

## **Memorandum of Understanding between the Department for Education (DfE)**

**and**

## **the Office of the Independent Adjudicator for Higher Education (OIA)**

### **Introduction**

1. This Memorandum of Understanding (MoU) sets out a framework by which DfE and OIA collaborate in taking forward their respective remits in connection with Alternative Providers of Higher Education. It is intended to promote:
  - Effective working and communication between the two organisations;
  - Clarity of understanding about our respective roles and responsibilities.

### **Department for Education**

2. The Teaching and Higher Education Act 1998 (section 22 (1)) allows the Secretary of State to designate courses for the purposes of higher education student support. Specific Course Designation is the process by which 'Alternative Providers' of higher education can gain access to student support funding. The DfE regulates Alternative Providers of Higher Education that have received specific course designation by the Secretary of State for student support purposes.

### **Office of the Independent Adjudicator**

3. The Office for the Independent Adjudicator (OIA) is a Company Limited by Guarantee and is governed by its Memorandum and Articles of Association as amended. It is also a registered Charity. It is the Alternative Dispute Resolution (ADR) Entity for Higher Education in England and Wales, appointed by the Chartered Trading Standards Institute.
4. The OIA Scheme was designated under the Higher Education Act 2004 ("HEA 2004") which established an independent Scheme to adjudicate on student complaints against universities in England and Wales without charge to students. The OIA became Designated Operator of the student complaints scheme in January 2005. The OIA's remit was extended by the Consumer Rights Act 2015 and the Higher Education and Research Act 2017 to cover all providers offering HE courses designated for student support, providers with degree awarding powers and providers that are registered by Office for Students. Governing bodies of qualifying institutions are required to comply with the Scheme Rules.
5. Under the Scheme, which is currently funded by annual member subscriptions based on student numbers, together with a smaller case-related element, the OIA has a wide remit to consider an "act or omission" by a member provider, brought by a student or former student. Complaints must not relate to academic judgment, nor does the OIA consider complaints about admissions, employment related issues or matters that have been or are being considered by a Court.

## **Aim of the Memorandum of Understanding**

6. The purpose of this document is to provide a framework for continued working relationships between the DfE and OIA with respect to Alternative Providers.
7. This Memorandum sets out expectations of the relationship between OIA and the DfE for the benefit of both organisations, students and other stakeholders including:
  - Sharing information and intelligence in a timely and effective manner to support their respective obligations and commitments, safeguard the interests of students and protect and enhance the reputation of Higher Education in England;
  - Identifying ways they can work together in support of their responsibilities;
  - Setting clear expectations and developing a deeper understanding of respective roles and responsibilities to avoid unnecessary duplication of effort.
8. This Memorandum aims to establish relationships for consultation and co-operation based on a common understanding of each organisation's business and a joint wish to make best use of finite resources for mutual and public benefit.

## **Sharing information**

9. The OIA and the DfE will identify the areas where their roles and independent functions inter-relate. They will agree areas where it is appropriate to share information and contribute to the respective work of the other organisation to exchange information that may be reasonably useful to the other organisation, subject to the imperatives of mandates, necessary confidentiality constraints and safeguards, to maximise opportunities for joint communication on matters of mutual and public interest.
10. The nature of information shared under this memorandum will include, although is not limited to:
  - DfE and OIA will share, emerging trends that are relevant to the remit of the other organisation and will inform each other, where appropriate in advance, where there are likely to be significant developments or announcements which may impact on the other organisation's work;
  - Relevant information the DfE has that may assist the OIA in undertaking a review of complaints by individual students or groups of students;
  - Relevant information the DfE has about an Alternative Provider or systemic issues which may assist the OIA in undertaking a review of complaints;
  - Relevant information the DfE has which may assist the OIA in administering the membership of the OIA;
  - Relevant information gathered by the OIA through student complaints to the OIA Scheme which identifies broad themes and concerns about quality and standards in Alternative Providers that are designated for student support purposes;

- Relevant information that the OIA has that may have implications for, or assist with, the DfE exercising its regulation of Alternative Providers;
- OIA may share information about provider’s non-compliance with the OIA Scheme for Alternative Providers falling under the DfE’s regulatory framework.

11. This memorandum recognises that some circumstances will require special handling and nothing prevents the organisations from making exceptional arrangements to meet specific and urgent needs in relation to a particular case or cases.

#### **Freedom of Information and Data Protection**

12. Where a request for information is received by the DfE under the Freedom of Information Act 2000, within the scope of the MoU, the DfE will consult with the OIA prior to any disclosure of information that may affect its responsibilities.

13. Neither Party will give access to personal data contained in any Information to any external body, other than in response to a subject access request under the Data Protection Act.

#### **Confidentiality**

14. Subject to general public interest, the Freedom of Information Act, the Data Protection Act, and other constraints (e.g. commercial confidentiality) the exchanges between the organisations may be confidential. Each organisation will observe confidentiality as required in relation to shared information which is not in the public domain. Access to the information shared between OIA and DfE will only be granted to those who have a business need. The Parties recognise that Information must be kept confidential and secure and not disclosed to any third parties without the agreement of the other party. Each Party will take all appropriate precautions to preserve the security of all shared Information, including the prevention, alteration or damage to that Information, and prevent access by non-authorised third parties.

#### **DfE – OIA Contact**

15. There will be regular meetings between officers of both organisations at operational level. There will also be an annual review meeting. The arrangement will be conducted by officers on behalf of the OIA and DfE as follows:

<b>OIA</b>	<b>Charlotte Corrish</b>	<b>Head of Stakeholder Engagement and Membership</b>	<a href="mailto:charlotte.corrish@oiahe.org.uk"><u>charlotte.corrish@oiahe.org.uk</u></a>
<b>DfE</b>	<b>Steve Robinson</b>	<b>Assistant Director – Head of the Alternative Provider Intelligence Unit (APIU)</b>	<a href="mailto:Steve.robinson@education.gov.uk"><u>Steve.robinson@education.gov.uk</u></a>

**Legal effect of the Memorandum of Understanding**

16. It is recognised and accepted that this Memorandum is a statement of intent and does not create any rights, liabilities or obligations which would have a binding effect in law.

**Effective Date**

17. This MoU takes effect from the date of the last signature. Either party may terminate this MoU by giving the other one months' notice in writing. In such cases the Memorandum will terminate on the last day of the full month following written notice being served. This Memorandum of Understanding will be reviewed annually or earlier if necessary.

18. The arrangements detailed in this Memorandum will be monitored by the named contacts. Each contact will be responsible for notifying the organisation of which s/he is an officer of any concerns. Such concerns may lead to the termination of this Memorandum.

Signed

Signed



Ben Elger

Ian Coates

**Interim Chief Executive – OIA**

**Director**

**Post-16 Strategy & Providers and  
HE Policy (DfE)**

Date 5/3/2018

Date 5/3/18