

Guidance Note: Eligibility and the Rules

9 July 2015.

This note supersedes earlier guidance on eligibility and the Rules.

Introduction

The Rules of the OIA set out the complaints which are covered by the Scheme and the time limits for submitting a complaint. There are some complaints which we cannot look at, and some complaints which we will not normally look at. The Rules also allow us to terminate or suspend consideration of a complaint in certain circumstances.

The purpose of this Guidance Note is to provide guidance on the OIA's Rules and policy on eligibility and, where appropriate, how we exercise our discretion, and to give some examples of decisions about matters we can and cannot look at. The Note should be read in conjunction with the Rules of the OIA Scheme (<http://oiahe.org.uk/media/100294/oia-rules-july-2015.pdf>) and our Guidance Note regarding Completion of Procedures Letters (<http://oiahe.org.uk/providers-and-good-practice/completion-of-procedures-letter.aspx>). In the event of any conflict between this Guidance Note and the Rules the latter will prevail.

This Note does not cover the Rules relating to the Review process itself. For information about the Review process, please see the leaflet: What happens next? (<http://oiahe.org.uk/news-and-publications/scheme-guidance.aspx>). The Note does contain guidance on the Rules dealing with termination and suspension of complaints, and when we might reopen a Review."

Where appropriate, and for ease of reference, we use the term "Member Higher Education (HE) Provider" or "provider" to refer to all members of the OIA Scheme.

It is for the OIA to determine the eligibility of a complaint and each case is considered on its individual merits. However, should a provider consider that a complaint might be ineligible, it may explain this in its Completion of Procedures Letter. The OIA will take those comments into account when deciding on eligibility.

Where we decide that a complaint is not eligible for consideration under the rules of the OIA Scheme, we will write to both the student and the provider explaining the reasons for our decision. The student has the opportunity to appeal against this decision within two weeks. We will notify both the student and the provider of the outcome of any appeal and will explain our reasons. Where we decide to exercise our discretion to consider a complaint which we would not normally look at, we will explain our reasons to both the student and the provider.

The OIA generally makes its decision on eligibility after receiving the Complaint Form from the student. Where we consider that a complaint is something we can look at, but that there are certain aspects which are ineligible, we will explain this at the start of our review. However, it sometimes becomes apparent in the course of the review of a complaint that certain aspects are not eligible for consideration under our rules, for example, where they relate to academic judgment or where the student has not been materially affected as a student by the provider's actions, and in these cases we will explain this in our Complaint Outcome.

Rules which set out what the OIA can and cannot look at

Rules 1 and 2 - Complaints covered by the Scheme

Rule 1 provides that **“The main purpose of the Scheme is the independent, impartial and transparent review of unresolved complaints by students about acts or omissions of Member HE Providers and, through learning from complaints, the promotion of good practice”**.

A list of Member HE Providers can be found at <http://oiahe.org.uk/about-us/oia-scheme-members.aspx>. “Student” is defined as **“a student who is or was registered at the Member HE Provider complained about”** or, in certain circumstances, is or was registered at a Member HE Provider and studying at another provider (see below) (**Rule 17.22**). If there is a doubt about whether the complainant is a “registered” student, we will decide by looking at the Member HE Provider’s procedures.

The OIA cannot accept complaints from someone who is not a student (or former student), although students may appoint another person to represent them in their complaint. If they do so, they must ensure that the representative knows all about their complaint. We will not correspond with a student and their representative about a complaint at the same time.

Students may complain about what a Member HE Provider has done, or failed to do. They may complain about the Member HE Provider at which they are studying.

In some cases, a student is studying at one provider (the delivery provider) for an award which is conferred by another provider (the awarding provider). If both providers are Member HE Providers, then the student may be able to make a complaint about what each has done, depending on which provider is responsible for the matters which the student is complaining about.

Where more than one Member HE Provider is involved, our starting point is to look at the agreement between the providers to determine where responsibility lies for the matters which the student is complaining about. We will also consider other guidance issued by BIS and HEFCE, and apply the principles of the QAA Quality Code. We will consider how the Member HE Provider dealt with the student’s complaint or academic appeal, and whether it fulfilled its responsibilities under the agreement between the providers.

More information about the principles which apply where more than one provider is involved is available at <http://oiahe.org.uk/media/100352/cop-more-than-one-provider-guidance.pdf>. Some colleges which form part of a university (for example, colleges of Oxford and Cambridge) are also individual members of the Scheme. In those cases, we can consider a complaint against the college itself, provided its internal processes have been completed.

The term “award” is not defined in the Rules, and is not restricted to a higher education level qualification. However, the OIA has the discretion to determine what constitutes an eligible HE course for the purposes of the Scheme with respect to Member HE Providers which become members on or after 1 September 2015. The defining characteristics of HE provision may change over time and whether or not a certain qualification should be regarded as HE (rather than Further Education) may need to be considered carefully. The OIA will work with individual providers to ensure that there is clarity about which courses are HE courses.

Generally the OIA has no remit to look at complaints about students’ unions. However, we can consider a complaint relating to a students’ union where the union is part of the legal entity of the Member HE Provider, or the complaint concerns the provider’s obligations in respect of the students’ union.

Similarly, we do not generally have a remit to look at complaints about companies associated with a Member HE Provider, but which are separate legal entities. This would include, for example, a finance company providing credit for tuition fees, or an accommodation provider. Nor can we look at complaints about placement providers.

However, we can look at whether the Member HE Provider has fulfilled its obligations to its students in the arrangements it makes with these outside bodies.

Rule 3 - Complaints not covered by the Scheme

Some of the Rules of the Scheme arise from the provisions of the Higher Education Act 2004 which sets out the complaints which the OIA cannot consider.

The Scheme does not cover a complaint to the extent that:

Rule 3.1 - It concerns admission to a Member HE Provider

We cannot consider a complaint from a prospective student whose application for study is rejected or badly handled. Such a prospective student would also be precluded from complaining to the OIA because they were not a registered student at the Member HE Provider. However, we will normally consider a complaint if a student, having registered at the Member HE Provider, is required to leave because of some irregularity in his/her application for admission. We may also consider complaints from registered students which relate to the information given by Member HE Providers to prospective students prior to admission.

We may consider a complaint from a former student who has either withdrawn from a programme of study or has been required to leave and who subsequently applies for re-admission to the same Member HE Provider. In deciding whether to accept such a complaint we will consider whether or not there is a sufficient connection or relationship between the student's complaint about his or her application for re-admission, and the circumstances surrounding the student's withdrawal or exclusion from the Member HE Provider.

If a student is already at a Member HE Provider but is applying to join another course or to transfer to PhD status, we will look at the provider's procedures to decide whether the complaint is an admission issue.

Rule 3.2 - It relates to a matter of academic judgment

Academic judgment is a term found in Part 2 of the Higher Education Act 2004, so its interpretation will ultimately be for the courts. However in our view academic judgment is not any judgment made by an academic. It is a judgment that is made about a matter where only the opinion of an academic expert will suffice, so for example a judgment about assessment, a degree classification, research methodology or course content/outcomes will normally be academic judgment.

We consider that the following areas do not involve academic judgment: decisions about the fairness of procedures, whether they have been correctly interpreted, what the facts are, how a university has communicated with the student, whether an opinion has been expressed outside the areas of an academic's competence, the way evidence has been considered and/or whether there is evidence of bias or maladministration.

In addition, we would not normally interfere with a professional judgment made, for example, by staff at a placement.

Decisions on whether a student's work contains plagiarism or whether s/he is fit to practise in a profession will normally be matters of academic or professional judgment, but that judgment must be evidence based.

Rule 3.3 - The matter complained about was the subject of court or tribunal proceedings and those proceedings have been concluded, or the matter is the subject of court or tribunal proceedings and those proceedings have not been stayed.

The OIA will not consider matters which have already been decided by the courts. We cannot consider complaints where the matter is or becomes the subject of court or tribunal proceedings which have not been stayed (adjourned or put on hold). In signing the Complaint Form the student acknowledges that s/he must inform the OIA immediately if any part of the complaint is being dealt with in the courts or by another body.

We may ask to see the claim form and any defence filed in order to establish whether the legal proceedings relate to the same subject matter. If the legal proceedings have been "stayed" or "adjourned" by the court, we may ask to see the relevant court order.

If a student has applied for permission to bring a judicial review claim against the Member HE

Provider and has been refused permission, we would normally consider that those proceedings have been concluded and we would not look at their complaint. However, we may accept the complaint if the judge has identified the OIA as an “alternative remedy” available to the student, and has refused permission on that basis. We would only accept such a complaint for review provided the judge has not made any findings on the merits of the case.

Rule 3.4 – The matter complained about was previously considered by another ADR entity

An ADR entity means a body which has been approved to conduct consumer disputes by a competent authority under the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015. A consolidated list of ADR entities can be found <https://webgate.ec.europa.eu/odr/main/index.cfm?event=main.adr.show>.

The OIA is the ADR entity for higher education disputes. Where the complaint has been subject to alternative dispute resolution by a body which is external to the Member HE Provider, the student and Member HE Provider should notify the OIA. We will then establish whether or not it is an ADR entity.

Rule 3.5 - It concerns a student employment matter

We cannot consider complaints from employees of a Member HE Provider.

A student may be employed by the Member HE Provider as well as being a student, for example where a postgraduate student is also employed by the provider, as a lecturer or demonstrator or as a warden in a hall of residence. We can only look at the aspects of a complaint which relate to the complainant’s experience as a student.

In the case of trainees on School Direct (salaried) initial teacher training courses, we will need to consider which aspects of the complaint related to the trainee’s employment and which aspects related to the training course.

Rule 3.6 - In the opinion of the Reviewer the matter complained about does not materially affect the complainant as a student.

The OIA generally takes a broad approach in considering whether the complainant has been affected as a student, and will accept complaints which relate to the student life and the outcome of the student’s studies. For example, we have considered complaints about references for former students, and where awards have been withdrawn where plagiarism or other misconduct is established some time after graduation.

However, some complaints about Member HE Providers may have no bearing on the student life or may not be in any way connected with study. For example, we decided not to accept a complaint about a university’s voluntary legal advice centre declining to take on a student’s case against a private landlord; about a university’s finance department pursuing an undisputed fee debt against a former student who had left her course some years before; and about the theft of a bicycle from a university’s bike rack.

The OIA may also conclude that an act or omission by the Member HE Provider has had no material effect on the outcome of the student’s studies. For example, a marking issue may have no effect on the degree classification, or a procedural irregularity in an appeal may have been rectified at a later stage of the procedure.

Rule 3.7 - It is made by the personal representatives of a student and the OIA had not received a Complaint Form during the student’s lifetime.

We cannot look at a complaint concerning a student who has died unless the Complaint Form was received before their death.

Rule 3.8 - Dealing with the complaint would seriously impair the effective operation of the Scheme

The following are examples of complaints which, were the OIA to deal with them, would seriously impair the effective operation of the Scheme:

- The complaint relates to events which took place over a significant period of time (more than three years) and involves a very high volume of documentation.

- A different forum is better equipped to consider the matter: for example, complaints about data protection issues will normally be better considered by the Information Commissioner's Office.
- There are other proceedings taking place within the Member HE Provider or elsewhere which are relevant to the complaint. For example, a student complains to the OIA about an academic appeal and she wants to be given a further resit opportunity. The student is also the subject of separate disciplinary proceedings which might result in her exclusion. If she is excluded then she would not be able to take advantage of a further resit opportunity. It would be pointless to conduct a review of the academic appeal before the results of the disciplinary proceedings are known.

The list is not exhaustive.

Rule 3.9 - In the opinion of the Reviewer the complaint is frivolous or vexatious

The following are examples of complaints which are likely to be regarded as frivolous or vexatious:

- The matter complained about is being dealt with (or has been dealt with) under these or any previous Rules of the OIA, and there is no good reason to reopen the Review
- The matter complained of relates to an issue or event which a fair-minded observer would consider to be trivial
- The complaint is obsessive, persistent, harassing, prolific, or repetitious
- The student insists on pursuing unmeritorious complaints and/or unrealistic outcomes beyond all reason
- The student insists on pursuing meritorious complaints in an unreasonable manner
- The complaint is designed to cause disruption or annoyance
- The complaint seeks redress which lacks any serious purpose or value

The list is not exhaustive.

The OIA's policy on frivolous or vexatious complaints is available on our website <http://oiahe.org.uk/about-us/policies/policy-on-frivolous-or-vexatious-complaints.aspx>.

Rule 4 - Time limits and Exhaustion of Internal Complaints Procedures

Rule 4.1 - The OIA will not consider a complaint where it considers that the substantive event(s) complained about occurred before the Member HE Provider became a Member HE Provider unless, in the opinion of the Reviewer, the event(s) formed part of a course of conduct which continued after the Member HE Provider became a Member HE Provider

We will not look at complaints which arose before the Member HE Provider became a qualifying institution.

The exception to this Rule is where the complaint relates to a continuous series of events, or course of conduct, which continued after the provider became a qualifying institution.

For example, a student is studying at a further education college which joined the OIA Scheme on 1 September 2015. In January 2016, the student complains about bullying by his course tutor which, he says, started in January 2015 and continued throughout 2015. We would consider the student's complaint about bullying even though the bullying started before the college joined the Scheme.

Rule 4.2 – A Complainant must normally have first exhausted the internal complaints procedures of the Member HE Provider complained about before bringing a complaint to the OIA.

The definition of "internal complaints procedures" in our Rules (**Rule 17.13**) includes procedures relating to student complaints, academic appeals, disciplinary matters, fitness to practise, fitness to study, and breaches of codes of conduct and regulations. This is not an exhaustive list.

Rule 4.3 provides that the Member HE Provider must issue a **Completion of Procedures Letter** promptly after its procedures have been exhausted, and always within 28 days. Our Guidance Note regarding Completion of Procedures Letters (<http://oiahe.org.uk/news-and-publications/scheme-guidance.aspx>) sets out more detailed guidance about when internal procedures are considered complete, and when a Member HE Provider should issue a Completion of Procedures Letter.

Rule 4.4 provides that in exceptional circumstances we may accept a complaint for review, if we are satisfied there is good reason to do so, even if the Member HE Provider's processes have not been completed. We may consider doing so where there has been undue delay by the Member HE Provider in progressing the complaint and there appears to be no prospect of early resolution. In such a case we would want to satisfy ourselves that the student had taken reasonable steps to progress the complaint. We might also accept a complaint where no Completion of Procedures Letter has been issued, where the provider has unreasonably delayed in issuing a Completion of Procedures Letter, or has refused to do so, after the procedures have been completed. Again, we would expect the student to have pursued the matter first with the Member HE Provider.

There are circumstances where a Member HE Provider might issue a Completion of Procedures Letter even though its procedures have not been completed. One example of this is where the student has not escalated the complaint or appeal to the next stage, despite being clearly signposted to it, or has attempted to escalate the complaint or appeal after the Member HE Provider's deadline for doing so has expired. In such cases, we would consider whether it was reasonable for the provider to refuse to proceed further with the student's complaint or appeal. We would not normally consider the substantive issues raised in the complaint or appeal. Our Guidance Note regarding Completion of Procedures Letters (<http://oiahe.org.uk/news-and-publications/scheme-guidance.aspx>) provides more detailed information about such circumstances.

Students sometimes raise issues in their Complaint Form which are not addressed in the Member HE Provider's Completion of Procedures Letter. In such cases we will check which issues the student raised in their complaint or appeal to the Member HE Provider before we reach a conclusion on whether the matters raised with us have been through the provider's internal procedures. However, where a student wishes to complain about delays or the way in which Member HE Provider handled a complaint or appeal we do not expect the student to have to go through an additional internal procedure before bringing that complaint to us.

In exceptional circumstances, we might decide that it would be expedient to deal with secondary issues which have been raised as part of a wider complaint but which have not been previously considered by the Member HE Provider. We will explain to the Member HE Provider why we have decided to review those secondary issues as well as the substantive issues which it has considered.

Rule 4.5 – The OIA will not consider a complaint unless the completed Complaint Form is received within 12 months from the date upon which the Member HE Provider has given notice to the student of its final decision on the complaint or appeal. Time under this Rule will normally run from the date of the Completion of Procedures Letter.

Students have a maximum of 12 months to bring their complaint to the OIA. However, we advise students to bring their complaint as soon as possible after the conclusion of the Member HE Provider's processes. This is because the more time that has passed since the events giving rise to a complaint, the more difficult it may be to review that complaint. In addition, the passage of time can also affect the potential remedies available should the OIA find the complaint to be Justified or Partly Justified. For example, some courses may be subject to completion deadlines, and courses may be discontinued by the Member HE Provider. Where such a deadline has passed, or a course is no longer offered, a recommendation for reinstatement will not be possible even though a complaint may be found Justified.

Our Guidance Note regarding Completion of Procedure Letters (<http://oiahe.org.uk/news-and-publications/scheme-guidance.aspx>) says that a Completion of Procedures Letter should also state the date by which the OIA should receive the Complaint Form. For example, if the Completion of Procedures Letter is dated 7 September, the Completion of Procedures Letter must state that a complaint should be received by the OIA on or before 7 September the following year

We will not accept a complaint which is received more than 12 months after the date of the Completion of Procedures Letter.

Rule 4.6 - Where the Member HE Provider issued a Completion of Procedures Letter before 9 July 2015 the OIA will not consider a complaint where the completed Complaint Form is received more than three months after the date of that Completion of Procedures Letter, unless there is good reason to do so.

The Rules in force up until 8 July 2015 (<http://oiahe.org.uk/news-and-publications/scheme-guidance/archive-scheme-guidance.aspx>) provide that the student has three months from the date of the Completion of Procedures Letter within which to submit the complaint to the OIA.

Rule 4.6 is a transitional Rule to deal with the situation where a Member HE Provider has issued a Completion of Procedures Letter before 9 July 2015, and it states that the student has three months to bring the complaint.

In that circumstance, we expect the student to submit the Complaint Form to us by the date set out in the Completion of Procedures Letter, that is, before the three month deadline.

However, we may accept a complaint (provided it is received within 12 months of the COP Letter) where we decide that there are good reasons for accepting the complaint. For example, the student may have been given misleading advice about the deadline or there are other compelling reasons why he or she was unable to meet the deadline.

Rule 4.7 – The OIA may decline to accept a complaint where it considers that the substantive event(s) complained about occurred more than three years before the Complaint Form is received by the OIA if it considers that to accept the complaint would seriously impair the effective operation of the Scheme

We consider that it is unlikely we could conduct a fair review of a complaint where events took place more than three years before. Sometimes important documents will have not been kept or will have been destroyed, and the recollection of individuals involved will have faded. Similarly, where events have taken place over an extended period of time, there may be a very great deal of documentation and reviewing a complaint about those events may take up a disproportionate amount of time.

Accepting complaints about events which took place more than three years ago may impact upon our ability to review other complaints efficiently. Depending on the circumstances of the case, we may decide not to review a complaint if that impact is likely to be serious.

When considering whether to accept such a complaint, we will consider whether we can investigate only the more recent events. We will look at whether the historic events are linked to more recent events, and whether it would be artificial to draw a line at a specific date. For example, depending on the circumstances of the case, if a complaint is about supervision over a long period we might look at all of that period, or we might decide to review only the period going back to a transfer or upgrade exam. We will also have regard to whether the Member HE Provider concerned is responsible for any delay in the bringing of a complaint and any issues which might have prevented the student progressing the complaint with the Member HE Provider.

Where a Member HE Provider has made a recent decision on a complaint about events more than three years before the Complaint Form was received, and offers a remedy for shortcomings it has identified, we might review the remedy offered by the Member HE Provider to decide whether it was reasonable. We might also consider the Member HE Provider's handling of the complaint rather than the substantive events.

Rule 4.8 - The OIA will not normally consider a complaint which arises from information or evidence which the student has obtained

4.8.1 after the date of the Completion of Procedures Letter, or

4.8.2 if no Completion of Procedures Letter has been issued, more than 28 days after the student ceases to be a student

unless the student could not reasonably have obtained that information or evidence at an earlier date.

The OIA is a review body. This means that, when considering complaints, it normally focusses on the Member HE Provider's final decision. It considers whether the Member HE Provider has correctly followed its procedures and followed its regulations, and whether its decision was reasonable in all the circumstances.

The question we normally ask ourselves is whether the Member HE Provider's decision was reasonable based on the information which was available to it at the time. Evidence which becomes available after the decision has been made will not usually be relevant to that question.

However, sometimes a student obtains evidence which could not be obtained before the Member HE Provider made its decision. For example, a student might submit medical evidence which indicates that the student was suffering from a medical condition which he or she could not have suspected, and which could not have been diagnosed, at an earlier date. In those circumstances, we may consider the evidence provided it has come to light within a reasonable period after the HE Provider's internal processes have been completed, and is submitted to the OIA promptly. A reasonable period will normally be 28 days.

Sometimes a student raises a number of complaints, some of which arise from information which became available after the Completion of Procedures Letter was issued. In that case, if we decide that the student could have obtained the information at an earlier date, then we will exclude those parts of the complaint, but may accept the other parts for review.

Suspending or terminating a complaint

Rules 9 - The OIA's discretion to terminate or suspend consideration of a complaint

There are a number of situations where the OIA may terminate or suspend consideration of a complaint. This can be at any stage of the review process, where we consider it appropriate and if it appears to us that relevant conditions apply.

Rule 9.1.1 - The complaint falls within Rule 3

Sometimes it becomes apparent only during the course of a review that a complaint (or part of a complaint) is not covered by the Scheme. For example, it becomes clear that the complaint is about an admissions issue, or relates to a matter of academic judgment, or the student has issued legal proceedings against the Member HE Provider. In those cases we may need to terminate the review.

Rules 9.1.2 and 9.1.3 - The Member HE Provider has satisfactorily dealt with the complaint, or the Member HE Provider has made a reasonable offer to settle the complaint and the Complainant has refused it.

Where the Member HE Provider has granted the student the remedy he or she was seeking, we may consider that that the provider has dealt with the complaint satisfactorily, even though the student may remain dissatisfied with the Member HE Provider's conclusions on the main issues raised.

Sometimes in the course of our review, a Member HE Provider makes an offer to reconsider the matter under its procedures, and that is what our recommendation is likely to be were we to find the complaint to be justified. In those circumstances, we might consider it appropriate to terminate our review of the complaint. At the conclusion of the Member HE Provider's reconsideration of the matter, it should issue another Completion of Procedures Letter. If the student remains unhappy after the Member HE Provider has reconsidered the matter, he or she could complain to the OIA again about the outcome of that process, if he or she wishes to do so.

Where the Member HE Provider has made a satisfactory offer to settle the complaint, and the student has refused it, we may require the provider to repeat the offer or hold it open for a reasonable period of time (**Rule 9.1.3**).

Rule 9.1.4 - The Complainant has repeatedly failed to comply with time limits set by the

Reviewer or these Rules, or has unreasonably delayed in his or her conduct of the complaint

Rule 9.2.3 – The representative has repeatedly failed to comply with time limits set by the Reviewer or these Rules or has unreasonably delayed in his or her conduct of the complaint

We may terminate or suspend our review of a complaint if the student or their appointed representative does not provide information requested by us within a reasonable time, or otherwise causes unreasonable delays to our review.

We will terminate our review if the student fails to respond to our correspondence. However, we will warn the student of this possibility before taking this action. If we close a complaint in these circumstances, we will consider reopening it if the student subsequently asks us to do so and can provide a good reason for not keeping in touch with us.

Rule 9.1.5 - The Complainant has acted aggressively, offensively, or abusively, or unreasonably persistently, or has made unreasonable demands in his or her conduct of the complaint

Rule 9.2.4 - The Representative has acted aggressively, offensively, or abusively, or unreasonably persistently, or has made unreasonable demands in his or her conduct of the complaint

The OIA's policy on Unacceptable Behaviour can be found on our website <http://oiahe.org.uk/about-us/policies/unacceptable-behaviour-policy.aspx>. If a student or his or her representative continues to behave in a way which we consider to be unacceptable, we may decide to terminate contact with them, which may mean that we terminate our review of the complaint.

Where a decision to terminate the complaint is due to unreasonable delay or behaviour of the part of the representative we will notify the student. We would consider reopening our review if the student subsequently decided to deal with the complaint in person, or to appoint another representative.

Rule 9.1.6 - The Complainant can no longer be contacted

It is important for the student to keep in touch with us and to notify us if they change address. We will try to contact the student by email, post and telephone before deciding to suspend or terminate our review. We will terminate our review if our correspondence to the student is returned to us by the Post Office and we are unable to contact the student by other means.

Rule 9.2.1 - The representative is not acting in the best interests of the Complainant

Rule 9.2.5 - The representative has been misled by the Complainant

The situations described in **Rules 9.2.1 and 9.2.5** creates a conflict of interests between the representative and the student which makes it difficult or impossible for us to conduct our review.

Examples of a representative not acting in the student's best interests would be: where a representative is refusing to put forward an offer which the provider has made to the student; or where a representative appears to be following his or her own agenda rather than presenting the student's complaint.

Should we suspend or terminate our review on these grounds, we will consider reopening our review if the student subsequently decides to deal with the complaint in person, or to appoint another representative.

Rule 9.1.7– There are other good reasons for doing so

We may suspend our review for other good reasons.

Rule 9.3 - The student may withdraw his or her complaint at any stage during the course of the Review.

Students are free to withdraw their complaint at any stage during our review.

Reopening a review

Rule 8.2 - The OIA may reopen a Review and issue a revised Complaint Outcome and/or revised Recommendations, where it is satisfied there is good reason to do so, and where, within a reasonable period of time after the issue of the Complaint Outcome:

- 8.2.1** new evidence is submitted which is material to the outcome of the Review, and which could not reasonably have been obtained at an earlier date; or
- 8.2.2** information or representations received give reason to believe there might be a substantive error in the Complaint Outcome.

The OIA has the discretion to reopen its review where there is good reason to do so. It will normally consider such a request provided that it is brought within 28 days of either the issue of the Complaint Outcome, or the date that confirmation of the Recommendations has been sent to the parties. The party which is asking the OIA to reopen the review must persuade the OIA either that there is new evidence which could not reasonably have been obtained at an earlier date, or that there is a substantive error in the Complaint Outcome.

If the party is submitting new evidence, they will need to explain why it was not possible to obtain and submit that evidence before the Complaint Outcome was issued. It is unlikely that the OIA would consider at this late stage new medical evidence which the student says is relevant to his or her complaint. However, we may consider evidence which was in the possession of the Member HE Provider but which had not been disclosed to the student.

A “substantive error” is a mistake in the Complaint Outcome which would make a difference to the decision or Recommendations made.

If the OIA has upheld a complaint and made Recommendations, and the Member HE Provider has complied with those Recommendations, then we will take that into account in any subsequent review. If the Member HE Provider has made an offer to the student in accordance with the OIA’s Recommendations and the student has accepted that offer in full and final settlement then it is very unlikely that we would agree to reopen the review. The student may be asked to repay any financial award to the Member HE Provider before the review could continue.

Other circumstances

This note cannot cover all the issues that may arise. If you have a query that is not covered by this note, please check our website www.oiahe.org.uk which contains further information about decisions we make, or contact our Enquiries Team on 0118 959 9813.