised on bringing mobile phones and notes into examinations. Often the regulations explicitly state that it does not matter whether or not the student actually used the phone or the notes during the examination. Many students complain about the severity of the penalty imposed and some appear not to understand how seriously providers take academic misconduct. We would not normally interfere with a decision about penalty taken by a panel which has heard the evidence and is in a good position to weigh up the seriousness of the offence. But we would do so if we considered the penalty to be unreasonable or disproportionate.

### Case study

A student admitted taking notes into an examination and disposing of them during a toilet break. She stated that she had not intended to use the notes and complained to the OIA that it was therefore unfair to penalise her by awarding a mark of zero. The regulations were clear that taking unauthorised material into an examination was in itself academic misconduct. The OIA found the case Not Justified.

Examples of academic misconduct cases which we found Justified during 2015 include:

- A complaint brought by a student who had not been given an opportunity required by the regulations to attend a hearing to discuss allegations.
- A case in which a provider had failed to explain the rationale for the penalty it applied.
- A case in which a provider had mistakenly assumed that the student had admitted to the specific offence for which she was penalised.

## Service issues

Complaints about service issues are of particular interest given that the CMA has introduced guidelines for higher education providers on this topic. These can cover a number of different aspects relating to the accuracy of published information, costs and hidden fees and broad issues of consumer protection.

There will be times when a higher education provider is unable to provide courses exactly as advertised for unavoidable reasons. It is reasonable to make minor changes that are unlikely to affect students negatively, or to make changes to respond to the requirements of an accrediting body. Where more significant changes are proposed, it is important for the provider to consult with the affected cohort of students, and to do its best to mitigate any negative effects.

**“** I cannot thank you and your colleagues enough for mediating this issue. The procedure for hearing both sides of the argument has evidently been carried out professionally and fastidiously. Thanks again.”

Statistically complaints about service issues are the most likely to be found Justified or to be settled. Providers have clear responsibilities to make sure that they are meeting the reasonable expectations of students.

### Case studies – service issues

**Case study 1:** The OIA found a case Justified where a university withdrew the web programming modules from its software engineering degree.

The university was unable to demonstrate that it had given the affected students sufficient, timely information. This would have ensured that the students were able to make an informed decision about whether to consent to the changes, or to consider other options, such as transfer to another provider. The student who brought the complaint had specifically chosen the degree course because it specialised in web programming.

We recommended financial compensation for distress and inconvenience.

Other cases on service issues that were Justified included:

**Case study 2:** A case where a university had rejected a student’s complaint about a number of aspects of her PhD provision, including lack of clarity about the fees charged. In our decision we noted that the university had not kept students informed of changes to fee structures. We recommended that the university apologise to the student, adjust the level of fees owed and pay compensation for distress and inconvenience.

**Case study 3:** A case where a university had not fully considered a student’s complaint about the failure of the course to offer all of the vocational opportunities outlined in the prospectus. We recommended that the university refer the complaint to a Complaints Panel for full review, apologise to the student, and pay financial compensation for distress and inconvenience.

### Financial issues

There was a drop in the proportion of cases relating to financial issues. Most cases relate to disputes about fee status, liability for fees after withdrawing from a course, or administration of bursaries and other funds.

## Recommendations on Justified and Partly Justified complaints

During 2015 the OIA made more than 550 Recommendations. Where possible, we aim to return the student to the position they were in before the issue that led to the complaint arose. Typical Recommendations include reconsidering an appeal, fitness to practise or disciplinary case, reconsidering a complaint, allowing a student an opportunity to retake an assessment, or reconvening an examination board. We may also recommend apologising to a student, or making a payment to a student to compensate for financial losses or for distress and inconvenience.

One fifth of Recommendations are for changes to regulations and process where a complaint has highlighted that these are flawed.

### Examples of Recommendations

Complaint	Recommendation
The OIA decided that a complaint by a student about the way her work had been marked was Justified. The student had failed the assessment. There were a number of errors in the way the university had assessed the work, including providing conflicting information about whether the assessment had been externally moderated.	We recommended that the work be re-marked and moderated by independent members of staff who had not been involved at the earlier stage. As a result of the re-marking the student passed the assessment.
A student complained to the OIA about poor communications and inadequate arrangements following the departure of her supervisor. She had subsequently left the university. We decided her complaint was Justified.	The student was no longer in a position to resume her studies. We recommended that the university pay her compensation for distress and inconvenience.
A student who was mistakenly informed that she had been awarded a first class degree complained to the OIA that the university had not escalated her complaint to the final stage of the complaints process. We decided the case was Partly Justified.	The OIA accepted that the university acted reasonably in closing the complaint at the end of the second stage as it would not be possible for another panel to award a higher degree. However, we were concerned that the university had not fully acknowledged the distress caused to the student. We recommended financial compensation.

Complaint	Recommendation
A student complained about a university's failure to consider his extenuating circumstances, which related to a diagnosis of disability which was made during the appeal process. The OIA decided his complaint was Partly Justified. The university had a blanket policy of not permitting claims based on retrospective evidence and had not looked at the individual merits of the student's case. We did not consider that approach to be reasonable.	We recommended that the university should reconsider the student's appeal, and change its regulations to consider each case on its individual merits.
We found a case Partly Justified where the university's assessment policy was unclear about how mitigating circumstances were taken into account for modules that had several components.	We recommended that the university compensate the student for distress and inconvenience and that it update its written procedures.

The OIA asks students what remedy they are seeking at the beginning of its review and will take this into consideration. However, the student may not always have realistic expectations.

### Case study

The OIA considered a complaint from a disabled student whose appeal had been deemed out of time by his university. We decided his case was Justified as the university had not taken account of its obligations under the Equality Act 2010 when considering whether to apply its time limit to the student. We recommended that the university look again at its refusal to accept the appeal in light of the student's disabilities. We did not agree to the student's request that we recommend financial compensation as, by looking again at whether he could appeal, the university would put him back in the position he was in when he first sought to appeal.

Where the OIA recommends that work is re-marked this might not improve the student's academic outcome.

### Case study

The OIA found a case Partly Justified where the university had not been clear whether a student's mark had been affected by his exceeding the word limit for his assignment. We recommended that the university should re-mark the work, following the assessment criteria. The work was re-marked by two assessors and referred to the External Examiner. The final mark was lower than the original mark awarded.

## Financial compensation

The OIA will normally recommend financial compensation where a student has suffered actual financial loss, or when it is not possible to return the student to the position they would have been in before the issue they complained about arose, or for distress and inconvenience. Financial compensation may form part of a settlement but more usually is a remedy where a case has progressed to a full review.

In 2015 financial remedies were offered by providers to 230 students, with payments in 20 cases exceeding £5,000. Significant payments in 2015 included:

- £40,000 for a number of shortcomings in supervision and the conduct of a student's supervisor.
- £25,000 for failings in supervision and in the university's handling of a dispute about authorship of research.
- £14,000, including £11,000 for loss of earnings, for a student who was awarded a non-accredited degree when she could still have completed assessments for an accredited qualification. The OIA decided that the university had not been clear or reasonable in its consideration of her extenuating circumstances.
- Payments in excess of £10,000 to a small number of students who brought separate cases after administrative or procedural errors resulted in their visa status being withdrawn.
- Partial reimbursement of fees and accommodation costs totalling more than £12,000 for a student who was withdrawn from his course. The OIA decided that the university had not applied its attendance regulations or complaints processes correctly and had not demonstrated that it had taken account of the student's disability.

The total amount recommended was £485,000: £414,000 on Justified and Partly Justified complaints and a further £71,000 on settled cases.



## Emerging and high profile issues

### Visas


Higher education providers and students each have responsibilities to comply with UK visa requirements. During 2015 the OIA found a number of complaints Justified or Partly Justified where errors by the provider had resulted in the student losing their visa status.

#### Case studies – visa issues

**Case study 1:** A university advised a student that it would post his visa extension application form but failed to do so within the deadline, with the result that his extension was refused. The Home Office sent the refusal letter to the wrong address and by the time the student received it the deadline to appeal had passed. The university partly accepted responsibility and offered to fund an out of time appeal against the Home Office decision. The appeal was unsuccessful because the Home Office had correctly applied visa regulations in rejecting the extension. The student had to return home to re-apply for a visa.

The university refused to refer the student's complaint to a complaint panel on the grounds that by funding his appeal it had done everything it could to support the student. The OIA decided this was not reasonable as it did not take account of the impact on the student of the university's failure to post the form when it said it would. We decided the complaint was Justified. The student had raised concerns about the academic consequences of having to return home which had not been considered by the university. We therefore recommended that the university should convene a complaint panel to consider his complaint about the consequences of the university's error.

**Case study 2:** A university withdrew a student's visa sponsorship on the basis of lack of academic progress after she failed assessments at the first attempt. The regulations permitted a second attempt, which was successful. We considered that the university had not been reasonable in deciding that the student could not progress given that she met the requirements set out in the student handbook. We decided her complaint was Justified. She was unable to return to her studies as the university's licence to sponsor international students had been withdrawn. We awarded financial compensation to refund tuition fees and for distress and inconvenience.

 I wish you all the best in your career which aims to help disadvantaged students & gives them a bit of hope & confidence that there is still someone who can listen to them."



## Sexual harassment

We continue to receive a small but steady number of complaints about sexual harassment and welcomed the establishment of the Universities UK task force.

## The Prevent strategy

Higher education providers were given new duties in September 2015 to support the Government's counter-terrorism strategy, Prevent. We have not yet received any related complaints but are aware from discussions that this is an area of great complexity in managing relationships with students.

We discussed this with our Higher Education Advisory Panel (HEAP). HEAP members reported a number of different approaches. Some providers have produced a risk assessment and developed an action plan. Others have incorporated Prevent into their safeguarding policies, reflecting a view that the focus should be on supporting vulnerable adult students and students at risk of being drawn into radicalisation. Many providers are in discussion with their student representatives.


## Social media

During the year the OIA reviewed a handful of cases arising from misuse of social media. We discussed this issue with HEAP.

HEAP members advised that most providers deal with these cases under disciplinary procedures. Normally providers do not draw any distinction between comments posted on student-only forums and those posted elsewhere. Providers are developing regulations and guidance for both staff and students.

Cases reviewed by the OIA in 2015 included:

- Cases the OIA decided were Not Justified where students were withdrawn from their courses under fitness to practise procedures for posting inappropriate content.
- A complaint from a student who was disciplined and subsequently withdrawn from the university for a number of offences, including sending offensive and threatening tweets to students at his own and another university. The OIA decided this case was Not Justified.

 *I'm overwhelmingly pleased of your current renewed decision for me to be given an opportunity to be examined on my thesis... I therefore wish to take this opportunity to thank you and your professional judgement in your adjudication outcome. The adjudication process was very fair and impartial, you represented OIA very well and your impartiality is reflective of the OIA values and what you exist for."*

## The Higher Education Advisory Panel

The OIA has an advisory panel which it may consult on general matters of practice within the higher education sector which arise during our review of a complaint. This helps us to keep in touch with the sector and understand common practice amongst providers.

This Panel is made up of experienced staff from providers and students' unions who are selected by an interview process with the OIA. We may ask advice from the whole group or we may approach individual members who have particular expertise in a certain area. We are not bound to follow any advice the Panel may give.

HEAP does not see individual complaints nor make decisions about the outcome of complaints. Individual members are not asked for advice about complaints involving their own institutions. The Panel meets twice a year to discuss issues arising from complaints, and topics of interest. We are very grateful to the Panel members for their wise advice and time commitment.

### HEAP members during 2015

- **Wayne Campbell**, Director of Student Services, University of Kent (Chair)
- **Heidi Cooper-Hind**, Head of Student Services, the Arts University Bournemouth
- **Jo Spiro**, Director: Student Advocacy, Union of UEA Students
- **Andrea Bolshaw**, Academic Registrar, Coventry University
- **Sam Dale**, Deputy Academic Registrar, Durham University
- **John Peck**, Academic Registrar, London School of Hygiene & Tropical Medicine
- **Sarah Clark**, Dean of Quality and Standards, University of Wales Trinity Saint David
- **Tim Woods**, Professor in English and American Studies, Aberystwyth University
- **Melanie Siggs**, Programme Director, Learning Solutions, *ifs* University College





# Judicial review

The OIA received 11 new claims in 2015.

There was one substantive hearing during the year: on 9 November 2015 Mr Thilakawardhana's claim came before His Honour Judge Milwyn Jarman QC in the Cardiff District Registry of the High Court. Mr Thilakawardhana was a medical student at the University of Leicester who had been declared not fit to practise, and withdrawn from his course, for sending threatening and offensive content on social media. The student appealed against the fitness to practise decision and his appeal was rejected by the university.

Mr Thilakawardhana complained to the OIA about the university's decision to reject his appeal. We concluded that the complaint was Not Justified: we were satisfied that the university had followed a fair procedure, and that it properly weighed the available evidence, before reaching a professional judgment that the student's actions were so serious that he was not fit to practise medicine. In the absence of a procedural irregularity, bias or unfairness, that was not a judgment with which the OIA would interfere.

Mr Thilakawardhana challenged that decision. Judgment<sup>1</sup> was delivered on 13 November 2015. HHJ Milwyn Jarman dismissed the claim. He said,

*"The test I must apply is whether the decision is one to which no reasonable decision maker possessed of expertise reasonably to be expected of [the OIA] could have come. I cannot be satisfied that that high hurdle has been reached in this case, particularly as it involves professional judgement as to fitness to practise medicine."*

A copy of the judgment is available at <http://oiahe.org.uk/media/106216/thilakawardhana-judgment.pdf>.

## Other cases

During the year, nine students were refused permission to bring their judicial review claims, three of which were dismissed as "Totally Without Merit". These included:

- A claim brought by a student who had been an Interested Party in the *Gopikrishna* case (see Annual Report 2014). The student was a medical student at Leicester University who appealed against the decision to withdraw her on grounds of extenuating circumstances. The university rejected her appeal and she complained to the OIA, submitting new evidence in relation to

1. R (Thilakawardhana) v OIA [2015] EWHC 3285 (Admin)



“Thank you for all your assistance and guidance, throughout. Very much appreciated and you have I feel gone out of your way within your remit to assist [my son] having a clear decision re his university degree, whatever that finally is.”

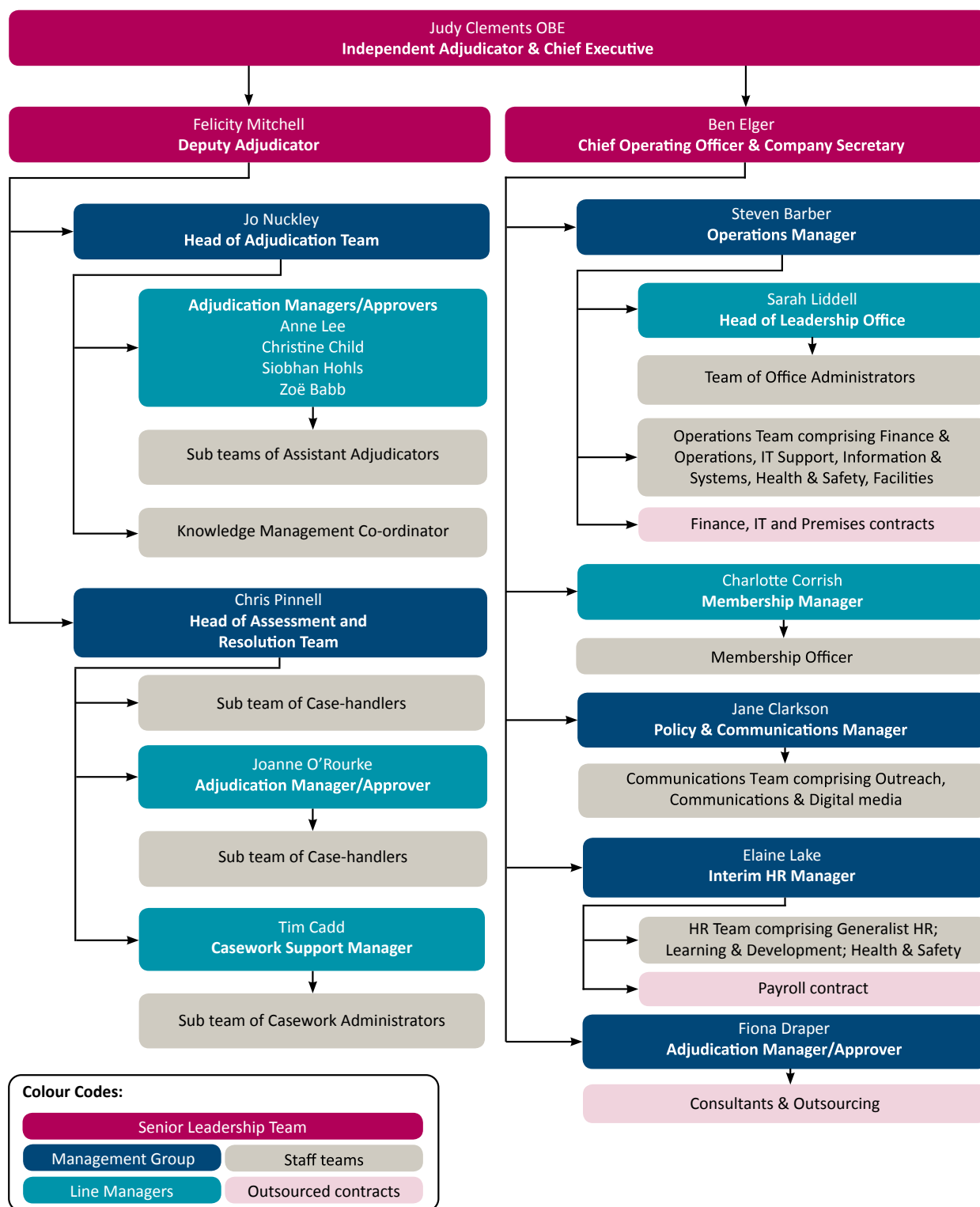
her extenuating circumstances. We concluded that her complaint was Not Justified. The Judge refused the student permission to bring her claim, concluding that the OIA had considered the late evidence appropriately, and reached rational and reasonable conclusions.

- A claim brought by a student whose case had previously been considered by the County Court and which the OIA decided was therefore not eligible for review. The student applied for permission to appeal against the refusal of permission, but the Court of Appeal rejected his appeal.
- A claim brought by a PhD student who challenged the OIA's decision that his complaint was Not Justified. The Judge concluded that the judicial review claim was “totally without merit”, and “a challenge to the [OIA's] conclusions on the merits of his complaint”.
- A claim brought by a student who was accused of academic misconduct, and who complained about his dissertation supervision. The OIA found his complaint to be Not Justified. The Judge concluded that the claim was “totally without merit”. The OIA's role was “one of review rather than rehearing”, and the student's claim was “a challenge to the merits of the underlying decisions made by the university”.

Judicial review provides useful clarification of the role and status of the OIA. This was demonstrated by the comments of the judge in a case brought by a student against her university, that “the decision of the OIA does not bind this Court but it is of considerable weight and the Court will be slow to depart from it”.

The Deputy Adjudicator, Felicity Mitchell, published a paper in 2015 looking at the principles established by the judicial review cases considered in the first ten years of the OIA. Decisions have confirmed the independence and authority of the OIA, supported the OIA's approach to cases that include an element of academic judgment, distinguished between the OIA's role and that of a court in discrimination cases, and given guidance on many other issues. The report can be downloaded from the OIA website, <http://www.oiahe.org.uk/about-us/judicial-review.aspx>.

# OIA staff (as of 30 April 2016)



From 11 April 2016, the OIA Senior Leadership Team comprises Judy Clements, the Independent Adjudicator and Chief Executive, Felicity Mitchell, Deputy Adjudicator, and Ben Elger, Chief Operating Officer and Company Secretary.

Two thirds of the staff are case-handlers, with the remainder responsible for core professional functions including HR, Operations, Membership, Finance and Policy and Communications.

The OIA is committed to providing a comfortable, efficient and green working environment. We:

- make efficient use of natural resources by conserving energy and water, minimising waste and recycling where possible
- minimise paper use by managing our complaints process online
- use recycled paper and materials and provide compost facilities
- run a substantial part of our outreach programme online
- provide remote access facilities for home working
- have installed shower facilities to encourage staff to walk or cycle to work
- provide regular ergonomic assessments for all staff
- make available standing desks, fully adjustable monitors, foot rests, ergonomic keyboards and mice.

The OIA runs an extensive programme of training for all staff.





## Recruiting, supporting and developing staff

Ben Elger, Chief Operating Officer, discusses the way that staffing has changed as the organisation has grown.

"Having started life as a very small organisation, as the OIA has grown in size we have needed to develop our people strategy accordingly. We have always been a lean organisation, with a large proportion of our budget channelled directly into the staff here and a large proportion of that allocated to front-line adjudication staff. We employ people across the organisation with a diverse range of experience, with past lives as regulators, lawyers and ombudsman staff, and staff who have worked in both the public and private sector. Collectively, they provide our organisation with a rich mix of knowledge and skills and a breadth of experience which is essential if we are to fulfil the good practice dissemination part of our mission."

The OIA staff includes people with experience of working in higher education. Ben explains:

"In the early days, I think there was a degree of scepticism about whether we could really have people from the HE sector working at the OIA. However, by implementing an effective and robust conflicts policy we have been able to reap the benefits of having staff with an HE background in our team. Their experience and sharing of knowledge has proved invaluable in the development of the good practice framework, for example. Similarly, I think it is also a very positive reflection on the organisation when staff members move on from the OIA to work for a higher education provider. I think the initial uncertainty may have stemmed from a fear that we would create a view from 'one side of the fence', but we have been equally fortunate to employ some ex-SU officers and SU staff who bring that experience to the table.

During a year that has seen our membership grow rapidly, this breadth of experience has proven to be extremely valuable, not least because it has been echoed externally with the development of new relationships with a growing number of member providers, and the various bodies that represent them and the sector."

**“**Words cannot express my gratitude for the outcome reached and the appreciation of the services of OIA. There is still trepidation with the thought of going through the appeal process again with the university, however I am pleased I took the courage to refer my case to OIA. My integrity has been restored because of your excellent service. I am yet to digest the information received and will respond as necessary.”

## Working at the OIA

Staff who joined the OIA in 2015 offer their perspectives:

### Alexis (Assistant Adjudicator)

Before coming to the OIA, I was Head of Student Fees at a university. I knew about the OIA's work through my dealings with student complaints regarding finance and because the university governance was keen to disseminate the OIA's good practice recommendations. I saw the move to the OIA as an opportunity to make a positive difference in the student-provider relationship.

### Rebecca (Assistant Adjudicator)

Previously a lecturer, I decided that I wanted to leave academia and was looking for something different in the HE sector. I thought my knowledge of the sector and my experience working with students and other academics would give me an understanding of both their perspectives.

### Zoe (Case-handler)

During my time as a Students' Union President, I was representing both the student body of 23,000 students but was also involved with representing students on an individual basis on appeals panels, etc. I was also the student representative on a QAA review panel, which gave me experience in policy and procedural compliance. I think the OIA is a great way to start a career in the ombudsman sector, as there are many transferable skills. I didn't feel as though I was 'new' when I started the post, but more as if I had been brought in specifically for my subject knowledge, so it was a great fit straight away.

### Elaine (interim HR Manager)

Before I came to the OIA, I was an HR Manager for the NHS for eight years, and prior to that I worked in the IT, telecoms and insurance industries. The OIA is a very professional organisation, where everyone is very friendly and happy to give support and advice to their colleagues. The working groups throughout the organisation are really engaged in what they are trying to achieve.

### Rachel (Casework Administrator)

I was working as a Legal Support Manager in a housing charity. My role included tenant-related casework, and I was also involved in Judicial Reviews against local authorities. Working as a casework administrator at the OIA is a good fit as I believe in what the OIA is trying to do. My job is varied and I like the fact that I am involved in the cases from the outset. It is also the most supportive team I have ever been part of.

### Craig (Assistant Adjudicator)

My previous role at a university involved pastoral care, supporting students with their accommodation needs and I also managed the sub-warden teams within the Halls of Residence. The role of Assistant Adjudicator at the OIA appealed to me because I felt it would enable me to make a real difference and to have a role in disseminating good practice in the HE sector. I have been surprised by the sense of teamwork at the organisation, where colleagues are happy to share knowledge with each other. I have also been struck by the dedication of the staff at the OIA and how passionate they are about justice and getting the decisions right.



# OIA Board of Trustees/Directors

The OIA Board of Directors has 15 members.

Nine, including the Chair, are Independent Directors appointed by fair and open competition on the basis of their skills and experience.

Six are Nominated Directors appointed by the major representative bodies in higher education in England and Wales. The representative bodies may also nominate Alternate Directors to attend Board meetings if their Nominated Director is not available.

Directors are normally appointed for a three year term of office, which can be renewed once. A number of Directors reached the end of their term in 2015. We are grateful for their contribution.

The Board's responsibilities include:

- oversight of the performance and effectiveness of the Independent Adjudicator and the Scheme
- setting the budget for the OIA
- determining the level of subscriptions payable for the operation of the Scheme
- approving the Rules and procedures for the operation of the Scheme
- preserving the independence of the Scheme.

Board members are not involved in the review of individual complaints.

## OIA Board members (as of 30 April 2016)

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### Chair

Ram Gidoomal CBE

### Deputy Chair

Dr Andrew Purkis OBE

### Independent Directors

Gillian Fleming

Peter Forbes

Carey Haslam

Erica Lewis

Andy Mack

Dr Martyn Thomas CBE

Claire Weir

### Nominated Directors

*Nominated by the Association of Heads of University Administration*

Mark Humphriss

Dave Hall (Alternate)

*Nominated by the Committee of University Chairs*

Geoffrey Donnelly

*Nominated by GuildHE*

Professor Geoffrey Elliott

Jon Renyard (Alternate)

*Nominated by Universities Wales*

William Callaway

*Nominated by the National Union of Students*

Sorana Vieru

Bethan Dudas (Alternate)

*Nominated by Universities UK (UUK) – see note below*

Professor John Raftery (Alternate)

### Board members who served for part of 2015

Professor Shân Wareing (GuildHE Alternate Director)

Megan Dunn (NUS Nominated Director)

Professor Mike Thorne (UUK Nominated Director)

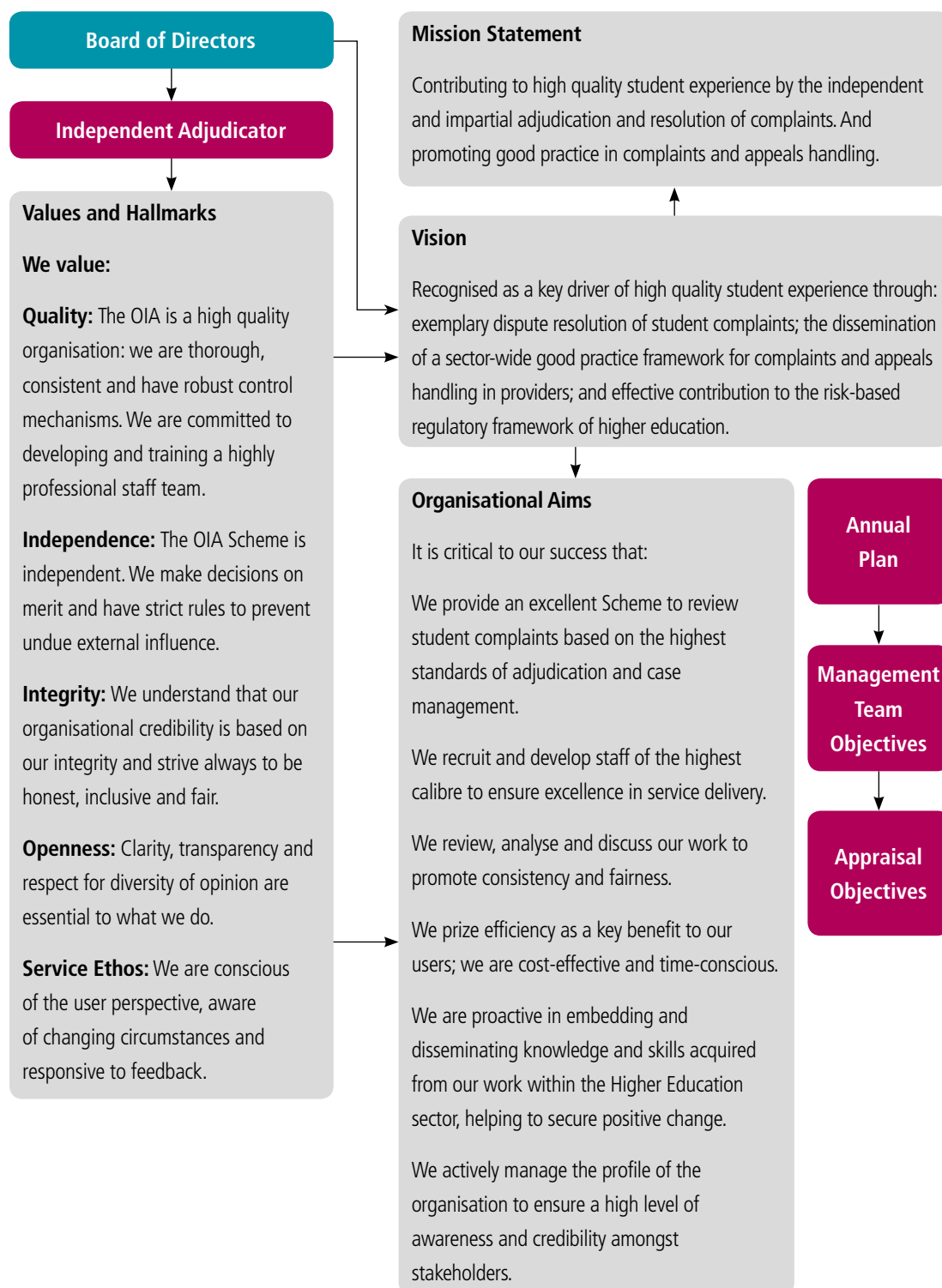
Dr Chris Turner (Universities Wales Nominated Director)

Note: Professor Mike Thorne's replacement as the Nominated Director for UUK will take up the nomination in September 2016.





# Strategic plan





# 2015 Operating Report and 2016 Plan

This report and plan is set out in accordance with the OIA organisational aims in our strategic plan.

**We provide an excellent Scheme to review student complaints based on the highest standards of adjudication and case management**

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## Membership

Having begun 2015 with around 150 members, this year has seen the membership of the OIA Scheme increase more than fourfold as a result of the Consumer Rights Act. This means there will be a strong focus in 2016 on continuing to induct the Alternative Providers, SCITTs and FE Colleges which are now members in respect of their HE courses through a variety of methods including our popular webinars, visits and existing networking opportunities. We also aim to capture learning from the first complaints reaching us from these providers, in particular in respect of complaints involving more than one provider where the learning will inform the development of our guidance to staff and members on this issue. We expect membership to continue to grow especially in the light of the Government's Higher Education Green Paper, and we will be working with BIS and others towards this happening in a planned and systematic way.

## European Directive on Alternative Dispute Resolution

Following an audit process in summer 2015 undertaken by Trading Standards Institute under the auspices of BIS, the OIA has become the designated body (ADR entity) for higher education complaints made under the ADR Directive. The OIA has made plans to comply with all requirements of the Directive and will publish the required datasets in 2016.

## Settlements

In 2015 we settled around nine per cent of cases without the need for a full review, narrowly missing the key performance indicator of ten per cent which remains in place. The culture of attempting settlement where appropriate is now well embedded in the organisation and with many Scheme members. In 2016, we will continue to consider whether every case that we receive is amenable to early resolution without the need for a full review. We will also publish guidance on our website explaining our approach to settlement and the benefits of early resolution.



## We recruit and develop staff of the highest calibre to ensure excellence in service delivery

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### Recruitment

In September 2015, following a comprehensive search and appointment process, Judy Clements OBE, then the Adjudicator at HM Customs and Excise, the Valuation Office Agency and the Insolvency Service, was appointed to succeed Rob Behrens CBE as Independent Adjudicator and Chief Executive from April 2016. An extensive induction and introduction process will be ongoing throughout the year. Ram Gidoomal CBE has agreed to a request from the Board to remain as Chair until Autumn 2016 to help facilitate this and provide important continuity. The process to appoint his successor will begin in Spring 2016.

A number of new staff were recruited in 2015, further strengthening the capacity of the Office and the range and depth of staff expertise. As part of this and in light of the expanded membership, we now have a small team of staff dedicated to membership support.

### Job Evaluation / Organisational Growth

In 2015 a bespoke job evaluation exercise was completed ensuring that the OIA staff grading system is robust, consistent, fair and future proof. Progression opportunities have been created in some key areas including the introduction of new senior case-handling roles. Case-handling staff appointed to these roles will have increased decision-making responsibilities and in 2016 these roles will be an important component in empowering staff to resolve complaints at the first possible level, supported by robust mechanisms to assure the quality of decisions.

### Learning and Development

In 2015 we ran an expanded staff development programme taking into account the increasing size and complexity of the organisation. A key feature of this was resilience training for all staff. We also ran training on consumer rights legislation, on settlement and mediation, and on new members joining the OIA Scheme. In 2016, the Learning and Development strategy will include: leadership / coaching training for managers, telephone training, mental health training, accredited training for IT support staff, mentoring training and continuing to support staff with the Ombudsman Association Certificate in Complaint Handling.

## We prize efficiency as a key benefit to our users: we are cost effective and time conscious

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### Timescales / Improvement of processes

During 2015, there has been a substantial improvement in the Office's performance in terms of its case turnaround times. By the end of 2015, the proportion of complaints closed within six months of receipt of the complaint form was at 59 per cent against the target of 75 per cent, and we have

continued to reduce the average number of days to close cases and the number of cases over nine months old. In 2015 we closed 2,327 cases at a unit cost of just under £1900.<sup>2</sup> The aspiration to improve turnaround times to reach the 75 per cent target remains a challenging and important one. The progress made in 2015 reflects substantial and continuous change in OIA processes driven by increasingly effective monitoring, structures and systems. In 2016 the continuing implementation of a risk-based approach to casework decision making based on an enhanced case weighting system will be a major factor in moving towards this target while continuing to maintain strong control of unit cost.

## Eligibility

In 2015, the OIA determined eligibility or requested additional information within ten days in 87 per cent of cases, representing a further improvement in performance on this key performance indicator. In 2016 we believe that improvements to our process will allow us to meet the target of 90 per cent on a consistent basis.

## Enquiries

In 2015 2,440 enquiries to the OIA were taken by telephone or email. The target set for 2015 of 90 per cent of enquiries being responded to within two working days of receipt was again exceeded. We aim to exceed this measure again in 2016, when we anticipate higher volumes of enquiries given the much expanded membership. In 2016 we will continue to enhance the knowledge and skills of staff within the Enquiries Team to further support casework and improve the quality of service for Scheme users.

## Judicial Review

The OIA benefits both provider and student users of the Scheme by providing a cost-effective alternative to the courts. The OIA will continue to learn from the helpful judgments of the courts in Judicial Review cases.

## Premises / Financial Planning

In 2015, on the expiry of a previous lease, the OIA moved to new premises within Reading, securing a ten year lease at an advantageous rate. This will provide stability and security for the organisation and assist in financial planning in a period of rapid organisational development with the expansion of membership. The Finance Committee and Board will continue to be focused on the reserves policy and maximising available resource for core business in 2016 in the context of the structural dip in core funding caused by a reduction in student numbers.

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2. [1 This excludes the pension deficit adjustment, see Statement of Financial Activities on page 43].

## We review, analyse and discuss our work to promote consistency and fairness

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### Rules

In 2015 we reviewed the OIA Rules in the context of the expanded membership of the Scheme, our designation as the ADR entity for higher education complaints, and improvements to the efficiency of our review processes. Following a consultation exercise in the spring, the revised Rules came into effect in July. Changes included the introduction of safeguards for students who complain about a provider which ceases to be a Qualifying Institution; the implementation of a 12 month deadline for bringing complaints in line with the ADR Directive; formalising the OIA's approach to evidence not available during a provider's internal processes; and the removal of the automatic right to comment on the Complaint Outcome, with provision for a review to be re-opened where there is good reason to do so. We will monitor the impact of the changes during 2016.

### Membership subscription

The subscription system was developed in 2015 to take account of new members. The new rates reflect an appreciation of the diversity of size and type of provider now in membership and also a need to be fair to all subscribers. With this in mind the case-related element has also been modified in respect of 2016 cases (impacting 2017 case fees) with a view to minimising increases in the core subscription in the medium term. There will be an initial review of the impact of these developments at the end of 2016 and we will continue to explore with sector partners the most efficient way of obtaining accurate and consistent information on student numbers for all members.

### Feedback

In 2015 we collected feedback from complainants, and in early 2016 feedback from provider Points of Contact will be sought. We are committed to providing a high level of customer service and we continue to monitor the service we provide to Scheme users, including capturing learning from service complaints, in addition to our performance monitoring. In 2016 this will be informed by the anticipated development of Service Standards by the Ombudsman Association.

### Higher Education Advisory Panel (HEAP)

During 2015 we continued to obtain expert opinion about good practice in HE operational matters from HEAP, receiving views on a range of issues such as cultural sensitivities arising from the submission of medical evidence in students' claims for mitigation, and differences in assessment practices between HE providers and professional accreditation bodies. In 2016 we will ensure that the normal recruitment round for new panel members reflects the increasing diversity of our Scheme membership.

During 2016 a second Advisory Panel will be established with expertise in disability and in supporting disabled students.

## Knowledge Management

In 2015 one of our case-handlers was seconded to co-ordinate important work on knowledge management to support the risk-based approach to case-handling. By embedding a culture of knowledge sharing, and the practice of continuous review of the availability, accuracy and utility of information, we are enabling all staff to keep up with key developments impacting on our decision making. In 2016, in addition to improving technological solutions to information management, we will review how we manage the life-cycle of the wide range of information within the organisation, and we will explore how this information can support our dissemination of good practice.

**We are proactive in embedding and disseminating knowledge and skills acquired from our work within the higher education sector, helping to secure positive change**

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## Good practice framework for handling complaints and academic appeals

The good practice framework came into effect at the start of the academic year 2015-16. The sector has continued to engage positively. A number of providers have reviewed their processes and regulations in light of its principles, and it has been valuable for new member providers as a reference point against which to evaluate and develop their processes. The framework informs our casework decision making and is referred to in Complaint Outcomes where appropriate.

In 2016 the framework will be reviewed in the light of our growing membership and developments in the sector. We will continue to offer webinars and workshops to support engagement with the framework.

## Publication

We have published revised versions of the OIA's guidance to students and providers to take account of the new Rules.

The publication of public interest cases, where the provider is named, is now well established. In 2015 more than 50 cases were published on themes including supervision, fitness to practise, consumer protection issues and procedural unfairness in complaints and appeals. In 2016 we will continue to publish public interest cases. Themes will include withdrawal of a student from a provider and extenuating circumstances.

To mark the tenth anniversary of the OIA, the Independent Adjudicator and the Deputy Adjudicator respectively published *Public trust and the ombudsman: The case of the OIA* and *The OIA and Judicial Review: Ten principles from ten years of challenges*.

## Compliance and Recommendations

In 2015 provider compliance with OIA Recommendations was slightly below the key performance indicator of 90 per cent with 87 per cent of student-centred Recommendations implemented by the specified date.

In 2016 we will review our practice in making Recommendations to ensure that we are consistent and clear in setting out what action we expect our members to undertake and what evidence we wish to see in order to record compliance. To take account of the increased and more diverse Scheme membership post-September 2015, we aim to have 85 per cent of student-centred Recommendations complied with by the specified date. We will also publish revised guidance on our approach to remedies and redress.

## Website development


In 2015 we developed our website to make it easier for both Scheme members and complainants to find the information they are looking for. Additional material was published specifically to address the information needs of new members and support them in joining the OIA Scheme.

In 2016 we will continue to improve our website to ensure that it provides accessible and up to date information for all Scheme users. We will also be trialling the secure submission of information and documentation to us from Scheme members via a website portal.

## Ombudsman Association and European Network for Ombudsmen in Higher Education

We remain a full member of the Ombudsman Association and actively participate in a range of special interest groups. This contributes to a joined-up approach on issues such as the EU ADR Directive and facilitates the sharing of good practice.

Good practice is also shared through the European Network for Ombudsmen in Higher Education. In 2015 we supported an international survey on the role and status of complaints handlers on campus and in 2016 we will continue to provide the secretariat.

 *Thank you for emailing me the university's response to my counter settlement, although slightly disappointed by it, I will still proceed to accept the settlement offer... Thank you, sincerely for all of your contribution to this case and hard work, it is greatly appreciated."*

## We actively manage the profile of the organisation to ensure a high level of awareness and credibility among stakeholders

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### Outreach

We ran more outreach events in 2015 than in any previous years, adding workshops on the good practice framework and a series of policy seminars to mark the OIA's tenth anniversary to the established programme of events and visits.

In 2015 we also ran successful webinars, initially for new providers but subsequently opened up to all member providers and students' unions.

In 2016 we will further develop our webinar provision as part of expanding our programme of outreach. We will continue to provide introductory workshops and other opportunities to enable complaints handlers within providers to engage with the OIA and share good practice.

### Government policy and legislation

In England the 2015 Higher Education Green Paper proposed the creation of a new regulatory framework, the opening up of the market to new providers, and the introduction of the Teaching Excellence Framework (TEF). It put back on the agenda the possibility of long-awaited legislation for the Higher Education sector and confirmed the status of the OIA as an independent ombudsman organisation. In 2016 we will work with BIS and others to try to ensure that all students in a growing sector have access to independent redress; that the OIA plays its full part in a joined-up regulatory system; and that it contributes to the debate about the TEF and factors to be considered when a provider leaves or applies to join the regulated sector.

Following the introduction of the HE (Wales) Act 2015, in 2016 we will continue to work closely with the Welsh Government to try to ensure that all higher education students in Wales have access to the OIA. We will continue our dialogue with HEFCW taking into account their new powers to promote a joined-up approach for Welsh institutions. We will monitor how any future legislation in England may impact on member providers in Wales.

### The Student Engagement Partnership (TSEP)

In 2015 we worked closely with TSEP especially with regard to student representative structures at our new members. In 2016 the TSEP pilot project working with a group of such student organisations will report on key issues and learning.



# Funding

The OIA is funded through compulsory membership subscription underpinned by statute. Historically the OIA has used the relevant Higher Education Statistics Agency (HESA) data to band members according to size. A smaller case-related element was introduced in 2014 where the number of complaints (converted into points) received by the OIA from students at the member provider in the previous year exceeds the relevant band's point threshold.

The expansion of OIA membership and differentiation of official data available meant that the OIA had to review its subscription arrangements prior to members joining in September 2015.

The OIA took into account feedback about the challenges facing our new members in terms of publicly available data, student numbers and the regulatory environment as well as wider concerns about cross subsidy and a 'level playing field'. In June 2015 the Board agreed to a number of changes to the existing nine band system based on HESA data to ensure fairness to all members:

- An additional smaller 'AA' Band for providers with 200 or fewer students which would apply to all members.
- A 30 per cent reduction in the core subscription fee for FE colleges and sixth-form colleges which provide HE to reflect the different regulatory and funding environment where HE makes up a small proportion of total student numbers.
- A flat rate core-subscription fee applicable to all SCITTs.
- A franchise only flat rate core-subscription fee for providers whose only HE provision is franchised from another provider.

Where appropriate the OIA uses verified data sources to reduce the burden on providers to supply student number data (this includes HESA and Higher Education in Further Education Students data). Where this is not available we use self-reporting and reserve the right to review and adjust self-reported figures following a cross-checking process.

All rates are pro-rated for members joining part way through the year. The subscription rates and model will be kept under review by the Board who will make any changes they feel necessary to ensure it remains equitable and value for money.

More details of our subscriptions arrangements can be found on our website: [www.oiahe.org.uk](http://www.oiahe.org.uk).



**Core Subscription Fee rates for 2015**  
(to be pro-rated for providers joining the OIA Scheme part way through the year)

	Band	Core Subscription Fee (£) (HEIs and alternative providers)	Core Subscription Fee (£) (HE in FE providers)
Up to and including 200 students	AA	400	280
201 to 500 students	A	827	579
501 to 1,500 students	B	1,669	1,169
1,501 to 6,000 students	C	8,976	6,283
6,001 to 12,000 students	D	17,810	12,467
12,001 to 20,000 students	E	29,605	20,724
20,001 to 30,000 students	F	44,749	31,324
30,001 to 50,000 students	G	53,179	37,225
50,001 to 100,000 students	H	65,441	45,809
More than 100,000 students	I	100,545	70,382

**Core Subscription Fee rates for 2016**  
(to be pro-rated for providers joining the OIA Scheme part way through the year)

	Band	Core Subscription Fee (£) (HEIs and alternative providers)	Core Subscription Fee (£) (HE in FE providers)
Up to and including 200 students	AA	410	287
201 to 500 students	A	848	594
501 to 1,500 students	B	1,711	1,198
1,501 to 6,000 students	C	9,200	6,440
6,001 to 12,000 students	D	18,255	12,779
12,001 to 20,000 students	E	30,345	21,242
20,001 to 30,000 students	F	45,868	32,108
30,001 to 50,000 students	G	54,508	38,156
50,001 to 100,000 students	H	67,077	46,954
More than 100,000 students	I	103,059	72,141

**Providers of School-Centred Initial Teacher Training (SCITTs) and Franchise-only providers**

All SCITTs and providers whose only HE provision is franchised from another provider will pay the same core subscription fee for 2015 and 2016 at £240 per annum.

# Statement of financial activities

For the year ended 31 December 2015

	Unrestricted Funds		Total	Total
	General Reserve	Reserve Pension	2015	2014
	£	£	£	£
<b>Income Resources</b>				
<i>Income from investment</i>	16,709	–	16,709	5,555
<i>Income from charitable activities</i>				
Subscriptions	4,133,896	–	4,133,896	4,181,476
<i>Other income</i>	3,478	–	3,478	4,199
<b>Total incoming</b>	<b>4,154,083</b>	<b>–</b>	<b>4,154,083</b>	<b>4,191,230</b>
<b>Resources expended</b>				
Charitable activities	4,417,156	322,122	4,739,278	3,754,200
<b>Total resources expended</b>	<b>4,417,156</b>	<b>322,122</b>	<b>4,739,278</b>	<b>3,754,200</b>
<b>Net (outgoing)/incoming resources/</b>				
<b>Net (expenditure)/income for the year</b>	<b>(263,073)</b>	<b>(322,122)</b>	<b>(585,195)</b>	437,030
<b>Transfers between funds</b>	–	–	–	–
<b>Net movement in funds for the year</b>	<b>(263,073)</b>	<b>(322,122)</b>	<b>(585,195)</b>	437,030
Total funds at 1 January 2015	1,128,239	(329,674)	798,565	361,535
<b>Total funds at 31 December 2015</b>	<b>865,166</b>	<b>(651,796)</b>	<b>213,370</b>	798,565

The amounts derive from continuing activities. All gains and losses recognised in the year are included in the statement of financial activities.

## Balance sheet at 31 December 2015

	2015	2014
£	£	£
<b>FIXED ASSETS</b>		
Tangible assets	467,973	12,512
<b>CURRENT ASSETS</b>		
Debtors	207,451	144,184
Cash at bank and in hand	2,829,837	3,284,533
	3,037,288	3,428,717
<b>CREDITORS</b>		
Amounts falling due within one year	(2,640,095)	(2,312,990)
<b>NET CURRENT ASSETS</b>	397,193	1,115,727
<b>NET ASSETS BEFORE PENSION RESERVE</b>	865,166	1,128,239
<b>CREDITORS:</b>		
Amounts falling due within one year	(651,796)	(329,674)
<b>TOTAL ASSETS LESS CURRENT LIABILITIES</b>	213,370	798,565
<b>FUNDS</b>		
<b>Unrestricted Funds</b>		
General reserve	865,166	1,128,239
Pension reserve	(651,796)	(329,674)
	213,370	798,565

These summarised financial statements may not contain sufficient information to gain a complete understanding of the financial affairs of the Office of the Independent Adjudicator for Higher Education.

The full auditors' report and financial statements can be found on our website at [www.oiahe.org.uk](http://www.oiahe.org.uk).

Independent Auditors' Statement: We have examined the summarised financial statements set out on pages 43 and 44.

**Respective responsibilities of Trustees and Auditors** You are responsible as Trustees for the preparation of the summary financial statements. We have agreed to report to you our opinion on the summarised statements' consistency with the full financial statements, on which we reported to you on 5 April 2016.

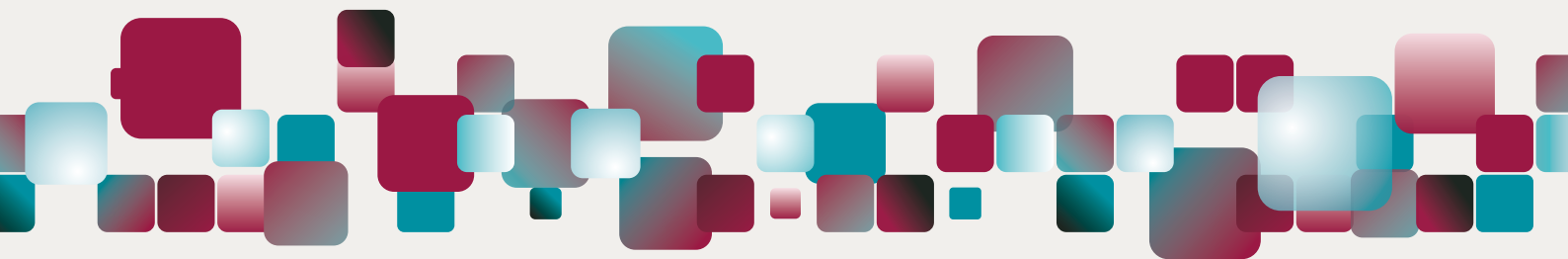
**Basis of opinion** We have carried out the procedures necessary to ascertain whether the summarised financial statements are consistent with the full financial statements from which they have been prepared.

**Opinion** In our opinion the summarised financial statements are consistent with the full financial statements for the year ended 31 December 2015.

**Crowe Clark Whitehill LLP, Chartered Accountants and Registered Auditors, Reading RG1 1PL.**

5 April 2016

“This email is just to thank you for all your efforts due to which today I have received my MBA certificate. Without OIA interference this could not have been possible. I really appreciate you all for your sincere work and effort.”





office of the  
independent  
adjudicator

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