

Effective from 1 September 2015



'for students in higher education'

An introduction to the OIA for students



www.oiahe.org.uk

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Introduction

The Office of the Independent Adjudicator for Higher Education (OIA) provides an independent, transparent Scheme to review student complaints against individual higher education providers.

This leaflet includes information and guidance about our review process for students or their representatives who want to complain about a provider which is a member of the Scheme. It should be read alongside the Rules which are available on our website (<http://oiahe.org.uk/rules-and-the-complaints-process.aspx>). In the event of any conflict between this leaflet and the Rules the latter will prevail.

Before you make a complaint, please check:

- Is your complaint something the OIA can look at?
- Have you completed the provider's internal complaints or appeals procedures?
- Has your provider sent you a Completion of Procedures Letter?

To make a complaint:

- Please complete and sign an OIA Complaint Form (or tick the box if you are using the online form) and send it to us with a copy of the Completion of Procedures Letter.
- Send us your OIA Complaint Form in good time.
- Enclose a copy of the original complaint or appeal you submitted to the provider, if you have it.

We can provide our literature in different formats. Please contact us if you have any questions regarding this or our complaints process on enquiries@oiahe.org.uk or **0118 959 9813**.

About the OIA

The OIA was designated as the operator of the Student Complaints Scheme in England and Wales under section 13 of the Higher Education Act 2004 with effect from 1 January 2005. The Consumer Rights Act 2015, the relevant section of which came into force on 1 September 2015, extended the range of higher education providers that are required to participate in the Scheme. For ease of reference, we use the terms 'higher education provider' or 'provider' throughout this leaflet.

The OIA is not a court and its outcomes may differ from those determined by a court.

A list of all participating providers and further information about the Scheme can be found on our website (<http://oiahe.org.uk/about-us/oia-scheme-members.aspx>).

Can I make a complaint to the OIA about my higher education provider?

A full list of providers we can accept complaints about is available at <http://www.oiahe.org.uk/about-us/oia-scheme-members.aspx>.

You can make a complaint, if you:

- are or were a student at the provider that you are complaining about; or
- are or were studying on a course leading to the grant of one of the awards of the provider that you are complaining about.

Does it make a difference which course I am studying at my higher education provider?

The Consumer Rights Act 2015, the relevant section of which came into force on 1 September 2015, extended the membership of the Scheme to many Further Education and Sixth-Form Colleges, alternative providers and providers of School-Centred Initial Teacher Training (SCITTs). The OIA is only able to consider complaints from [higher education students](#) (at those providers). Students who are or were studying at a university, may complain about that university regardless of which course they are or were studying on.

Can I complain to the OIA about events that took place before my provider joined the OIA Scheme?

If you are making a complaint about events which took place before the provider became a member of the Scheme, the OIA will not consider the complaint unless it is about a series of related events (or a course of conduct) which continued after the provider joined the Scheme.

Our list of members (<http://www.oiahe.org.uk/about-us/oia-scheme-members.aspx>) indicates the date on which each member joined the Scheme.

Can someone complain to the OIA on behalf of a student?

It is preferable for students to handle their own complaints. However, you may appoint a representative e.g. a students' union representative, by completing section two of the OIA Complaint Form. You will need to ensure your representative knows all about your complaint, is willing to represent you and can keep you fully informed, as we will only deal with your representative once you have appointed them.

Our procedures are informal and you should not need to have a legal representative. For this reason we will not normally recommend that a provider should contribute towards your legal costs even if your case is found to be Justified.

What type of complaints can the OIA deal with?

We review complaints about acts and omissions of providers. These can include:

- A programme of study
- A service provided by a provider to a student
- A final decision of a provider's disciplinary or appeal body.

The OIA is not a court and its outcomes may differ to those determined by a court. The OIA is a review body. This means we will consider how the provider dealt with your complaints/appeal and its final decision. The focus of our review will be what happened before the Completion of Procedures Letter was issued. Our Scheme is not a further appeal to your higher education provider. We provide an independent review Scheme and our role is principally to consider whether the provider has correctly applied its regulations and followed its procedures and whether the outcome is reasonable in the circumstances.

Complaints we can look at include but are not limited to:

- Academic appeals
- Extenuating circumstances
- Teaching provision and facilities
- Accommodation
- Research supervision
- Welfare
- Discrimination (but see below)
- Bullying and harassment
- Placements
- Procedural irregularities
- Unfair practices
- Disciplinary matters – including plagiarism
- Fitness to practise processes.

Are there any complaints that the OIA cannot deal with?

We cannot look at complaints about:

- Admissions
- Academic judgment or teaching quality
- Student employment
- Matters which are or have been considered by a court or tribunal, unless formally stayed or adjourned.

What if I go to the OIA with a complaint about discrimination?

In considering issues related to discrimination the OIA does not act as a court. It does not investigate or make legal findings in the same manner as a court. However, it is appropriate for the OIA to refer to the law and guidance on discrimination to form an opinion as to good practice and to decide whether the provider has acted fairly. So, for example, we might look at whether a provider has given adequate consideration to whether its procedures are placing a disabled student at a substantial disadvantage and, if it has not, we might recommend that it does so. However, we would not make a finding that the provider had discriminated against the student.

Under the Higher Education Act 2004, students who bring a complaint to the OIA about sex, race or disability discrimination and who decide to institute court proceedings are allowed additional time, over and above the usual time limits set by the courts. However, you should bear in mind that the time limits set by the court will start running when the original incident occurred.

How do I complain to the OIA?

Before you can complain to the OIA, you must first complete the provider's internal complaints or appeals procedures. Once you have done so, the provider should issue you with a Completion of Procedures Letter. This letter should set out clearly the issues that have been considered, the provider's final decision and the deadline for bringing a complaint to the OIA.

Once you have received a Completion of Procedures Letter you need to send us a completed and signed OIA Complaint Form (available at www.oiahe.org.uk) within the deadline:

- If your Completion of Procedures Letter is dated on or before 8 July 2015 the deadline is three months.
- If your Completion of Procedures Letter is dated on or after 9 July 2015 the deadline is 12 months.

In exceptional circumstances, we may look at a complaint where the internal complaints or appeals procedures have not been completed.

Please see our website (www.oiahe.org.uk) for more information on making a complaint.

What information should I include with the OIA Complaint Form?

You should also send:

- A copy of the Completion of Procedures Letter
- Any documentation or evidence that you are relying upon to support your complaint e.g. a copy of the complaint or appeal you submitted to the provider if you have it. (It is helpful for us to have a copy of the complaint or appeal you submitted to the provider, however, if you have not kept a copy of the complaint, appeal or any other relevant information, do not delay in sending us your form while you obtain this information.)

When filling in the OIA Complaint Form you should refer to the guidance notes included with the form and describe the complaint as clearly and concisely as possible.

Please do not send original documents as we cannot be responsible for documents that are lost in the post and we will not normally return documents to students at the end of our review.

Are there any time limits for complaining to the OIA?

Yes. From 9 July 2015 we must receive your signed OIA Complaint Form within 12 months of the date of the Completion of Procedures Letter; otherwise your complaint will be out of time. For example, if your Completion of Procedures Letter is dated 7 September, we must receive your OIA Complaint Form by 7 September the following year. If your Completion of Procedures Letter is dated on or before 8 July 2015 we must receive your Complaint Form within three months of the Letter's date.

Although you may have 12 months from the date of the Completion of Procedures Letter, it is usually better to complain earlier. This is because the remedies we can recommend may be limited if you wait a year before complaining to the OIA.

We will not normally look at complaints where the main issues complained about took place more than three years before the complaint is received by the OIA. This is because it is likely that important documents will have been destroyed and recollections of the individuals concerned will have faded.

Does it cost anything to make a complaint?

No. There is no charge for complaining to the OIA.

What happens after I send you my OIA Complaint Form?

We will acknowledge receipt of your complaint and determine whether the complaint is eligible under our Scheme Rules. If your complaint is not eligible, we will write and tell you why not, and give you details of how to appeal that decision. For more information about eligibility and what we can and cannot look at under our Rules, please see the Complaints Wizard on our website (<https://oiahe.org.uk/making-a-complaint-to-the-oia/can-the-oia-look-at-my-complaint-complaints-wizard.aspx>).

If we accept your complaint following this initial screening, the case-handler might:

- Try to settle or mediate the complaint
- Ask the provider for its comments on the complaint
- Ask the provider or the student for more information
- Issue a Complaint Outcome in respect of the complaint
- Contact the student to discuss their complaint and whether their desired outcome is achievable
- Send the student information to comment on.

You will receive further information about the review process once your complaint is received. Further guidance on our review process can also be found in our leaflet, What Happens Next (<http://oiahe.org.uk/making-a-complaint-to-the-oia/guidance-for-students.aspx>)

How does the OIA review complaints?

The OIA has the discretion to decide how the review will progress and what information it needs. Case-handlers consider at each stage whether it might be possible to settle the complaint.

The OIA's case-handlers gather information and evidence until they are confident that they have all the material they need to make a decision on the individual complaint.

How long will it take to consider my complaint?

Once the OIA has all the relevant information, the case-handler will write to you and the provider to say that the file is complete. We will normally complete our review within 90 days of receiving the complete complaint file. If we consider that the complaint is highly complex then this may take longer.

Each complaint is individual. However, it is not always possible to provide a quick fix solution and some eligible complaints may take six months or longer to conclude if the information needed takes a long time to collect or the case is highly complex.

Does the OIA hold oral hearings?

Our Rules provide that an oral hearing is an option; however in practice we find that this is not normally necessary. If the case-handler considers that a hearing might be necessary or a student requests a hearing, the case handler will refer the complaint to their manager.

What can you do about my complaint?

Our role is to 'review' the final decision of the provider and not normally to re-investigate the complaint. We decide whether your unresolved complaint about the provider is Justified, Partly Justified or Not Justified. We consider whether or not the provider properly applied its regulations and followed its own procedures, and whether any decision made by the provider was reasonable in all the circumstances.

If a complaint is found to be Justified or Partly Justified, we may make Recommendations. For example, we may require the provider to review or change its procedures or regulations; review or change the way it handles appeals and/or complaints; make a financial award, or reconsider the appeal/complaint. In these cases we will ask the student and the provider to comment on the practicality of the Recommendations set out in the Complaint Outcome before they are finalised. Students are free to accept the OIA's Recommendations in full and final settlement, or to reject our Recommendations.

If a complaint is found to be Justified or Partly Justified, we normally try to put the student back in the position they would have been in, had the act or omission by the provider not occurred. However, this may not always be

possible or appropriate and in such cases we may award compensation, or some other remedy. We are not a regulator and we cannot punish or fine providers.

Providers normally comply with our Recommendations by making an offer “in full and final settlement of the complaint”. This means that, if you accept the offer, you would not be able to take Court proceedings against the provider about the same issues. If you do not accept the OIA’s decision or Recommendations, the fact that the OIA has reviewed your complaint does not prevent you from seeking redress through Court proceedings. We cannot advise you as to any alternative action you may be able to take.

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

Does a provider have to comply with your decision?

Providers are expected to comply with OIA decisions and any Recommendations in full. In our experience, compliance with our Recommendations by providers is excellent. Any non-compliance is taken seriously and is reported to our Board and published in the OIA’s Annual Report. You do not have to accept our decision or Recommendations.

Can I withdraw my complaint?

Yes. There may be circumstances under which you choose to withdraw your complaint to the OIA. You can do so at any time during the review process, however, you will need to let us know as soon as possible.

Can I get help with making a complaint?

If you need help or advice with making a complaint you can speak to your students' union or local Citizens Advice Bureau <http://www.citizensadvice.org.uk> (CAB).

We can provide our literature in different formats. Please contact us if you have any questions regarding this or our complaints process on enquiries@oiahe.org.uk or **0118 959 9813**.

The OIA runs an independent Scheme and is unable to advise you on how to pursue your complaint.

What if I am dissatisfied with the way my complaint has been handled?

Whatever the outcome of your case, we hope you will be satisfied with the level of service we provide. However, if you have any concerns, please refer to our website for further information: <http://www.oiahe.org.uk/about-us/complaints-about-the-oia.aspx>.

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